Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

CHAPTER 3

RECOVERY OF CASH IN SUMMARY PROCEEDINGS

Supplementary

302 Compensation

(1) If no forfeiture order is made in respect of any cash detained under this Chapter, the person to whom the cash belongs or from whom it was seized may make an application to the magistrates' court or (in Scotland) the sheriff for compensation.

(2) If, for any period beginning with the first opportunity to place the cash in an interest-bearing account after the initial detention of the cash for 48 hours**[**[F1](calculated in accordance with section 295(1B))**]**, the cash was not held in an interest-bearing account while detained, the court or sheriff may order an amount of compensation to be paid to the applicant.

(3) The amount of compensation to be paid under subsection (2) is the amount the court or sheriff thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.

(4) If the court or sheriff is satisfied that, taking account of any interest to be paid under section 296 or any amount to be paid under subsection (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the court or sheriff may order compensation (or additional compensation) to be paid to him.

Status: *Point in time view as at 12/04/2010. This version of this provision has been superseded.*
Changes to legislation: *Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 28 July 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) The amount of compensation to be paid under subsection (4) is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(6) If the cash was seized by a customs officer, the compensation is to be paid by the Commissioners of Customs and Excise.

(7) If the cash 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 a police force in Scotland, it is to be paid by the police authority or joint police board for the police area for which that force is maintained,

(c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000 (c. 32), it is to be paid out of money provided by the Chief Constable.

[[F2](7A) If the cash was seized by an accredited financial investigator who was not an officer of Revenue and Customs or a constable, the compensation is to be paid as follows—

(a) in the case of an investigator—

(i) who was employed by a police authority in England and Wales under section 15 of the Police Act 1996 (c. 16) and was under the direction and control of the chief officer of police of the police force maintained by the authority, or

(ii) who was 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,

(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,

(e) in any other case, it is to be paid by the employer of the investigator.

(7B) The Secretary of State may by order amend subsection (7A).**]**

(8) If a forfeiture order is made in respect only of a part of any cash detained under this Chapter, this section has effect in relation to the other part.

[[F3](9) The power in subsection (7B) 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).**]**

Textual Amendments

F1 Words in s. 302(2) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 100(3)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(c)

Status: *Point in time view as at 12/04/2010. This version of this provision has been superseded.*
Changes to legislation: *Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 28 July 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)*

F2 S. 302(7A)(7B) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 11**; S.I. 2008/755, art. 17(1)(f)

F3 S. 302(9) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 62(2)** (with arts. 28-31)

Status:
Point in time view as at 12/04/2010. This version of this provision has been superseded.

Changes to legislation:
Proceeds of Crime Act 2002, Section 302 is up to date with all changes known to be in force on or before 28 July 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.