



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 8

#### INVESTIGATIONS

### CHAPTER 3

#### SCOTLAND

*[<sup>F1</sup>Unexplained wealth orders: expenses of proceedings*

#### **[<sup>F1</sup>396V Expenses orders**

- (1) This section applies in the following cases—
- (a) the Scottish Ministers have made an application for an unexplained wealth order under section 396A;
  - (b) an application has been made for the determination period to be extended under section 396DA;
  - (c) an application has been made to discharge or vary an unexplained wealth order;
  - (d) the Scottish Ministers have made an application for an interim freezing order under section 396J;
  - (e) an application has been made to vary or recall an interim freezing order;
  - (f) an application has been made in the circumstances referred to in section 396M to—
    - (i) sist an action, execution or other legal process, or
    - (ii) sist proceedings in respect of property or allow them to continue;
  - (g) the Scottish Ministers have made an application under section 396N (arrestment of property affected by interim freezing order);
  - (h) the Scottish Ministers have made an application under section 396O (inhibition of property affected by interim freezing order);

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**Changes to legislation:** Proceeds of Crime Act 2002, Section 396V is up to date with all changes known to be in force on or before 21 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

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- (i) the Scottish Ministers have made an application for an order for the appointment of a receiver under section 396P;
  - (j) the Scottish Ministers have made an application for an order under section 396Q (powers of receiver);
  - (k) an application has been made for directions to a receiver under section 396R;
  - (l) an application has been made to vary or recall—
    - (i) the appointment of a receiver under section 396P,
    - (ii) an order under section 396Q or
    - (iii) directions under section 396R;
  - (m) an application has been made for compensation under section 396S;
  - (n) the Court of Session has of its own motion exercised a power to do anything an application mentioned in paragraphs (a) to (m) may be made for;
  - (o) an application has been made for permission to appeal in relation to anything mentioned in paragraphs (a) to (n).
- (2) The court may not make an order that any expenses of proceedings relating to a case to which this section applies (including appeal proceedings) are payable by the Scottish Ministers or the Lord Advocate to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—
- (a) the Scottish Ministers or the Lord Advocate acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or
  - (b) the Scottish Ministers or the Lord Advocate acted dishonestly or improperly in the course of the proceedings.]

#### Textual Amendments

- F1** S. 396V and cross-heading inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), **ss. 53, 69(1)**; S.I. 2022/519, regs. 1(3), 2 (with reg. 3)

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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\(4\)](#)