
STATUTORY INSTRUMENTS

2005 No. 3181

The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005

PART 5

GIVING EFFECT IN THE UNITED KINGDOM TO EXTERNAL ORDERS BY MEANS OF CIVIL RECOVERY

CHAPTER 2

CIVIL RECOVERY IN THE HIGH COURT OR COURT OF SESSION

Interim receiving orders: further provisions

Interim receiving orders: restrictions on dealing etc. with property

157.—(1) An interim receiving order must, subject to any exclusions made in accordance with this article, prohibit any person to whose property the order applies from dealing with the property.

(2) Exclusions may be made when the interim receiving order is made or on an application to vary the order.

(3) An exclusion may, in particular, make provision for the purpose of enabling any person—

- (a) to meet his reasonable living expenses, or
- (b) to carry on any trade, business, profession or occupation,
- (c) and may be made subject to conditions.

(4) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that he has incurred, or may incur, in respect of proceedings under this Part, it must ensure that the exclusion—

- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that he reasonably incurs,
- (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
- (c) is made subject to the required conditions (see article 198) in addition to any conditions imposed under paragraph (3).

(5) The court, in deciding whether to make an exclusion for the purposes of enabling a person to meet legal expenses of his in respect of proceedings under this Part—

- (a) must have regard (in particular) to the desirability of the person being represented in any proceedings under this Part in which he is a participant, and
- (b) must, where the person is the respondent, disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made, be funded by the Legal Services Commission or the Northern Ireland Legal Services Commission.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) If the excluded property is not specified in the order it must be described in the order in general terms.

(7) The power to make exclusions must, subject to paragraph (5), be exercised with a view to ensuring so far as practicable, that the satisfaction of any right of the enforcement authority to recover the property obtained through conduct which satisfies the test in article 202(2) is not unduly prejudiced.