



Drug Trafficking Act 1994

1994 CHAPTER 37

PART II

DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

42 Seizure and detention

- (1) A customs officer or constable may seize and, in accordance with this section, detain any cash which is being imported into or exported from the United Kingdom if—
 - (a) its amount is not less than the prescribed sum; and
 - (b) he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of drug trafficking, or is intended by any person for use in drug trafficking.
- (2) Cash seized by virtue of this section shall not be detained for more than 48 hours unless its continued detention is authorised by an order made by a justice of the peace or in Scotland the sheriff; and no such order shall be made unless the justice or, as the case may be, the sheriff is satisfied—
 - (a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and
 - (b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the United Kingdom or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.
- (3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order; and a magistrates' court or in Scotland the sheriff, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that—
 - (a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and

Status: This is the original version (as it was originally enacted).

- (b) the total period of detention shall not exceed two years from the date of the order under subsection (2) above.
- (4) Any order under subsection (2) above shall provide for notice to be given to persons affected by the order.
- (5) Any application for an order under subsection (2) or (3) above shall be made—
 - (a) by the Commissioners of Customs and Excise or a constable if made to a justice or magistrates' court; and
 - (b) by a procurator fiscal if made to the sheriff.
- (6) At any time while cash is detained by virtue of the preceding provisions of this section—
 - (a) a magistrates' court or in Scotland the sheriff may direct its release if satisfied—
 - (i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer any, such grounds for its detention as are mentioned in subsection (2) above; or
 - (ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and
 - (b) a customs officer or constable, or in Scotland a procurator fiscal, may release the cash if satisfied that its detention is no longer justified, but shall first notify the justice, magistrates' court or sheriff under whose order it is being detained.
- (7) If at a time when any cash is being detained by virtue of the preceding provisions of this section—
 - (a) an application for its forfeiture is made under section 43 of this Act, or
 - (b) proceedings are instituted (whether in the United Kingdom or elsewhere) against any person for an offence with which the cash is connected,the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.
- (8) Cash seized under this section and detained for more than 48 hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.