
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

Vesting and realisation of recoverable property

Associated and joint property: default of agreement

183.—(1) Where this article applies, the court may make the following provision if—

- (a) there is no agreement under article 182, and
- (b) the court thinks it just and equitable to do so.

(2) The recovery order may provide—

- (a) for the associated property to vest in the trustee for civil recovery or (as the case may be) for the excepted joint owner's interest to be extinguished, or
- (b) in the case of an excepted joint owner, for the severance of his interest.

(3) A recovery order making any provision by virtue of paragraph (2)(a) may provide—

- (a) for the trustee to pay an amount to the person who holds the associated property or who is an excepted joint owner, or
- (b) for the creation of interests in favour of that person, or the imposition of liabilities or conditions, in relation to the property vested in the trustee,

or for both.

(4) In making any provision in a recovery order by virtue of paragraph (2) or (3), the court must have regard to—

- (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to him of that property or, as the case may be, of his share (including any value which cannot be assessed in terms of money),
- (b) the enforcement authority's interest in receiving the realised proceeds of the recoverable property.

(5) If—

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- (a) a property freezing order, an interim receiving order, a prohibitory property order or an interim administration order applied at any time to the associated property or joint tenancy, and
- (b) the court is satisfied that the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the order mentioned in subparagraph (a),

a recovery order making any provision by virtue of paragraph (2) or (3) may require the enforcement authority to pay compensation to that person.

(6) The amount of compensation to be paid under paragraph (5) is the amount the court thinks reasonable, having regard to the person's loss and to any other relevant circumstances.