



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 1

#### PROCEEDS OF CRIME

### CHAPTER 5

#### MISCELLANEOUS

##### *Other miscellaneous provisions*

#### **31 Accredited financial investigators**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 47G (appropriate approval for exercise of search and seizure powers in England and Wales), in subsection (3), after paragraph (b) insert—
  - “(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, or
    - (ii) a member of staff of the City of London police force, a senior police officer.”.
- (3) In section 195G (appropriate approval for exercise of search and seizure powers in Northern Ireland), in subsection (3), after paragraph (b) insert—
  - “(ba) in relation to the exercise of a power by an accredited financial investigator who is a member of staff of the Police Service of Northern Ireland, a senior police officer.”.

- (4) In section 290 (prior approval for exercise of search powers in relation to cash), in subsection (4), after paragraph (b) insert—

“(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.”.

### **32 Reconsideration of discharged orders**

- (1) The Proceeds of Crime Act 2002 is amended as follows.

- (2) In section 24 (inadequacy of available amount: discharge of order made under Part 2), after subsection (5) insert—

“(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 21(1)(d) or 22(1)(c).

(7) Where on such an application the court determines that the order should be varied under section 21(7) or (as the case may be) 22(4), the court may provide that its discharge under this section is revoked.”

- (3) In section 25 (small amount outstanding: discharge of order made under Part 2), after subsection (3) insert—

“(4) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 21(1)(d) or 22(1)(c).

(5) Where on such an application the court determines that the order should be varied under section 21(7) or (as the case may be) 22(4), the court may provide that its discharge under this section is revoked.”

- (4) In section 109 (inadequacy of available amount: discharge of order made under Part 3), after subsection (5) insert—

“(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 106(1)(d) or 107(1)(c).

(7) Where on such an application the court determines that the order should be varied under section 106(6) or (as the case may be) 107(3), the court may provide that its discharge under this section is revoked.”

- (5) In section 174 (inadequacy of available amount: discharge of order made under Part 4), after subsection (5) insert—

“(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 171(1)(d) or 172(1)(c).

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- (7) Where on such an application the court determines that the order should be varied under section 171(7) or (as the case may be) 172(4), the court may provide that its discharge under this section is revoked.”
- (6) In section 175 (small amount outstanding: discharge of order made under Part 4), after subsection (3) insert—
- “(4) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 171(1)(d) or 172(1)(c).
- (5) Where on such an application the court determines that the order should be varied under section 171(7) or (as the case may be) 172(4), the court may provide that its discharge under this section is revoked.”
- (7) The amendments made by this section apply in relation to a confiscation order whether made before or after the day on which this section comes into force but do so only where the discharge of the order occurs after that day.

### **33 Confiscation investigations: determination of the available amount**

In section 341(1) of the Proceeds of Crime Act 2002 (confiscation investigations), at the beginning of paragraph (c) insert “the available amount in respect of the person or”.

### **34 Confiscation orders and civil recovery: minor amendments**

- (1) The Proceeds of Crime Act 2002 is amended in accordance with subsections (2) to (10).
- (2) In section 82 (free property: England and Wales)—
- (a) in subsection (2), after paragraph (e) insert—
- “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;”;
- (b) in subsection (3)(b) for “or 297D” substitute “, 297D or 298(4)”;
- (c) after subsection (3)(c) (as inserted by paragraph 22 of Schedule 5) insert—
- “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;
- (e) it is detained under paragraph 5B, 5C, 9A or 10G(7) of that Schedule;
- (f) it is the forfeitable property in relation to an order under paragraph 10I(1) of that Schedule.”
- (3) In section 148 (free property: Scotland)—
- (a) in subsection (2)—
- (i) omit “or” at the end of paragraph (e);
- (ii) after that paragraph insert—
- “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, or”;

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- (b) in subsection (3)(b) for “or 297D” substitute “, 297D or 298(4)”;
  - (c) after subsection (3)(c) (as inserted by paragraph 24 of Schedule 5) insert—
    - “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;
    - (e) it is detained under paragraph 5B, 5C, 9A or 10G(7) of that Schedule;
    - (f) it is the forfeitable property in relation to an order under paragraph 10I(1) of that Schedule.”
- (4) In section 230 (free property: Northern Ireland)—
- (a) in subsection (2), after paragraph (e) insert—
    - “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;”;
  - (b) in subsection (3)(b) for “or 297D” substitute “, 297D or 298(4)”;
  - (c) after subsection (3)(c) (as inserted by paragraph 27 of Schedule 5) insert—
    - “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;
    - (e) it is detained under paragraph 5B, 5C, 9A or 10G(7) of that Schedule;
    - (f) it is the forfeitable property in relation to an order under paragraph 10I(1) of that Schedule.”
- (5) In section 245D (restriction on proceedings and remedies), in subsection (1)(b) after “levied” insert “, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised.”.
- (6) In section 290 (prior approval to exercise of section 289 search powers), in subsection (4), after paragraph (aa) (inserted by Schedule 1 to this Act) insert—
- “(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 Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,”.
- (7) In section 297A (forfeiture notice), in subsection (6), after paragraph (ba) (inserted by Schedule 1 to this Act, but before the “or” at the end of that paragraph) insert—
- “(bb) the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,”.
- (8) In section 302 (compensation), after subsection (7ZA) (inserted by Schedule 1 to this Act) insert—
- “(7ZB) If the cash was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.”
- (9) In that section, in subsection (7A)(a)(i), for “that Part of that Act” substitute “Part 1 of the Police Reform and Social Responsibility Act 2011”.

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- (10) In section 306 (mixing property), in subsection (3) after paragraph (c) insert—
- “(ca) for the discharge (in whole or in part) of a mortgage, charge or other security,”.
- (11) In section 8 of the Serious Crime Act 2015 (variation or discharge of confiscation orders), in subsection (3) before paragraph (a) insert—
- “(za) a confiscation order made under the Drug Trafficking Offences Act 1986,”.