



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

CHAPTER 1

INTRODUCTORY

240 General purpose of this Part

- (1) This Part has effect for the purposes of—
- (a) enabling the enforcement authority to recover, in civil proceedings before the High Court or Court of Session, property which is, or represents, property obtained through unlawful conduct,
 - (b) enabling [^{F1}property] which is, or represents, property obtained through unlawful conduct, or which is intended to be used in unlawful conduct, to be forfeited in civil proceedings before a magistrates' court or (in Scotland) the sheriff [^{F2}and, in certain circumstances, to be forfeited by the giving of a notice].
- (2) The powers conferred by this Part are exercisable in relation to any property (including cash) whether or not any proceedings have been brought for an offence in connection with the property.

Textual Amendments

- F1** Word in s. 240(1)(b) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017](#) (c. 22), s. 58(5)(6), [Sch. 5 para. 28\(a\)](#); S.I. 2018/78, [reg. 5\(1\)\(e\)](#); S.I. 2021/724, [reg. 4\(g\)](#)

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- F2** Words in s. 240(1)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017](#) (c. 22), s. 58(5)(6), [Sch. 5 para. 28\(b\)](#); S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(g)

241 “Unlawful conduct”

- (1) Conduct occurring in any part of the United Kingdom is unlawful conduct if it is unlawful under the criminal law of that part.
- (2) Conduct which—
 - (a) occurs in a country [^{F3}or territory] outside the United Kingdom and is unlawful under the criminal law [^{F4}applying in that country or territory], and
 - (b) if it occurred in a part of the United Kingdom, would be unlawful under the criminal law of that part,
 is also unlawful conduct.

[^{F5}(2A) Conduct which—

- (a) occurs in a country or territory outside the United Kingdom,
- (b) constitutes, or is connected with, the commission of a gross human rights abuse or violation (see section 241A), and
- (c) if it occurred in a part of the United Kingdom, would be an offence triable under the criminal law of that part on indictment only or either on indictment or summarily,

is also unlawful conduct.]

- (3) The court or sheriff must decide on a balance of probabilities whether it is proved—
 - (a) that any matters alleged to constitute unlawful conduct have occurred, or
 - (b) that any person intended to use any [^{F6}cash][^{F6}property] in unlawful conduct.

Textual Amendments

- F3** Words in s. 241(2)(a) inserted (1.1.2006) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(8), [Sch. 6 para. 8\(a\)](#); S.I. 2005/3136, art. 3(c)
- F4** Words in s. 241(2)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(8), [Sch. 6 para. 8\(b\)](#); S.I. 2005/3136, art. 3(c)
- F5** S. 241(2A) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017](#) (c. 22), [ss. 13\(2\)](#), 58(1)(6) (with s. 13(4)); S.I. 2018/78, reg. 3(c); S.I. 2021/724, reg. 2(1)(d)
- F6** Word in s. 241(3)(b) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017](#) (c. 22), s. 58(5)(6), [Sch. 5 para. 29](#); S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(g)

[^{F7}241A “Gross human rights abuse or violation”

- (1) Conduct constitutes the commission of a gross human rights abuse or violation if each of the following three conditions is met.
- (2) The first condition is that—
 - (a) the conduct constitutes the torture of a person who has sought—

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- (i) to expose illegal activity carried out by a public official or a person acting in an official capacity, or
 - (ii) to obtain, exercise, defend or promote human rights and fundamental freedoms, or
- (b) the conduct otherwise involves the cruel, inhuman or degrading treatment or punishment of such a person.
- (3) The second condition is that the conduct is carried out in consequence of that person having sought to do anything falling within subsection (2)(a)(i) or (ii).
- (4) The third condition is that the conduct is carried out—
 - (a) by a public official, or a person acting in an official capacity, in the performance or purported performance of his or her official duties, or
 - (b) by a person not falling within paragraph (a) at the instigation or with the consent or acquiescence—
 - (i) of a public official, or
 - (ii) of a person acting in an official capacity,who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties.
- (5) Conduct is connected with the commission of a gross human rights abuse or violation if it is conduct by a person that involves—
 - (a) acting as an agent for another in connection with activities relating to conduct constituting the commission of a gross human rights abuse or violation,
 - (b) directing, or sponsoring, such activities,
 - (c) profiting from such activities, or
 - (d) materially assisting such activities.
- (6) Conduct that involves the intentional infliction of severe pain or suffering on another person is conduct that constitutes torture for the purposes of subsection (2)(a).
- (7) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission.
- (8) The cases in which a person materially assists activities for the purposes of subsection (5)(d) include those where the person—
 - (a) provides goods or services in support of the carrying out of the activities, or
 - (b) otherwise provides any financial or technological support in connection with their carrying out.]

Textual Amendments

- F7** S. 241A inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 13(3), 58(1)(6)** (with s. 13(4)); [S.I. 2018/78, reg. 3\(c\)](#); [S.I. 2021/724, reg. 2\(1\)\(d\)](#)

242 “Property obtained through unlawful conduct”

- (1) A person obtains property through unlawful conduct (whether his own conduct or another’s) if he obtains property by or in return for the conduct.
- (2) In deciding whether any property was obtained through unlawful conduct—

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- (a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the conduct,
- (b) it is not necessary to show that the conduct was of a particular kind if it is shown that the property was obtained through conduct of one of a number of kinds, each of which would have been unlawful conduct.

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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):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)