



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 3

#### CONFISCATION: SCOTLAND

##### *Compensation*

#### **139 Serious default**

- (1) If the following three conditions are satisfied the court may order the payment of such compensation as it thinks is just.
- (2) The first condition is satisfied if a criminal investigation has been instituted with regard to an offence and proceedings are not instituted for the offence.
- (3) The first condition is also satisfied if proceedings for an offence are instituted against a person and—
  - (a) they do not result in his conviction for the offence, or
  - (b) he is convicted of the offence but the conviction is quashed or he is pardoned in respect of it.
- (4) If subsection (2) applies the second condition is that—
  - (a) in the criminal investigation there has been a serious default by a person mentioned in subsection (9), and
  - (b) the investigation would not have continued if the default had not occurred.
- (5) If subsection (3) applies the second condition is that—
  - (a) in the criminal investigation with regard to the offence or in its prosecution there has been a serious default by a person mentioned in subsection (9), and
  - (b) the proceedings would not have been instituted or continued if the default had not occurred.

*Status: Point in time view as at 24/03/2003. This version of this provision has been superseded.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 139 is up to date with all changes known to be in force on or before 10 June 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)*

- (6) The third condition is that an application is made under this section by a person who held realisable property and has suffered loss in consequence of anything done in relation to it by or in pursuance of an order under this Part.
- (7) The offence referred to in subsection (2) may be one of a number of offences with regard to which the investigation is instituted.
- (8) The offence referred to in subsection (3) may be one of a number of offences for which the proceedings are instituted.
- (9) Compensation under this section is payable to the applicant and—
- (a) if the person in default was a constable of a police force (within the meaning of the Police (Scotland) Act 1967 (c. 77)), the compensation is payable by the police authority or joint police board for the police area for which that force is maintained;
  - (b) if the person in default was a constable not falling within paragraph (a), the compensation is payable by the body under whose authority he acts;
  - (c) if the person in default was a procurator fiscal or was acting on behalf of the Lord Advocate, the compensation is payable by the Lord Advocate;
  - (d) if the person in default was a customs officer, the compensation is payable by the Commissioners of Customs and Excise;
  - (e) if the person in default was an officer of the Commissioners of Inland Revenue, the compensation is payable by those Commissioners.
- (10) Nothing in this section affects any delictual liability in relation to a serious default.

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

- C1** Pt. 3 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 17(4A), 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 39\(4\)\(5\)](#); S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7); S.I. 2003/333, art. 2, Sch.
- C2** Pt. 3 applied by 2000 c. 11, Sch. 8 para. 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 39\(5\)](#); S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7))

**Commencement Information**

- I1** S. 139 in force at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(a\)](#)

**Status:**

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**Changes to legislation:**

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