



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

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

### CHAPTER 3

#### RECOVERY OF CASH IN SUMMARY PROCEEDINGS

#### *Seizure and detention*

#### **294 Seizure of cash**

- (1) [<sup>F1</sup>An officer of Revenue and Customs][<sup>F2</sup>, a constable [<sup>F3</sup>, an SFO officer] or an accredited financial investigator] may seize any cash if he has reasonable grounds for suspecting that it is—
  - (a) recoverable property, or
  - (b) intended by any person for use in unlawful conduct.
- (2) [<sup>F1</sup>An officer of Revenue and Customs][<sup>F4</sup>, a constable [<sup>F5</sup>, an SFO officer] or an accredited financial investigator] may also seize cash part of which he has reasonable grounds for suspecting to be—
  - (a) recoverable property, or
  - (b) intended by any person for use in unlawful conduct,if it is not reasonably practicable to seize only that part.

<sup>F6</sup>(2A) .....

<sup>F7</sup>(2B) .....

<sup>F8</sup>(2C) .....

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(3) This section does not authorise the seizure of an amount of cash if it or, as the case may be, the part to which his suspicion relates, is less than the minimum amount.

[<sup>F9</sup>(4) This section does not authorise the seizure by [<sup>F10</sup>an SFO officer or] an accredited financial investigator of cash found in Scotland.]

#### Textual Amendments

- F1** Words in s. 294(1)(2) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 6(2)**
- F2** Words in s. 294(1) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 6(2)**; S.I. 2008/755, art. 17(1)(f)
- F3** Words in s. 294(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 15(2)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)
- F4** Words in s. 294(2) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 6(2)**; S.I. 2008/755, art. 17(1)(f)
- F5** Words in s. 294(2) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 15(3)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)
- F6** S. 294(2A) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(b)**, 58(4)(6)
- F7** S. 294(2B) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(b)**, 58(4)(6)
- F8** S. 294(2C) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(b)**, 58(4)(6)
- F9** S. 294(4) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 6(3)**; S.I. 2008/755, art. 17(1)(f)
- F10** Words in s. 294(4) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 15(4)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

#### Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 3 applied (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by 2007 c. 30, s. 24(1) (as substituted by Criminal Finances Act 2017 (c. 22), **ss. 21(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i))
- C2** S. 294 restricted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 2 para. 13**; S.I. 2005/1126, art. 2(2)(d)

## 295 Detention of seized cash

(1) While the [<sup>F11</sup>officer of Revenue and Customs][<sup>F12</sup>, constable [<sup>F13</sup>, SFO officer] or accredited financial investigator] continues to have reasonable grounds for his suspicion, cash seized under section 294 may be detained initially for a period of 48 hours.

[<sup>F14</sup>(1A) The period of 48 hours mentioned in subsection (1) is to be calculated in accordance with subsection (1B).

(1B) In calculating a period of 48 hours in accordance with this subsection, no account shall be taken of—

- (a) any Saturday or Sunday,

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- (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the cash is seized, or
  - (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the cash is seized.]
- (2) The period for which the cash or any part of it may be detained may be extended by an order made by a magistrates' court or (in Scotland) the sheriff; but the order may not authorise the detention of any of the cash—
- (a) beyond the end of the period of [<sup>F15</sup>six months] beginning with the date of the order,
  - (b) in the case of any further order under this section, beyond the end of the period of two years beginning with the date of the first order.
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under subsection (2) extending the period.
- (4) An application for an order under subsection (2)—
- (a) in relation to England and Wales and Northern Ireland, may be made by the Commissioners of Customs and Excise [<sup>F16</sup>, a constable [<sup>F17</sup>, an SFO officer] or an accredited financial investigator],
  - (b) in relation to Scotland, may be made by the Scottish Ministers in connection with their functions under section 298 or by a procurator fiscal,
- and the court, sheriff or justice may make the order if satisfied, in relation to any cash to be further detained, that either of the following conditions is met.
- (5) The first condition is that there are reasonable grounds for suspecting that the cash is recoverable property and that either—
- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
  - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (6) The second condition is that there are reasonable grounds for suspecting that the cash is intended to be used in unlawful conduct and that either—
- (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
  - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (7) An application for an order under subsection (2) may also be made in respect of any cash seized under section 294(2), and the court, sheriff or justice may make the order if satisfied that—
- (a) the condition in subsection (5) or (6) is met in respect of part of the cash, and
  - (b) it is not reasonably practicable to detain only that part.

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- (8) An order under subsection (2) must provide for notice to be given to persons affected by it.

#### Textual Amendments

- F11** Words in s. 295(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 7](#)
- F12** Words in s. 295(1) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 7\(2\)](#); [S.I. 2008/755](#), art. 17(1)(f)
- F13** Words in s. 295(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 16\(2\)](#); [S.I. 2018/78](#), reg. 3(aa); [S.I. 2021/724](#), reg. 3(b)
- F14** S. 295(1A)(1B) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 100\(2\)](#), 178(7)(a); [S.I. 2005/1521](#), art. 2(1)(c)
- F15** Words in s. 295(2)(a) substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 64\(1\)](#), 116(1) (with s. 64(2)); [S.I. 2009/3096](#), art. 3(i)
- F16** Words in s. 295(4)(a) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 7\(3\)](#); [S.I. 2008/755](#), art. 17(1)(f)
- F17** Words in s. 295(4)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 16\(3\)](#); [S.I. 2018/78](#), reg. 3(aa); [S.I. 2021/724](#), reg. 3(b)

## 296 Interest

- (1) If cash is detained under section 295 for more than 48 hours [<sup>F18</sup>(calculated in accordance with section 295(1B))], it is at the first opportunity to be paid into an interest-bearing account and held there; and the interest accruing on it is to be added to it on its forfeiture or release.
- (2) In the case of cash detained under section 295 which was seized under section 294(2), the [<sup>F19</sup>officer of Revenue and Customs][<sup>F20</sup>, constable [<sup>F21</sup>, SFO officer] or accredited financial investigator] must, on paying it into the account, release the part of the cash to which the suspicion does not relate.
- (3) Subsection (1) does not apply if the cash or, as the case may be, the part to which the suspicion relates is required as evidence of an offence or evidence in proceedings under this Chapter.

#### Textual Amendments

- F18** Words in s. 296(1) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 100\(3\)](#), 178(7)(a); [S.I. 2005/1521](#), art. 2(1)(c)
- F19** Words in s. 296(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 8](#)
- F20** Words in s. 296(2) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 8](#); [S.I. 2008/755](#), art. 17(1)(f)
- F21** Words in s. 296(2) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 17](#); [S.I. 2018/78](#), reg. 3(aa); [S.I. 2021/724](#), reg. 3(b)

## 297 Release of detained cash

- (1) This section applies while any cash is detained under section 295.

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- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the cash if the following condition is met.
- (3) The condition is that the court or sheriff is satisfied, on an application by the person from whom the cash was seized, that the conditions in section 295 for the detention of the cash are no longer met in relation to the cash to be released.
- (4) [<sup>F22</sup>An officer of Revenue and Customs], constable [<sup>F23</sup>, SFO officer][<sup>F24</sup> or accredited financial investigator] or (in Scotland) procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order cash is being detained, release the whole or any part of it if satisfied that the detention of the cash to be released is no longer justified.

#### Textual Amendments

- F22** Words in s. 297(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 48 para. 9](#)
- F23** Words in s. 297(4) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(1\)\(6\), Sch. 1 para. 18](#); S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)
- F24** Words in s. 297(4) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 11 para. 9](#); S.I. 2008/755, art. 17(1)(f)

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