



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

[^{F1}CHAPTER 3B

FORFEITURE OF MONEY HELD IN [^{F1}CERTAIN] ACCOUNTS

[^{F1}Freezing of [^{F2}certain] accounts

Textual Amendments

- F1** Pt. 5 Ch. 3B inserted (27.4.2017 for specified purposes, 30.1.2018 for the insertion of ss. 303Z2(4), 303Z10 for E.W.S. so far as not already in force, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 16, 58\(1\)\(6\)](#); [S.I. 2018/78](#), [regs. 2\(b\), 3\(d\)](#)
- F2** Words in s. 303Z1 cross-heading substituted (retrospectively except as it extends to N.I.) by [Financial Services Act 2021 \(c. 22\)](#), [s. 33\(2\)\(3\)](#), [Sch. 12 para. 13](#) (with [s. 33\(4\)](#))

303Z1 Application for account freezing order

- (1) This section applies if an enforcement officer has reasonable grounds for suspecting that money held in an account maintained with a [^{F3}relevant financial institution]—
 - (a) is recoverable property, or
 - (b) is intended by any person for use in unlawful conduct.
- (2) Where this section applies (but subject to section 303Z2) the enforcement officer may apply to the relevant court for an account freezing order in relation to the account in which the money is held.
- (3) For the purposes of this Chapter—

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) an account freezing order is an order that, subject to any exclusions (see section 303Z5), prohibits each person by or for whom the account to which the order applies is operated from making withdrawals or payments from the account;
 - (b) an account is operated by or for a person if the person is an account holder or a signatory or identified as a beneficiary in relation to the account.
- (4) An application for an account freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Chapter to forfeit money that is recoverable property or intended by any person for use in unlawful conduct.
- (5) The money referred to in subsection (1) may be all or part of the credit balance of the account.

[In this Chapter as it extends to England and Wales and Scotland, “relevant financial ^{F4}(5A) institution” means—

- (a) a bank,
- (b) a building society,
- (c) an electronic money institution, or
- (d) a payment institution.]

(6) In this Chapter—

“bank” has the meaning given by section 303Z7;

“building society” has the same meaning as in the Building Societies Act 1986;

[^{F5}“electronic money institution” has the same meaning as in the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations);]

“enforcement 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 [^{F6}or the Welsh Ministers] under section 453;

“the minimum amount” has the meaning given by section 303Z8;

[^{F5}“payment institution” means an authorised payment institution or a small payment institution (each as defined in regulation 2 of the Payment Services Regulations 2017 (S.I. 2017/752));]

“relevant court”—

- (a) in England and Wales and Northern Ireland, means a magistrates' court, and
- (b) in Scotland, means the sheriff.

Textual Amendments

F3 Words in s. 303Z1(1) substituted (retrospectively except as it extends to N.I.) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2)(3), [Sch. 12 para. 14\(2\)](#) (with s. 33(4))

F4 S. 303Z1(5A) inserted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2)(3), [Sch. 12 para. 14\(3\)](#) (with s. 33(4))

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F5** Words in s. 303Z1(6) inserted (retrospectively) by [Financial Services Act 2021 \(c. 22\), s. 33\(2\)\(3\), Sch. 12 para. 14\(5\)](#) (with s. 33(4))
- F6** Words in s. 303Z1(6) inserted (E.W.) (20.7.2018) by [The Tax Collection and Management \(Wales\) Act 2016 \(Supplemental Provision\) Regulations 2018 \(S.I. 2018/768\), regs. 1\(2\), 2\(e\)](#)

Modifications etc. (not altering text)

- C1** S. 303Z1(6) modified by S.I. 2018/196, Sch. para. 3B (as inserted (E.W.) (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\), arts. 1\(2\), 2\(2\)\(b\)](#))

303Z2 Restrictions on making of application under section 303Z1

- (1) The power to apply for an account freezing order is not exercisable if the money in relation to which the enforcement officer's suspicion exists is less in amount than the minimum amount.
- (2) An enforcement officer may not apply for an account freezing order unless the officer is a senior officer or is authorised to do so by a senior officer.
- (3) The power to apply for an account freezing order is not exercisable by an SFO officer, or by an accredited financial investigator, in relation to an account maintained with a branch of a [^{F7}relevant financial institution] that is in Scotland.
- (4) For the purposes of this Chapter, a “senior officer” is —
 - (a) an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,
 - (b) a senior police officer,
 - (c) the Director of the Serious Fraud Office,
 - (d) 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, or
 - (e) 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 [^{F8}or the Welsh Ministers] under section 453.
- (5) In subsection (4), a “senior police officer” means a police officer of at least the rank of inspector.

Textual Amendments

- F7** Words in s. 303Z2(3) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\), s. 33\(2\)\(3\), Sch. 12 para. 15](#) (with s. 33(4))
- F8** Words in s. 303Z2(4)(e) inserted (E.W.) (20.7.2018) by [The Tax Collection and Management \(Wales\) Act 2016 \(Supplemental Provision\) Regulations 2018 \(S.I. 2018/768\), regs. 1\(2\), 2\(f\)](#)

Modifications etc. (not altering text)

- C2** S. 303Z2(4)(e) modified by S.I. 2018/196, Sch. para. 11C (as inserted (E.W.) (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\), arts. 1\(2\), 2\(3\)\(a\)](#))

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

303Z3 Making of account freezing order

- (1) This section applies where an application for an account freezing order is made under section 303Z1 in relation to an account.
- (2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that money held in the account (whether all or part of the credit balance of the account)—
 - (a) is recoverable property, or
 - (b) is intended by any person for use in unlawful conduct.
- (3) An account freezing order ceases to have effect at the end of the period specified in the order (which may be varied under section 303Z4) unless it ceases to have effect at an earlier or later time in accordance with the provision made by sections 303Z9(6)(c), 303Z11(2) to (7), 303Z14(6) to (8) and 303Z15.
- (4) The period specified by the relevant court for the purposes of subsection (3) (whether when the order is first made or on a variation under section 303Z4) may not exceed the period of 2 years, starting with the day on which the account freezing order is (or was) made.
- (5) An account freezing order must provide for notice to be given to persons affected by the order.

303Z4 Variation and setting aside of account freezing order

- (1) The relevant court may at any time vary or set aside an account freezing order on an application made by—
 - (a) an enforcement officer, or
 - (b) any person affected by the order.
- (2) But an enforcement officer may not make an application under subsection (1) unless the officer is a senior officer or is authorised to do so by a senior officer.
- (3) Before varying or setting aside an account freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.
- (4) In relation to Scotland, the references in this section to setting aside an order are to be read as references to recalling it.

303Z5 Exclusions

- (1) The power to vary an account freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the account to which the order applies.
- (2) Exclusions from the prohibition may also be made when the order is made.
- (3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the account is operated—
 - (a) to meet the person's reasonable living expenses, or
 - (b) to carry on any trade, business, profession or occupation.
- (4) An exclusion may be made subject to conditions.

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Part, it must ensure that the exclusion—
 - (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,
 - (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
 - (c) is made subject to the same conditions as would be the required conditions (see section 286A) if the order had been made under section 245A (in addition to any conditions imposed under subsection (4)).
- (6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Part—
 - (a) must have regard to the desirability of the person being represented in any proceedings under this Part in which the person is a participant, and
 - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—
 - (i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
 - (ii) be funded by the Northern Ireland Legal Services Commission.
- (7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Part.
- (8) The power to make exclusions must, subject to subsection (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Chapter to forfeit money that is recoverable property or intended by any person for use in unlawful conduct.

303Z6 Restriction on proceedings and remedies

- (1) If a court in which proceedings are pending in respect of an account maintained with a [^{F9}relevant financial institution] is satisfied that an account freezing order has been applied for or made in respect of the account, it may either stay the proceedings or allow them to continue on any terms it thinks fit.
- (2) Before exercising the power conferred by subsection (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.
- (3) In relation to Scotland, the reference in subsection (1) to staying the proceedings is to be read as a reference to sisting the proceedings.

Textual Amendments

- F9** Words in s. 303Z6(1) substituted (retrospectively except as it extends to N.I.) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2)(3), [Sch. 12 para. 16](#) (with s. 33(4))

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

303Z7 “Bank”

- (1) “Bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom.
- (2) In subsection (1), “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.
- (3) A reference in subsection (2) 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.

303Z8 “The minimum amount”

- (1) “The minimum amount” 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).
- (4) For the purposes of this Chapter the amount of any money held in an account maintained with a [^{F10}relevant financial institution] in a currency other than sterling must be taken to be its sterling equivalent, calculated in accordance with the prevailing rate of exchange.]

Textual Amendments

F10 Words in s. 303Z8(4) substituted (retrospectively except as it extends to N.I.) by [Financial Services Act 2021 \(c. 22\), s. 33\(2\)\(3\), Sch. 12 para. 17](#) (with s. 33(4))

Status:

Point in time view as at 20/07/2018.

Changes to legislation:

Proceeds of Crime Act 2002, Cross Heading: Freezing of certain accounts is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.