

## SCHEDULES

### SCHEDULE 11

Section 79

#### POWERS TO RECOVER CASH: FINANCIAL INVESTIGATORS

##### *Amendments to Chapter 3 of Part 5 of 2002 Act*

- 1 Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings) is amended in accordance with paragraphs 2 to 13.
- 2 (1) Section 289 (powers to search for cash) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “or constable who” substitute “, a constable or an accredited financial investigator”; and
    - (b) after “premises”, where it first appears, insert “and”.
  - (3) In subsection (2) for “or constable” substitute “, a constable or an accredited financial investigator”.
  - (4) In subsections (3) and (4) for “or constable” substitute “, constable or accredited financial investigator”.
  - (5) In subsection (5), after paragraph (b), insert—
    - “(c) are exercisable by an accredited financial investigator only in relation to premises or (as the case may be) suspects in England, Wales or Northern Ireland.”
- 3 (1) Section 290 (prior approval by senior officer) is amended as follows.
  - (2) In subsection (4), after paragraph (b), insert—
    - “(c) in relation to the exercise of the power by an accredited financial investigator, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.”
  - (3) In subsection (6) for “or constable” substitute “, constable or accredited financial investigator”.
- 4 In section 291(2) (report on exercise of powers) for “or constable” substitute “, constable or accredited financial investigator”.
- 5 (1) Section 292 (code of practice) is amended as follows.
  - (2) In subsection (1) after “constables” insert “and accredited financial investigators”.
  - (3) In subsection (6) for “or constable” substitute “, a constable or an accredited financial investigator”.
- 6 (1) Section 294 (seizure of cash) is amended as follows.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In subsections (1) and (2) for “or constable” substitute “, a constable or an accredited financial investigator”.
- (3) After subsection (3) insert—
- “(4) This section does not authorise the seizure by an accredited financial investigator of cash found in Scotland.”
- 7 (1) Section 295 (detention of seized cash) is amended as follows.
- (2) In subsection (1) for “or constable” substitute “, constable or accredited financial investigator”.
- (3) In subsection (4)(a) for “or a constable” substitute “, a constable or an accredited financial investigator”.
- 8 In section 296(2) (release of part of cash seized) for “or constable” substitute “, constable or accredited financial investigator”.
- 9 In section 297(4) (release of detained cash) after “constable” insert “or accredited financial investigator”.
- 10 In section 298(1)(a) (power to apply for forfeiture) before “or” insert “, an accredited financial investigator”.
- 11 After section 302(7) insert—
- “(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).”
- 12 (1) Section 302A (powers for prosecutors to appear in proceedings) (as inserted by section 84(1) above) is amended as follows.
- (2) In subsection (1)—

- (a) after “constable”, in the first place where it appears, insert “or an accredited financial investigator”; and
- (b) after “constable”, in the second place where it appears, insert “or (as the case may be) an accredited financial investigator”.

(3) After subsection (3) insert—

“(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.”

13 After section 303 insert—

**“303A Financial investigators**

- (1) In this Chapter (apart from this section) any reference in a provision to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that provision by the Secretary of State under section 453.
- (2) Subsection (1) does not apply to the second reference to an accredited financial investigator in section 290(4)(c).
- (3) Where an accredited financial investigator of a particular description—
  - (a) applies for an order under section 295,
  - (b) applies for forfeiture under section 298, or
  - (c) brings an appeal under, or relating to, this Chapter,
 any subsequent step in the application or appeal, or any further application or appeal relating to the same matter, may be taken, made or brought by a different accredited financial investigator of the same description.”

*Other amendments to 2002 Act*

14 In section 438(1)(f) of the Proceeds of Crime Act 2002 (c. 29) (disclosure of information by the Director of the Assets Recovery Agency) before “or” insert “, an accredited financial investigator”.

15 (1) Section 459 of that Act (orders and regulations) is amended as follows.

(2) In subsection (4)(a) (exceptions to negative procedure) after “292(4),” insert “302(7B),”.

(3) In subsection (6)(a) (powers subject to affirmative procedure) after “292(4),” insert “302(7B),”.

(4) After subsection (6) insert—

“(6A) If a draft of an order under section 302(7B) would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it shall proceed in that House as if it were not a hybrid instrument.”

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*Amendments to other enactments*

- 16 In section 40(2)(ca)(iv) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality) (as inserted by Schedule 8) after “Customs” insert “, an accredited financial investigator”.
- 17 In section 33(2)(cd) of the Serious Organised Crime and Police Act 2005 (c. 15) (disclosure of information by SOCA) (as inserted by Schedule 8) after “Customs” insert “, an accredited financial investigator”.