



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

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,

Status: Point in time view as at 25/01/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) it appears to the court or sheriff that that cash belongs to the applicant,
- (c) the court or sheriff is satisfied that [^{F1}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.

[^{F2}(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

- F1** 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)
- F2** 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)

302 Compensation

[^{F3}(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 [^{F4}(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,

Status: Point in time view as at 25/01/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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 [^{F5}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 [^{F6}Scottish Police Authority],

[^{F7}(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.

[^{F8}(7ZA) If the cash was seized by an SFO officer, the compensation is to be paid by the Director of the Serious Fraud Office.]

[^{F9}(7ZB) If the cash was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.]

[^{F10}(7A) If the cash was seized by an accredited financial investigator who was not an officer of Revenue and Customs [^{F11}or a constable][^{F11}, a constable, an SFO officer or a National Crime Agency officer], the compensation is to be paid as follows—

(a) in the case of an investigator—

[^{F12}(i) who was a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of [^{F13}that Part of that Act][^{F13}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).]

Status: Point in time view as at 25/01/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F15}(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.

[^{F16}(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

- F3** 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)
- F4** 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)
- F5** Words in s. 302(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 48 para. 10**
- F6** 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)**
- F7** 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)**
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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
- F13** 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)
- F14** 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)**
- F15** 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)
- F16** 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)

[^{F17}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 [^{F18}or an accredited financial investigator] in proceedings under this Chapter if the Director—

(a) is asked by, or on behalf of, a constable [^{F19} or (as the case may be) an accredited financial investigator] to do so, and

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

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) considers it appropriate to do so.
- (2) [^{F20}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—
- (a) 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
- (b) considers it appropriate to do so.
- (3) The Directors may charge fees for the provision of services under this section.]
- [^{F21}(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

- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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**
- F21** 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 [^{F22}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

- F22** 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)

[^{F23}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.

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

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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

F23 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)

Status:

Point in time view as at 25/01/2018.

Changes to legislation:

Proceeds of Crime Act 2002, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.