



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

#### CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

### CHAPTER 2

#### CIVIL RECOVERY IN THE HIGH COURT OR COURT OF SESSION

#### *Proceedings for recovery orders*

#### **243 Proceedings for recovery orders in England and Wales or Northern Ireland**

- (1) Proceedings for a recovery order may be taken by the enforcement authority in the High Court against any person who the authority thinks holds recoverable property.
- (2) The enforcement authority must serve the claim form—
  - (a) on the respondent, and
  - (b) unless the court dispenses with service, on any other person who the authority thinks holds any associated property which the authority wishes to be subject to a recovery order,  
wherever domiciled, resident or present.
- (3) If any property which the enforcement authority wishes to be subject to a recovery order is not specified in the claim form it must be described in the form in general terms; and the form must state whether it is alleged to be recoverable property or associated property.
- (4) The references above to the claim form include the particulars of claim, where they are served subsequently.

## **244 Proceedings for recovery orders in Scotland**

- (1) Proceedings for a recovery order may be taken by the enforcement authority in the Court of Session against any person who the authority thinks holds recoverable property.
- (2) The enforcement authority must serve the application—
  - (a) on the respondent, and
  - (b) unless the court dispenses with service, on any other person who the authority thinks holds any associated property which the authority wishes to be subject to a recovery order,  
wherever domiciled, resident or present.
- (3) If any property which the enforcement authority wishes to be subject to a recovery order is not specified in the application it must be described in the application in general terms; and the application must state whether it is alleged to be recoverable property or associated property.

## **245 “Associated property”**

- (1) “Associated property” means property of any of the following descriptions (including property held by the respondent) which is not itself the recoverable property—
  - (a) any interest in the recoverable property,
  - (b) any other interest in the property in which the recoverable property subsists,
  - (c) if the recoverable property is a tenancy in common, the tenancy of the other tenant,
  - (d) if (in Scotland) the recoverable property is owned in common, the interest of the other owner,
  - (e) if the recoverable property is part of a larger property, but not a separate part, the remainder of that property.
- (2) References to property being associated with recoverable property are to be read accordingly.
- (3) No property is to be treated as associated with recoverable property consisting of rights under a pension scheme (within the meaning of sections 273 to 275).