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STATUTORY INSTRUMENTS

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**2005 No. 3181**

The Proceeds of Crime Act 2002 (External  
Requests and Orders) Order 2005

PART 5

GIVING EFFECT IN THE UNITED KINGDOM TO  
EXTERNAL ORDERS BY MEANS OF CIVIL RECOVERY

CHAPTER 2

CIVIL RECOVERY IN THE HIGH COURT OR COURT OF SESSION

*Proceedings for recovery orders*

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

**143.**—(1) Proceedings for a recovery order pursuant to the registration of an external 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) In the case of an external order which is for the recovery of property other than a sum of money which is specified in the external order (“the specified property”), that property must also be specified in the claim form.

(4) Paragraph (5) applies in the case of an external order which is for the recovery of a specified sum of money.

(5) 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.

(6) The references above to the claim form include the particulars of claim, where they are served subsequently.

**Proceedings for recovery orders in Scotland**

**144.**—(1) Proceedings for a recovery order pursuant to the registration of an external 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) In the case of an external order which is for the recovery of property other than a sum of money which is specified in the external order (“the specified property”), the property must also be specified in the application.

(4) Paragraph (5) applies in the case of an external order which is for the recovery of a specified sum of money.

(5) 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.

### **Sums in a currency other than sterling**

**145.**—(1) This article applies where the external order in respect of which proceedings for a recovery order are taken specifies a sum of money.

(2) If the sum of money which is specified in an external order is expressed in a currency other than sterling, the sum of money to be recovered is to be taken to be the sterling equivalent calculated in accordance with the rate of exchange prevailing at the end of day on which the external order was made.

(3) This amount must be specified—

- (a) in England and Wales or Northern Ireland, in the claim form or the particulars of claim where they are served subsequently, or
- (b) in Scotland, in the application.

### **“Associated property”**

**146.**—(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 articles 184 to 186).