



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

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

#### [<sup>F1</sup>CHAPTER 3C

#### RECOVERY OF CRYPTOASSETS: SEARCHES, SEIZURE AND DETENTION

#### *[<sup>F1</sup>Seizure and detention of cryptoasset-related items*

#### Textual Amendments

- F1** Pt. 5 Chs. 3C-3F inserted (26.10.2023 for specified purposes, 26.4.2024 for S. for specified purposes, 26.4.2024 for E.W.N.I. in so far as not already in force) by [Economic Crime and Corporate Transparency Act 2023](#) (c. 56), s. 219(1)(2)(b)(c), [Sch. 9 para. 1](#); S.I. 2024/269, [reg. 4\(b\)\(i\)\(ii\)](#)

#### **303Z26 Seizure of cryptoasset-related items**

- (1) An enforcement officer may seize any item of property if the enforcement officer has reasonable grounds for suspecting that the item is a cryptoasset-related item.
- (2) If an enforcement officer is lawfully on any premises, the officer may, for the purpose of—
  - (a) determining whether any property is a cryptoasset-related item, or
  - (b) enabling or facilitating the seizure under this Chapter of any cryptoasset,require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.

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- (3) But subsection (2) does not authorise an enforcement officer to require a person to produce privileged information.
- (4) In this section “privileged information” means information which a person would be entitled to refuse to provide—
  - (a) in England and Wales and Northern Ireland, on grounds of legal professional privilege in proceedings in the High Court;
  - (b) in Scotland, on grounds of legal privilege as defined by section 412.
- (5) Where an enforcement officer has seized a cryptoasset-related item under subsection (1), the officer may use any information obtained from the item for the purpose of—
  - (a) identifying or gaining access to a crypto wallet, and
  - (b) by doing so, enabling or facilitating the seizure under this Chapter of any cryptoassets.
- (6) This section does not authorise the seizure by an SFO officer or an accredited financial investigator of an item found in Scotland.

### **303Z27 Initial detention of seized cryptoasset-related items**

- (1) Property seized under section 303Z26 may be detained for an initial period of 48 hours.
- (2) Subsection (1) authorises the detention of property only for so long as an enforcement officer continues to have reasonable grounds for suspicion in relation to that property as described in section 303Z26(1).
- (3) In calculating a period of 48 hours for the purposes of this section, no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (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 property is seized, or
  - (e) any day prescribed by virtue of 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 property is seized.

### **303Z28 Further detention of seized cryptoasset-related items**

- (1) The period for which property seized under section 303Z26 may be detained may be extended by an order made—
  - (a) in England and Wales or Northern Ireland, by a magistrates’ court;
  - (b) in Scotland, by the sheriff.
- (2) An order under subsection (1) may not authorise the detention of any property—
  - (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this section, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to subsection (4).

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- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under subsection (1).
- (4) The court or sheriff may make an order for the period of 2 years in subsection (2)(b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application for an order under subsection (1) or (4) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by—
    - (i) the Commissioners for His Majesty's Revenue and Customs,
    - (ii) a constable,
    - (iii) an SFO officer, or
    - (iv) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State or the Welsh Ministers under section 453;
  - (b) in relation to Scotland, by the Scottish Ministers in connection with their functions under section 303Z41 or by a procurator fiscal.
- (6) The court, sheriff or justice may make an order under subsection (1) if satisfied, in relation to the item of property to be further detained, that—
  - (a) there are reasonable grounds for suspecting that it is a cryptoasset-related item, and
  - (b) its continued detention is justified.
- (7) The court or sheriff may make an order under subsection (4) if satisfied that a request for assistance is outstanding in relation to the item of property to be further detained.
- (8) A "request for assistance" in subsection (7) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an enforcement officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Part, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A (evidence overseas).
- (9) An order under subsection (1) must provide for notice to be given to persons affected by the order.

### **303Z29 Seizure of cryptoassets**

- (1) An enforcement officer may seize cryptoassets if the enforcement officer has reasonable grounds for suspecting that the cryptoassets are recoverable property or intended by any person for use in unlawful conduct.
- (2) The circumstances in which a cryptoasset is "seized" for the purposes of subsection (1) include circumstances in which it is transferred into a crypto wallet controlled by the enforcement officer.
- (3) This section does not authorise the seizure by an SFO officer or an accredited financial investigator of cryptoassets as a result of information obtained from a cryptoasset-related item found in Scotland.

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### **303Z30 Prior authorisation for detention of cryptoassets**

- (1) Where an order is made under section 303Z28 in respect of a cryptoasset-related item, the court, sheriff or justice making the order may, at the same time, make an order to authorise the detention of any cryptoassets that may be seized as a result of information obtained from that item.
- (2) An application for an order under this section may be made, by a person mentioned in section 303Z28(5), at the same time as an application for an order under section 303Z28 is made by that person.
- (3) The court, sheriff or justice may make an order under this section if satisfied that there are reasonable grounds for suspecting that the cryptoassets that may be seized are recoverable property or intended by any person for use in unlawful conduct.
- (4) An order under this section authorises detention of the cryptoassets for the same period of time as the order under section 303Z28 authorises detention in respect of the cryptoasset-related item to which those cryptoassets relate.

### **303Z31 Initial detention of seized cryptoassets**

- (1) Cryptoassets seized under section 303Z29 may be detained for an initial period of 48 hours.
- (2) Subsection (1) authorises the detention of property only for so long as an enforcement officer continues to have reasonable grounds for suspicion in relation to those cryptoassets as described in section 303Z29(1).
- (3) In calculating a period of 48 hours for the purposes of this section, no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (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 property is seized, or
  - (e) any day prescribed by virtue of 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 property is seized.
- (4) This section is subject to section 303Z30.

### **303Z32 Further detention of seized cryptoassets**

- (1) The period for which cryptoassets seized under section 303Z29 may be detained may be extended by an order made—
  - (a) in England and Wales or Northern Ireland, by a magistrates' court;
  - (b) in Scotland, by the sheriff.
- (2) An order under subsection (1) may not authorise the detention of any cryptoassets—
  - (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this section, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to subsection (4).

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- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under subsection (1).
- (4) The court or sheriff may make an order for the period of 2 years in subsection (2)(b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application for an order under subsection (1) or (4) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by—
    - (i) the Commissioners for His Majesty's Revenue and Customs,
    - (ii) a constable,
    - (iii) an SFO officer, or
    - (iv) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State or the Welsh Ministers under section 453,
  - (b) in relation to Scotland, by the Scottish Ministers in connection with their functions under section 303Z41 or by a procurator fiscal.
- (6) The court, sheriff or justice may make an order under subsection (1) if satisfied, in relation to the cryptoassets to be further detained, that there are reasonable grounds for suspecting that the cryptoassets are recoverable property or intended by any person for use in unlawful conduct.
- (7) The court or sheriff may make an order under subsection (4) if satisfied that a request for assistance is outstanding in relation to the cryptoassets to be further detained.
- (8) A "request for assistance" in subsection (7) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the cryptoassets to be further detained, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an enforcement officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Part, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A (evidence overseas).
- (9) An order under subsection (1) must provide for notice to be given to persons affected by the order.

### **303Z33 Safekeeping of cryptoassets and cryptoasset-related items**

- (1) An enforcement officer must arrange for any item of property seized under section 303Z26 to be safely stored throughout the period during which it is detained under this Chapter.
- (2) An enforcement officer must arrange for any cryptoassets seized under section 303Z29 to be safely stored throughout the period during which they are detained under this Chapter.

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### **303Z34 Release of cryptoassets and cryptoasset-related items**

- (1) This section applies while any cryptoasset or other item of property is detained under this Chapter.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the property 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 property was seized, that the conditions for the detention of the property in this Chapter are no longer met in relation to the property to be released.
- (4) A person within subsection (5) may, after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of the property if satisfied that the detention of the property to be released is no longer justified.
- (5) The following persons are within this subsection—
  - (a) in relation to England and Wales and Northern Ireland, an enforcement officer;
  - (b) in relation to Scotland—
    - (i) the Scottish Ministers,
    - (ii) an officer of Revenue and Customs,
    - (iii) a constable, and
    - (iv) a procurator fiscal.
- (6) If any cryptoasset-related item which has been released is not claimed within the period of a year beginning with the date on which it was released, an enforcement officer may—
  - (a) retain the item and deal with it as they see fit,
  - (b) dispose of the item, or
  - (c) destroy the item.
- (7) The powers in subsection (6) may be exercised only—
  - (a) where the enforcement officer has taken reasonable steps to notify—
    - (i) the person from whom the item was seized, and
    - (ii) any other persons who the enforcement officer has reasonable grounds to believe have an interest in the item,
 that the item has been released, and
  - (b) with the approval of a senior officer.
- (8) Any proceeds of a disposal of the item are to be paid—
  - (a) into the Consolidated Fund if—
    - (i) the item was directed to be released by a magistrates' court, or
    - (ii) a magistrates' court or justice was notified under subsection (4) of the release;
  - (b) into the Scottish Consolidated Fund if—
    - (i) the item was directed to be released by the sheriff, or
    - (ii) the sheriff was notified under subsection (4) of the release.]

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**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\(4\)](#)