



# 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*

### 302 Compensation

- [<sup>F1</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>F2</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.

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*Status: Point in time view as at 27/04/2017. This version of this provision has been superseded.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 12 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)*

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- (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>F3</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>F4</sup>Scottish Police Authority],
  - [<sup>F5</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>F6</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>F7</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>F8</sup>(7A) If the cash was seized by an accredited financial investigator who was not an officer of Revenue and Customs [<sup>F9</sup>or a constable][<sup>F9</sup>, 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—
    - [<sup>F10</sup>(i) who was a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of [<sup>F11</sup>that Part of that Act][<sup>F11</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,
  - (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 27/04/2017. This version of this provision has been superseded.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 12 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)*

[<sup>F12</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>F13</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

- F1** 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)
- F2** 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)
- F3** Words in s. 302(6) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 10**
- F4** 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)**
- F5** 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)**
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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
- F11** 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)
- F12** 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)
- F13** 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)

**Status:**

Point in time view as at 27/04/2017. This version of this provision has been superseded.

**Changes to legislation:**

Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 12 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.