



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

Searches

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 [^{F1}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,
 - [^{F2}(aa) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office,]
 - [^{F3}(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

Status: Point in time view as at 31/01/2018. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 290 is up to date with all changes known to be in force on or before 08 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)

- 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.
- [^{F4}(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,]
- [^{F5}(c) in relation to the exercise of the power by an accredited financial investigator [^{F6}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 [^{F7}(calculated in accordance with section 295(1B))],
- the [^{F8}officer of Revenue and Customs][^{F9}, constable [^{F10}, SFO officer] or accredited financial investigator] who exercised the powers must give a written report to the appointed person.
- [^{F11}(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 ^{F12}..., a person appointed by the Secretary of State,
- (b) in relation to Scotland, a person appointed by the Scottish Ministers.
- [^{F13}(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.

Textual Amendments

F1 Words in s. 290(4)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 3\(a\)](#)

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- F2** S. 290(4)(aa) 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. 12(2)**; S.I. 2018/78, reg. 3(aa)
- F3** S. 290(4)(ab) 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(6)**, 58(1)(6); S.I. 2018/78, reg. 3(s)
- F4** S. 290(4)(ba) 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. 31(4)**, 58(1)(6); S.I. 2018/78, reg. 3(n)
- F5** 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)
- F6** Words in s. 290(4)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 32(2)**; S.I. 2018/78, reg. 5(3)(a)(i)
- F7** 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)
- F8** Words in s. 290(6) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 3(b)**
- F9** 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)
- F10** Words in s. 290(6) 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. 12(3)**; S.I. 2018/78, reg. 3(aa)
- F11** S. 290(6A) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 32(3)**; S.I. 2018/78, reg. 5(3)(a)(i)
- F12** 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)
- F13** 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)

Modifications etc. (not altering text)

- C1** 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))

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