
STATUTORY INSTRUMENTS

2005 No. 3181

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

PART 2

GIVING EFFECT IN ENGLAND AND WALES TO EXTERNAL REQUESTS IN CONNECTION WITH CRIMINAL INVESTIGATIONS OR PROCEEDINGS AND TO EXTERNAL ORDERS ARISING FROM SUCH PROCEEDINGS

CHAPTER 3

RECEIVERS AND PROCEDURE

Powers of court and receiver

- 46.**—(1) This article applies to—
- (a) the powers conferred on a court by this Part;
 - (b) the powers of a receiver appointed under article 15, 27 or 30.
- (2) The powers—
- (a) must be exercised with a view to the value for the time being of realisable property or specified property being made available (by the property's realisation) for satisfying an external order that has been or may be made against the defendant;
 - (b) must be exercised, in a case where an external order has not been made, with a view to securing that there is no diminution in the value of the property identified in the external request;
 - (c) must be exercised without taking account of any obligation of a defendant or a recipient of a tainted gift if the obligation conflicts with the object of satisfying any external order against the defendant that has been or may be registered under article 22;
 - (d) may be exercised in respect of a debt owed by the Crown.
- (3) Paragraph (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 or specified 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 an external order has not been made against the defendant, property must not be sold if the court so orders under paragraph (4).
- (4) If on an application by the defendant or 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 paragraph (4) may be revoked or varied.