DRAFT STATUTORY INSTRUMENTS

2003 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Exemptions from Civil Recovery) Order 2003

Made - - - - February 2003

Coming into force in accordance with article 1

Whereas a draft of this Order has been laid before Parliament and approved by a resolution of each House, in accordance with section 459(6)(a) of the Proceeds of Crime Act 2002(**1**);

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 309 of the Proceeds of Crime Act 2002 and after consultation with the Scottish Ministers, hereby makes the following Order:

1. This Order may be cited as the Proceeds of Crime Act 2002 (Exemptions from Civil Recovery) Order 2003 and shall come into force on 24th February 2003, or if this Order has not been made by 23rd February 2003, on the day after the day on which it is made.

2.—(1) Property which, apart from this Order, would be recoverable property and is—

(a) prescribed in Part 1 of the Schedule to this Order; or

(b) disposed of in pursuance of an enactment prescribed in Part 2 of the Schedule to this Order,

is not recoverable or (as the case may be) associated property.

(2) But where particular circumstances are prescribed in Part 2 of the Schedule to this Order in relation to an enactment, paragraph (1)(b) applies only in those circumstances.

Home Office
2003

Parliamentary Under-Secretary of State

(**1**) 2002 c. 29.

THE SCHEDULE Article 2

PART 1

PRESCRIBED PROPERTY

Property forfeited in pursuance of powers conferred by the customs and excise Acts, as defined by section 1(1) of the Customs and Excise Management Act 1979(**2**).

PART 2

PRESCRIBED ENACTMENTS—PROPERTY WHICH IS NOT RECOVERABLE PROPERTY

Section 31 of the Salmon Fisheries (Scotland) Act 1868(**3**) (forfeiture of articles found in possession of any offender).

Section 8 of the Diseases of Fish Act 1937(**4**) (penalties and legal proceedings).

Sections 19 and 20 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951(**5**).

Section 138 of the Army Act 1955(**6**) (restitution or compensation for theft etc.) (including where it has effect by virtue of paragraph 17 of Schedule 3 to the Armed Forces Act 1976(**7**)), in circumstances other than where the disposal is of money which is paid as or towards compensation under section 138(5) of that Act or the disposal is the restitution of property given in exchange under section 138(6) of that Act.

Section 138 of the Air Force Act 1955(**8**) (restitution or compensation for theft etc.), in circumstances other than where the disposal is of money which is paid as or towards compensation under section 138(5) of that Act or the disposal is the restitution of property given in exchange under section 138(6) of that Act.

Section 76 of the Naval Discipline Act 1957(**9**) (restitution or compensation on conviction of larceny etc.), in circumstances other than where the disposal is the restitution of property given in exchange under section 76(2)(a) of that Act or the disposal is of money which is paid as or towards compensation under section 76(2)(b) or (3) of that Act.

Section 3 of the Obscene Publications Act 1959(**10**) (powers of search and seizure).

(**2**) 1979 c. 2.
(**3**) 1868 c. 123 (31 & 32 Vict); section 31 was amended by the Sheriff Courts (Scotland) Act 1971 (c. 58).
(**4**) 1937 c. 63 (1 Edw 8 & 1 Geo 6).
(**5**) 1951 c. 26 (14 & 15 Geo VI); section 19 was amended by section 41 of and Schedule 4 to the Salmon Act 1986 (c. 62) and section 20 was extended by section 18 of the Sea Fish (Conservation) Act 1967 (c. 84) and sections 7 and 10 of the Inshore Fishing (Scotland) Act 1984 (c. 26).
(**6**) 1955 c. 18 (3 & 4 Eliz 2); section 138 was amended by section 33(2) of and Part II of Schedule 2 to the Theft Act 1968 (c. 60), section 58 of and Schedule 4 to the Courts-Martial (Appeals) Act 1968 (c. 20), section 77(1) of and Part I of Schedule 4 to the Armed Forces Act 1971 (c. 33), and section 14 of and Schedule 7 to the Armed Forces Act 1976 (c. 52).
(**7**) 1976 c. 52.
(**8**) 1955 c. 19 (3 & 4 Eliz 2); section 138 was amended by section 33(2) of and Part II of Schedule 2 to the Theft Act 1968 (c. 60), section 58 of and Schedule 4 to the Courts-Martial (Appeals) Act 1968 (c. 20), section 77(1) of and Part I of Schedule 4 to the Armed Forces Act 1971 (c. 33), and section 14 of and Schedule 7 to the Armed Forces Act 1976 (c. 52).
(**9**) 1957 c. 53 (5 & 6 Eliz 2); section 76 was amended by S.I.1964/488, section 33(2) of and Part II of Schedule 2 to the Theft Act 1968 (c. 60), section 77(1) of and Part I of Schedule 4 to the Armed Forces Act 1971 (c. 33), sections 14 and 22(6) of and Schedules 7 and 10 to the Armed Forces Act 1976 (c. 52), Schedules 1 and 7 to the Armed Forces Act 1996 (c. 46), and section 38 of and Schedule 7 to the Armed Forces Act 2001 (c. 19).
(**10**) 1959 c. 66 (7 & 8 Eliz 2); section 3 was amended by section 56(2) of and Schedules 8 and 9 to the Courts Act 1971 (c. 23), sections 53(5) and 65(4) of and Schedule 12 to the Criminal Law Act 1977 (c. 45), and section 119(2) of and Schedule 7 to the Police and Criminal Evidence Act 1984 (c. 60).