



# Criminal Justice (International Co-operation) Act 1990

## 1990 CHAPTER 5

### PART III

#### DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

##### Commencement Information

- II** Pt. III partly in force at 23.4.1991 see [s. 32\(2\)](#) and [S.I. 1991/1072, art. 3](#)  
Part III wholly in force at 23.09.1991 see [s. 32\(2\)](#) and [S.I. 1991/2108, art. 2](#).

#### 25 Seizure and detention.

- (1) A customs officer or constable may seize and, in accordance with this section, detain any cash which is being imported into or exported from the United Kingdom if its amount is not less than the prescribed sum and he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.
- (2) Cash seized by virtue of this section shall not be detained for more than forty-eight hours unless its continued detention is authorised by an order made by a justice of the peace or in Scotland the sheriff; and no such order shall be made unless the justice or, as the case may be, the sheriff is satisfied—
  - (a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and
  - (b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the United Kingdom or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.
- (3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990, Part III. (See end of Document for details)*

the date of the order, as may be specified in the order; and a magistrates' court or in Scotland the sheriff, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that—

- (a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and
  - (b) the total period of detention shall not exceed two years from the date of the order under subsection (2) above.
- (4) Any application for an order under subsection (2) or (3) above shall be made by the Commissioners of Customs and Excise or a constable if made to a justice or magistrates' court and by a procurator fiscal if made to the sheriff.
- (5) At any time while cash is detained by virtue of the foregoing provisions of this section—
- (a) a magistrates' court or in Scotland the sheriff may direct its release if satisfied—
    - (i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2) above; or
    - (ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and
  - (b) a customs officer or constable, or in Scotland a procurator fiscal, may release the cash if satisfied that its detention is no longer justified but shall first notify the justice, magistrates' court or sheriff under whose order it is being detained.
- (6) If at a time when any cash is being detained by virtue of the foregoing provisions of this section—
- (a) an application for its forfeiture is made under section 26 below; or
  - (b) proceedings are instituted (whether in the United Kingdom or elsewhere) against any person for an offence with which the cash is connected,
- the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

**Modifications etc. (not altering text)**

**C1** S. 25 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

**Commencement Information**

**I2** S. 25 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

**26 Forfeiture.**

- (1) A magistrates' court or in Scotland the sheriff may order the forfeiture of any cash which has been seized under section 25 above if satisfied, on an application made while the cash is detained under that section, that the cash directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

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- (2) Any application under this section to a magistrates' court shall be made by the Commissioners of Customs and Excise or a constable and to the sheriff by a procurator fiscal.
- (3) The standard of proof in proceedings on an application under this section shall be that applicable to civil proceedings; and an order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

**Modifications etc. (not altering text)**

**C2** S. 26 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

**Commencement Information**

**I3** S. 26 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2

**[<sup>F1</sup>26A Appeal against section 26 order.**

- (1) This section applies where an order for the forfeiture of cash (“the forfeiture order”) is made under section 26 above by a magistrates' court.
- (2) Any party to the proceedings in which the forfeiture order is made (other than the applicant for the order) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Crown Court or, in Northern Ireland, to a county court.
- (3) An appeal under this section shall be by way of a rehearing.
- (4) On an application made by the appellant to a magistrates' court at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.
- (5) The court hearing an appeal under this section may make such order as it considers appropriate.
- (6) If it upholds the appeal, the court may order the release of the cash, or (as the case may be) the remaining cash, together with any accrued interest.
- (7) Section 26(3) applies in relation to a rehearing on an appeal under this section as it applies to proceedings under section 26.]

**Textual Amendments**

**F1** Ss. 26A and 26B inserted (*prosp.*) by 1993 c. 36, ss. 25(1), 78(3) (with ss. 25(6) and 78(6)) (which *prosp.* insertion falls by reason of the repeal of 1993 c. 36, s. 25 by 1994 c. 37ss. 67(1), 69(2), Sch. 3).

**[<sup>F2</sup>26B Appeal against section 26 order: Scotland.**

Any party to proceedings in which an order for the forfeiture of cash is made by the sheriff under section 26 above may appeal against the order to the Court of Session.

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### Textual Amendments

- F2** Ss. 26A and 26B inserted (*prosp.*) by 1993 c. 36, ss. 25(1), 78(3) (with ss. 25(6) and 78(6)) (which *prosp.* insertion falls by reason of the repeal of 1993 c. 36, s. 25 by 1994 c. 37ss. 67(1), 69(2), Sch. 3).

## 27 Interest.

Cash seized under this Part of this Act and detained for more than forty-eight hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

### Modifications etc. (not altering text)

- C3** S. 27 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

### Commencement Information

- I4** S. 27 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

## 28 Procedure.

- (1) An order under section 25(2) above shall provide for notice to be given to persons affected by the order.
- (2) Provision may be made by rules of court with respect to applications to any court under this Part of this Act, for the giving of notice of such applications to persons affected, for the joinder, or in Scotland sisting, of such persons as parties and generally with respect to the procedure under this Part of this Act before any court.
- (3) Subsection (2) above is without prejudice to the generality of any existing power to make rules.

### Modifications etc. (not altering text)

- C4** S. 28 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

### Commencement Information

- I5** S. 28 partly in force; s. 28(2) in force for certain purposes at 23.4.1991. See s. 32(2) and S.I. 1991/1072, art. 3  
 S. 28 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

## 29 Interpretation of Part III.

- (1) In this Part of this Act—
  - “cash” includes coins and notes in any currency;
  - “customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the <sup>M1</sup>Customs and Excise Management Act 1979;

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“drug trafficking” has the same meaning as in the <sup>M2</sup>Drug Trafficking Offences Act 1986 or, as respects Scotland, in Part I of the <sup>M3</sup>Criminal Justice (Scotland) Act 1987 [<sup>F3</sup>or, as respects Northern Ireland, in the Criminal Justice (Confiscation) (Northern Ireland) Order 1990];

“exported”, in relation to any cash, includes its being brought to any place in the United Kingdom for the purpose of being exported;

“the proceeds of drug trafficking” has the same meaning as in the said Acts of 1986 and 1987 [<sup>F4</sup>or in the said Order of 1990]respectively and includes proceeds received by any person before as well as after the coming into force of this Part of this Act.

- (2) In section 25 above “the prescribed sum” means such sum in sterling as may for the time being be prescribed for the purposes of that section by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and in determining under that section whether an amount of currency other than sterling is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.
- (3) For the avoidance of doubt it is hereby declared that notwithstanding sections 8 and 9 of the <sup>M4</sup>Isle of Man Act 1979 references in this Part of this Act to importation into or export from the United Kingdom include references to importation into the United Kingdom from the Isle of Man and exportation from the United Kingdom to the Isle of Man.

#### Subordinate Legislation Made

**P1** [S. 29\(2\)](#): power exercised (05.08.1991) by [S.I. 1991/1816](#).

#### Textual Amendments

**F3** Words added (N.I.) (1.7.1991) by [S.I. 1990/2588](#) (N.I. 17), art. 38(1), [Sch. 2 para. 9\(a\)](#); [S.R. 1991/220](#) (N.I.), art. 2

**F4** Words inserted (N.I.) (1.7.1991) by [S.I. 1990/2588](#) (N.I. 17), art. 38(1), [Sch. 2 para. 9\(b\)](#); [S.R. 1991/220](#) (N.I.), art. 2

#### Modifications etc. (not altering text)

**C5** [S. 29](#) extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), art. 2, [Sch. 1](#).

#### Commencement Information

**I6** [S. 29](#) partly in force; [s. 29\(2\)](#) in force for certain purposes at 23.4.1991. See [s. 32\(2\)](#) and [S.I. 1991/1072](#), [art. 3](#)

[S. 29](#) wholly in force at 23.09.1991 see [s. 32\(2\)](#) and [S.I. 1991/2108](#), [art. 2](#).

#### Marginal Citations

**M1** 1979 c. 2.

**M2** 1986 c. 32.

**M3** 1987 c. 41.

**M4** 1979 c. 58.

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**Changes to legislation:**

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