Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Enforcement receivers

198 Appointment

(1) This section applies if—
- (a) a confiscation order is made,
- (b) it is not satisfied, and
- (c) it is not subject to appeal.

(2) On the application of the prosecutor the Crown Court may by order appoint a receiver in respect of realisable property.

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.**)

Commencement Information

I1 S. 198 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

199 Powers

(1) If the court appoints a receiver under section 198 it may act under this section on the application of the prosecutor.

Status: *Point in time view as at 01/06/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Cross Heading: Enforcement receivers is up to date with all changes known to be in force on or before 30 September 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)*

(2) The court may by order confer on the receiver the following powers in relation to the realisable property—
  (a) power to take possession of the property;
  (b) power to manage or otherwise deal with the property;
  (c) power to realise the property, in such manner as the court may specify;
  (d) power to start, carry on or defend any legal proceedings in respect of the property.

(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;
  (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 give possession of it to the receiver.

(6) The court—
  (a) may order a person holding an interest in realisable property 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 (c) 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.

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[[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.**]**

[[F2](8B) Representations that a person is entitled to make by virtue of subsection (8) do not include representations that are inconsistent with a determination made under section 160A, unless—

(a) the person was not given a reasonable opportunity to make representations when the determination was made and has not appealed against the determination, or

(b) it appears to the court that there would be a serious risk of injustice to the person if the court was bound by the determination;

and the determination does not bind the court if paragraph (a) or (b) applies.**]**

(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. 199(8A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 82(4)**, 94(1); S.I. 2008/755, art. 17(1)(h) (with art. 17(3))

F2 S. 199(8B) inserted (1.6.2015) by Serious Crime Act 2015 (c. 9), **ss. 27**, 88(3)(a); S.R. 2015/190, reg. 3(1)(a)

Modifications etc. (not altering text)

C3 S. 199(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

I2 S. 199 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

Status:
Point in time view as at 01/06/2015.

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