Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 2

CONFISCATION: ENGLAND AND WALES

Interpretation

77 Tainted gifts

(1) Subsections (2) and (3) apply if—

(a) no court has made a decision as to whether the defendant has a criminal lifestyle, or

(b) a court has decided that the defendant has a criminal lifestyle.

(2) A gift is tainted if it was made by the defendant at any time after the relevant day.

(3) A gift is also tainted if it was made by the defendant at any time and was of property—

(a) which was obtained by the defendant as a result of or in connection with his general criminal conduct, or

(b) which (in whole or part and whether directly or indirectly) represented in the defendant's hands property obtained by him as a result of or in connection with his general criminal conduct.

(4) Subsection (5) applies if a court has decided that the defendant does not have a criminal lifestyle.

(5) A gift is tainted if it was made by the defendant at any time after—

(a) the date on which the offence concerned was committed, or

(b) if his particular criminal conduct consists of two or more offences and they were committed on different dates, the date of the earliest.

(6) For the purposes of subsection (5) an offence which is a continuing offence is committed on the first occasion when it is committed.

Changes to legislation: *Proceeds of Crime Act 2002, Section 77 is up to date with all changes known to be in force on or before 10 July 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) View outstanding changes*

(7) For the purposes of subsection (5) the defendant's particular criminal conduct includes any conduct which constitutes offences which the court has taken into consideration in deciding his sentence for the offence or offences concerned.

(8) A gift may be a tainted gift whether it was made before or after the passing of this Act.

(9) The relevant day is the first day of the period of six years ending with—

(a) the day when proceedings for the offence concerned were started against the defendant, or

(b) if there are two or more offences and proceedings for them were started on different days, the earliest of those days.

Modifications etc. (not altering text)

C1 Pt. 2 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 8(5A), **34(3A)** (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 39(2)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), **sch.** (with art. 7); S.I. 2003/333, art. 2, **Sch.**)

C2 Pt. 2 applied by Police and Criminal Evidence Act 1984 (c. 60), **ss. 56(5B)**, 58(8B) (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 14(2)(3)**; S.I. 2003/333, art. 2, **Sch.**)

C3 Pt. 2 applied (with modifications) (1.6.2015) by The Restraint Orders (Legal Aid Exception and Relevant Legal Aid Payments) Regulations 2015 (S.I. 2015/868), regs. 1, **5** (with reg. 4)

Commencement Information

I1 S. 77 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

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View outstanding changes

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)