



# Forfeiture Act 1982

## 1982 CHAPTER 34

### 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 [<sup>F1</sup>or excluding ] the effect of that rule.
  - (2) The court shall not make an order under this section modifying [<sup>F2</sup>or excluding] 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 [<sup>F3</sup>or excluded] 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 [<sup>F4</sup>or excluding] the effect of the forfeiture rule in that case unless proceedings for the purpose are brought before the expiry of the [<sup>F5</sup>relevant period ].
- [<sup>F6</sup>(3A) In subsection (3) above, the “relevant period” is the period of 6 months beginning with—
- (a) the end of the period allowed for bringing an appeal against the conviction, or
  - (b) if such an appeal is brought, the conclusion of proceedings on the appeal.]
- (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 relictī, ius relictæ 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

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*Changes to legislation: There are currently no known outstanding effects for the Forfeiture Act 1982, Section 2. (See end of Document for details)*

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- (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 [<sup>F7</sup>or exclude] 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 [<sup>F8</sup>or 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 [<sup>F9</sup>all or any] part of the property.
- (6) On the making of an order under this section [<sup>F10</sup>modifying the effect of the forfeiture rule ], 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.

#### Textual Amendments

- F1** Words in s. 2(1) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(2), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F2** Words in s. 2(2) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(3)(a), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F3** Words in s. 2(2) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(3)(b), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F4** Words in s. 2(3) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(4), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F5** Words in s. 2(3) substituted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 16(2), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F6** S. 2(3A) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 16(3), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F7** Words in s. 2(5) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(5)(a), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F8** Words in s. 2(5)(a) substituted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(5)(b), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F9** Words in s. 2(5)(b) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(5)(c), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)
- F10** Words in s. 2(6) inserted (S.) (1.11.2016) by Succession (Scotland) Act 2016 (asp 7), ss. 15(6), 31(2); S.S.I. 2016/210, reg. 2(1)(a)(2)

**Changes to legislation:**

There are currently no known outstanding effects for the Forfeiture Act 1982, Section 2.