



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Seized money [^{F1}and personal property]

Textual Amendments

- F1** Words in s. 215 cross-heading inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\), ss. 60\(3\), 116\(1\); S.I. 2016/147, art. 3\(c\)](#)

215 Seized money

- (1) This section applies to money which—
- is held by a person, and
 - is held in an account maintained by him with a bank or a building society.
- (2) This section also applies to money which is held by a person and which—
- ^{F2}(a) has been seized under a relevant seizure power by a constable or another person lawfully exercising the power, and
 - is being detained in connection with a criminal investigation or prosecution or with an investigation of a kind mentioned in section 341.]

^{F3}(2A) But this section applies to money only so far as the money is free property.]

- (3) [^{F4}This section also applies to money which is held by a person and which—
- has been seized by a customs officer under Article 21 of the 1989 Order as applied by order made under Article 85(1) of that Order, and
 - is held in an account maintained by the Commissioners of Customs and Excise with a bank or a building society.]

^{F5}(5) If—

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- (a) a confiscation order is made against a person holding money to which this section applies, and
 - (b) a receiver has not been appointed under section 198 in relation to the money, a magistrates' court may order the [^{F6}bank or building society][^{F6}appropriate person] to pay the money to the appropriate chief clerk on account of the amount payable under the confiscation order.]
- [^{F7}(5A) [^{F8}Where this section applies to money which is held in an account maintained with a bank or building society,] A person applying for an order under subsection (5) must give notice of the application to the bank or building society with which the account is held.
- (5B) In the case of money held in an account not maintained by the person against whom the confiscation order is made, a magistrates' court—
- (a) may make an order under subsection (5) only if the extent of the person's interest in the money has been determined under section 160A, and
 - (b) must have regard to that determination in deciding what is the appropriate order to make.]
- (6) If a bank or building society fails to comply with an order under subsection (5)—
- (a) the magistrates' court may order it to pay an amount not exceeding £5,000, and
 - (b) for the purposes of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) the sum is to be treated as adjudged to be paid by a conviction of the magistrates' court.
- (7) In order to take account of changes in the value of money the [^{F9}Department of Justice in Northern Ireland] may by order substitute another sum for the sum for the time being specified in subsection (6)(a).
- [^{F10}(7A) The Department of Justice in Northern Ireland may by order amend this section so that it applies [^{F11}by virtue of subsection (1)] not only to money held in an account maintained with a bank or building society but also to—
- (a) money held in an account maintained with a financial institution of a specified kind, or
 - (b) money that is represented by, or may be obtained from, a financial instrument or product of a specified kind.
- (7B) An order under subsection (7A) may amend this section so that it makes provision about realising an instrument or product within subsection (7A)(b) or otherwise obtaining money from it.]
- [^{F12}(8) In this section—
- “appropriate chief clerk” has the same meaning as in section 202(7);
 - “appropriate person” means—
- (a) in a case where the money is held in an account maintained with a bank or building society, the bank or building society;
 - (b) in any other case, the person on whose authority the money is detained;
- “bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom;
- “building society” has the same meaning as in the Building Societies Act 1986;

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“relevant seizure power” means a power to seize money conferred by or by virtue of—

- (a) a warrant granted under any enactment or rule of law, or
- (b) any enactment, or rule of law, under which the authority of a warrant is not required.]

[^{F13}(9) In the definition of “bank” in subsection (8), “authorised deposit-taker” means—

- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits;
- (b) a person who—
 - (i) is specified, or is within a class of persons specified, by an order under section 38 of that Act (exemption orders), and
 - (ii) accepts deposits;
- (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.

- (10) A reference in subsection (9) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.]

Textual Amendments

- F2** S. 215(2)(a)(b) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(2)**, 58(3)(6)
- F3** S. 215(2A) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(3)**, 58(3)(6)
- F4** S. 215(3) omitted (27.4.2017 for specified purposes) by virtue of [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(4)**, 58(3)(6)
- F5** S. 215(5) substituted for s. 215(4)(5) (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 36(1)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(j)
- F6** Words in s. 215(5) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(5)**, 58(3)(6)
- F7** S. 215(5A)(5B) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 36(2)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(j)
- F8** Words in s. 215(5A) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(6)**, 58(3)(6)
- F9** Words in s. 215(7) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 50** (with arts. 28-31)
- F10** S. 215(7A)(7B) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 36(3)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(j)
- F11** Words in s. 215(7A) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(7)**, 58(3)(6)
- F12** S. 215(8) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(8)**, 58(3)(6)
- F13** S. 215(9)(10) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 27(9)**, 58(3)(6)

Modifications etc. (not altering text)

- C1** Pt. 4 applied by [S.I. 1989/1341 \(N.I. 12\)](#), **arts. 57(5B)**, 59(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), Supreme Court s. 458(1), Sch. 11 para. 19(2)(3); [S.I. 2003/333](#), art. 2, **Sch.**)

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Commencement Information

II S. 215 in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#)

[^{F14}215A] Seized personal property

- (1) This section applies to personal property which is held by a person and which—
 - (a) has been seized by an appropriate officer under a relevant seizure power, or
 - (b) has been produced to an appropriate officer in compliance with a production order under section 345.
- (2) This section applies if the following conditions are satisfied—
 - (a) a confiscation order is made against the person by whom the property is held;
 - (b) a receiver has not been appointed under section 198 in relation to the property;
 - (c) any period allowed under section 161 for payment of the amount ordered to be paid under the confiscation order has ended.
- (3) In such a case a magistrates' court may by order authorise an appropriate officer to realise the property.
- (4) In this section “appropriate officer” and “relevant seizure power” have the same meaning as in section 190A.

Textual Amendments

F14 Ss. 215A-215D inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 60\(2\)](#), 116(1); [S.I. 2016/147](#), [art. 3\(c\)](#)

215B Costs of storage and realisation

- (1) This section applies if a magistrates' court makes an order under section 215A.
- (2) The court may determine an amount which may be recovered by the appropriate officer in respect of reasonable costs incurred in—
 - (a) storing or insuring the property since it was seized or produced as mentioned in subsection (1) of that section;
 - (b) realising the property.
- (3) If the court makes a determination under this section the appropriate officer is entitled to payment of the amount under section 203(4).
- (4) A determination under this section may be made on the same occasion as the section 215A order or on any later occasion; and more than one determination may be made in relation to any case.
- (5) In this section “appropriate officer” has the same meaning as in section 190A.

Textual Amendments

F14 Ss. 215A-215D inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 60\(2\)](#), 116(1); [S.I. 2016/147](#), [art. 3\(c\)](#)

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215C Sections 215A and 215B: appeals

- (1) If a magistrates' court decides not to make an order under section 215A, an appropriate officer may appeal to a county court.
- (2) If a magistrates' court makes an order under section 215A, a person affected by the order may appeal to a county court.
- (3) But the person mentioned in section 215A(2)(a) may not appeal.
- (4) An appropriate officer may appeal to a county court against—
 - (a) a determination made by a magistrates' court under section 215B;
 - (b) a decision by a magistrates' court not to make a determination under that section.
- (5) In this section “appropriate officer” has the same meaning as in section 190A.

Textual Amendments

F14 Ss. 215A-215D inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 60(2)**, 116(1); S.I. 2016/147, art. 3(c)

215D Proceeds of realisation

- (1) This section applies to sums which—
 - (a) are in the hands of an appropriate officer, and
 - (b) are the proceeds of the realisation of property under section 215A.
- (2) The sums must be applied as follows—
 - (a) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;
 - (b) second, they must be applied in making any payments directed by the magistrates' court or Crown Court;
 - (c) third, they must be paid to the appropriate chief clerk on account of the amount payable under the confiscation order.
- (3) If the amount payable under the confiscation order has been fully paid and any sums remain in the appropriate officer's hands, the appropriate officer must distribute them—
 - (a) among such persons who held (or hold) interests in the property represented by the proceeds as the magistrates' court or Crown Court directs, and
 - (b) in such proportions as it directs.
- (4) Before making a direction under subsection (3) the court must give persons who held (or hold) interests in the property a reasonable opportunity to make representations to it.
- (5) If the magistrates' court has made a direction under subsection (2)(b) or (3) in respect of the proceeds of realisation of any property, the Crown Court may not make a direction under either of those provisions in respect of the proceeds of realisation of that property; and vice versa.
- (6) In this section—

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“appropriate officer” has the same meaning as in section 190A, and
“appropriate chief clerk” has the same meaning as in section 202(7).]

Textual Amendments

F14 Ss. 215A-215D inserted (1.3.2016) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 60(2)**, 116(1); S.I. 2016/147, art. 3(c)

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