



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

[^{F1}CHAPTER 3A

RECOVERY OF LISTED ASSETS IN SUMMARY PROCEEDINGS

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) 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)

Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 3A applied by 2007 c. 30, s. 24(1) (as 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. 21(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f))

Definition of listed asset

303B “Listed asset”

- (1) In this Chapter, a “listed asset” means an item of property that falls within one of the following descriptions of property—
- (a) precious metals;
 - (b) precious stones;
 - (c) watches;
 - (d) artistic works;

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- (e) face-value vouchers;
 - (f) postage stamps.
- (2) The Secretary of State may by regulations amend subsection (1)—
- (a) by removing a description of property;
 - (b) by adding a description of tangible personal (or corporeal moveable) property.
- (3) The Secretary of State must consult the Scottish Ministers and the Department of Justice before making regulations under subsection (2).
- (4) In this section—
- (a) “precious metal” means gold, silver or platinum (whether in an unmanufactured or a manufactured state);
 - (b) “artistic work” means a piece of work falling within section 4(1)(a) of the Copyright, Designs and Patents Act 1988;
 - (c) “face-value voucher” means a voucher in physical form that represents a right to receive goods or services to the value of an amount stated on it.

Searches

303C Searches

- (1) If a relevant officer is lawfully on any premises and has reasonable grounds for suspecting that there is on the premises a seizable listed asset, the relevant officer may search for the listed asset there.
- (2) The powers conferred by subsection (5) are exercisable by a relevant officer if—
- (a) the relevant officer has reasonable grounds for suspecting that there is a seizable listed asset in a vehicle,
 - (b) it appears to the officer that the vehicle is under the control of a person (the suspect) who is in or in the vicinity of the vehicle, and
 - (c) the vehicle is in a place falling within subsection (3).
- (3) The places referred to in subsection (2)(c) are—
- (a) a place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, and
 - (b) any other place to which at that time people have ready access but which is not a dwelling.
- (4) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the relevant officer may exercise the powers conferred by subsection (5) only if the relevant officer has reasonable grounds for believing—
- (a) that the suspect does not reside in the dwelling, and
 - (b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (5) The powers conferred by this subsection are—
- (a) power to require the suspect to permit entry to the vehicle;
 - (b) power to require the suspect to permit a search of the vehicle.

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- (6) If a relevant officer has reasonable grounds for suspecting that a person (the suspect) is carrying a seizable listed asset, the relevant officer may require the suspect—
- (a) to permit a search of any article the suspect has with him or her;
 - (b) to permit a search of the suspect's person.
- (7) The powers conferred by subsections (5) and (6) are exercisable only so far as the relevant officer thinks it necessary or expedient.
- (8) A relevant officer may—
- (a) in exercising powers conferred by subsection (5), detain the vehicle for so long as is necessary for their exercise;
 - (b) in exercising powers conferred by subsection (6)(b), detain the suspect for so long as is necessary for their exercise.
- (9) In this Chapter, a “relevant officer” means—
- (a) an officer of Revenue and Customs,
 - (b) a constable,
 - (c) an SFO officer, or
 - (d) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State under section 453.
- (10) For the purposes of this section a listed asset is a seizable listed asset if—
- (a) all or part of it is recoverable property or is intended by any person for use in unlawful conduct, and
 - (b) the value of the asset, or the part of it that falls within paragraph (a), is not less than the minimum value.
- (11) Where a power conferred by this section is being exercised in respect of more than one seizable listed asset, this section is to apply as if the value of each asset or (as the case may be) part of an asset was equal to the aggregate value of all of those assets or parts.

303D Searches: supplemental provision

- (1) The powers conferred by section 303C—
- (a) are exercisable only so far as reasonably required for the purpose of finding a listed asset;
 - (b) include the power to carry out (or arrange for the carrying out of) tests on anything found during the course of the search for the purpose of establishing whether it is a listed asset;
 - (c) are exercisable by an officer of Revenue and Customs only if the officer has reasonable grounds for suspecting that the unlawful conduct in question relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979);
 - (d) are exercisable by an SFO officer or an accredited financial investigator only in relation to the following—
 - (i) premises in England, Wales or Northern Ireland (in the case of section 303C(1));
 - (ii) vehicles and suspects in England, Wales or Northern Ireland (in the case of section 303C(5) and (8)(a));

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(iii) suspects in England, Wales or Northern Ireland (in the case of section 303C(6) and (8)(b)).

(2) Section 303C does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979).

303E Prior approval

(1) The powers conferred by section 303C may be exercised only with the appropriate approval unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

(2) The appropriate approval means the approval of a judicial officer or (if that is not practicable in any case) the approval of a senior officer.

(3) A judicial officer means—

- (a) in relation to England and Wales and Northern Ireland, a justice of the peace;
- (b) in relation to Scotland, the sheriff.

(4) A senior officer means—

- (a) in relation to the exercise of a power by an officer of Revenue and Customs, such an officer of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;
- (b) in relation to the exercise of a power by a constable, a senior police officer;
- (c) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office;
- (d) 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;
- (e) 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;
- (f) in relation to the exercise of a power by an accredited financial investigator who does not fall within any of the preceding paragraphs, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.

(5) A senior police officer means a police officer of at least the rank of inspector.

(6) If the powers are exercised without the approval of a judicial officer in a case where—

- (a) no property is seized by virtue of section 303J, or
- (b) any property so seized is not detained for more than 48 hours (calculated in accordance with section 303K(5)),

the relevant officer who exercised the power must give a written report to the appointed person.

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- (7) But the duty in subsection (6) does not apply if, during the course of exercising the powers conferred by section 303C, the relevant officer seizes cash by virtue of section 294 and the cash so seized is detained for more than 48 hours (calculated in accordance with section 295(1B)).
- (8) A report under subsection (6) must give particulars of the circumstances which led the relevant officer to believe that—
 - (a) the powers were exercisable, and
 - (b) it was not practicable to obtain the approval of a judicial officer.
- (9) In this section and section 303F, the appointed person means—
 - (a) in relation to England and Wales, a person appointed by the Secretary of State;
 - (b) in relation to Scotland, a person appointed by the Scottish Ministers;
 - (c) in relation to Northern Ireland, a person appointed by the Department of Justice.
- (10) The appointed person must not be a person employed under or for the purposes of a government department or of the Scottish Administration; and the terms and conditions of the person's appointment, including any remuneration or expenses to be paid to the person, are to be determined by the person making the appointment.

303F Report on exercise of powers

- (1) As soon as possible after the end of each financial year, the appointed person must prepare a report for that year.
- (2) “Financial year” means—
 - (a) the period beginning with the day on which section 15 of the Criminal Finances Act 2017 (which inserted this section) came into force and ending with the next 31 March (which is the first financial year), and
 - (b) each subsequent period of 12 months beginning with 1 April.
- (3) The report must give the appointed person's opinion as to the circumstances and manner in which the powers conferred by section 303C are being exercised in cases where the relevant officer who exercised them is required to give a report under section 303E(6).
- (4) In the report, the appointed person may make any recommendations he or she considers appropriate.
- (5) The appointed person must send a copy of the report to whichever of the Secretary of State, the Scottish Administration or the Department of Justice appointed the person.
- (6) The Secretary of State must lay a copy of any report the Secretary of State receives under this section before Parliament and arrange for it to be published.
- (7) The Scottish Ministers must lay a copy of any report they receive under this section before the Scottish Parliament and arrange for it to be published.
- (8) The Department of Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly and arrange for it to be published.

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- (9) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (8) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.

303G Code of practice: Secretary of State

- (1) The Secretary of State must make a code of practice in connection with the exercise by officers of Revenue and Customs, SFO officers and (in relation to England and Wales) constables and accredited financial investigators of the powers conferred by section 303C.
- (2) Where the Secretary of State proposes to issue a code of practice, the Secretary of State must—
 - (a) publish a draft,
 - (b) consider any representations made about the draft by the Scottish Ministers, the Department of Justice or any other person, and
 - (c) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.
- (3) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.
- (4) The Secretary of State must lay a draft of the code before Parliament.
- (5) When the Secretary of State has laid a draft of the code before Parliament, the Secretary of State may bring it into operation by regulations.
- (6) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.
- (7) A failure by an officer of Revenue and Customs, an SFO officer, a constable or an accredited financial investigator to comply with a provision of the code does not of itself make him or her liable to criminal or civil proceedings.
- (8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

303H Code of practice: Scotland

- (1) The Scottish Ministers must make a code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by section 303C.
- (2) Where the Scottish Ministers propose to issue a code of practice, they must—
 - (a) publish a draft,
 - (b) consider any representations made about the draft, and
 - (c) if they think it appropriate, modify the draft in the light of any such representations.
- (3) The Scottish Ministers must lay a draft of the code before the Scottish Parliament.

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- (4) When the Scottish Ministers have laid a draft of the code before the Scottish Parliament, they may bring it into operation by order.
- (5) The Scottish Ministers may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.
- (6) A failure by a constable to comply with a provision of the code does not of itself make the constable liable to criminal or civil proceedings.
- (7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

303I Code of practice: Northern Ireland

- (1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by section 303C.
- (2) Where the Department of Justice proposes to issue a code of practice, it must—
 - (a) publish a draft,
 - (b) consider any representations made about the draft, and
 - (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.
- (3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.
- (4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.
- (5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.
- (6) The Department of Justice may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.
- (7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him or her liable to criminal or civil proceedings.
- (8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

Seizure and detention

303J Seizure of listed assets

- (1) A relevant officer may seize any item of property if the relevant officer has reasonable grounds for suspecting that—
 - (a) it is a listed asset,

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- (b) it is recoverable property or intended by any person for use in unlawful conduct, and
 - (c) the value of it is not less than the minimum value.
- (2) A relevant officer may also seize any item of property if—
- (a) the relevant officer has reasonable grounds for suspecting the item to be a listed asset,
 - (b) the relevant officer has reasonable grounds for suspecting that part of the item is recoverable property or intended by any person for use in unlawful conduct,
 - (c) the relevant officer has reasonable grounds for suspecting that the value of the part to which the suspicion relates is not less than the minimum value, and
 - (d) it is not reasonably practicable to seize only that part.
- (3) Where the powers conferred by this section are being exercised by a relevant officer in respect of more than one item of property, this section is to apply as if the value of each item was equal to the aggregate value of all of those items.
- (4) The references in subsection (3) to the value of an item are to be read as including references to the value of part of an item where the power conferred by subsection (2) is being exercised (whether alone or in conjunction with the power conferred by subsection (1)).
- (5) This section does not authorise the seizure by an SFO officer or an accredited financial investigator of an item of property found in Scotland.

303K Initial detention of seized property

- (1) Property seized under section 303J may be detained for an initial period of 6 hours.
- (2) Property seized under section 303J may be detained beyond the initial period of 6 hours only if its continued detention is authorised by a senior officer.
- (3) If the continued detention of property seized under section 303J is authorised under subsection (2), the property may be detained for a further period of 42 hours.
- (4) Subsections (1) to (3) authorise the detention of property only for so long as a relevant officer continues to have reasonable grounds for suspicion in relation to that property as described in section 303J(1) or (2) (as the case may be).
- (5) In calculating a period of hours for the purposes of this section, 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 property 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 property is seized.
- (6) “Senior officer” has the same meaning in this section as it has in section 303E.

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303L Further detention of seized property

- (1) The period for which property seized under section 303J, or any part of that property, may be detained may be extended by an order made—
 - (a) in England and Wales or Northern Ireland, by a magistrates' court;
 - (b) in Scotland, by the sheriff.
- (2) An order under subsection (1) may not authorise the detention of any property—
 - (a) beyond the end of the period of 6 months beginning with the date of the order, and
 - (b) in the case of any further order under this section, beyond the end of the period of 2 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 (1) extending a particular period of detention.
- (4) An application for an order under subsection (1) may be made—
 - (a) in relation to England and Wales and Northern Ireland, by a person specified in subsection (5);
 - (b) in relation to Scotland, by the Scottish Ministers in connection with their functions under section 303O or by a procurator fiscal.
- (5) The persons referred to in subsection (4)(a) are—
 - (a) the Commissioners for Her Majesty's Revenue and Customs,
 - (b) a constable,
 - (c) an SFO officer, or
 - (d) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State under section 453.
- (6) The court, sheriff or justice may make the order if satisfied, in relation to the item of property to be further detained, that—
 - (a) it is a listed asset,
 - (b) the value of it is not less than the minimum value, and
 - (c) condition 1 or condition 2 is met.
- (7) Subsection (6)(b) does not apply where the application is for a second or subsequent order under this section.
- (8) Condition 1 is that there are reasonable grounds for suspecting that the property 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 property is connected, or
 - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (9) Condition 2 is that there are reasonable grounds for suspecting that the property 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)

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- proceedings against any person for an offence with which the property is connected, or
- (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (10) Where an application for an order under subsection (1) relates to an item of property seized under section 303J(2), the court, sheriff or justice may make the order if satisfied that—
- (a) the item of property is a listed asset,
 - (b) condition 1 or 2 is met in respect of part of the item,
 - (c) the value of that part is not less than the minimum value, and
 - (d) it is not reasonably practicable to detain only that part.
- (11) Subsection (10)(c) does not apply where the application is for a second or subsequent order under this section.
- (12) Where an application for an order under subsection (1) is made in respect of two or more items of property that were seized at the same time and by the same person, this section is to apply as if the value of each item was equal to the aggregate value of all of those items.
- (13) The references in subsection (12) to the value of an item are to be read as including references to the value of part of an item where subsection (10) applies in relation to one or more of the items in respect of which the application under subsection (1) is made.
- (14) An order under subsection (1) must provide for notice to be given to persons affected by it.

303M Testing and safekeeping of property seized under section 303J

- (1) A relevant officer may carry out (or arrange for the carrying out of) tests on any item of property seized under section 303J for the purpose of establishing whether it is a listed asset.
- (2) A relevant officer must arrange for any item of property seized under section 303J to be safely stored throughout the period during which it is detained under this Chapter.

303N Release of detained property

- (1) This section applies while any property is detained under section 303K or 303L.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the property if the following condition is met.
- (3) The condition is that the court or sheriff is satisfied, on an application by the person from whom the property was seized, that the conditions in section 303K or 303L (as the case may be) for the detention of the property are no longer met in relation to the property to be released.
- (4) A relevant officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of it if satisfied that the detention of the property to be released is no longer justified.

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Forfeiture

3030 Forfeiture

- (1) While property is detained under this Chapter, an application for the forfeiture of the whole or any part of it may be made—
 - (a) to a magistrates' court by a person specified in subsection (2);
 - (b) to the sheriff by the Scottish Ministers.
- (2) The persons referred to in subsection (1)(a) are—
 - (a) the Commissioners for Her Majesty's Revenue and Customs,
 - (b) a constable,
 - (c) an SFO officer, or
 - (d) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State under section 453.
- (3) The court or sheriff may order the forfeiture of the property or any part of it if satisfied that—
 - (a) the property is a listed asset, and
 - (b) what is to be forfeited is recoverable property or intended by any person for use in unlawful conduct.
- (4) An order under subsection (3) made by a magistrates' court may provide for payment under section 303U of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
 - (a) the proceedings in which the order is made, or
 - (b) any related proceedings under this Chapter.
- (5) A sum in respect of a relevant item of expenditure is not payable under section 303U in pursuance of provision under subsection (4) unless—
 - (a) the person who applied for the order under subsection (3) agrees to its payment, or
 - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (6) For the purposes of subsection (5)—
 - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B would apply if the order under subsection (3) had instead been a recovery order;
 - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
 - (c) if the person who applied for the order under subsection (3) was a constable, an SFO officer or an accredited financial investigator, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (7) “Senior officer” has the same meaning in subsection (6)(c) as it has in section 303E.
- (8) Subsection (3) ceases to apply on the transfer of an application made under this section in accordance with section 303R(1)(a) or (b).

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- (9) Where an application for the forfeiture of any property is made under this section, the property is to be detained (and may not be released under any power conferred by this Chapter) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.
- (10) Where the property to which the application relates is being detained under this Chapter as part of an item of property, having been seized under section 303J(2), subsection (9) is to be read as if it required the continued detention of the whole of the item of property.

303P Associated and joint property

- (1) Sections 303Q and 303R apply if—
- (a) an application is made under section 303O in respect of property detained under this Chapter,
 - (b) the court or sheriff is satisfied that the property is a listed asset,
 - (c) the court or sheriff is satisfied that all or part of the property is recoverable property or intended by any person for use in unlawful conduct, and
 - (d) there exists property that is associated with the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c).
- (2) Sections 303Q and 303R also apply in England and Wales and Northern Ireland if—
- (a) an application is made under section 303O in respect of property detained under this Chapter,
 - (b) the court is satisfied that the property is a listed asset,
 - (c) the court is satisfied that all or part of the property is recoverable property, and
 - (d) the property in relation to which the court is satisfied as mentioned in paragraph (c) belongs to joint tenants and one of the tenants is an excepted joint owner.
- (3) In this section and sections 303Q and 303R “associated property” means property of any of the following descriptions that is not itself the forfeitable property—
- (a) any interest in the forfeitable property;
 - (b) any other interest in the property in which the forfeitable property subsists;
 - (c) if the forfeitable property is a tenancy in common, the tenancy of the other tenant;
 - (d) if (in Scotland) the forfeitable property is owned in common, the interest of the other owner;
 - (e) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

- (4) In this section and sections 303Q and 303R the “forfeitable property” means the property in relation to which the court or sheriff is satisfied as mentioned in subsection (1)(c) or (2)(c) (as the case may be).

303Q Agreements about associated and joint property

- (1) Where—

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- (a) this section applies, and
 - (b) the person who applied for the order under section 303O (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,

the magistrates' court or sheriff may, instead of making an order under section 303O(3), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.
- (2) The amount of the payment is (subject to subsection (3)) to be the amount which the persons referred to in subsection (1)(b) agree represents—
 - (a) in a case where this section applies by virtue of section 303P(1), the value of the forfeitable property;
 - (b) in a case where this section applies by virtue of section 303P(2), the value of the forfeitable property less the value of the excepted joint owner's share.
- (3) The amount of the payment may be reduced if the person who applied for the order under section 303O agrees that the other party to the agreement has suffered loss as a result of the seizure of the forfeitable property and any associated property under section 303J and its subsequent detention.
- (4) The reduction that is permissible by virtue of subsection (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) An order under subsection (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.
- (6) An order under subsection (1) made by a magistrates' court may provide for payment under subsection (12) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
 - (a) the proceedings in which the order is made, or
 - (b) any related proceedings under this Chapter.
- (7) A sum in respect of a relevant item of expenditure is not payable under subsection (12) in pursuance of provision under subsection (6) unless—
 - (a) the person who applied for the order under section 303O agrees to its payment, or
 - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (8) For the purposes of subsection (7)—
 - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B would apply if the order under subsection (1) had instead been a recovery order;
 - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.
- (9) For the purposes of section 308(2), on the making of an order under subsection (1), the forfeitable property is to be treated as if it had been forfeited.
- (10) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under subsection (1), and the part of that amount

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which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under section 303O.

- (11) If the person who applied for the order under section 303O was a constable, an SFO officer or an accredited financial investigator, that person may enter into an agreement for the purposes of any provision of this section only if the person is a senior officer or is authorised to do so by a senior officer.

“Senior officer” has the same meaning in this subsection as it has in section 303E.

- (12) An amount received under an order under subsection (1) must be applied as follows—
- (a) first, it must be applied in making any payment of legal expenses which, after giving effect to subsection (7), are payable under this subsection in pursuance of provision under subsection (6);
 - (b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Part;
 - (c) third, it must be paid—
 - (i) if the order was made by a magistrates' court, into the Consolidated Fund;
 - (ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

303R Associated and joint property: default of agreement

- (1) Where this section applies and there is no agreement under section 303Q, the magistrates' court or sheriff—
- (a) must transfer the application made under section 303O to the relevant court if satisfied that the value of the forfeitable property and any associated property is £10,000 or more;
 - (b) may transfer the application made under section 303O to the relevant court if satisfied that the value of the forfeitable property and any associated property is less than £10,000.
- (2) The “relevant court” is—
- (a) the High Court, where the application under section 303O was made to a magistrates' court;
 - (b) the Court of Session, where the application under section 303O was made to the sheriff.
- (3) Where (under subsection (1)(a) or (b)) an application made under section 303O is transferred to the relevant court, the relevant court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that—
- (a) the property is a listed asset, and
 - (b) what is to be forfeited is recoverable property or intended by any person for use in unlawful conduct.
- (4) An order under subsection (3) made by the High Court may include provision of the type that may be included in an order under section 303O(3) made by a magistrates' court by virtue of section 303O(4).

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- (5) If provision is included in an order of the High Court by virtue of subsection (4) of this section, section 303O(5) and (6) apply with the necessary modifications.
- (6) The relevant court may, as well as making an order under subsection (3), make an order—
 - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
 - (b) providing for the excepted joint owner's interest to be severed.
- (7) Where (under subsection (1)(b)) the magistrates' court or sheriff decides not to transfer an application made under section 303O to the relevant court, the magistrates' court or sheriff may, as well as making an order under section 303O(3), make an order—
 - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
 - (b) providing for the excepted joint owner's interest to be severed.
- (8) An order under subsection (6) or (7) may be made only if the relevant court, the magistrates' court or the sheriff (as the case may be) thinks it just and equitable to do so.
- (9) An order under subsection (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.
- (10) In making an order under subsection (6) or (7), and including provision in it by virtue of subsection (9), the relevant court, the magistrates' court or the sheriff (as the case may be) must have regard to—
 - (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may) of that person's share (including any value that cannot be assessed in terms of money), and
 - (b) the interest of the person who applied for the order under section 303O in realising the value of the forfeitable property.
- (11) If the relevant court, the magistrates' court or the sheriff (as the case may be) is satisfied that—
 - (a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the seizure of the forfeitable property and any associated property under section 303J and its subsequent detention, and
 - (b) the circumstances are exceptional,
 an order under subsection (6) or (7) may require the payment of compensation to that person.
- (12) The amount of compensation to be paid by virtue of subsection (11) is the amount the relevant court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (13) Compensation to be paid by virtue of subsection (11) is to be paid in the same way that compensation is to be paid under section 303W.

303S Sections 303O to 303R: appeals

- (1) Any party to proceedings for an order for the forfeiture of property under section 303O may appeal against—
 - (a) the making of an order under section 303O;

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- (b) the making of an order under section 303R(7);
- (c) a decision not to make an order under section 303O unless the reason that no order was made is that an order was instead made under section 303Q;
- (d) a decision not to make an order under section 303R(7).

Paragraphs (c) and (d) do not apply if the application for the order under section 303O was transferred in accordance with section 303R(1)(a) or (b).

- (2) Where an order under section 303Q is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under section 303O that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under subsection (6) of section 303Q.
- (3) An appeal under this section lies—
 - (a) in relation to England and Wales, to the Crown Court;
 - (b) in relation to Scotland, to the Sheriff Appeal Court;
 - (c) in relation to Northern Ireland, to a county court.
- (4) An appeal under this section must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (5) The court hearing the appeal may make any order it thinks appropriate.
- (6) If the court upholds an appeal against an order forfeiting property, it may order the release of the whole or any part of the property.

303T Realisation of forfeited property

- (1) If property is forfeited under section 303O or 303R, a relevant officer must realise the property or make arrangements for its realisation.
- (2) But the property is not to be realised—
 - (a) before the end of the period within which an appeal may be made (whether under section 303S or otherwise), or
 - (b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (3) The realisation of property under subsection (1) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.

303U Proceeds of realisation

- (1) The proceeds of property realised under section 303T must be applied as follows—
 - (a) first, they must be applied in making any payment required to be made by virtue of section 303R(9);
 - (b) second, they must be applied in making any payment of legal expenses which, after giving effect to section 303O(5) (including as applied by section 303R(5)), are payable under this subsection in pursuance of provision under section 303O(4) or, as the case may be, 303R(4);
 - (c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Part and in realising the property;

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- (d) fourth, they must be paid—
 - (i) if the property was forfeited by a magistrates' court or the High Court, into the Consolidated Fund;
 - (ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.
- (2) If what is realised under section 303T represents part only of an item of property seized under section 303J and detained under this Chapter, the reference in subsection (1)(c) to costs incurred in storing or insuring the property is to be read as a reference to costs incurred in storing or insuring the whole of the item of property.

Supplementary

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.
- (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.

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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;
 - (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,

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- (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.
- (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

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(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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