



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 1

#### PROCEEDS OF CRIME

### CHAPTER 5

#### MISCELLANEOUS

#### *Miscellaneous provisions relating to Scotland*

#### **29 Recovery orders relating to heritable property**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) After section 245 insert—

#### **“245ZA Notice to local authority: Scotland**

- (1) This section applies if, in proceedings under this Chapter for a recovery order, the enforcement authority applies under section 266(8ZA) for decree of removing and warrant for ejection in relation to heritable property which consists of or includes a dwellinghouse.
- (2) The enforcement authority must give notice of the application to the local authority in whose area the dwellinghouse is situated.
- (3) Notice under subsection (2) must be given in the form and manner prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003.
- (4) In this section—  
“dwellinghouse” has the meaning given by section 11(8) of the Homelessness etc. (Scotland) Act 2003;

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“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and “area”, in relation to a local authority, means the local government area for which the authority is constituted.”

(3) In section 266 (recovery orders), after subsection (8) insert—

“(8ZA) If the recoverable property in respect of which the Court of Session makes a recovery order includes heritable property, the Court of Session must, on the application of the enforcement authority, also grant decree of removing and warrant for ejection, enforceable by the trustee for civil recovery, in relation to any persons occupying the heritable property.”

(4) In section 267(3) (functions of trustee for civil recovery), after paragraph (b) insert—

“(ba) if decree of removing and warrant for ejection is granted by the Court of Session under section 266(8ZA), to enforce the decree and warrant,”.

(5) After section 269 insert—

**“269A Leases and occupancy rights: Scotland**

- (1) This section applies where, in making a recovery order, the Court of Session also grants decree of removing and warrant for ejection under section 266(8ZA) in relation to any persons occupying the heritable property.
- (2) Any lease under which a person has the right to occupy the heritable property (or part of it) for residential or commercial purposes is terminated on the granting of decree of removing and warrant for ejection.
- (3) Any other right to occupy the heritable property (or part of it) which subsists immediately before the granting of decree of removing and warrant for ejection is extinguished on the granting of the decree and warrant.
- (4) Subsection (3) does not apply in relation to a right under a lease to occupy or use the property other than those mentioned in subsection (2).
- (5) Where the heritable property is vested in the trustee for civil recovery under the recovery order, the following enactments do not apply in relation to the heritable property—
  - (a) sections 34 to 38A of the Sheriff Courts (Scotland) Act 1907 (removings, notice of termination of tenancy and notice of removal);
  - (b) the Tenancy of Shops (Scotland) Act 1949;
  - (c) the Matrimonial Homes (Family Protection) (Scotland) Act 1981;
  - (d) Parts 2 and 3 of the Rent (Scotland) Act 1984 (security of tenure and protection against harassment and unlawful eviction);
  - (e) sections 4 to 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (termination of certain leases);
  - (f) Part 2 of the Housing (Scotland) Act 1988 (rented accommodation: security of tenure etc.);
  - (g) Chapter 3 of Part 3 of the Civil Partnership Act 2004 (occupancy rights and tenancies);
  - (h) Part 5 of the Private Housing (Tenancies) (Scotland) Act 2016 (security of tenure, termination of tenancy and eviction).”

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**Annotations:**

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**Commencement Information**

- I1** [S. 29](#) in force at Royal Assent for specified purposes, see [s. 58](#)
- I2** [S. 29](#) in force at 31.1.2018 for E.W.S. in so far as not already in force by [S.I. 2018/78, reg. 3\(1\)](#)

**Changes to legislation:**

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**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):

- Sch. 5 para. 20(a)(c)(d) coming into force by S.I. 2018/78 reg. 5(3)(b)(ii)
- Sch. 5 para. 23(a)(c)(d) coming into force by S.I. 2018/78 reg. 5(3)(b)(ii)