



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 3

SCOTLAND

[^{F1}Unexplained wealth orders: interim freezing of property

[^{F1}396K Variation and recall of interim freezing order

- (1) The Court of Session may at any time vary or recall an interim freezing order.
- (2) The Court of Session must recall an interim freezing order, so far as it has effect in relation to any property, in each of the following three cases.
- (3) The first case is where—
 - (a) the applicable 48 hour period has ended, and
 - (b) a relevant application has not been made before the end of that period in relation to the property concerned.
- (4) The second case is where—
 - (a) a relevant application has been made before the end of the applicable 48 hour period in relation to the property concerned, and
 - (b) proceedings on the application (including any on appeal) have been determined or otherwise disposed of.
- (5) The third case is where the court has received a notification in relation to the property concerned under section 396D(5) (notification of no further proceedings).
- (6) References in this section to the “applicable 48 hour period” are to be read as follows—

Changes to legislation: Proceeds of Crime Act 2002, Section 396K is up to date with all changes known to be in force on or before 26 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) View outstanding changes

- (a) in a case where the respondent complies, or purports to comply, with the requirements imposed by the unexplained wealth order before the end of the response period, it is the period of 48 hours beginning with the day after the day with which the [^{F2}determination period (see section 396D(4))] ends;
 - (b) in any other case, it is the period of 48 hours beginning with the day after the day on which the response period ends.
- (7) In calculating a period of 48 hours for the purposes of subsection (6), no account is to be taken of—
- (a) any Saturday or Sunday,
 - (b) Christmas Day,
 - (c) Good Friday, or
 - (d) any other day that is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.
- (8) Section 396D(8) applies for the purposes of subsection (6) in determining whether a person complies, or purports to comply, with the requirements imposed by an unexplained wealth order and when such compliance, or purported compliance, takes place.
- (9) Before exercising power under this section to vary or recall an interim 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.
- (10) Subsection (9) does not apply where the court is acting as required by subsection (2).
- (11) In this section—
- “relevant application” means an application for—
 - (a) a restraint order under section 120,
 - (b) a prohibitory property order under section 255A, or
 - (c) an interim administration order under section 256;
 - “response period” has the meaning given by section 396C(4).]

Textual Amendments

- F1** Ss. 396J-396S inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 5**, 58(1)(6); S.I. 2018/78, reg. 3(a)
- F2** Words in s. 396K(6)(a) substituted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), **ss. 50(4)**, 69(1); S.I. 2022/519, regs. 1(3), 2

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)