



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Management receivers

197 Powers

- (1) If the court appoints a receiver under section 196 it may act under this section on the application of the person who applied for the restraint order.
- (2) The court may by order confer on the receiver the following powers in relation to any realisable property to which the restraint order applies—
 - (a) power to take possession of the property;
 - (b) power to manage or otherwise deal with the property;
 - (c) power to start, carry on or defend any legal proceedings in respect of the property;
 - (d) power to realise so much of the property as is necessary to meet the receiver's remuneration and expenses.
- (3) The court may by order confer on the receiver power to enter any premises in Northern Ireland and to do any of the following—
 - (a) search for or inspect anything authorised by the court;
 - (b) make or obtain a copy, photograph or other record of anything so authorised;
 - (c) remove anything which the receiver is required or authorised to take possession of in pursuance of an order of the court.
- (4) The court may by order authorise the receiver to do any of the following for the purpose of the exercise of his functions—
 - (a) hold property;
 - (b) enter into contracts;
 - (c) sue and be sued;

Changes to legislation: Proceeds of Crime Act 2002, Section 197 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (d) employ agents;
 - (e) execute powers of attorney, deeds or other instruments;
 - (f) take any other steps the court thinks appropriate.
- (5) The court may order any person who has possession of realisable property to which the restraint order applies to give possession of it to the receiver.
- (6) The court—
- (a) may order a person holding an interest in realisable property to which the restraint order applies to make to the receiver such payment as the court specifies in respect of a beneficial interest held by the defendant or the recipient of a tainted gift;
 - (b) may (on the payment being made) by order transfer, grant or extinguish any interest in the property.
- (7) Subsections (2), (5) and (6) do not apply to property for the time being subject to a charge under any of these provisions—
- (a) section 9 of the Drug Trafficking Offences Act 1986 (c. 32);
 - (b) section 78 of the Criminal Justice Act 1988 (c. 33);
 - (c) Article 14 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17));
 - (d) section 27 of the Drug Trafficking Act 1994 (c. 37);
 - (e) Article 32 of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)).
- (8) The court must not—
- (a) confer the power mentioned in subsection (2)(b) or (d) in respect of property, or
 - (b) exercise the power conferred on it by subsection (6) in respect of property,
- unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.
- [^{F1}(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
- (a) is perishable; or
 - (b) ought to be disposed of before its value diminishes.]
- (9) The court may order that a power conferred by an order under this section is subject to such conditions and exceptions as it specifies.
- (10) Managing or otherwise dealing with property includes—
- (a) selling the property or any part of it or interest in it;
 - (b) carrying on or arranging for another person to carry on any trade or business the assets of which are or are part of the property;
 - (c) incurring capital expenditure in respect of the property.

Textual Amendments

- F1** S. 197(8A) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. **82(3)**, 94(1); S.I. 2008/755, art. 17(1)(h) (with art. 17(3))

Changes to legislation: *Proceeds of Crime Act 2002, Section 197 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

- C1** Pt. 4 functions of receiver extended (24.2.2003) by [Proceeds of Crime Act 2002 \(Enforcement in different parts of the United Kingdom\) Order 2002 \(S.I. 2002/3133\)](#), arts. 1, **4(1)(a)**
- C2** Pt. 4 applied by S.I. 1989/1341 (N.I. 12), arts. 57(5B), 59(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), Supreme Court s. 458(1), **Sch. 11 para. 19(2)(3)**; S.I. 2003/333, art. 2, Sch.)
- C3** S. 197(6) excluded (24.2.2003) by [Proceeds of Crime Act 2002 \(Enforcement in different parts of the United Kingdom\) Order 2002 \(S.I. 2002/3133\)](#), arts. 1, **12(3)**

Commencement Information

- I1** S. 197 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, **Sch.**

Changes to legislation:

Proceeds of Crime Act 2002, Section 197 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)