

*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 7

#### PROCEEDS OF CRIME: FORFEITURE OF DETAINED CASH

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))*

- 97 In paragraph 3(j) of Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings in a court of summary jurisdiction in respect of which legal aid may be given under Article 9) after “295, 297,” insert “297E, 297F,”.

#### Commencement Information

- II** Sch. 7 para. 97 in force at 1.3.2016 by S.I. 2016/147, art. 3(j)

*Access to Justice Act 1999 (c. 22)*

- <sup>F1</sup>98 .....

#### Textual Amendments

- F1** Sch. 7 para. 98 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 Pt. 2; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

*Proceeds of Crime Act 2002 (c. 29)*

- 99 The Proceeds of Crime Act 2002 is amended as follows.

#### Commencement Information

- I2** Sch. 7 para. 99 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 100 In section 7 (recoverable amount for the purpose of confiscation orders: England and Wales) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—

- (a) any property in respect of which a recovery order is in force under section 266,

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- (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and
- (c) any property in respect of which a forfeiture order is in force under section 298(2).”

**Commencement Information**

**I3** Sch. 7 para. 100 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 101 (1) Section 82 (definition of “free property”) is amended as follows.
- (2) At the beginning insert—
    - “(1) Property is free unless it falls within subsection (2) or (3).”
  - (3) The existing text becomes subsection (2).
  - (4) In that subsection for “Property is free unless” substitute “ Property falls within this subsection if ”.
  - (5) At the end insert—
    - “(3) Property falls within this subsection if—
      - (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
      - (b) it is detained under section 297C or 297D.”

**Commencement Information**

**I4** Sch. 7 para. 101 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 102 In section 93 (recoverable amount for the purpose of confiscation orders: Scotland) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—
- (a) any property in respect of which a recovery order is in force under section 266,
  - (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and
  - (c) any property in respect of which a forfeiture order is in force under section 298(2).”

**Commencement Information**

**I5** Sch. 7 para. 102 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 103 (1) Section 148 (definition of “free property”) is amended as follows.
- (2) At the beginning insert—
    - “(1) Property is free unless it falls within subsection (2) or (3).”
  - (3) The existing text becomes subsection (2).

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(4) In that subsection for “Property is free unless” substitute “ Property falls within this subsection if ”.

(5) At the end insert—

“(3) Property falls within this subsection if—

- (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
- (b) it is detained under section 297C or 297D.”

#### Commencement Information

**I6** Sch. 7 para. 103 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

104 In section 157 (recoverable amount for the purpose of confiscation orders: Northern Ireland) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—

- (a) any property in respect of which a recovery order is in force under section 266,
- (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and
- (c) any property in respect of which a forfeiture order is in force under section 298(2).”

#### Commencement Information

**I7** Sch. 7 para. 104 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

105 (1) Section 230 (definition of “free property”) is amended as follows.

(2) At the beginning insert—

“(1) Property is free unless it falls within subsection (2) or (3).”

(3) The existing text becomes subsection (2).

(4) In that subsection for “Property is free unless” substitute “ Property falls within this subsection if ”.

(5) At the end insert—

“(3) Property falls within this subsection if—

- (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
- (b) it is detained under section 297C or 297D.”

#### Commencement Information

**I8** Sch. 7 para. 105 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

106 In section 278 (limit on recovery by recovery order) after subsection (6) insert—

“(6A) If—

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- (a) recoverable property is forfeited in pursuance of a forfeiture notice under section 297A, and
- (b) the enforcement authority subsequently seeks a recovery order in respect of related property,

the forfeiture notice is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the forfeited property.”

**Commencement Information**

**I9** Sch. 7 para. 106 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 107 In section 300(1) (application of cash forfeited by court under section 298) for “this Chapter” substitute “ section 298 ”.

**Commencement Information**

**I10** Sch. 7 para. 107 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 108 (1) Section 301 (victims and other owners: application for release of cash) is amended as follows.

(2) In subsection (4)(c) for the words from “the conditions” to “that section” substitute “ the release condition is met ”.

(3) After subsection (4) insert—

“(5) The release condition is met—

- (a) in relation to cash detained under section 295, if the conditions in that section for the detention of the cash are no longer met,
- (b) in relation to cash detained under section 297C or 297D, if the cash is not recoverable property and is not intended by a person for use in unlawful conduct, and
- (c) in relation to cash detained under 298, if the court or sheriff decides not to make an order under that section in relation to the cash.”

**Commencement Information**

**I11** Sch. 7 para. 108 in force at 1.6.2015 for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(ff)

**I12** Sch. 7 para. 108 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

- 109 (1) Section 302 (compensation) is amended as follows.

(2) For subsection (1) substitute—

“(1) If cash detained under this Chapter was seized in England, Wales or Northern Ireland the person to whom the cash belongs or from whom it was seized may make an application to a magistrates' court for compensation if—

- (a) the cash is not forfeited in pursuance of a forfeiture notice, and
- (b) no forfeiture order is made in respect of the cash.

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(1A) If cash detained under this Chapter was seized in Scotland the person to whom the cash belongs or from whom it was seized may make an application to the sheriff for compensation if no forfeiture order is made in respect of the cash.”

(3) After subsection (7B) insert—

“(7C) If any cash is detained under this Chapter and part only of the cash is forfeited in pursuance of a forfeiture notice, this section has effect in relation to the other part.”

**Commencement Information**

- I13** Sch. 7 para. 109 in force at 1.6.2015 for specified purposes for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(gg)  
**I14** Sch. 7 para. 109 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

110 In section 341(3A)(a) and (b) (definition of detained cash investigation) for “section 295” substitute “ that Chapter ”.

**Commencement Information**

- I15** Sch. 7 para. 110 in force at 1.6.2015 for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(hh)  
**I16** Sch. 7 para. 110 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

111 In paragraph 3(3) of Schedule 10 (capital gains tax) after “under section” insert “ 297C or ”.

**Commencement Information**

- I17** Sch. 7 para. 111 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh)

*Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))*

112 In paragraph 2(d)(xii) of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (civil legal services: proceedings in a court of summary jurisdiction in which representation may be funded) after “295, 297,” insert “ 297E, 297F, ”.

**Commencement Information**

- I18** Sch. 7 para. 112 in force at 1.3.2016 by S.I. 2016/147, art. 3(j)

*UK Borders Act 2007 (c. 30)*

113 In section 24(2)(c) of the UK Borders Act 2007 (application of Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 in relation to immigration officers) for “section 290” substitute “ sections 290 and 297A ”.

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**Commencement Information**

**I19** Sch. 7 para. 113 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh)

**Changes to legislation:**

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