



# 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

#### *Seizure and detention*

#### **295 Detention of seized cash**

(1) While the [<sup>F1</sup>officer of Revenue and Customs][<sup>F2</sup>, constable [<sup>F3</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>F4</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.]

*Status: Point in time view as at 28/06/2021.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 295 is up to date with all changes known to be in force on or before 29 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) 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>F5</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>F6</sup>, a constable [<sup>F7</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
  - (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

**F1** Words in s. 295(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 48 para. 7](#)

**F2** 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\(1\)\(f\)](#)

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- F3** Words in s. 295(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 1 para. 16(2)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)
- F4** 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)
- F5** 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))
- F6** 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)
- F7** Words in s. 295(4)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 1 para. 16(3)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

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

- C1** Pt. 5 Ch. 3 applied (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by 2007 c. 30, s. 24(1) (as substituted by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 21(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i))

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