



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

Insolvency

311 **Insolvency** **U.K.**

- (1) Proceedings for a recovery order may not be taken or continued in respect of property to which subsection (3) applies unless the appropriate court gives leave and the proceedings are taken or (as the case may be) continued in accordance with any terms imposed by that court.
- (2) An application for an order for the further detention of any cash to which subsection (3) applies may not be made under section 295 unless the appropriate court gives leave.
- (3) This subsection applies to recoverable property, or property associated with it, if—
 - (a) it is an asset of a company being wound up in pursuance of a resolution for voluntary winding up,
 - (b) it is an asset of a company and a voluntary arrangement under Part 1 of the 1986 Act, or Part 2 of the 1989 Order, has effect in relation to the company,
 - (c) an order under section 2 of the 1985 Act, section 286 of the 1986 Act or Article 259 of the 1989 Order (appointment of interim trustee or interim receiver) has effect in relation to the property,
 - (d) it is an asset comprised in the estate of an individual who has been adjudged bankrupt or, in relation to Scotland, of a person whose estate has been sequestrated,

Status: Point in time view as at 30/12/2002. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 311 is up to date with all changes known to be in force on or before 30 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)

- (e) it is an asset of an individual and a voluntary arrangement under Part 8 of the 1986 Act, or Part 8 of the 1989 Order, has effect in relation to him, or
 - (f) in relation to Scotland, it is property comprised in the estate of a person who has granted a trust deed within the meaning of the 1985 Act.
- (4) An application under this section, or under any provision of the 1986 Act or the 1989 Order, for leave to take proceedings for a recovery order may be made without notice to any person.
- (5) Subsection (4) does not affect any requirement for notice of an application to be given to any person acting as an insolvency practitioner or to the official receiver (whether or not acting as an insolvency practitioner).
- (6) References to the provisions of the 1986 Act in sections 420 and 421 of that Act, or to the provisions of the 1989 Order in Articles 364 or 365 of that Order, (insolvent partnerships and estates of deceased persons) include subsections (1) to (3) above.
- (7) In this section—
- (a) the 1985 Act means the Bankruptcy (Scotland) Act 1985 (c. 66),
 - (b) the 1986 Act means the Insolvency Act 1986 (c. 45),
 - (c) the 1989 Order means the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- and in subsection (8) “the applicable enactment” means whichever enactment mentioned in paragraphs (a) to (c) is relevant to the resolution, arrangement, order or trust deed mentioned in subsection (3).
- (8) In this section—
- (a) an asset means any property within the meaning of the applicable enactment or, where the 1985 Act is the applicable enactment, any property comprised in an estate to which the 1985 Act applies,
 - (b) the appropriate court means the court which, in relation to the resolution, arrangement, order or trust deed mentioned in subsection (3), is the court for the purposes of the applicable enactment or, in relation to Northern Ireland, the High Court,
 - (c) acting as an insolvency practitioner has the same meaning as in section 433,
 - (d) other expressions used in this section and in the applicable enactment have the same meaning as in that enactment.

Status:

Point in time view as at 30/12/2002. This version of this provision has been superseded.

Changes to legislation:

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