



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 1

#### PROCEEDS OF CRIME

#### CHAPTER 2

##### SCOTLAND

##### *Civil recovery*

### **23 Prohibitory property orders: PPO receivers**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) After section 255F insert—

#### **“255G Receivers in connection with prohibitory property orders**

- (1) Subsection (2) applies if—
  - (a) the Court of Session makes a prohibitory property order on an application by an enforcement authority, and
  - (b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the prohibitory property order or at any time afterwards).
- (2) The Court of Session may by order appoint a person (a “PPO receiver”) in respect of any property to which the prohibitory property order applies.
- (3) An application for an order under this section may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

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*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Section 23. (See end of Document for details)*

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- (4) In its application for an order under this section, the enforcement authority must nominate a suitably qualified person for appointment as a PPO receiver.
- (5) Such a person may be a member of staff of the enforcement authority.
- (6) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a PPO receiver appointed under this section.
- (7) Subsection (6) does not apply in relation to the remuneration of the PPO receiver if he is a member of the staff of the enforcement authority (but it does apply in relation to such remuneration if the PPO receiver is a person providing services under arrangements made by the enforcement authority).

### **255H Powers of receivers appointed under section 255G**

- (1) If the Court of Session appoints a PPO receiver under section 255G on an application by an enforcement authority, the court may act under this section on the application of the authority.
- (2) The court may by order authorise or require the PPO receiver—
  - (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the PPO receiver is appointed,
  - (b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).
- (3) The court may by order require any person in respect of whose property the PPO receiver is appointed—
  - (a) to bring the property to a place in Scotland specified by the PPO receiver or to place it in the custody of the PPO receiver (if, in either case, he is able to do so),
  - (b) to do anything he is reasonably required to do by the PPO receiver for the preservation of the property.
- (4) The court may by order require any person in respect of whose property the PPO receiver is appointed to bring any documents relating to the property which are in his possession or control to a place in Scotland specified by the PPO receiver or to place them in the custody of the PPO receiver.
- (5) In subsection (4) “document” means anything in which information of any description is recorded.
- (6) Any prohibition on dealing with property imposed by a prohibitory property order does not prevent a person from complying with any requirements imposed by virtue of this section.
- (7) If—
  - (a) the PPO receiver deals with any property which is not property in respect of which he is appointed under section 255G, and

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- (b) at the time he deals with the property the PPO receiver believes on reasonable grounds that he is entitled to do so by virtue of his appointment,

the PPO receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

### **255I Supervision of PPO receiver and variations**

- (1) Any of the following persons may at any time apply to the Court of Session for directions as to the exercise of the functions of a PPO receiver—
    - (a) the PPO receiver,
    - (b) any party to the proceedings for the appointment of the PPO receiver or the prohibitory property order concerned,
    - (c) any person affected by any action taken by the PPO receiver,
    - (d) any person who may be affected by any action proposed to be taken by the PPO receiver.
  - (2) Before giving any directions under subsection (1), the court must give an opportunity to be heard to—
    - (a) the PPO receiver,
    - (b) the parties to the proceedings for the appointment of the PPO receiver and for the prohibitory property order concerned,
    - (c) any person who may be interested in the application under subsection (1).
  - (3) The court may at any time vary or recall—
    - (a) an order appointing a PPO receiver,
    - (b) any order under section 255H, or
    - (c) any directions under this section.
  - (4) Before exercising any power under subsection (3), the court must give an opportunity to be heard to—
    - (a) the PPO receiver,
    - (b) the parties to the proceedings for—
      - (i) the appointment of the PPO receiver,
      - (ii) the order under section 255H, or
      - (iii) (as the case may be) the directions under this section,
    - (c) the parties to the proceedings for the prohibitory property order concerned,
    - (d) any person who may be affected by the court's decision.”
- (3) After section 282C insert—

### **“282CA Enforcement abroad before recovery order: PPO receiver**

- (1) This section applies if—
  - (a) a prohibitory property order made by the Court of Session has effect in relation to property, and

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- (b) the PPO receiver appointed under section 255G in respect of the property believes that it is in a country outside the United Kingdom (the “receiving country”).
- (2) The PPO receiver may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.
- (3) The Secretary of State must forward the request for assistance to the government of the receiving country.
- (4) A request for assistance under this section is a request to the government of the receiving country—
  - (a) to secure that any person is prohibited from dealing with the property,
  - (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.”

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**Commencement Information**

**II** S. 23 in force at 1.3.2016 by S.I. 2016/148, reg. 3(b)

**Changes to legislation:**

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