

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 48: Civil recovery of the proceeds etc of unlawful conduct

580. *Subsection (2)* of section 48 inserts new section 282A into Chapter 2 of Part 5 of the POCA which provides expressly that the High Court in England and Wales and the Court of Session in Scotland have the power to make orders under that Chapter in respect of property, wherever that property is situated, and in respect of a person, wherever that person is domiciled, resident or present. However, the High Court in England and Wales or the Court of Session in Scotland may not make such an order in respect of property outside the United Kingdom or property in the United Kingdom but otherwise outside the jurisdiction of the court unless there is or has been a connection between the case and the jurisdiction of the court.
581. A non-exhaustive list of connecting factors is provided in new Schedule 7A to the POCA (inserted by *subsection (3)*) and this includes (but is not limited to) connections arising from the unlawful conduct, the property (including property held on trust) or the person.
582. The term “unlawful conduct” refers to the conduct through which the property (or property representing that property) was obtained (see sections 241 and 242 of the POCA).
583. New section 316(8B) of the POCA, inserted by *subsection (5)*, clarifies that an enforcement authority in England and Wales and Scotland may take proceedings in respect of any property or person, irrespective of whether the property or person is in that part of the United Kingdom.
584. *Subsection (7)* provides that the amendments to the POCA made by this new section and Schedule 18 have retrospective effect.
585. *Subsection (8)* provides that the amendments to the POCA made by this section and Schedule 18 do not affect the extent to which other provisions of the POCA or other enactments apply in respect of persons or property outside the jurisdiction of the court.
586. In respect of Scotland, these provisions are applicable rather than those in section 20 of, and Schedule 8 to, the Civil Jurisdiction and Judgments Act 1982 (“CJJA”).