



# 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

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

- C1** Pt. 5 Ch. 3 applied (1.4.2010) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 24\(1\)](#), 59(2); S.I. 2010/606, art. 2
- C2** Pt. 5 Ch. 3 applied by 2007 c. 30, s. 24(1) (as substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 21\(3\)](#), 58(1)(6); S.I. 2018/78, reg. 3(f))

#### *Searches*

### 289 Searches

- (1) If [<sup>F1</sup>an officer of Revenue and Customs] or constable [<sup>F2</sup>, an SFO officer] who [<sup>F3</sup>, a constable or an accredited financial investigator] is lawfully on any premises [<sup>F4</sup> and] has reasonable grounds for suspecting that there is on the premises cash—
- which is recoverable property or is intended by any person for use in unlawful conduct, and
  - the amount of which is not less than the minimum amount,
- he may search for the cash there.

[<sup>F5</sup>(1A) The powers specified in subsection (1D) are exercisable if—

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- (a) [<sup>F6</sup>an officer of Revenue and Customs], a constable [<sup>F7</sup>, an SFO officer] or an accredited financial investigator has reasonable grounds for suspecting that there is cash falling within subsection (1E) in a vehicle, and
  - (b) it appears to the officer [<sup>F8</sup>of Revenue and Customs], constable [<sup>F9</sup>, SFO officer] or investigator that the vehicle is under the control of a person (the suspect) who is in or in the vicinity of the vehicle.
- (1B) The powers are exercisable only if the vehicle is—
- (a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or
  - (b) in any other place to which at that time people have ready access but which is not a dwelling.
- (1C) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the [<sup>F10</sup>officer of Revenue and Customs], constable [<sup>F11</sup>, SFO officer][<sup>F12</sup>of Revenue and Customs] or accredited financial investigator may exercise the powers under subsection (1D) only if the officer, constable [<sup>F11</sup>, SFO officer] or investigator has reasonable grounds for believing—
- (a) that the suspect does not reside in the dwelling, and
  - (b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (1D) The [<sup>F10</sup>officer of Revenue and Customs], constable [<sup>F13</sup>, SFO officer][<sup>F14</sup>of Revenue and Customs] or accredited financial investigator may, so far as the officer, constable [<sup>F13</sup>, SFO officer] or investigator thinks it necessary or expedient, require the suspect to—
- (a) permit entry to the vehicle,
  - (b) permit a search of the vehicle.
- (1E) Cash falls within this subsection if—
- (a) it is recoverable property or is intended by any person for use in unlawful conduct, and
  - (b) the amount of it is not less than the minimum amount.]
- (2) If [<sup>F15</sup>an officer of Revenue and Customs][<sup>F16</sup>, a constable [<sup>F17</sup>, an SFO officer] or an accredited financial investigator] has reasonable grounds for suspecting that a person (the suspect) is carrying cash—
- (a) which is recoverable property or is intended by any person for use in unlawful conduct, and
  - (b) the amount of which is not less than the minimum amount,
- he may exercise the following powers.
- (3) The officer [<sup>F18</sup>, constable [<sup>F19</sup>, SFO officer] or accredited financial investigator] may, so far as he thinks it necessary or expedient, require the suspect—
- (a) to permit a search of any article he has with him,
  - (b) to permit a search of his person.
- (4) An officer [<sup>F20</sup>, constable [<sup>F21</sup>, SFO officer] or accredited financial investigator][<sup>F22</sup> may—
- (a) in exercising powers by virtue of subsection (1D), detain the vehicle for so long as is necessary for their exercise,

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- (b) in exercising powers by virtue of subsection (3)(b), detain the suspect for so long as is necessary for their exercise.]
- (5) The powers conferred by this section—
  - (a) are exercisable only so far as reasonably required for the purpose of finding cash,
  - (b) are exercisable by [<sup>F23</sup>a customs officer][<sup>F23</sup>an officer of Revenue and Customs] only if he has reasonable grounds for suspecting that the unlawful conduct in question relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979 (c. 2)).
  - <sup>F24</sup>(ba) .....
  - (c) are exercisable by an [<sup>F25</sup>SFO officer or] accredited financial investigator only in relation to [<sup>F26</sup>the following—
    - (i) premises in England, Wales or Northern Ireland (in the case of subsection (1)),
    - (ii) vehicles and suspects in England, Wales or Northern Ireland (in the case of subsections (1D) and (4)(a)),
    - (iii) suspects in England, Wales or Northern Ireland (in the case of subsections (2), (3) and (4)(b)).]
- <sup>F27</sup>(5A) .....
- (6) Cash means—
  - (a) notes and coins in any currency,
  - (b) postal orders,
  - (c) cheques of any kind, including travellers’ cheques,
  - (d) bankers’ drafts,
  - (e) bearer bonds and bearer shares,
  - <sup>F28</sup>(f) gaming vouchers,
  - (g) fixed-value casino tokens,
  - (h) betting receipts]found at any place in the United Kingdom.
- (7) Cash also includes any kind of monetary instrument which is found at any place in the United Kingdom, if the instrument is specified by the Secretary of State by an order made after consultation with the Scottish Ministers [<sup>F29</sup>or, in relation to Northern Ireland, is specified by the Department of Justice by an order].
- <sup>F30</sup>(7A) For the purposes of subsection (6)—
  - (a) “gaming voucher” means a voucher in physical form issued by a gaming machine that represents a right to be paid the amount stated on it;
  - (b) “fixed-value casino token” means a casino token that represents a right to be paid the amount stated on it;
  - (c) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.
- (7B) In subsection (7A)—
  - “bet”—
    - (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;

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- (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);
- “betting licence”—
- (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;
- (b) in relation to Northern Ireland, means a bookmaker's licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
- “gaming machine”—
- (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);
- (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).
- (7C) In the application of subsection (7A) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).]
- (8) This section does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979 (c. 2)).

#### Textual Amendments

- F1** Words in s. 289(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 2\(2\)](#)
- F2** Words in s. 289(1) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(2\)](#)
- F3** Words in s. 289(1) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [s. 94\(1\)](#), [Sch. 11 para. 2\(2\)\(a\)](#); [S.I. 2008/755](#), [art. 17\(1\)\(f\)](#)
- F4** Word in s. 289(1) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [s. 94\(1\)](#), [Sch. 11 para. 2\(2\)\(b\)](#); [S.I. 2008/755](#), [art. 17\(1\)\(f\)](#)
- F5** S. 289(1A)-(1E) inserted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 63\(2\)](#), [116\(1\)](#); [S.I. 2015/983](#), [art. 2\(2\)\(b\)](#); [S.I. 2016/147](#), [art. 3\(d\)](#)
- F6** Words in s. 289(1A)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 2\(2\)](#)
- F7** Words in s. 289(1A)(a) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(3\)\(a\)](#)
- F8** Words in s. 289(1A)(b) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(3\)\(b\)\(i\)](#)
- F9** Words in s. 289(1A)(b) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(3\)\(b\)\(ii\)](#)
- F10** Words in s. 289(1C)(1D) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 2\(3\)](#)
- F11** Words in s. 289(1C) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(4\)\(a\)](#)
- F12** Words in s. 289(1C) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(4\)\(b\)](#)
- F13** Words in s. 289(1D) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(5\)\(a\)](#)
- F14** Words in s. 289(1D) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 11\(5\)\(b\)](#)

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- F15** Words in s. 289(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 2\(2\)](#)
- F16** Words in s. 289(2) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 2\(3\)](#); S.I. 2008/755, art. 17(1)(f)
- F17** Words in s. 289(2) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 11\(6\)](#)
- F18** Words in s. 289(3) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 2\(4\)](#); S.I. 2008/755, art. 17(1)(f)
- F19** Words in s. 289(3) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 11\(7\)](#)
- F20** Words in s. 289(4) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 2\(4\)](#); S.I. 2008/755, art. 17(1)(f)
- F21** Words in s. 289(4) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 11\(8\)](#)
- F22** Words in s. 289(4) substituted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 63\(3\)](#), 116(1); S.I. 2015/983, art. 2(2)(b); S.I. 2016/147, art. 3(d)
- F23** Words in s. 289(5)(b) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 31](#)
- F24** S. 289(5)(ba) 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\(4\)\(a\)](#), 58(4)(6)
- F25** Words in s. 289(5)(c) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 11\(9\)](#)
- F26** Words in s. 289(5)(c) substituted (1.6.2015 for E.W.S. for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 63\(4\)](#), 116(1); S.I. 2015/983, art. 2(2)(b); S.I. 2016/147, art. 3(d)
- F27** S. 289(5A) 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\(4\)\(a\)](#), 58(4)(6)
- F28** S. 289(6)(f)-(h) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 14\(1\)](#), 58(1)(6)
- F29** Words in s. 289(7) inserted (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. 57](#) (with arts. 28-31)
- F30** S. 289(7A)-(7C) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 14\(2\)](#), 58(1)(6)

## 290 Prior approval

- (1) The powers conferred by section 289 may be exercised only with the appropriate approval unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.
- (2) The appropriate approval means the approval of a judicial officer or (if that is not practicable in any case) the approval of a senior officer.
- (3) A judicial officer means—
  - (a) in relation to England and Wales and Northern Ireland, a justice of the peace,
  - (b) in relation to Scotland, the sheriff.
- (4) A senior officer means—
  - (a) in relation to the exercise of the power by <sup>F31</sup>an officer of Revenue and Customs, such an officer] of a rank designated by the Commissioners of Customs and Excise as equivalent to that of a senior police officer,

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- [<sup>F32</sup>(aa) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office,]
- [<sup>F33</sup>(ab) in relation to the exercise of a power by a National Crime Agency officer, the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,]
- (b) in relation to the exercise of the power by a constable, a senior police officer.
- [<sup>F34</sup>(ba) in relation to the exercise of a power by an accredited financial investigator who is—
- (i) a member of the civilian staff of a police force in England and Wales (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011,
  - (ii) a member of staff of the City of London police force, or
  - (iii) a member of staff of the Police Service of Northern Ireland,
- a senior police officer,]
- [<sup>F35</sup>(c) in relation to the exercise of the power by an accredited financial investigator [<sup>F36</sup>who does not fall within any of the preceding paragraphs], an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.]
- (5) A senior police officer means a police officer of at least the rank of inspector.
- (6) If the powers are exercised without the approval of a judicial officer in a case where—
- (a) no cash is seized by virtue of section 294, or
  - (b) any cash so seized is not detained for more than 48 hours [<sup>F37</sup>(calculated in accordance with section 295(1B))],
- the [<sup>F38</sup>officer of Revenue and Customs][<sup>F39</sup>, constable [<sup>F40</sup>, SFO officer] or accredited financial investigator] who exercised the powers must give a written report to the appointed person.
- [<sup>F41</sup>(6A) But the duty in subsection (6) does not apply if, during the course of exercising the powers conferred by section 289, the relevant officer seizes property by virtue of section 303J and the property so seized is detained for more than 48 hours (calculated in accordance with section 303K(5)).]
- (7) The report must give particulars of the circumstances which led him to believe that—
- (a) the powers were exercisable, and
  - (b) it was not practicable to obtain the approval of a judicial officer.
- (8) In this section and section 291, the appointed person means—
- (a) in relation to England and Wales <sup>F42</sup>..., a person appointed by the Secretary of State,
  - (b) in relation to Scotland, a person appointed by the Scottish Ministers.
- [<sup>F43</sup>(c) in relation to Northern Ireland, a person appointed by the Department of Justice.]
- (9) The appointed person must not be a person employed under or for the purposes of a government department or of the Scottish Administration; and the terms and conditions of his appointment, including any remuneration or expenses to be paid to him, are to be determined by the person appointing him.

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### Textual Amendments

- F31** Words in s. 290(4)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 48 para. 3\(a\)](#)
- F32** S. 290(4)(aa) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(1\)\(6\), Sch. 1 para. 12\(2\)](#)
- F33** S. 290(4)(ab) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), ss. 34\(6\), 58\(1\)\(6\)](#)
- F34** S. 290(4)(ba) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), ss. 31\(4\), 58\(1\)\(6\)](#)
- F35** S. 290(4)(c) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 11 para. 3\(2\)](#); S.I. 2008/755, art. 17(1)(f)
- F36** Words in s. 290(4)(c) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(5\)\(6\), Sch. 5 para. 32\(2\)](#)
- F37** Words in s. 290(6) 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)
- F38** Words in s. 290(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 48 para. 3\(b\)](#)
- F39** Words in s. 290(6) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 11 para. 3\(3\)](#); S.I. 2008/755, art. 17(1)(f)
- F40** Words in s. 290(6) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(1\)\(6\), Sch. 1 para. 12\(3\)](#)
- F41** S. 290(6A) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(5\)\(6\), Sch. 5 para. 32\(3\)](#)
- F42** Words in s. 290(8)(a) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 14 para. 58\(a\)](#) (with arts. 28-31)
- F43** S. 290(8)(c) inserted (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. 58\(b\)](#) (with arts. 28-31)

## 291 Report on exercise of powers

- (1) As soon as possible after the end of each financial year, the appointed person must prepare a report for that year.  
“Financial year” means—
  - (a) the period beginning with the day on which this section comes into force and ending with the next 31 March (which is the first financial year), and
  - (b) each subsequent period of twelve months beginning with 1 April.
- (2) The report must give his opinion as to the circumstances and manner in which the powers conferred by section 289 are being exercised in cases where the [F44 officer of Revenue and Customs] [F45, constable [F46, SFO officer] or accredited financial investigator] who exercised them is required to give a report under section 290(6).
- (3) In the report, he may make any recommendations he considers appropriate.
- (4) He must send a copy of his report to the Secretary of State or, as the case may be, the Scottish Ministers [F47 or the Department of Justice], who must arrange for it to be published.
- (5) The Secretary of State must lay a copy of any report he receives under this section before Parliament; and the Scottish Ministers must lay a copy of any report they receive under this section before the Scottish Parliament [F48]; and the Department of

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Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly].

[<sup>F49</sup>(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (5) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.]

#### Textual Amendments

- F44** Words in s. 291(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 4](#)
- F45** Words in s. 291(2) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 4](#); [S.I. 2008/755](#), art. 17(1)(f)
- F46** Words in s. 291(2) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 13](#)
- F47** Words in s. 291(4) inserted (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. 59\(2\)](#) (with arts. 28-31)
- F48** Words in s. 291(5) inserted (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. 59\(3\)](#) (with arts. 28-31)
- F49** S. 291(6) inserted (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. 59\(4\)](#) (with arts. 28-31)

## 292 Code of practice

- (1) The Secretary of State must make a code of practice in connection with the exercise by [<sup>F50</sup>officers of Revenue and Customs][<sup>F51</sup>, SFO officers] and (in relation to England and Wales <sup>F52</sup>...) constables [<sup>F53</sup>and accredited financial investigators] of the powers conferred by virtue of section 289.
- (2) Where he proposes to issue a code of practice he must—
  - (a) publish a draft,
  - (b) consider any representations made to him about the draft by the Scottish Ministers [<sup>F54</sup>, the Department of Justice] or any other person,
  - (c) if he thinks it appropriate, modify the draft in the light of any such representations.

[<sup>F55</sup>(2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.]

- (3) He must lay a draft of the code before Parliament.
- (4) When he has laid a draft of the code before Parliament he may bring it into operation by order.
- (5) He may revise the whole or any part of the code issued by him and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.
- (6) A failure by [<sup>F56</sup>an officer of Revenue and Customs][<sup>F57</sup>an SFO officer,][<sup>F58</sup>, a constable or an accredited financial investigator] to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.



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- (7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

#### Textual Amendments

- F50** Words in s. 292(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 5\(a\)](#)
- F51** Words in s. 292(1) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 14\(2\)](#); S.I. 2017/991, reg. 2(1)
- F52** Words in s. 292(1) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 60\(2\)](#) (with arts. 28-31)
- F53** Words in s. 292(1) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 5\(2\)](#); S.I. 2008/755, art. 17(1)(f)
- F54** Words in s. 292(2)(b) inserted (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. 60\(3\)](#) (with arts. 28-31)
- F55** S. 292(2A) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 14\(3\)](#); S.I. 2017/991, reg. 2(1)
- F56** Words in s. 292(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 5\(b\)](#)
- F57** Words in s. 292(6) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 14\(4\)](#); S.I. 2017/991, reg. 2(1)
- F58** Words in s. 292(6) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 5\(3\)](#); S.I. 2008/755, art. 17(1)(f)

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

- C3** S. 292 modified (1.4.2010) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 24\(2\)\(d\)](#), 59(2); S.I. 2010/606, art. 2 (as amended (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), [16\(2\)](#) (with arts. 24-28))

## 293 Code of practice (Scotland)

- (1) The Scottish Ministers must make a code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by virtue of section 289.
- (2) Where they propose to issue a code of practice they must—
- publish a draft,
  - consider any representations made to them about the draft,
  - if they think it appropriate, modify the draft in the light of any such representations.
- (3) They must lay a draft of the code before the Scottish Parliament.
- (4) When they have laid a draft of the code before the Scottish Parliament they may bring it into operation by order.
- (5) They may revise the whole or any part of the code issued by them and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.

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- (6) A failure by a constable to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.
- (7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

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

**C4** S. 293 excluded (1.4.2010) by [UK Borders Act 2007 \(c. 30\)](#), **ss. 24(2)(e)**, 59(2); S.I. 2010/606, art. 2 (as amended (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **16(3)** (with arts. 24-28))

**[<sup>F59</sup>293A Code of practice (Northern Ireland)**

- (1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by virtue of section 289.
- (2) Where the Department of Justice proposes to issue a code of practice it must—
  - (a) publish a draft,
  - (b) consider any representations made to the Department of Justice about the draft,
  - (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.
- (3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.
- (4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.
- (5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.
- (6) The Department of Justice may revise the whole or any part of the code issued by it and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.
- (7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.
- (8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.]

**Textual Amendments**

**F59** S. 293A inserted (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. 61** (with arts. 28-31)

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## Seizure and detention

### 294 Seizure of cash

- (1) [<sup>F60</sup>An officer of Revenue and Customs][<sup>F61</sup>, a constable [<sup>F62</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>F60</sup>An officer of Revenue and Customs][<sup>F63</sup>, a constable [<sup>F64</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>F65</sup>(2A) .....

<sup>F66</sup>(2B) .....

<sup>F67</sup>(2C) .....

- (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>F68</sup>(4) This section does not authorise the seizure by [<sup>F69</sup>an SFO officer or] an accredited financial investigator of cash found in Scotland.]

#### Textual Amendments

- F60** Words in s. 294(1)(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 6\(2\)](#)
- F61** 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)
- F62** Words in s. 294(1) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 15\(2\)](#)
- F63** 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)
- F64** Words in s. 294(2) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 15\(3\)](#)
- F65** 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)
- F66** 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)
- F67** 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)
- F68** 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)
- F69** Words in s. 294(4) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 15\(4\)](#)

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

C5 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>F70</sup>officer of Revenue and Customs][<sup>F71</sup>, constable [<sup>F72</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>F73</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,
- (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>F74</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>F75</sup>, a constable [<sup>F76</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

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

#### Textual Amendments

- F70** Words in s. 295(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 48 para. 7](#)
- F71** 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\(1\)\(f\)](#)
- F72** Words in s. 295(1) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(1\)\(6\), Sch. 1 para. 16\(2\)](#)
- F73** 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\(1\)\(c\)](#)
- F74** 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\(i\)](#)
- F75** 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\(1\)\(f\)](#)
- F76** Words in s. 295(4)(a) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), s. 58\(1\)\(6\), Sch. 1 para. 16\(3\)](#)

## 296 Interest

- (1) If cash is detained under section 295 for more than 48 hours [<sup>F77</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>F78</sup>officer of Revenue and Customs][<sup>F79</sup>, constable [<sup>F80</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.

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#### Textual Amendments

- F77** 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\(1\)\(c\)](#)
- F78** Words in s. 296(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 8](#)
- F79** 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\(1\)\(f\)](#)
- F80** Words in s. 296(2) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 17](#)

### 297 Release of detained cash

- (1) This section applies while any cash is detained under section 295.
- (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>F81</sup>An officer of Revenue and Customs], constable [<sup>F82</sup>, SFO officer][<sup>F83</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

- F81** Words in s. 297(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 9](#)
- F82** Words in s. 297(4) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [s. 58\(1\)\(6\)](#), [Sch. 1 para. 18](#)
- F83** 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\(1\)\(f\)](#)

*[<sup>F84</sup>Forfeiture without court order*

#### Textual Amendments

- F84** Ss. 297A-297G and cross-heading inserted (22.11.2014 for the insertion of s. 297A(3)-(5) for specified purposes, 1.6.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 65\(1\)](#), [116\(1\)](#) (with [s. 65\(4\)](#)); [S.I. 2014/3101](#), [art. 3](#); [S.I. 2015/983](#), [art. 2\(2\)\(c\)](#); [S.I. 2016/147](#), [art. 3\(e\)](#)

### 297A Forfeiture notice

- (1) Subsection (2) applies while any cash is detained in pursuance of an order under section 295(2) made by a magistrates' court in England and Wales or Northern Ireland.



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- (2) A senior officer may give a notice for the purpose of forfeiting the cash or any part of it if satisfied that the cash or part—
  - (a) is recoverable property, or
  - (b) is intended by any person for use in unlawful conduct.
- (3) The Secretary of State must make regulations about how a notice is to be given.
- (4) The regulations may provide—
  - (a) for a notice to be given to such person or persons, and in such manner, as may be prescribed;
  - (b) for a notice to be given by publication in such manner as may be prescribed;
  - (c) for circumstances in which, and the time at which, a notice is to be treated as having been given.
- (5) The regulations must ensure that where a notice is given it is, if possible, given to every person to whom notice of an order under section 295(2) in respect of the cash has been given.
- (6) A senior officer means—
  - (a) an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,
    - <sup>F85</sup> [ an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer,]
    - (b) a senior police officer, [<sup>F86</sup>or]
    - <sup>F87</sup> [ the Director of the Serious Fraud Office, or]
    - <sup>F88</sup> [ the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,]
  - (c) an accredited financial investigator.
- (7) A senior police officer means a police officer of at least the rank of inspector.
- (8) A notice under this section is referred to in this Chapter as a forfeiture notice.

#### Textual Amendments

- F85** S. 297A(6)(aa) inserted (22.11.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 21 para. 28](#) (with [Sch. 21 para. 40](#)); [S.I. 2014/3098](#), art. 2(e)
- F86** Word in s. 297A(6)(b) omitted (27.4.2017 for specified purposes) by virtue of [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 19\(a\)](#)
- F87** S. 297A(6)(ba) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 19\(b\)](#)
- F88** S. 297A(6)(bb) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 34\(7\)](#), [58\(1\)\(6\)](#)

## 297B Content

- (1) A forfeiture notice must—
  - (a) state the amount of cash in respect of which it is given,

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- (b) state when and where the cash was seized,
  - (c) confirm that the senior officer is satisfied as mentioned in section 297A(2),
  - (d) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - (e) explain that the cash will be forfeited unless an objection is received at that address within the period for objecting.
- (2) The period for objecting must be at least 30 days starting with the day after the notice is given.

### **297C Effect**

- (1) This section applies if a forfeiture notice is given in respect of any cash.
- (2) The cash is to be detained until—
  - (a) the cash is forfeited under this section,
  - (b) the notice lapses under this section, or
  - (c) the cash is released under a power conferred by this Chapter.
- (3) If no objection is made within the period for objecting, and the notice has not lapsed, the cash is forfeited (subject to section 297E).
- (4) If an objection is made within the period for objecting, the notice lapses.
- (5) If an application is made for the forfeiture of the whole or any part of the cash under section 298, the notice lapses.
- (6) If the cash or any part of it is released under a power conferred by this Chapter, the notice lapses or (as the case may be) lapses in relation to that part.
- (7) An objection may be made by anyone, whether a recipient of the notice or not.
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the cash under section 298.
- (10) Nothing in this section affects the validity of an order under section 295(2).

### **297D Detention following lapse of notice**

- (1) This section applies if—
  - (a) a forfeiture notice is given in respect of any cash,
  - (b) the notice lapses under section 297C(4), and
  - (c) the period for which detention of the cash was authorised under section 295(2) has expired.
- (2) The cash may be detained for a further period of up to 48 hours (calculated in accordance with section 295(1B)).
- (3) But if within that period the Commissioners for Her Majesty's Revenue and Customs, a constable [<sup>F89</sup>, an SFO officer] or an accredited financial investigator decides that neither of the applications mentioned in subsection (4) ought to be made, the cash must be released.



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- (4) The applications are—
  - (a) an application for a further order under section 295(2);
  - (b) an application for forfeiture of the cash under section 298.
- (5) “ If within that period an application is made for a further order under section 295(2) the cash may be detained until the application is determined or otherwise disposed of. ”

#### Textual Amendments

**F89** Words in s. 297D(3) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017](#) (c. 22), s. 58(1)(6), [Sch. 1 para. 20](#)

### 297E Application to set aside forfeiture

- (1) This section applies if any cash is forfeited in pursuance of a forfeiture notice.
- (2) A person aggrieved by the forfeiture may apply to a magistrates' court in England and Wales or Northern Ireland for an order setting aside the forfeiture of the cash or any part of it.
- (3) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended.
- (4) But the court may give permission for an application to be made after the 30-day period has ended if it thinks that there are exceptional circumstances to explain why the applicant—
  - (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (5) On an application under this section the court must consider whether the cash to which the application relates could be forfeited under section 298 (ignoring the forfeiture mentioned in subsection (1) above).
- (6) If the court is satisfied that the cash to which the application relates or any part of it could not be forfeited under that section it must set aside the forfeiture of that cash or part.
- (7) Where the court sets aside the forfeiture of any cash—
  - (a) it must order the release of that cash, and
  - (b) that cash is to be treated as never having been forfeited.

### 297F Release of cash subject to forfeiture notice

- (1) This section applies while any cash is detained under section 297C or 297D.
- (2) A magistrates' court 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 is not satisfied, on an application by the person from whom the cash was seized, that the cash to be released—
  - (a) is recoverable property, or
  - (b) is intended by any person for use in unlawful conduct.

*Status: Point in time view as at 25/01/2018.*

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- (4) An officer of Revenue and Customs, [<sup>F90</sup>immigration officer,] constable [<sup>F91</sup>, SFO officer] or accredited financial investigator may release the cash or any part of it if satisfied that the detention of the cash to be released is no longer justified.

#### Textual Amendments

- F90** Words in s. 297F(4) inserted (22.11.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 21 para. 29](#) (with [Sch. 21 para. 40](#)); S.I. 2014/3098, art. 2(e)
- F91** Words in s. 297F(4) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 21](#)

### 297G Application of forfeited cash

- (1) Cash forfeited in pursuance of a forfeiture notice, and any accrued interest on it, is to be paid into the Consolidated Fund.
- (2) But it is not to be paid in—
- (a) before the end of the period within which an application under section 297E may be made (ignoring the possibility of an application by virtue of section 297E(4)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.]

#### *Forfeiture*

### 298 Forfeiture

- (1) While cash is detained under section 295 [<sup>F92</sup>, 297C or 297D ], an application for the forfeiture of the whole or any part of it may be made—
- (a) to a magistrates' court by the Commissioners of Customs and Excise [<sup>F93</sup>, an accredited financial investigator][<sup>F94</sup> or a constable][<sup>F94</sup>, a constable or an SFO officer],
  - (b) (in Scotland) to the sheriff by the Scottish Ministers.
- (2) The court or sheriff may order the forfeiture of the cash or any part of it if satisfied that the cash or part—
- (a) is recoverable property, or
  - (b) is intended by any person for use in unlawful conduct.
- (3) But in the case of recoverable property which belongs to joint tenants, one of whom is an excepted joint owner, the order may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.
- (4) Where an application for the forfeiture of any cash is made under this section, the cash is to be detained (and may not be released under any power conferred by this Chapter) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.

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#### Textual Amendments

- F92** Words in s. 298(1) inserted (1.6.2015) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 65(2)**, 116(1); S.I. 2015/983, art. 2(2)(c)
- F93** Words in s. 298(1)(a) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 11 para. 10**; S.I. 2008/755, art. 17(1)(f)
- F94** Words in s. 298(1)(a) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 1 para. 22**

### [<sup>F95</sup>299 Appeal against decision under section 298

- (1) Any party to proceedings for an order for the forfeiture of cash under section 298 who is aggrieved by an order under that section or by the decision of the court not to make such an order may appeal—
  - (a) in relation to England and Wales, to the Crown Court;
  - (b) in relation to Scotland, to the Sheriff Principal;
  - (c) in relation to Northern Ireland, to a county court.
- (2) An appeal under subsection (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (3) The court hearing the appeal may make any order it thinks appropriate.
- (4) If the court upholds an appeal against an order forfeiting the cash, it may [<sup>F96</sup>order the release of the whole or any part of the cash] .]

#### Textual Amendments

- F95** S. 299 substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 101(1)**, 178(7)(a) (with s. 101(2)); S.I. 2005/1521, art. 2(1)(d) (with art. 2(2))
- F96** Words in s. 299(4) substituted (1.6.2015) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 65(3)**, 116(1); S.I. 2015/983, art. 2(2)(c)

### 300 Application of forfeited cash

- (1) Cash forfeited under [<sup>F97</sup>section 298], and any accrued interest on it—
  - (a) if forfeited by a magistrates' court in England and Wales or Northern Ireland, is to be paid into the Consolidated Fund,
  - (b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
  - (a) before the end of the period within which an appeal under section 299 may be made, or
  - (b) if a person appeals under that section, before the appeal is determined or otherwise disposed of.

#### Textual Amendments

- F97** Words in s. 300(1) substituted (1.6.2015) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 107**; S.I. 2015/983, arts. 2(2)(e), 3(ff)

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## *Supplementary*

### **301 Victims and other owners**

- (1) A person who claims that any cash detained under this Chapter, or any part of it, belongs to him may apply to a magistrates' court or (in Scotland) the sheriff for the cash or part to be released to him.
- (2) The application may be made in the course of proceedings under section 295 or 298 or at any other time.
- (3) If it appears to the court or sheriff concerned that—
  - (a) the applicant was deprived of the cash to which the application relates, or of property which it represents, by unlawful conduct,
  - (b) the property he was deprived of was not, immediately before he was deprived of it, recoverable property, and
  - (c) that cash belongs to him,
 the court or sheriff may order the cash to which the application relates to be released to the applicant.
- (4) If—
  - (a) the applicant is not the person from whom the cash to which the application relates was seized,
  - (b) it appears to the court or sheriff that that cash belongs to the applicant,
  - (c) the court or sheriff is satisfied that [<sup>F98</sup>the release condition is met] in relation to that cash, and
  - (d) no objection to the making of an order under this subsection has been made by the person from whom that cash was seized,
 the court or sheriff may order the cash to which the application relates to be released to the applicant or to the person from whom it was seized.
- [<sup>F99</sup>(5) The release condition is met—
  - (a) in relation to cash detained under section 295, if the conditions in that section for the detention of the cash are no longer met,
  - (b) in relation to cash detained under section 297C or 297D, if the cash is not recoverable property and is not intended by a person for use in unlawful conduct, and
  - (c) in relation to cash detained under 298, if the court or sheriff decides not to make an order under that section in relation to the cash.]

#### **Textual Amendments**

- F98** Words in s. 301(4)(c) substituted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), [Sch. 7 para. 108\(2\)](#); S.I. 2015/983, arts. 2(2)(e), 3(ff); S.I. 2016/147, art. 3(j)
- F99** S. 301(5) inserted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), [Sch. 7 para. 108\(3\)](#); S.I. 2015/983, arts. 2(2)(e), 3(ff); S.I. 2016/147, art. 3(j)

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## 302 Compensation

- [<sup>F100</sup>(1) If cash detained under this Chapter was seized in England, Wales or Northern Ireland the person to whom the cash belongs or from whom it was seized may make an application to a magistrates' court for compensation if—
- (a) the cash is not forfeited in pursuance of a forfeiture notice, and
  - (b) no forfeiture order is made in respect of the cash.
- (1A) If cash detained under this Chapter was seized in Scotland the person to whom the cash belongs or from whom it was seized may make an application to the sheriff for compensation if no forfeiture order is made in respect of the cash.]
- (2) If, for any period beginning with the first opportunity to place the cash in an interest-bearing account after the initial detention of the cash for 48 hours [<sup>F101</sup>(calculated in accordance with section 295(1B))], the cash was not held in an interest-bearing account while detained, the court or sheriff may order an amount of compensation to be paid to the applicant.
- (3) The amount of compensation to be paid under subsection (2) is the amount the court or sheriff thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.
- (4) If the court or sheriff is satisfied that, taking account of any interest to be paid under section 296 or any amount to be paid under subsection (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the court or sheriff may order compensation (or additional compensation) to be paid to him.
- (5) The amount of compensation to be paid under subsection (4) is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (6) If the cash was seized by [<sup>F102</sup>an officer of Revenue and Customs], the compensation is to be paid by the Commissioners of Customs and Excise.
- (7) If the cash was seized by a constable, the compensation is to be paid as follows—
- (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met,
  - (b) in the case of a constable of a police force in Scotland, it is to be paid by the [<sup>F103</sup>Scottish Police Authority],
  - [<sup>F104</sup>(ba) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority,]
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000 (c. 32), it is to be paid out of money provided by the Chief Constable.
- [<sup>F105</sup>(7ZA) If the cash was seized by an SFO officer, the compensation is to be paid by the Director of the Serious Fraud Office.]
- [<sup>F106</sup>(7ZB) If the cash was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.]
- [<sup>F107</sup>(7A) If the cash was seized by an accredited financial investigator who was not an officer of Revenue and Customs [<sup>F108</sup>or a constable][<sup>F108</sup>, a constable, an SFO officer or a National Crime Agency officer], the compensation is to be paid as follows—

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- (a) in the case of an investigator—
- [<sup>F109</sup>(i) who was a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of [<sup>F110</sup>that Part of that Act][<sup>F110</sup>Part 1 of the Police Reform and Social Responsibility Act 2011] ), or]
- (ii) who was a member of staff of the City of London police force, it is to be paid out of the police fund from which the expenses of the police force are met,
- (b) in the case of an investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable,
- (c) in the case of an investigator who was a member of staff of a department of the Government of the United Kingdom, it is to be paid by the Minister of the Crown in charge of the department or by the department,
- (d) in the case of an investigator who was a member of staff of a Northern Ireland department, it is to be paid by the department,
- [ in the case of an investigator who was exercising a function of the Welsh Revenue Authority, it is to be paid by the Welsh Revenue Authority,]
- (e) in any other case, it is to be paid by the employer of the investigator.

(7B) The Secretary of State may by order amend subsection (7A).]

[<sup>F112</sup>(7C) If any cash is detained under this Chapter and part only of the cash is forfeited in pursuance of a forfeiture notice, this section has effect in relation to the other part.]

(8) If a forfeiture order is made in respect only of a part of any cash detained under this Chapter, this section has effect in relation to the other part.

[<sup>F113</sup>(9) The power in subsection (7B) is exercisable by the Department of Justice (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).]

#### Textual Amendments

- F100** S. 302(1)(1A) substituted for s. 302(1) (1.6.2015 for E.W.S. for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 109(2)**; S.I. 2015/983, arts. 2(2)(e), 3(gg); S.I. 2016/147, art. 3(j)
- F101** Words in s. 302(2) 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)
- F102** Words in s. 302(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 48 para. 10**
- F103** Words in s. 302(7)(b) substituted (S.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 19(3)(a)**
- F104** S. 302(7)(ba) inserted (S.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 19(3)(b)**
- F105** S. 302(7ZA) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 1 para. 23**; S.I. 2018/78, reg. 3(aa)
- F106** S. 302(7ZB) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 34(8)**, 58(1)(6); S.I. 2018/78, reg. 3(s)
- F107** S. 302(7A)(7B) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 11 para. 11**; S.I. 2008/755, art. 17(1)(f)

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- F108** Words in s. 302(7A) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 33**; S.I. 2018/78, reg. 5(1)(e)
- F109** S. 302(7A)(a)(i) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 306**; S.I. 2011/3019, art. 3, Sch. 1
- F110** Words in s. 302(7A)(a)(i) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 34(9)**, 58(1)(6); S.I. 2018/78, reg. 3(s)
- F111** S. 302(7A)(da) inserted (25.1.2018) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\)](#), ss. 186(1)(3), 194(2): S.I. 2018/33, **art. 2(j)**
- F112** S. 302(7C) inserted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), **Sch. 7 para. 109(3)**; S.I. 2015/983, arts. 2(2)(e), 3(gg); S.I. 2016/147, art. 3(j)
- F113** S. 302(9) inserted (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. 62(2)** (with arts. 28-31)

### **[<sup>F114</sup>302A Powers for prosecutors to appear in proceedings**

- (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable [<sup>F115</sup>or an accredited financial investigator] in proceedings under this Chapter if the Director—
- is asked by, or on behalf of, a constable [<sup>F116</sup> or (as the case may be) an accredited financial investigator] to do so, and
  - considers it appropriate to do so.
- (2) [<sup>F117</sup>The Director of Public Prosecutions] may appear for the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director—
- is asked by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and
  - considers it appropriate to do so.
- (3) The Directors may charge fees for the provision of services under this section.]
- [<sup>F118</sup>(4) The references in subsection (1) to an accredited financial investigator do not include an accredited financial investigator who is an officer of Revenue and Customs but the references in subsection (2) to an officer of Revenue and Customs do include an accredited financial investigator who is an officer of Revenue and Customs.]

#### **Textual Amendments**

- F114** S. 302A inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), **ss. 84(1)**, 94(1); S.I. 2008/755, art. 17(1)(h)
- F115** Words in s. 302A(1) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 11 para. 12(2)(a)**; S.I. 2008/755, art. 17(1)(f)
- F116** Words in s. 302A(1) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 11 para. 12(2)(b)**; S.I. 2008/755, art. 17(1)(f)
- F117** Words in s. 302A(2) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 2 para. 24**



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**F118** S. 302A(4) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 12\(3\)](#); [S.I. 2008/755](#), art. 17(1)(f)

### 303 “The minimum amount”

- (1) In this Chapter, the minimum amount is the amount in sterling specified in an order made by the Secretary of State after consultation with the Scottish Ministers [<sup>F119</sup>and the Department of Justice] .
- (2) For that purpose the amount of any cash held in a currency other than sterling must be taken to be its sterling equivalent, calculated in accordance with the prevailing rate of exchange.

#### Textual Amendments

**F119** Words in s. 303(1) inserted (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. 63](#) (with arts. 28-31)

### [<sup>F120</sup>303A] **Financial investigators**

- (1) In this Chapter (apart from this section) any reference in a provision to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that provision by the Secretary of State under section 453.
- (2) Subsection (1) does not apply to the second reference to an accredited financial investigator in section 290(4)(c).
- (3) Where an accredited financial investigator of a particular description—
  - (a) applies for an order under section 295,
  - (b) applies for forfeiture under section 298, or
  - (c) brings an appeal under, or relating to, this Chapter,
 any subsequent step in the application or appeal, or any further application or appeal relating to the same matter, may be taken, made or brought by a different accredited financial investigator of the same description.]

#### Textual Amendments

**F120** S. 303A inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 11 para. 13](#); [S.I. 2008/755](#), art. 17(1)(f)



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