



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5 **U.K.**

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

CHAPTER 4 **U.K.**

GENERAL

Recoverable property

308 General exceptions **U.K.**

- (1) If—
 - (a) a person disposes of recoverable property, and
 - (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was recoverable property,the property may not be followed into that person's hands and, accordingly, it ceases to be recoverable.
- (2) If recoverable property is vested, forfeited or otherwise disposed of in pursuance of powers conferred by virtue of this Part, it ceases to be recoverable.
- (3) If—
 - (a) in pursuance of a judgment in civil proceedings (whether in the United Kingdom or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant,
 - (b) the claimant's claim is based on the defendant's unlawful conduct, and
 - (c) apart from this subsection, the sum received, or the property obtained, by the claimant would be recoverable property,the property ceases to be recoverable.

Changes to legislation: *Proceeds of Crime Act 2002, Section 308 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

In relation to Scotland, “claimant” and “defendant” are to be read as “pursuer” and “defender”.

(4) If—

- (a) a payment is made to a person in pursuance of a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)), section 249 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or [^{F1}Chapter 2 of Part 7 of the Sentencing Code]^[F2] or in pursuance of a service compensation order under the Armed Forces Act 2006], and
- (b) apart from this subsection, the sum received would be recoverable property, the property ceases to be recoverable.

[^{F3}(4A) If—

- (a) a payment is made to a person in pursuance of a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2015, and
- (b) apart from this subsection, the sum received would be recoverable property, the property ceases to be recoverable.]

[^{F4}(4A) If—

- (a) a payment is made to a person in pursuance of a slavery and trafficking reparation order under Schedule 2 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, and
- (b) apart from this subsection, the sum received would be recoverable property, the property ceases to be recoverable.]

(5) If—

- (a) a payment is made to a person in pursuance of a restitution order under section 27 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) or [^{F5}Chapter 3 of Part 7 of the Sentencing Code] or a person otherwise obtains any property in pursuance of such an order, and
- (b) apart from this subsection, the sum received, or the property obtained, would be recoverable property, the property ceases to be recoverable.

(6) If—

- (a) in pursuance of an order made by the court under section 382(3) or 383(5) of the Financial Services and Markets Act 2000 (c. 8) (restitution orders), an amount is paid to or distributed among any persons in accordance with the court’s directions, and
- (b) apart from this subsection, the sum received by them would be recoverable property, the property ceases to be recoverable.

(7) If—

- (a) in pursuance of a requirement of the [^{F6}Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England under or by virtue of] section 384(5) of the Financial Services and Markets Act 2000 (power ^{F7}... to require restitution), an amount is paid to or distributed among any persons, and
- (b) apart from this subsection, the sum received by them would be recoverable property,

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the property ceases to be recoverable.

[^{F8}(7A) If—

- (a) a payment is made to a person in pursuance of an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013, and
- (b) apart from this subsection, the sum received would be recoverable property, the property ceases to be recoverable.]

(8) Property is not recoverable while a restraint order applies to it, that is—

- (a) an order under section 41, 120 or 190, or
- (b) an order under any corresponding provision of an enactment mentioned in section 8(7)(a) to (g).

[^{F9}(8A) Property is not recoverable while it is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P.]

(9) Property is not recoverable if it has been taken into account in deciding the amount of a person's benefit from criminal conduct for the purpose of making a confiscation order, that is—

- (a) an order under section 6, 92 or 156, or
- (b) an order under a corresponding provision of an enactment mentioned in section 8(7)(a) to (g),

and, in relation to an order mentioned in paragraph (b), the reference to the amount of a person's benefit from criminal conduct is to be read as a reference to the corresponding amount under the enactment in question.

(10) Where—

- (a) a person enters into a transaction to which section 305(2) applies, and
- (b) the disposal is one to which subsection (1) or (2) applies,

this section does not affect the recoverability (by virtue of section 305(2)) of any property obtained on the transaction in place of the property disposed of.

Textual Amendments

- F1** Words in s. 308(4)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 200\(2\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F2** Words in s. 308(4)(a) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 197](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F3** S. 308(4A) inserted (E.W.) (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), [Sch. 5 para. 21](#); S.I. 2015/1476, reg. 2(j)
- F4** S. 308(4A) inserted (N.I.) (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), s. 28(2), [Sch. 4 para. 17](#)
- F5** Words in s. 308(5)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 200\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F6** Words in s. 308(7)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 94\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 308(7)(a) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 94\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F8** S. 308(7A) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 23](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

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F9 S. 308(8A) inserted (1.6.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 78**; S.I. 2015/983, arts. 2(2)(e), 3(o); S.I. 2016/147, art. 3(i)

Modifications etc. (not altering text)

C1 S. 308(4) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 51**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)