



# 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>Searches

#### 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 by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 15, 58\(1\)\(6\)](#); [S.I. 2017/991](#), [reg. 2\(d\)](#); [S.I. 2018/78](#), [reg. 2\(a\)](#))

#### 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—

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- (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.
- (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—

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- (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));
    - (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

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- (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.
- (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).

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- (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.
- (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.

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### **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.
- (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.

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- (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.]

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