



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Exercise of powers*

#### **69 Powers of court and receiver <sup>[F1]</sup>etc.]**

(1) This section applies to—

- (a) the powers conferred on a court by sections 41 to <sup>[F2]</sup>59 ] and sections 62 to <sup>[F3]</sup>67D] ;
- (b) the powers of a receiver appointed under section 48<sup>[F4]</sup> or 50].
- <sup>[F5]</sup>(c) the powers conferred on appropriate officers by sections 47C to 47L;
- (d) the powers conferred on senior officers by section 47G.]

(2) The powers—

- (a) must be exercised with a view to the value for the time being of realisable property being made available (by the property's realisation) for satisfying any confiscation order that has been or may be made against the defendant;
- (b) must be exercised, in a case where a confiscation order has not been made, with a view to securing that there is no diminution in the value of realisable property;
- (c) must be exercised without taking account of any obligation of the defendant or a recipient of a tainted gift if the obligation conflicts with the object of satisfying any confiscation order that has been or may be made against the defendant;
- (d) may be exercised in respect of a debt owed by the Crown.

<sup>[F6]</sup>(2A) Subsection (2)(a) does not apply to—

- (a) the power conferred on a court by paragraph (e) of section 51(2) (which enables the court to give a receiver the power to destroy cryptoassets),
- (b) a power conferred on a receiver by virtue of that paragraph, or

*Status: Point in time view as at 26/04/2024.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 69 is up to date with all changes known to be in force on or before 27 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)*

- (c) the power conferred on a magistrates' court by section 67AA (power to order destruction of cryptoassets).]
- (3) Subsection (2) has effect subject to the following rules—
- (a) the powers must be exercised with a view to allowing a person other than the defendant or a recipient of a tainted gift to retain or recover the value of any interest held by him;
- (b) in the case of realisable property held by a recipient of a tainted gift, the powers must be exercised with a view to realising no more than the value for the time being of the gift;
- (c) in a case where a confiscation order has not been made against the defendant, property must not be sold if the court so orders under subsection (4).
- (4) If on an application by the defendant, or by the recipient of a tainted gift, the court decides that property cannot be replaced it may order that it must not be sold.
- (5) An order under subsection (4) may be revoked or varied.

#### Textual Amendments

- F1** Word in s. 69 heading inserted (1.6.2015) by Policing and Crime Act 2009 (c. 26), **ss. 55(4)(b)**, 116(1); S.I. 2015/983, art. 2(2)(a)
- F2** Word in s. 69(1)(a) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 34(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F3** Word in s. 69(1)(a) substituted (1.6.2015) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 67**; S.I. 2015/983, arts. 2(2)(e), 3(n)
- F4** Words in s. 69(1)(b) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 34(b)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F5** S. 69(1)(c)(d) inserted (1.6.2015) by Policing and Crime Act 2009 (c. 26), **ss. 55(4)(a)**, 116(1); S.I. 2015/983, art. 2(2)(a)
- F6** S. 69(2A) inserted (26.10.2023 for specified purposes, 26.4.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), s. 219(1)(2)(b), **Sch. 8 para. 17**; S.I. 2024/269, reg. 4(a)

#### Modifications etc. (not altering text)

- C1** Pt. 2 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 8(5A), **34(3A)** (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 39(2)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), **sch.** (with art. 7); S.I. 2003/333, art. 2, **Sch.**)
- C2** Pt. 2 applied by Police and Criminal Evidence Act 1984 (c. 60), **ss. 56(5B)**, 58(8B) (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 14(2)(3)**; S.I. 2003/333, art. 2, **Sch.**)

#### Commencement Information

- I1** S. 69 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

**Status:**

Point in time view as at 26/04/2024.

**Changes to legislation:**

Proceeds of Crime Act 2002, Section 69 is up to date with all changes known to be in force on or before 27 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.