



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

#### CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

#### [<sup>F1</sup>CHAPTER 3A

#### RECOVERY OF LISTED ASSETS IN SUMMARY PROCEEDINGS

#### *[<sup>F1</sup>Supplementary*

#### Textual Amendments

- F1** Pt. 5 Ch. 3A inserted (27.4.2017 for specified purposes, 31.10.2017 for the insertion of ss. 303G, 303H for E.W.S. so far as not already in force, 30.1.2018 for the insertion of s. 303E(4) for E.W.S. so far as not already in force, 16.4.2018 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 \(c. 22\)](#), [ss. 15, 58\(1\)\(6\)](#); [S.I. 2017/991](#), [reg. 2\(d\)](#); [S.I. 2018/78](#), [regs. 2\(a\), 4\(b\)](#); [S.I. 2021/724](#), [reg. 2\(1\)\(f\)](#)

#### **303V Victims and other owners**

- (1) A person who claims that any property detained under this Chapter, or any part of it, belongs to him or her may apply for the property or part to be released.
- (2) An application under subsection (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) The application may be made in the course of proceedings under section 303L or 303O or at any other time.

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- (4) The court or sheriff may order the property to which the application relates to be released to the applicant if it appears to the court or sheriff that—
  - (a) the applicant was deprived of the property to which the application relates, or of property which it represents, by unlawful conduct,
  - (b) the property the applicant was deprived of was not, immediately before the applicant was deprived of it, recoverable property, and
  - (c) the property belongs to the applicant.
- (5) If subsection (6) applies, the court or sheriff may order the property to which the application relates to be released to the applicant or to the person from whom it was seized.
- (6) This subsection applies where—
  - (a) the applicant is not the person from whom the property to which the application relates was seized,
  - (b) it appears to the court or sheriff that that property belongs to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to that property, and
  - (d) no objection to the making of an order under subsection (5) has been made by the person from whom that property was seized.
- (7) The release condition is met—
  - (a) in relation to property detained under section 303K or 303L, if the conditions in section 303K or (as the case may be) 303L for the detention of the property are no longer met, and
  - (b) in relation to property detained under section 303O, if the court or sheriff decides not to make an order under that section in relation to the property.

### **303W Compensation**

- (1) If no order under section 303O, 303Q or 303R is made in respect of any property detained under this Chapter, the person to whom the property belongs or from whom it was seized may make an application for compensation.
- (2) An application under subsection (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) If the court or sheriff is satisfied that the applicant has suffered loss as a result of the detention of the property and that the circumstances are exceptional, the court or sheriff may order compensation to be paid to the applicant.
- (4) The amount of compensation to be paid is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) If the property was seized by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for Her Majesty's Revenue and Customs.
- (6) If the property 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;

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- (b) 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, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (7) If the property was seized by an SFO officer, the compensation is to be paid by the Director of the Serious Fraud Office.
- (8) If the property was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.
- (9) If the property was seized by an accredited financial investigator who was not an officer of Revenue and Customs, 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 who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) 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 of the Police Service of Northern Ireland,
  - (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 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, and
  - (f) in any other case, it is to be paid by the employer of the investigator.
- (10) The Secretary of State may by regulations amend subsection (9).
- (11) The power in subsection (10) 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.)
- (12) If an order under section 303O, 303Q or 303R is made in respect only of a part of any property detained under this Chapter, this section has effect in relation to the other part.

### **303X 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 or an accredited financial investigator in proceedings under this Chapter if the Director—
- (a) is asked by, or on behalf of, a constable or (as the case may be) an accredited financial investigator to do so, and
  - (b) considers it appropriate to do so.

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- (2) 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.
- (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.

### **303Y “The minimum value”**

- (1) For the purposes of this Chapter, “the minimum value” is £1,000.
- (2) The Secretary of State may by regulations amend the amount for the time being specified in subsection (1).
- (3) The Secretary of State must consult the Scottish Ministers and the Department of Justice before making regulations under subsection (2).

### **303Z Financial investigators**

Where an accredited financial investigator of a particular description—

- (a) applies for an order under section 303L,
- (b) applies for forfeiture under section 303O, 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.]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)