



Crime and Courts Act 2013

2013 CHAPTER 22

PART 2

COURTS AND JUSTICE

Proceeds of crime

46 Restraint orders and legal aid

- (1) Section 41 of the Proceeds of Crime Act 2002 (confiscation in England and Wales: restraint orders) is amended in accordance with subsections (2) to (6).
- (2) After subsection (2) insert—
 - “(2A) A restraint order must be made subject to an exception enabling relevant legal aid payments to be made (a legal aid exception).
 - (2B) A relevant legal aid payment is a payment that the specified person is obliged to make—
 - (a) by regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and
 - (b) in connection with services provided in relation to an offence which falls within subsection (5),whether the obligation to make the payment arises before or after the restraint order is made.”
- (3) In subsection (3)—
 - (a) after “subject to” insert “ other ”, and
 - (b) omit paragraph (c).
- (4) In subsection (4), for “But an exception to a restraint order” substitute “ But where an exception to a restraint order is made under subsection (3), it ”.
- (5) After subsection (5) insert—

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“(5A) A legal aid exception—

- (a) must be made subject to prescribed restrictions (if any) on—
 - (i) the circumstances in which payments may be made in reliance on the exception, or
 - (ii) the amount of the payments that may be made in reliance on the exception,
- (b) must be made subject to other prescribed conditions (if any), and
- (c) may be made subject to other conditions.

(5B) Any other exception to a restraint order may be made subject to conditions.”

(6) After subsection (9) insert—

“(10) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

(7) In section 459 of that Act (orders and regulations)—

- (a) in subsection (4)(a), after “section” insert “ 41(5A), ”, and
- (b) in subsection (6)(a), after “section” insert “ 41(5A), ”.

Commencement Information

- I1** S. 46(1) in force at 20.3.2015 for specified purposes by [S.I. 2015/813, art. 2\(a\)\(i\)](#)
- I2** S. 46(1)(5) in force at 1.6.2015 in so far as not already in force by [S.I. 2015/813, art. 3\(b\)](#)
- I3** S. 46(2)-(4) in force at 1.6.2015 by [S.I. 2015/813, art. 3\(b\)](#)
- I4** S. 46(5) in force at 20.3.2015 for specified purposes by [S.I. 2015/813, art. 2\(a\)\(ii\)](#)
- I5** S. 46(6)(7) in force at 20.3.2015 by [S.I. 2015/813, art. 2\(a\)\(iii\)](#)

47 Restraint orders and legal aid: supplementary

(1) The Secretary of State may by regulations—

- (a) make provision about the making of relevant legal aid payments out of property that is the subject of a restraint order under Part 2 of the Proceeds of Crime Act 2002 (“the 2002 Act”), and
- (b) make provision in connection with cases in which such payments are or may be made out of such property,

whether by modifying the operation of Part 2 of the 2002 Act or Chapter 1, 2 or 4 of Part 8 of that Act or otherwise.

(2) The provision that may be made by regulations under this section includes—

- (a) provision about how much property may be subject to a restraint order, including provision made by reference to the amount or estimated amount of relevant legal aid payments;
- (b) provision for a restraint order or other order under Part 2 of the 2002 Act to remain in force, where a relevant legal aid payment remains unpaid, in circumstances in which the order would otherwise have to be discharged;
- (c) provision about powers of investigation for the purpose of identifying property that may be used to make relevant legal aid payments, including powers exercisable where an order continues in force in accordance with provision described in paragraph (b);

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- (d) provision about the use of property in cases in which there is or has been a restraint order, including provision about the order in which different obligations to make payments may or must be satisfied in such cases;
 - (e) provision about powers of entry, search and seizure;
 - (f) provision about the payment of compensation by the Lord Chancellor;
 - (g) provision about the disclosure and use of documents, information and other evidence.
- (3) The provision that may be made by regulations under this section (whether by virtue of this section or section 58(12)) includes—
- (a) provision conferring, removing or otherwise modifying a function;
 - (b) provision amending, repealing, revoking or otherwise modifying provision made by or under any enactment (including provision inserted or amended by this Act).
- (4) In this section—
- “function” means a function of any description, including a power or duty (whether conferred by an enactment or arising otherwise);
 - “property” has the same meaning as in Part 2 of the 2002 Act;
 - “relevant legal aid payment” means—
- (a) a payment that is a relevant legal aid payment for the purposes of section 41 of the 2002 Act, and
 - (b) a payment that would be such a payment if a restraint order were made.
- (5) In subsection (2)(a) and (c) the references to relevant legal aid payments include any payment that is likely to be a relevant legal aid payment when the obligation to make the payment arises.

Commencement Information

I6 S. 47 in force at 20.3.2015 by [S.I. 2015/813](#), [art. 2\(b\)](#)

48 Civil recovery of the proceeds etc of unlawful conduct

- (1) Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.
- (2) After section 282 insert—

“Scope of powers

282A Scope of powers

- (1) An order under this Chapter may be made by the High Court in England and Wales or the Court of Session—
- (a) in respect of property wherever situated, and
 - (b) in respect of a person wherever domiciled, resident or present, subject to subsection (2).

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- (2) Such an order may not be made by the High Court in England and Wales or the Court of Session in respect of—
- (a) property that is outside the United Kingdom, or
 - (b) property that is in the United Kingdom but outside the relevant part of the United Kingdom,
- unless there is or has been a connection between the case and the relevant part of the United Kingdom.
- (3) The circumstances in which there is or has been such a connection include those described in Schedule 7A.
- (4) “The relevant part of the United Kingdom” means—
- (a) in relation to an order made by the High Court in England and Wales, England and Wales, and
 - (b) in relation to an order made by the Court of Session, Scotland.”
- (3) After Schedule 7 insert—

“SCHEDULE 7A

Section 282A

CONNECTION WITH RELEVANT PART OF UNITED KINGDOM

Unlawful conduct

- 1 There is a connection where the unlawful conduct occurred entirely or partly in the relevant part of the United Kingdom.

Property

- 2 There has been a connection where the property in question has been in the relevant part of the United Kingdom, but only if it was recoverable property in relation to the unlawful conduct for some or all of the time it was there.
- 3 There is a connection where there is other property in the relevant part of the United Kingdom that is recoverable property in relation to the unlawful conduct.
- 4 There has been a connection where, at any time, there has been other property in the relevant part of the United Kingdom that, at the time, was recoverable property in relation to the unlawful conduct.

Person

- 5 (1) There is or has been a connection where a person described in subparagraph (2)—
- (a) is linked to the relevant part of the United Kingdom,
 - (b) was linked to that part of the United Kingdom at a time when the unlawful conduct, or some of the unlawful conduct, was taking place, or
 - (c) has been linked to that part of the United Kingdom at any time since that conduct took place.
- (2) Those persons are—

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- (a) a person whose conduct was, or was part of, the unlawful conduct;
 - (b) a person who was deprived of property by the unlawful conduct;
 - (c) a person who holds the property in question;
 - (d) a person who has held the property in question, but only if it was recoverable property in relation to the unlawful conduct at the time;
 - (e) a person who holds other property that is recoverable property in relation to the unlawful conduct;
 - (f) a person who, at any time, has held other property that was recoverable property in relation to the unlawful conduct at the time.
- (3) A person is linked to the relevant part of the United Kingdom if the person is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who, under the British Nationality Act 1981, is a British subject,
 - (c) a British protected person within the meaning of that Act,
 - (d) a body incorporated or constituted under the law of any part of the United Kingdom, or
 - (e) a person domiciled, resident or present in the relevant part of the United Kingdom.

Property held on trust

- 6 (1) There is a connection where the property in question is property held on trust, or an interest in property held on trust, and—
- (a) the trust arises under the law of any part of the United Kingdom,
 - (b) the trust is entirely or partly governed by the law of any part of the United Kingdom,
 - (c) one or more of the trustees is linked to the relevant part of the United Kingdom, or
 - (d) one or more of the beneficiaries of the trust is linked to the relevant part of the United Kingdom.
- (2) A person is linked to the relevant part of the United Kingdom if the person falls within paragraph 5(3).
- (3) “Beneficiaries” includes beneficiaries with a contingent interest in the trust property and potential beneficiaries.

Interpretation

- 7 “The relevant part of the United Kingdom” has the meaning given in section 282A(4).
- 8 “The unlawful conduct” means—
- (a) in a case in which the property in question was obtained through unlawful conduct, that conduct,
 - (b) in a case in which the property in question represents property obtained through unlawful conduct, that conduct, or
 - (c) in a case in which it is shown that the property in question was obtained through unlawful conduct of one of a number of kinds or

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represents property so obtained (see section 242(2)(b)), one or more of those kinds of conduct.”

- (4) Omit section 286 (scope of powers: Scotland).
- (5) In section 316 (general interpretation), after subsection (8A) insert—
- “(8B) An enforcement authority in relation to England and Wales or Scotland may take proceedings there for an order under Chapter 2 of this Part in respect of any property or person, whether or not the property or person is (or is domiciled, resident or present) in that part of the United Kingdom.”
- (6) In Schedule 18 to this Act (proceeds of crime: civil recovery of the proceeds etc of unlawful conduct)—
- (a) Part 1 makes provision about the enforcement of interim orders in the United Kingdom, and
- (b) Part 2 makes provision about enforcement where property or evidence is outside the United Kingdom.
- (7) The amendments made by this section and Part 2 of Schedule 18 are deemed always to have had effect.
- (8) The amendments made by this section and Schedule 18 do not affect the extent to which provisions of the Proceeds of Crime Act 2002 (other than Chapter 2 of Part 5), or of any other enactment, apply in respect of persons or property outside the United Kingdom or outside a particular part of the United Kingdom.

Extent Information

- E1** S. 48(2)(3)(5)(6)(7): "the relevant civil recovery provisions" as specified in Sch. 25 para. 1, and to the extent there specified, do not extend to Northern Ireland, see Sch. 25 para. 2
- E2** S. 48(2)(3)(5)(6)(7) extended (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **7(a)**

Modifications etc. (not altering text)

- C1** S. 48(5)(6) extended (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **7(a)**
- C2** S. 48(7) extended in part (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **7(a)**

Commencement Information

- I7** S. 48 partly in force; s. 48(1)-(5)(6)(b)(7)(8) in force at Royal Assent, see s. 61(11)(c)
- I8** S. 48(6)(a) in force at 1.6.2015 by [S.I. 2015/964](#), **art. 2(a)**

49 Investigations

In Schedule 19 (proceeds of crime: investigations)—

- (a) Part 1 makes provision about orders and warrants sought under Part 8 of the Proceeds of Crime Act 2002 in connection with civil recovery investigations,
- (b) Part 2 makes provision about obtaining evidence overseas, and
- (c) Part 3 makes consequential amendments relating to immigration officers and to the National Crime Agency.

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Proceeds of crime. (See end of Document for details)

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Extent Information

- E3** S. 49 extended in part (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **7(b)**
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Commencement Information

- I9** S. 49 in force at 1.6.2015 for E.W.S. by [S.I. 2015/964](#), **art. 2(c)** (with **art. 3**)
- I10** S. 49 in force at 1.2.2017 for specified purposes by [S.I. 2017/4](#), **art. 2** (with **art. 3**)
- I11** S. 49(b) in force at 22.11.2014 for specified purposes by [S.I. 2014/3098](#), **art. 3**

Changes to legislation:

There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross
Heading: Proceeds of crime.