



Criminal Finances Act 2017

2017 CHAPTER 22

PART 1

PROCEEDS OF CRIME

CHAPTER 5

MISCELLANEOUS

Miscellaneous provisions relating to Scotland

28 Seized money

After section 131 of the Proceeds of Crime Act 2002 insert—

“Seized money

131ZA Seized money

- (1) This section applies to money which—
 - (a) is held by a person, and
 - (b) is held in an account maintained by the person with a bank or building society.
- (2) This section also applies to money which is held by a person and which—
 - (a) has been seized under a relevant seizure power by a constable or another person lawfully exercising the power, and
 - (b) is being detained in connection with a criminal investigation or prosecution or with an investigation of a kind mentioned in section 341.
- (3) But this section applies to money only so far as the money is free property.

Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, Section 28. (See end of Document for details)

- (4) Subsection (5) applies if—
- (a) a confiscation order is made against a person holding money to which this section applies, and
 - (b) an administrator has not been appointed under section 128 in relation to the money.
- (5) The relevant court may order the appropriate person to pay, within such period as the court may specify, the money or a portion of it specified by the court to the appropriate clerk of court on account of the amount payable under the confiscation order.
- (6) An order under subsection (5) may be made—
- (a) on the application of the prosecutor, or
 - (b) by the relevant court of its own accord.
- (7) The Scottish Ministers may by regulations amend this section so that it applies by virtue of subsection (1) not only to money held in an account maintained with a bank or building society but also to—
- (a) money held in an account maintained with a financial institution of a specified kind, or
 - (b) money that is represented by, or may be obtained from, a financial instrument or product of a specified kind.
- (8) Regulations under subsection (7) may amend this section so that it makes provision about realising an instrument or product within subsection (7)(b) or otherwise obtaining money from it.
- (9) In this section—
- “appropriate clerk of court”, in relation to a confiscation order, means the sheriff clerk of the sheriff court responsible for enforcing the confiscation order under section 211 of the Procedure Act as applied by section 118(1);
- “appropriate person” means—
- (a) in a case where the money is held in an account maintained with a bank or building society, the bank or building society;
 - (b) in any other case, the person on whose authority the money is detained;
- “bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom;
- “building society” has the same meaning as in the Building Societies Act 1986;
- “relevant court”, in relation to a confiscation order, means—
- (a) the court which makes the confiscation order, or
 - (b) the sheriff court responsible for enforcing the confiscation order under section 211 of the Procedure Act as applied by section 118(1);
- “relevant seizure power” means a power to seize money conferred by or by virtue of—
- (a) a warrant granted under any enactment or rule of law, or
 - (b) any enactment, or rule of law, under which the authority of a warrant is not required.

Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, Section 28. (See end of Document for details)

- (10) In the definition of “bank” in subsection (9), “authorised deposit-taker” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) a person who—
 - (i) is specified, or is within a class of persons specified, by an order under section 38 of that Act (exemption orders), and
 - (ii) accepts deposits;
 - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (11) A reference in subsection (10) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.”

Commencement Information

- I1** S. 28 in force at Royal Assent for specified purposes, see s. 58
- I2** S. 28 in force at 31.1.2018 in so far as not already in force by S.S.I. 2017/456, reg. 2(a)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Finances Act 2017, Section 28.