



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

#### CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

### CHAPTER 2

#### CIVIL RECOVERY IN THE HIGH COURT OR COURT OF SESSION

#### *[<sup>F1</sup>Interim receiving orders: further provisions]*

#### Annotations:

#### Amendments (Textual)

- F1** S. 250 cross-heading inserted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 6 para. 13](#); S.I. 2005/3136, art. 3(c)

#### **250 Duties of respondent etc.**

- (1) An interim receiving order may require any person to whose property the order applies
- (a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the interim receiver or place it in the custody of the interim receiver (if, in either case, he is able to do so),
  - (b) to do anything he is reasonably required to do by the interim receiver for the preservation of the property.
- (2) An interim receiving order may require any person to whose property the order applies to bring any documents relating to the property which are in his possession or control to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the interim receiver or to place them in the custody of the interim receiver.

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“Document” means anything in which information of any description is recorded.

**Annotations:**

**Commencement Information**

- I1** S. 250 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

**251 Supervision of interim receiver and variation of order**

- (1) The interim receiver, any party to the proceedings and any person affected by any action taken by the interim receiver, or who may be affected by any action proposed to be taken by him, may at any time apply to the court for directions as to the exercise of the interim receiver’s functions.
- (2) Before giving any directions under subsection (1), the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to the interim receiver and to any person who may be interested in the application.
- (3) The court may at any time vary or set aside an interim receiving order.
- (4) Before exercising any power under this Chapter to vary or set aside an interim receiving order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to the interim receiver and to any person who may be affected by the court’s decision.

**Annotations:**

**Commencement Information**

- I2** S. 251 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

**252 Restrictions on dealing etc. with property**

- (1) An interim receiving order must, subject to any exclusions made in accordance with this section, 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,
 and may be made subject to conditions.
- <sup>F2</sup>(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—

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- (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 section 286A) in addition to any conditions imposed under subsection (3).
- (4A) The court, in deciding whether to make an exclusion for the purpose 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 [<sup>F3</sup>made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or funded by][<sup>F4</sup>the Department of Justice].]
- (5) If the excluded property is not specified in the order it must be described in the order in general terms.
- (6) The power to make exclusions must [<sup>F5</sup>, subject to subsection (4A),] 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 unlawful conduct is not unduly prejudiced.

#### Annotations:

##### Amendments (Textual)

- F2** S. 252(4)(4A) substituted for s. 252(4) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 6 para. 14\(2\)](#); S.I. 2005/3136, art. 3(c)
- F3** Words in s. 252(4A)(b) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 60](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F4** Words in s. 252(4A)(b) substituted (N.I.) (1.4.2015) by [Legal Aid and Coroners' Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), [Sch. 2 para. 4](#) (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F5** Words in s. 252(6) inserted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 6 para. 14\(3\)](#); S.I. 2005/3136, art. 3(c)

##### Commencement Information

- I3** S. 252 in force at 24.2.2003 by S.I. 2003/120, art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

## 253 Restriction on proceedings and remedies

- (1) While an interim receiving order has effect—
- (a) the court may stay any action, execution or other legal process in respect of the property to which the order applies,
  - (b) no distress may be levied [<sup>F6</sup>, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,] against the property to which the order applies except with the leave of the court and subject to any terms the court may impose.

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- (2) If a court (whether the High Court or any other court) in which proceedings are pending in respect of any property is satisfied that an interim receiving order has been applied for or made in respect of the property, the court may either stay the proceedings or allow them to continue on any terms it thinks fit.
- (3) If the interim receiving order applies to a tenancy of any premises, no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the court and subject to any terms the court may impose.
- (4) Before exercising any power conferred by this section, the court must (as well as giving the parties to any of the proceedings in question an opportunity to be heard) give such an opportunity to the interim receiver (if appointed) and any person who may be affected by the court's decision.

**Annotations:**

**Amendments (Textual)**

**F6** Words in s. 253(1)(b) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 146](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

**Commencement Information**

**I4** S. 253 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

**254 Exclusion of property which is not recoverable etc.**

- (1) If the court decides that any property to which an interim receiving order applies is neither recoverable property nor associated property, it must vary the order so as to exclude it.
- (2) The court may vary an interim receiving order so as to exclude from the property to which the order applies any property which is alleged to be associated property if the court thinks that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct will not be prejudiced.
- (3) The court may exclude any property within subsection (2) on any terms or conditions, applying while the interim receiving order has effect, which the court thinks necessary or expedient.

**Annotations:**

**Commencement Information**

**I5** S. 254 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

**255 Reporting**

- (1) An interim receiving order must require the interim receiver to inform the enforcement authority and the court as soon as reasonably practicable if he thinks that—

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- (a) any property to which the order applies by virtue of a claim that it is recoverable property is not recoverable property,
- (b) any property to which the order applies by virtue of a claim that it is associated property is not associated property,
- (c) any property to which the order does not apply is recoverable property (in relation to the same unlawful conduct) or associated property, or
- (d) any property to which the order applies is held by a person who is different from the person it is claimed holds it,

or if he thinks that there has been any other material change of circumstances.

(2) An interim receiving order must require the interim receiver—

- (a) to report his findings to the court,
- (b) to serve copies of his report on the enforcement authority and on any person who holds any property to which the order applies or who may otherwise be affected by the report.

**Annotations:**

**Commencement Information**

**I6** S. 255 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/120 art. 3 5 by [S.I. 2003/333 art. 14\(2\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 97A inserted by [2015 c. 9 s. 15\(2\)](#)
- s. 99(11)(d)(e) inserted by [2015 c. 9 Sch. 4 para. 36](#)
- s. 100(3)(d)(e) inserted by [2015 c. 9 Sch. 4 para. 37\(2\)\(b\)](#)
- s. 100(4)(d)(e) inserted by [2015 c. 9 Sch. 4 para. 37\(3\)\(b\)](#)
- s. 104(7)(e)(f) inserted by [2015 c. 9 Sch. 4 para. 38\(2\)](#)
- s. 104(8A) inserted by [2015 c. 9 Sch. 4 para. 38\(3\)](#)
- s. 105(10)(e)(f) inserted by [2015 c. 9 Sch. 4 para. 39\(2\)](#)
- s. 105(11A) inserted by [2015 c. 9 Sch. 4 para. 39\(3\)](#)
- s. 106(8)(d)(e) inserted by [2015 c. 9 Sch. 4 para. 40\(2\)](#)
- s. 106(9)(b) inserted by [2015 c. 9 Sch. 4 para. 40\(3\)\(b\)](#)
- s. 107(4)(d)(e) inserted by [2015 c. 9 Sch. 4 para. 41\(2\)](#)
- s. 107(5)(b) inserted by [2015 c. 9 Sch. 4 para. 41\(3\)\(b\)](#)
- s. 131(6A) inserted by [2015 c. 9 Sch. 4 para. 44\(b\)](#)
- s. 302(7A)(da) inserted by [2016 anaw 6 s. 186\(3\)](#)
- s. 323(1)(hb) inserted by [2018 c. 24 Sch. para. 45\(2\)](#)
- s. 323(4)(eb) inserted by [2018 c. 24 Sch. para. 45\(3\)](#)
- s. 323(5)(eb) inserted by [2018 c. 24 Sch. para. 45\(4\)](#)
- s. 353(11) words inserted by [S.I. 2018/285 reg. 5\(g\)](#)
- s. 442A inserted by [2018 c. 12 Sch. 19 para. 85](#)
- s. 453(1A) inserted by [2016 anaw 6 s. 186\(4\)](#)
- s. 459(4)(aa) inserted by [2016 anaw 6 s. 186\(5\)\(a\)](#)
- s. 459(4A) inserted by [2016 anaw 6 s. 186\(5\)\(b\)](#)