



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2 **E+W**

#### CONFISCATION: ENGLAND AND WALES

##### *Compensation*

#### 72 **Serious default** **E+W**

- (1) If the following three conditions are satisfied the Crown Court may order the payment of such compensation as it believes is just.
- (2) The first condition is satisfied if a criminal investigation has been started with regard to an offence and proceedings are not started for the offence.
- (3) The first condition is also satisfied if proceedings for an offence are started against a person and—
  - (a) they do not result in his conviction for the offence, or
  - (b) he is convicted of the offence but the conviction is quashed or he is pardoned in respect of it.
- (4) If subsection (2) applies the second condition is that—
  - (a) in the criminal investigation there has been a serious default by a person mentioned in subsection (9), and
  - (b) the investigation would not have continued if the default had not occurred.
- (5) If subsection (3) applies the second condition is that—
  - (a) in the criminal investigation with regard to the offence or in its prosecution there has been a serious default by a person who is mentioned in subsection (9), and
  - (b) the proceedings would not have been started or continued if the default had not occurred.

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Compensation is up to date with all changes known to be in force on or before 24 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*

- (6) The third condition is that an application is made under this section by a person who held realisable property and has suffered loss in consequence of anything done in relation to it by or in pursuance of an order under this Part.
- (7) The offence referred to in subsection (2) may be one of a number of offences with regard to which the investigation is started.
- (8) The offence referred to in subsection (3) may be one of a number of offences for which the proceedings are started.
- (9) Compensation under this section is payable to the applicant and—
- (a) if the person in default was or was acting as a member of a police force, the compensation is payable out of the police fund from which the expenses of that force are met;
  - (b) if the person in default was a member of the Crown Prosecution Service or was acting on its behalf, the compensation is payable by the Director of Public Prosecutions;
  - [<sup>F1</sup>(ba) if the person in default was a [<sup>F2</sup>National Crime Agency officer], the compensation is payable by [<sup>F3</sup>the National Crime Agency];]
  - (c) if the person in default was a member of the Serious Fraud Office, the compensation is payable by the Director of that Office;
  - [<sup>F4</sup>(d) . . . . .]
  - (e) if the person in default was an officer of the Commissioners of Inland Revenue, the compensation is payable by those Commissioners.
  - [<sup>F5</sup>(ea) if the person in default was an immigration officer, the compensation is payable by the Secretary of State;]
  - [<sup>F6</sup>(f) if the person in default was an accredited financial investigator and none of paragraphs (a) to (e) apply, the compensation is payable in accordance with paragraph (a), (c) [<sup>F7</sup>, (da)] or (e) of section 302(7A) (as the case may require).]

#### Textual Amendments

- F1** S. 72(9)(ba) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 61(2)(a), 116(1); S.I. 2009/3096, art. 3(g)
- F2** Words in s. 72(9)(ba) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 114(a); S.I. 2013/1682, art. 3(v)
- F3** Words in s. 72(9)(ba) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 114(b); S.I. 2013/1682, art. 3(v)
- F4** S. 72(9)(d) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), Sch. 2 para. 23
- F5** S. 72(9)(ea) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 21 para. 19 (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)
- F6** S. 72(9)(f) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 61(2)(b), 116(1); S.I. 2009/3096, art. 3(g)
- F7** Word in s. 72(9)(f) inserted (25.1.2018) by Tax Collection and Management (Wales) Act 2016 (anaw 6), ss. 186(1)(2), 194(2); S.I. 2018/33, art. 2(j)

**Changes to legislation:** Proceeds of Crime Act 2002, Cross Heading: Compensation is up to date with all changes known to be in force on or before 24 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](#)

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

- C1** Pt. 2 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 8(5A), 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 39\(2\)\(5\)](#); S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7); S.I. 2003/333, art. 2, Sch.)
- C2** Pt. 2 applied by Police and Criminal Evidence Act 1984 (c. 60), ss. 56(5B), 58(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 14\(2\)\(3\)](#); S.I. 2003/333, art. 2, Sch.)

**Commencement Information**

- I1** S. 72 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

**73 Order varied or discharged** **E+W**

- (1) This section applies if—
- (a) the court varies a confiscation order under section 29 or discharges one under section 30, and
  - (b) an application is made to the Crown Court by a person who held realisable property and has suffered loss as a result of the making of the order.
- (2) The court may order the payment of such compensation as it believes is just.
- (3) Compensation under this section is payable—
- (a) to the applicant;
  - (b) by the Lord Chancellor.

**Commencement Information**

- I2** S. 73 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

**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\(4\)](#)