

# Cash Seizures

The Proceeds of Crime Act 2002 gives a police officer or Revenue and Customs officer the power to seize and then apply for the forfeiture of cash. The law and procedure is complex. Set out below is a brief summary of the law.

- Cash of £1,000 or more can be seized and detained if the officer has reasonable grounds to suspect that the cash has been obtained through unlawful (criminal) conduct (in the UK or another country) (often referred to as “recoverable property”) or it is intended for use in unlawful conduct.
- The person from whom the money is seized does not have to be arrested or even suspected of involvement in any criminal wrongdoing.
- “Cash” includes currency, postal orders, cheques, bankers drafts and bonds and shares.
- Once seized, the prosecuting authority can retain the cash for 48 hours (not including bank holidays and weekends) without a court order.
- Before the expiry of 48 hours the prosecuting authority must apply to the magistrate’s court for the continued detention of the cash. If such an application is not made then the cash must be returned. If an application is made, the court will only grant such an extension of time to detain the cash if it is satisfied that there are reasonable grounds to suspect that the cash is derived from unlawful conduct or is intended to be used in unlawful conduct and the continued detention is justified while its source or intended use is being investigated.
- The court can only grant a period of detention for a period of 6 months at any one time, up to a maximum of 2 years.
- The person from whom the cash has been seized can apply to the court at any time for the return of the cash.
- In addition, any person who claims that the cash belongs to them (and not to the person from whom it was seized) can apply to the court for the cash to be released to them.
- If the prosecuting authority has completed their enquiries and believes that they have sufficient evidence to establish that the cash (or any part of it) has been obtained through unlawful conduct or is intended for use in unlawful conduct then an application for forfeiture of the cash is likely to be made.
- At a forfeiture application, the prosecuting authority must prove on the balance of probabilities that the cash has been obtained through unlawful conduct or is intended for such use (this is important because forfeiture cannot be granted on a reasonable suspicion, unlike an application to detain the cash whilst its source is being investigated).

- The successful party is entitled to ask for their costs to be paid by the unsuccessful party.
- There is a right of appeal to the Crown Court within 30 days of the forfeiture hearing and thereafter to the Court of Appeal.

At every step it is important to ensure that the prosecuting authority has acted lawfully and to challenge their actions where appropriate. Coker Binning has significant experience advising and representing individuals who are the subject of, or who are affected by, a cash seizure.

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