



Forfeiture Act 1982

1982 CHAPTER 34

An Act to provide for relief for persons guilty of unlawful killing from forfeiture of inheritance and other rights; to enable such persons to apply for financial provision out of the deceased's estate; to provide for the question whether pension and social security benefits have been forfeited to be determined by the Social Security Commissioners; and for connected purposes. [13th July 1982]

1 The “forfeiture rule”.

- (1) In this Act, the “forfeiture rule” means the rule of public policy which in certain circumstances precludes a person who has unlawfully killed another from acquiring a benefit in consequence of the killing.
- (2) References in this Act to a person who has unlawfully killed another include a reference to a person who has unlawfully aided, abetted, counselled or procured the death of that other and references in this Act to unlawful killing shall be interpreted accordingly.

2 Power to modify the rule.

- (1) Where a court determines that the forfeiture rule has precluded a person (in this section referred to as “the offender”) who has unlawfully killed another from acquiring any interest in property mentioned in subsection (4) below, the court may make an order under this section modifying the effect of that rule.
- (2) The court shall not make an order under this section modifying the effect of the forfeiture rule in any case unless it is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the court to be material, the justice of the case requires the effect of the rule to be so modified in that case.
- (3) In any case where a person stands convicted of an offence of which unlawful killing is an element, the court shall not make an order under this section modifying the effect of the forfeiture rule in that case unless proceedings for the purpose are brought before the expiry of the period of three months beginning with his conviction.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Forfeiture Act 1982. (See end of Document for details)

- (4) The interests in property referred to in subsection (1) above are—
- (a) any beneficial interest in property which (apart from the forfeiture rule) the offender would have acquired—
 - (i) under the deceased’s will (including, as respects Scotland, any writing having testamentary effect) or the law relating to intestacy or by way of ius relictii, ius relictiae or legitim;
 - (ii) on the nomination of the deceased in accordance with the provisions of any enactment;
 - (iii) as a donatio mortis causa made by the deceased; or
 - (iv) under a special destination (whether relating to heritable or moveable property); or
 - (b) any beneficial interest in property which (apart from the forfeiture rule) the offender would have acquired in consequence of the death of the deceased, being property which, before the death, was held on trust for any person.
- (5) An order under this section may modify the effect of the forfeiture rule in respect of any interest in property to which the determination referred to in subsection (1) above relates and may do so in either or both of the following ways, that is—
- (a) where there is more than one such interest, by excluding the application of the rule in respect of any (but not all) of those interests; and
 - (b) in the case of any such interest in property, by excluding the application of the rule in respect of part of the property.
- (6) On the making of an order under this section, the forfeiture rule shall have effect for all purposes (including purposes relating to anything done before the order is made) subject to the modifications made by the order.
- (7) The court shall not make an order under this section modifying the effect of the forfeiture rule in respect of any interest in property which, in consequence of the rule, has been acquired before the coming into force of this section by a person other than the offender or a person claiming through him.
- (8) In this section—
- “property” includes any chose in action or incorporeal moveable property;
and
“will” includes codicil.

3 Application for financial provision not affected by the rule.

- (1) The forfeiture rule shall not be taken to preclude any person from making any application under a provision mentioned in subsection (2) below or the making of any order on the application.
- (2) The provisions referred to in subsection (1) above are—
 - (a) any provision of the ^{M1}Inheritance (Provision for Family and Dependants) Act 1975; and
 - (b) sections 31(6) (variation etc. of periodical payments orders) and 36(1) (variation of maintenance agreements) of the ^{M2}Matrimonial Causes Act 1973 and section 5(4) of the ^{M3}Divorce (Scotland) Act 1976 (variation etc. of periodical allowances).

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Marginal Citations

- M1** 1975 c. 63.
- M2** 1973 c. 18
- M3** 1976 c. 39.

4 Commissioner to decide whether rule applies to social security benefits.

- (1) Where a question arises as to whether, if a person were otherwise entitled to or eligible for any benefit or advantage under a relevant enactment, he would be precluded by virtue of the forfeiture rule from receiving the whole or part of the benefit or advantage, that question shall (notwithstanding anything in any relevant enactment) be determined by a Commissioner.
- [^{F1}(1A) Where a Commissioner determines that the forfeiture rule has precluded a person (in this section referred to as “the offender”) who has unlawfully killed another from receiving the whole or part of any such benefit or advantage, the Commissioner may make a decision under this subsection modifying the effect of that rule and may do so whether the unlawful killing occurred before or after the coming into force of this subsection.
- (1B) The Commissioner shall not make a decision under subsection (1A) above modifying the effect of the forfeiture rule in any case unless he is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the Commissioner to be material, the justice of the case requires the effect of the rule to be so modified in that case.
- (1C) Subject to subsection (1D) below, a decision under subsection (1A) above may modify the effect of the forfeiture rule in either or both of the following ways—
 - (a) so that it applies only in respect of a specified proportion of the benefit or advantage;
 - (b) so that it applies in respect of the benefit or advantage only for a specified period of time.
- (1D) Such a decision may not modify the effect of the forfeiture rule so as to allow any person to receive the whole or any part of a benefit or advantage in respect of any period before the commencement of this subsection.
- (1E) If the Commissioner thinks it expedient to do so, he may direct that his decision shall apply to any future claim for a benefit or advantage under a relevant enactment, on which a question such as is mentioned in subsection (1) above arises by reason of the same unlawful killing.
- (1F) It is immaterial for the purposes of subsection (1E) above whether the claim is in respect of the same or a different benefit or advantage.
- (1G) For the purpose of obtaining a decision whether the forfeiture rule should be modified the Secretary of State may refer to a Commissioner for review any determination of a question such as is mentioned in subsection (1) above that was made before the commencement of subsections (1A) to (1F) above (whether by a Commissioner or not) and shall do so if the offender requests him to refer such a determination.

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- (1H) Subsections (1A) to (1F) above shall have effect on a reference under subsection (1G) above as if in subsection (1A) the words “it has been determined” were substituted for the words “a Commissioner determines”.]
- (2) Regulations under this section may make such provision as appears to [^{F2}the Lord Chancellor]to be necessary or expedient for carrying this section into effect; and (without prejudice to the generality of that) the regulations may, in relation to the question mentioned in subsection (1) above or any determination under that subsection [^{F3}or any decision under subsection (1A) above]—
- (a) apply any provision of any relevant enactment, with or without modifications, or exclude or contain provision corresponding to any such provision; and
 - (b) make provision for purposes corresponding to those for which provision may be made by regulations under section 115 of the ^{M4}Social Security Act 1975 (matters relating to adjudication).
- (3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Section 166(2) [^{F4}to (3A)]of the Social Security Act 1975 (provision about extent of power to make regulations) shall apply to the power to make regulations conferred by this section as it applies to the power to make regulations conferred by that Act, but as if for references to that Act there were substituted references to this section.
- (5) In this section—
- “Commissioner” has the same meaning as in the Social Security Act 1975; and
- “relevant enactment” means any provision of the following and any instrument made by virtue of such a provision:
- the ^{M5}Personal Injuries (Emergency Provisions) Act 1939,
- the ^{M6}Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939,
- the ^{M7}Polish Resettlement Act 1947,
- [^{F5}the Child Benefit Act 1975, [^{F6}the Social Security Acts 1975 to 1990],]
- and any other enactment relating to pensions or social security prescribed by regulations under this section.

Textual Amendments

- F1** S. 4(1A)–(1H) inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 76(1)(2)
- F2** Words substituted by S.I. 1984/1818, art. 3
- F3** Words inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 76(1)(3)
- F4** Words substituted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, Sch. 10 para. 108(a)
- F5** Words substituted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, Sch. 10, para. 108(b)
- F6** Words substituted by virtue of Social Security Act 1990 (c. 27, SIF 113:1), s. 21(1), Sch. 6 para. 31(c)

Modifications etc. (not altering text)

- C1** S. 4: certain functions of the Secretary of State transferred to the Lord Chancellor by S.I. 1984/1818, art. 2(c), Sch.

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Marginal Citations

- M4** 1975 c. 14.
- M5** 1939 c. 82.
- M6** 1939 c. 83.
- M7** 1947 c. 19.

5 Exclusion of murderers.

Nothing in this Act or in any order made under section 2 or referred to in section 3(1) of this Act [^{F7} or in any decision made under section 4(1A) of this Act] shall affect the application of the forfeiture rule in the case of a person who stands convicted of murder.

Textual Amendments

- F7** Words inserted by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), [s. 76\(1\)\(4\)](#)

6 Corresponding provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M8}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

Marginal Citations

- M8** 1974 c. 28.

7 Short title, etc.

- (1) This Act may be cited as the Forfeiture Act 1982.
- (2) Section 4 of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and sections 1 to 3 and 5 of this Act shall come into force on the expiry of the period of three months beginning with the day on which it is passed.
- (3) This Act, except section 6, does not extend to Northern Ireland.
- (4) Subject to section 2(7) of this Act, an order under section 2 of this Act or an order referred to in section 3(1) of this Act and made in respect of a person who has unlawfully killed another may be made whether the unlawful killing occurred before or after the coming into force of those sections.

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Modifications etc. (not altering text)

- C2** Power of appointment conferred by s. 7(2) fully exercised: 31.12.1982 appointed for the purposes of s. 4 by [S.I. 1982/1731](#), [art. 2](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

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