

Status: Point in time view as at 22/11/2014. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Cross Heading: Proceeds of Crime Act 2002 (c. 29). (See end of Document for details)

SCHEDULES

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 6

PROCEEDS OF CRIME: CONFISCATION

Proceeds of Crime Act 2002 (c. 29)

66 The Proceeds of Crime Act 2002 is amended as follows.

Commencement Information

II Sch. 7 para. 66 in force at 22.11.2014 for specified purposes by [S.I. 2014/3101](#), [art. 2\(d\)](#)

VALID FROM 01/06/2015

67 In section 69(1) (exercise of powers of court and receiver) for “67” substitute “67D”.

VALID FROM 01/06/2015

68 In section 85 (proceedings: England and Wales) for subsection (7) substitute—
“(7) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of subsection (6).”

VALID FROM 01/06/2015

69 In section 87(2) (definition of confiscation order subject to appeal: England and Wales) omit the words from “; and for” to the end.

VALID FROM 01/06/2015

70 After section 87 insert—

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“87A No further possibility of appeal

- (1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—
- (a) an appeal against a decision of a court, or
 - (b) an appeal on which an order of a court could be varied or quashed.
- (2) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.”

VALID FROM 01/06/2015

71 In section 132(1) (exercise of powers of court and administrator) for “131” substitute “ 131D ”.

VALID FROM 01/06/2015

72 In section 153(2) (definition of confiscation order subject to appeal: Scotland) omit the words from “; and for” to the end.

VALID FROM 01/06/2015

73 After section 153 insert—

“153A No further possibility of appeal

- (1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—
- (a) an appeal against (or review of) a decision of a court, or
 - (b) an appeal on which an order of a court could be varied or quashed.
- (2) Any power—
- (a) to allow an appeal (or review) out of time, or
 - (b) to extend the time for applying for leave to appeal,
- must be ignored.”

VALID FROM 01/03/2016

74 In section 217(1) (exercise of powers of court and receiver) for “215” substitute “ 215D ”.

VALID FROM 01/06/2015

75 In section 233 (proceedings: Northern Ireland) for subsection (7) substitute—

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“(7) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of subsection (6).”

VALID FROM 01/06/2015

76 In section 235(2) (definition of confiscation order subject to appeal: Northern Ireland) omit the words from “; and for” to the end.

VALID FROM 01/06/2015

77 After section 235 insert—

“235A No further possibility of appeal

- (1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—
 - (a) an appeal against a decision of a court, or
 - (b) an appeal on which an order of a court could be varied or quashed.
- (2) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.”

VALID FROM 01/06/2015

78 In section 308 (recoverable property: exceptions) after subsection (8) insert—
“(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.”

VALID FROM 01/06/2015

79 In section 417 (property excluded from estate of person adjudged bankrupt in England and Wales) for subsection (2) substitute—
“(2) The following property is excluded from the person's estate for the purposes of Part 9 of the 1986 Act—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging the person bankrupt;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;

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(d) property in respect of which an order under section 67A, 131A or 215A is in force.”

VALID FROM 01/06/2015

- 80 (1) Section 418 (restriction of powers where person adjudged bankrupt in England and Wales) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
 - (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
 - (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.
- (3) In subsection (3) after paragraph (e) insert—
- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

VALID FROM 01/06/2015

- 81 (1) Section 419 (tainted gifts by person adjudged bankrupt in England and Wales) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
 - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,”, and
 - (b) after paragraph (b) insert “, or
 - (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”
- (3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

VALID FROM 01/06/2015

- 82 In section 420 (property excluded from the debtor’s estate where sequestration in Scotland) for subsection (2) substitute—
- “(2) The following property is excluded from the debtor's estate for the purposes of the 1985 Act—

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- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the award of sequestration;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

VALID FROM 01/06/2015

- 83 (1) Section 421 (restriction of powers where award of sequestration) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
 - (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
 - (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.
- (3) In subsection (3) after paragraph (e) insert—
- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

VALID FROM 01/06/2015

- 84 (1) Section 422 (tainted gifts by person whose estate is sequestrated in Scotland) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
 - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,” and
 - (b) after paragraph (b) insert “, or
 - (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”
- (3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

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VALID FROM 01/06/2015

- 85 In section 423 (property excluded from estate of person adjudged bankrupt in Northern Ireland) for subsection (2) substitute—
- “(2) The following property is excluded from the person's estate for the purposes of Part 9 of the 1989 Order—
- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging the person bankrupt;
 - (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
 - (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
 - (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

VALID FROM 01/06/2015

- 86 (1) Section 424 (restriction of powers where person adjudged bankrupt in Northern Ireland) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
 - (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
 - (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.
- (3) In subsection (3) after paragraph (e) insert—
- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

VALID FROM 01/06/2015

- 87 (1) Section 425 (tainted gifts by person who is adjudged bankrupt in Northern Ireland) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
 - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,” and
 - (b) after paragraph (b) insert “, or

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(c) there is in force in respect of such property an order under section 67A, 131A or 215A.”

(3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

VALID FROM 01/06/2015

88 (1) Section 426 (winding up under the Insolvency Act 1986) is amended as follows.

(2) For subsection (2) substitute—

“(2) If an order for the winding up of a company is made or it passes a resolution for its voluntary winding up, the functions of the liquidator (or any provisional liquidator) are not exercisable in relation to the following property—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

(3) In subsection (5)—

- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
- (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

VALID FROM 01/06/2015

89 (1) Section 427 (tainted gifts by company: winding up in England and Wales or Scotland) is amended as follows.

(2) In subsection (3)—

(a) after paragraph (a) insert—

“(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,” and

(b) after paragraph (b) insert “, or

(c) there is in force in respect of such property an order under section 67A, 131A or 215A.”

(3) In subsection (4) for “subsection (3)(a) or (b)” substitute “ subsection (3)(a), (b) or (c) ”.

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VALID FROM 01/06/2015

- 90 (1) Section 428 (winding up under the Insolvency (Northern Ireland) Order 1989) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) If an order for the winding up of a company is made or it passes a resolution for its voluntary winding up, the functions of the liquidator (or any provisional liquidator) are not exercisable in relation to the following property—
- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
 - (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
 - (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
 - (d) property in respect of which an order under section 67A, 131A or 215A is in force.”
- (3) In subsection (5)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
 - (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
 - (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

VALID FROM 01/06/2015

- 91 (1) Section 429 (tainted gifts by company: winding up in Northern Ireland) is amended as follows.
- (2) In subsection (3)—
- (a) after paragraph (a) insert—
 - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,” and
 - (b) after paragraph (b) insert “, or
 - (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”
- (3) In subsection (4) for “subsection (3)(a) or (b)” substitute “ subsection (3)(a), (b) or (c) ”.

VALID FROM 01/06/2015

- 92 (1) Section 430 (restriction of powers where company holds property subject to floating charge) is amended as follows.

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(2) For subsection (2) substitute—

“(2) If a company holds property which is subject to a floating charge, and a receiver has been appointed by or on the application of the holder of the charge, the functions of the receiver are not exercisable in relation to the following property—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

(3) In subsection (5)—

- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
- (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

VALID FROM 01/06/2015

93 (1) Section 432 (insolvency practitioners) is amended as follows.

(2) After subsection (6) insert—

“(6A) Subsection (7) also applies if—

- (a) property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,
- (b) a person acting as an insolvency practitioner incurs expenses which are not ones in respect of the detained property, and
- (c) the expenses are ones which (but for the effect of the detention of the property) might have been met by taking possession of and realising the property.”

(3) For subsection (7) substitute—

“(7) Whether or not the insolvency practitioner has seized or disposed of any property, the insolvency practitioner is entitled to payment of the expenses under—

- (a) section 54(2), 55(3) or 67D(2) if the restraint order was made under section 41 or (as the case may be) the property was detained under or by virtue of section 44A, 47J, 47K, 47M or 47P,
- (b) section 130(3), 131(3) or 131D(2) if the restraint order was made under section 120 or (as the case may be) the property was detained under or by virtue of section 122A, 127J, 127K, 127M or 127P, and

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(c) section 202(2), 203(3) or 215D(2) if the restraint order was made under section 190 or (as the case may be) the property was detained under or by virtue of section 193A, 195J, 195K, 195M or 195P.”

VALID FROM 01/06/2015

94 In section 453A(5) (offences in relation to financial investigators) for paragraph (a) substitute—
“(a) sections 47C to 47F or 195C to 195F (powers to seize and search for realisable property);”.

- 95 (1) Section 459 (orders and regulations) is amended as follows.
- (2) In subsection (4)(a) (orders not subject to negative procedure: Secretary of State etc.)
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- (a) after “section” insert “ 41A(5), 47S(4), ”, and
- (b) after “75(7) or (8),” insert “ 190A(5), 195S(4), ”.
- (3) In subsection (6)(a) (orders subject to affirmative procedure: Secretary of State etc.)
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- (a) after “section” insert “ 41A(5), 47S(4), ”, and
- (b) after “75(7) or (8),” insert “ 190A(5), 195S(4), ”.

Commencement Information

I2 Sch. 7 para. 95 in force at 22.11.2014 by [S.I. 2014/3101](#), **art. 2(e)**

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