



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 9

#### INSOLVENCY ETC.

##### *Winding up in England and Wales and Scotland*

VALID FROM 24/03/2003

#### **427 Tainted gifts**

- (1) In this section “company” means any company which may be wound up under the 1986 Act.
- (2) This section applies if—
  - (a) an order for the winding up of a company is made or it passes a resolution for its voluntary winding up, and
  - (b) it has made a tainted gift (whether directly or indirectly).
- (3) No order may be made under section 238, 239 or 423 of the 1986 Act (avoidance of certain transactions) and no decree may be granted under section 242 or 243 of that Act (gratuitous alienations and unfair preferences), or otherwise, in respect of the making of the gift at any time when—
  - (a) any property of the recipient of the tainted gift is subject to a restraint order under section 41, 120 or 190, or
  - (b) there is in force in respect of such property an order under section 50, 52, 128(3), 198 or 200.
- (4) Any order made under section 238, 239 or 423 of the 1986 Act or decree granted under section 242 or 243 of that Act, or otherwise, after an order mentioned in subsection (3)(a) or (b) is discharged must take into account any realisation under Part 2, 3 or 4 of this Act of property held by the recipient of the tainted gift.

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*Status: Point in time view as at 24/02/2003. This version of this provision is not valid for this point in time.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 427 is up to date with all changes known to be in force on or before 08 July 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)*

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- (5) A person makes a tainted gift for the purposes of this section if he makes a tainted gift within the meaning of Part 2, 3 or 4.
- (6) In a case where the winding up of a company commenced or is treated as having commenced before 29 December 1986 this section has effect with the substitution—
- (a) for references to section 239 of the 1986 Act of references to section 615 of the Companies Act 1985 (c. 6);
  - (b) for references to section 242 of the 1986 Act of references to section 615A of the Companies Act 1985;
  - (c) for references to section 243 of the 1986 Act of references to section 615B of the Companies Act 1985.

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