# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

## PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

## [F1CHAPTER 3B

FORFEITURE OF MONEY HELD IN [F2CERTAIN] 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, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 16**, 58(1)(6) (as amended (N.I.) on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**) by S.I. 2019/742, regs. 1, **109(3)**); S.I. 2018/78, regs. 2(b), **3(d)**; S.I. 2021/724, **reg. 2(1)(g)**

**F2** Word in Pt. 5 Ch. 3B heading substituted (27.4.2017 retrospective for E.W.S, 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 12** (with s. 33(4)); S.I. 2021/739, reg. 2

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

**C1** Pt. 5 Ch. 3B applied (31.1.2018 for E.W.S. in so far as not already in force, 27.4.2017 for specified purposes, 28.6.2021 for N.I. in so far as not already in force) by 2007 c. 30, s. 24(1) (as substituted by Criminal Finances Act 2017 (c. 22), **ss. 21(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i))

### *Freezing of [F3certain] accounts*

**Textual Amendments**

**F3** Word in s. 303Z1 cross-heading substituted (27.4.2017 retrospective for E.W.S, 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 13** (with s. 33(4)); S.I. 2021/739, reg. 2

**Changes to legislation:** *Proceeds of Crime Act 2002, CHAPTER 3B is up to date with all changes known to be in force on or before 09 June 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*

### 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 **[**[F4]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—

(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.

[F5](5A) . . . . . .

[F6](5B) . . . . . .

(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;

**[**[F7]"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 **[**[F8]or the Welsh Ministers**]** under section 453;

"the minimum amount" has the meaning given by section 303Z8;

**[**[F7]"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.

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**[**[F9]"relevant financial institution" means—

(a) a bank,

(b) a building society,

(c) an electronic money institution, or

(d) a payment institution.**]**

**Textual Amendments**

**F4** Words in s. 303Z1(1) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 14(2)** (with s. 33(4)); S.I. 2021/739, reg. 2

**F5** S. 303Z1(5A) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 59(1)(a)**, 208(5)(h)

**F6** S. 303Z1(5B) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 59(1)(a)**, 208(5)(h)

**F7** 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))

**F8** 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)**

**F9** Words in s. 303Z1(6) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 59(1)(b)**, 208(5)(h)

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

**C2** 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 **[**[F10]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

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(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 **[**F11or 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**

**F10** 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))

**F11** 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)**

**C3** 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)**)

### 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.

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(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.

(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.

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### 303Z6 Restriction on proceedings and remedies

(1) If a court in which proceedings are pending in respect of an account maintained with a **[**F12relevant 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**

**F12** Words in s. 303Z6(1) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 16** (with s. 33(4)); S.I. 2021/739, reg. 2

### 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) **[**F13an 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 **[**F14or firm**]** with permission to accept deposits does not include a person **[**F14or firm**]** with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

**Textual Amendments**

**F13** S. 303Z7(2)(c) omitted (E.W.S.) (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **107(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

**F14** Words in s. 303Z7(3) omitted (E.W.S.) (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **107(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

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### 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 **[**[F15]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**

**F15** Words in s. 303Z8(4) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 17** (with s. 33(4)); S.I. 2021/739, reg. 2

*Account forfeiture notices (England and Wales and Northern Ireland)*

### 303Z9 Account forfeiture notice

(1) This section applies while an account freezing order made by a magistrates' court has effect.

In this section the account to which the order applies is "the frozen account".

(2) A senior officer may give a notice for the purpose of forfeiting money held in the frozen account (whether all or part of the credit balance of the account) if satisfied that the money—

(a) is recoverable property, or

(b) is intended by any person for use in unlawful conduct.

(3) A notice given under subsection (2) is referred to in this Chapter as an account forfeiture notice.

(4) An account forfeiture notice must—

(a) state the amount of money held in the frozen account which it is proposed be forfeited,

(b) confirm that the senior officer is satisfied as mentioned in subsection (2),

(c) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and

(d) explain that the money will be forfeited unless an objection is received at that address within the period for objecting.

(5) The period for objecting must be at least 30 days starting with the day after the notice is given.

(6) If no objection is made within the period for objecting, and the notice has not lapsed under section 303Z11—

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(a) the amount of money stated in the notice is forfeited (subject to section 303Z12),

(b) the **[**F16relevant financial institution**]** with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and

(c) immediately after the transfer has been made, the account freezing order made in relation to the frozen account ceases to have effect.

(7) An objection may be made by anyone (whether a recipient of the notice or not).

(8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.

(9) An objection does not prevent forfeiture of the money held in the frozen account under section 303Z14.

**Textual Amendments**

**F16** Words in s. 303Z9(6)(b) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 18** (with s. 33(4)); S.I. 2021/739, reg. 2

### 303Z10 F1F2Giving of account forfeiture notice

(1) The Secretary of State must make regulations about how an account forfeiture notice is to be given.

(2) The regulations may (amongst other things) provide—

(a) for an account forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;

(b) for circumstances in which, and the time at which, an account forfeiture notice is to be treated as having been given.

(3) The regulations must ensure that where an account forfeiture notice is given it is, if possible, given to every person to whom notice of the account freezing order was given.

### 303Z11 Lapse of account forfeiture notice

(1) An account forfeiture notice lapses if—

(a) an objection is made within the period for objecting specified in the notice under section 303Z9(4)(c),

(b) an application is made under section 303Z14 for the forfeiture of money held in the frozen account, or

(c) an order is made under section 303Z4 setting aside the relevant account freezing order.

(2) If an account forfeiture notice lapses under subsection (1)(a), the relevant account freezing order ceases to have effect at the end of the period of 48 hours starting with the making of the objection ("the 48-hour period").

This is subject to subsections (3) and (7).

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(3) If within the 48-hour period an application is made—

(a) for a variation of the relevant account freezing order under section 303Z4 so as to extend the period specified in the order, or

(b) for forfeiture of money held in the frozen account under section 303Z14,

the order continues to have effect until the relevant time (and then ceases to have effect).

(4) In the case of an application of the kind mentioned in subsection (3)(a), the relevant time means—

(a) if an extension is granted, the time determined in accordance with section 303Z3(3), or

(b) if an extension is not granted, the time when the application is determined or otherwise disposed of.

(5) In the case of an application of the kind mentioned in subsection (3)(b), the relevant time is the time determined in accordance with section 303Z14(6).

(6) If within the 48-hour period it is decided that no application of the kind mentioned in subsection (3)(a) or (b) is to be made, an enforcement officer must, as soon as possible, notify the **[**[F17]relevant financial institution**]** with which the frozen account is maintained of that decision.

(7) **[**[F18]If the relevant financial institution**]** is notified in accordance with subsection (6) before the expiry of the 48-hour period, the relevant account freezing order ceases to have effect **[**[F19]on the institution**]** being so notified.

(8) In relation to an account forfeiture notice—

(a) "the frozen account" is the account in which the money to which the account forfeiture notice relates is held;

(b) "the relevant account freezing order" is the account freezing order made in relation to the frozen account.

(9) In calculating a period of 48 hours for the purposes of this section no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday, or

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the account freezing order was made.

**Textual Amendments**

**F17** Words in s. 303Z11(6) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 19(2)** (with s. 33(4)); S.I. 2021/739, reg. 2

**F18** Words in s. 303Z11(7) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 19(3)(a)** (with s. 33(4)); S.I. 2021/739, reg. 2

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**F19** Words in s. 303Z11(7) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 19(3)(b)** (with s. 33(4)); S.I. 2021/739, reg. 2

### 303Z12 F1F2 Application to set aside forfeiture

(1) A person aggrieved by the forfeiture of money in pursuance of section 303Z9(6)(a) may apply to a magistrates' court for an order setting aside the forfeiture of the money or any part of it.

(2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended ("the 30-day period").

(3) But the court may give permission for an application to be made after the 30-day period has ended if it thinks that there are exceptional circumstances to explain why the applicant—

(a) failed to object to the forfeiture within the period for objecting, and

(b) failed to make an application within the 30-day period.

(4) On an application under this section the court must consider whether the money to which the application relates could be forfeited under section 303Z14 (ignoring the forfeiture mentioned in subsection (1)).

(5) If the court is satisfied that the money to which the application relates or any part of it could not be forfeited under that section it must set aside the forfeiture of that money or part.

(6) Where the court sets aside the forfeiture of any money—

(a) it must order the release of that money, and

(b) the money is to be treated as never having been forfeited.

(7) Where money is released by virtue of subsection (6)(a), there must be added to the money on its release any interest accrued on it whilst in the account referred to in section 303Z9(6)(b).

### 303Z13 F1F2 Application of money forfeited under account forfeiture notice

(1) Money forfeited in pursuance of section 303Z9(6)(a), and any interest accrued on it whilst in the account referred to in section 303Z9(6)(b), is to be paid into the Consolidated Fund.

(2) But it is not to be paid in—

(a) before the end of the period within which an application under section 303Z12 may be made (ignoring the possibility of an application by virtue of section 303Z12(3)), or

(b) if an application is made within that period, before the application is determined or otherwise disposed of.

*Forfeiture orders*

### 303Z14 Forfeiture order

(1) This section applies while an account freezing order has effect.

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In this section the account to which the account freezing order applies is "the frozen account".

(2) An application for the forfeiture of money held in the frozen account (whether all or part of the credit balance of the account) may be made—

(a) to a magistrates' court by a person specified in subsection (3), or

(b) to the sheriff by the Scottish Ministers.

(3) The persons referred to in subsection (2)(a) are—

(a) the Commissioners for Her Majesty's 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 **[**F20or the Welsh Ministers**]** under section 453.

(4) The court or sheriff may order the forfeiture of the money or any part of it if satisfied that the money or part—

(a) is recoverable property, or

(b) is intended by any person for use in unlawful conduct.

(5) But in the case of recoverable property which belongs to joint tenants, one of whom is an excepted joint owner, an order by a magistrates' court may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.

(6) Where an application is made under subsection (2), the account freezing order is to continue to have effect until the time referred to in subsection (7)(b) or (8).

But subsections (7)(b) and (8) are subject to section 303Z15.

(7) Where money held in a frozen account is ordered to be forfeited under subsection (4)—

(a) the **[**F21relevant financial institution**]** with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and

(b) immediately after the transfer has been made the account freezing order made in relation to the frozen account ceases to have effect.

(8) Where, other than by the making of an order under subsection (4), an application under subsection (2) is determined or otherwise disposed of, the account freezing order ceases to have effect immediately after that determination or other disposal.

**Textual Amendments**

**F20** Words in s. 303Z14(3)(d) 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(g)**

**F21** Words in s. 303Z14(7)(a) substituted (27.4.2017 (retrospectively except as it extends to N.I.), 28.6.2021 for N.I.) by Financial Services Act 2021 (c. 22), s. 33(2)(3), **Sch. 12 para. 20** (with s. 33(4)); S.I. 2021/739, reg. 2

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

**C4** S. 303Z14(3)(d) 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)**)

### 303Z15 [F1F2]Continuation of account freezing order pending appeal

(1) This section applies where, on an application under subsection (2) of section 303Z14 in relation to an account to which an account freezing order applies, the court or sheriff decides—

(a) to make an order under subsection (4) of that section in relation to part only of the money to which the application related, or

(b) not to make an order under subsection (4) of that section.

(2) The person who made the application under section 303Z14(2) may apply without notice to the court or sheriff that made the decision referred to in subsection (1)(a) or (b) for an order that the account freezing order is to continue to have effect.

(3) Where the court or sheriff makes an order under subsection (2) the account freezing order is to continue to have effect until—

(a) the end of the period of 48 hours starting with the making of the order under subsection (2), or

(b) if within that period of 48 hours an appeal is brought under section 303Z16 against the decision referred to in subsection (1)(a) or (b), the time when the appeal is determined or otherwise disposed of.

(4) Subsection (9) of section 303Z11 applies for the purposes of subsection (3) as it applies for the purposes of that section.

### 303Z16 [F1F2]Appeal against decision under section 303Z14

(1) Any party to proceedings for an order for the forfeiture of money under section 303Z14 who is aggrieved by an order under that section or by the decision of the court not to make such an order may appeal—

(a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;

(b) from an order or decision of the sheriff, to the Sheriff Appeal Court;

(c) from an order or decision of a magistrates' court in Northern Ireland, to a county court.

(2) An appeal under subsection (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.

(3) The court hearing the appeal may make any order it thinks appropriate.

(4) If the court upholds an appeal against an order forfeiting the money, it may order the release of the whole or any part of the money.

(5) Where money is released by virtue of subsection (4), there must be added to the money on its release any interest accrued on it whilst in the account referred to in section 303Z14(7)(a).

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### 303Z17 [F1][F2]Application of money forfeited under account forfeiture order

(1) Money forfeited by an order under section 303Z14, and any interest accrued on it whilst in the account referred to in subsection (7)(a) of that section—

(a) if forfeited by a magistrates' court, is to be paid into the Consolidated Fund, and

(b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.

(2) But it is not to be paid in—

(a) before the end of the period within which an appeal under section 303Z16 may be made, or

(b) if a person appeals under that section, before the appeal is determined or otherwise disposed of.

*Supplementary*

### [F22]303Z17A Victims and other owners

(1) A person who claims that money in respect of which an account freezing order has effect belongs to them may apply for the money to be released.

(2) An application under subsection (1) is to be made—

(a) in England and Wales or Northern Ireland, to a magistrates' court;

(b) in Scotland, to the sheriff.

(3) The application may be made in the course of proceedings under section 303Z3 or 303Z14 or at any other time.

(4) The court or sheriff may, subject to subsection (8), order the money to which the application relates to be released to the applicant if it appears to the court or sheriff that—

(a) the applicant was deprived of the money to which the application relates, or of property which it represents, by unlawful conduct,

(b) the money the applicant was deprived of was not, immediately before the applicant was deprived of it, recoverable property, and

(c) the money belongs to the applicant.

(5) If subsection (6) applies, the court or sheriff may, subject to subsection (8), order the money to which the application relates to be released to the applicant.

(6) This subsection applies where—

(a) the applicant is not the person from whom the money to which the application relates was seized,

(b) it appears to the court or sheriff that the money belongs to the applicant,

(c) the court or sheriff is satisfied that the release condition is met in relation to the money, and

(d) no objection to the making of an order under subsection (5) has been made by the person from whom the money was seized.

(7) The release condition is met—

(a) in relation to money held in a frozen account, if the conditions for making an order under section 303Z3 in relation to the money are no longer met, or

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(b) in relation to money held in a frozen account which is subject to an application for forfeiture under section 303Z14, if the court or sheriff decides not to make an order under that section in relation to the money.

(8) Money is not to be released under this section—

(a) if an account forfeiture notice under section 303Z9 is given in respect of the money, until any proceedings in pursuance of the notice (including any proceedings on appeal) are concluded;

(b) if an application for its forfeiture under section 303Z14 is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.

(9) In relation to money held in an account that is subject to an account freezing order, references in this section to a person from whom money was seized include a reference to a person by or for whom the account was operated immediately before the account freezing order was made.**]**

**Textual Amendments**

**F22** S. 303Z17A inserted (26.10.2023 for specified purposes, 26.4.2024 for S. for specified purposes, 26.4.2024 for E.W.N.I. in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), s. 219(1)(2)(b), **Sch. 9 para. 6(5)**; S.I. 2024/269, **reg. 4(b)(i)(ii)**

### 303Z18 Compensation

(1) This section applies if—

(a) an account freezing order is made, and

(b) none of the money held in the account to which the order applies is forfeited in pursuance of an account forfeiture notice or by an order under section 303Z14.

(2) Where this section applies a person by or for whom the account to which the account freezing order applies is operated may make an application to the relevant court for compensation.

(3) If the relevant court is satisfied that the applicant has suffered loss as a result of the making of the account freezing order and that the circumstances are exceptional, the relevant court may order compensation to be paid to the applicant.

(4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(5) If the account freezing order was applied for by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for Her Majesty's Revenue and Customs.

(6) If the account freezing order was applied for 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 the Police Service of Scotland, it is to be paid by the Scottish Police Authority;

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

(7) If the account freezing order was applied for by an SFO officer, the compensation is to be paid by the Director of the Serious Fraud Office.

(8) If the account freezing order was applied for by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.

(9) If the account freezing order was applied for by an accredited financial investigator who was not an officer of Revenue and Customs, a constable, an SFO officer or a National Crime Agency officer, the compensation is to be paid as follows—

(a) in the case of an investigator who was—

(i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or

(ii) 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 of the Police Service of Northern Ireland,

(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 the case of an investigator who was exercising a function of the Welsh Revenue Authority, it is to be paid by the Welsh Revenue Authority, and

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

(10) The Secretary of State may by regulations amend subsection (9).

(11) The power in subsection (10) 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.)

### 303Z19 Powers for prosecutors to appear in proceedings

(1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable or an accredited financial investigator in proceedings under this Chapter if the Director—

(a) is asked by, or on behalf of, a constable or (as the case may be) an accredited financial investigator to do so, and

(b) considers it appropriate to do so.

(2) The Director of Public Prosecutions may appear for the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director—

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(a) is asked by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and

(b) considers it appropriate to do so.

(3) The Directors may charge fees for the provision of services under this section.

(4) The references in subsection (1) to an accredited financial investigator do not include an accredited financial investigator who is an officer of Revenue and Customs but the references in subsection (2) to an officer of Revenue and Customs do include an accredited financial investigator who is an officer of Revenue and Customs.**]**

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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)