



Cash Seizure and Forfeiture

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Welcome to the Kirwans Guide on 'Cash Seizure and Forfeiture'.

The seizure, detention and forfeiture of cash have become routine practice for investigative authorities under The Proceeds of Crime Act 2002.

Cash seizures and forfeitures are now commonplace throughout the UK. They can have a devastating and detrimental impact on your business and personal life and often result in complex legal action.

In this guide our leading Criminal Defence experts address the legal procedures that surround cash seizures and forfeitures and provide you with a helpful 'What You Should Know' factsheet.

It is important to remember that by seeking legal advice at the earliest opportunity following a cash seizure you can help to ensure that any complexities and potential implications are effectively managed. Having access to expert advice can bring peace of mind at a time when you face uncertainty and concerns for what lies ahead.

As a multi-disciplinary law firm, Kirwans work collaboratively with a Criminal Defence team which includes experts in Crown Court, Post Conviction, and Regulatory & Business Prosecutions. This ensures that clients receive the best possible representation. Our leading lawyers invest time to provide you with the support and guidance you need throughout your legal journey.

Our Client Commitment

- 24/7 access to Criminal Defence legal specialists
- Day to day support and advice
- Concise and honest advice tailored to your needs
- Regular updates ensuring you are fully informed
- Transparent pricing with no hidden costs
- Prompt and thorough response to enquiries

Q. What is 'cash seizure and forfeiture'?

Under section 294 of the Proceeds of Crime Act 2002 the Police can seize cash of £1,000 or more if they have reasonable grounds for suspecting that the cash was obtained through criminal conduct.

Interestingly, the definition of cash isn't limited to bank notes and coins. It also includes; postal orders; cheques; traveller's cheques; banker's drafts; bearer bonds and bearer shares in any currency.

The seizure and forfeiture of cash is to prevent individual(s) from either;

- Benefiting from a crime; and or
- To prevent the cash being used illegally.

Simply being in possession of large volumes of cash, living a lavish lifestyle, previous although unrelated convictions or travelling abroad, have in the past been grounds for continued detention and forfeiture.

Q. Does the law only apply if 'all' of the suspected cash is in the possession of one person?

No. If the Police believe that the cash has a common source, then the cash does not need to be in the possession of just one person. Smaller amounts that add up to £1,000 or more can be seized from a number of individuals.

In addition the person who is in possession of the cash does not need to be the person who the Police have reasonable grounds for suspecting to be involved in the criminal conduct. All the cash the person holds, even if only part of it is actually suspect, can be seized and detained.

Q. Is it true that the authorities can only keep seized cash for up to 48 hours?

No. Once seized, the cash can be initially detained for 48 hours. However in some circumstances this can then be extended by three months with the consent of the Magistrates' Court. The Police can then return to the Magistrates' Court in three month intervals which can result in the cash being detained for up to two years.

The Magistrates' Court will order the continued detention of cash if:-

- They have reasonable grounds for suspecting that the cash was obtained through criminal conduct or is intended for use in criminal conduct; and
- The source of the cash requires investigation or consideration is being given as to whether proceedings should be brought against any person for an offence to which the cash is connected OR such proceedings have commenced but have not been concluded.

These proceedings are civil in nature which means that the Police do not need to prove 'beyond reasonable doubt' that the cash is connected with criminal activity. Furthermore, the Police do not need to prove 'beyond reasonable doubt' that a crime has even been committed.

If the Police wish for the cash to be forfeit permanently, at any point during this two year period, they only need to persuade the Magistrates' Court that the source of the cash was "probably" connected with crime or that it was "probably" going to be used for crime.

The Police can apply to detain cash when little or no investigation has taken place, before charges are even contemplated and years before any court in the UK has convicted any person of any crime.

Q. If the court refuses a Police request to extend the detention period of the seized cash is it automatically returned to me?

No. If the Magistrates' Court refuses to extend the period of detention, then the person who owns the cash must immediately apply for it to be released. If they fail to do so, then the Police can apply for the cash to be forfeited permanently.

Q. The Police have seized cash from me. Can I contest the detention of it?

Yes. But, it is important to note that the law and procedure in this area is complex. It is far reaching and those who seek to contest the detention of their legitimate cash are often threatened with significant costs orders against them.

The thresholds and burdens of proof that the Police must satisfy to detain your cash are less strict than in normal criminal cases.

The person from whom the cash was seized must positively engage in the proceedings and must provide the Magistrates' Court with clear, well-argued and auditable documentary evidence to prove its legitimacy and lawful ownership.

Important Notice: The information in this guide is based upon current law of England and Wales, which is subject to change. We cannot accept responsibility for any liability that may arise as a result of any action taken or not taken as a result of this information. This guide does not constitute legal advice. To be fully aware of the implications it is important to seek advice from a qualified Solicitor.

For all your Criminal Law needs contact our team today

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Cash Seizure and Forfeiture: What You Should Know

- ✓ The Police can apply to detain cash when little or no investigation has taken place.
- ✓ The Police can seize cash if it amounts to at least £1000 from anyone where they have reasonable grounds to suspect that the cash was obtained through criminal activity or is intended for use in criminal conduct.
- ✓ The definition of 'cash' applies to all currencies and is not limited to bank notes and coins. It also includes; postal orders; cheques; traveller's cheques; banker's drafts; bearer bonds and bearer shares.
- ✓ The person who is in possession of the cash does not need to be the person who the Police suspect is involved in criminal conduct.
- ✓ The cash does not need to be in the possession of just one person. It can be seized from a number of individuals.
- ✓ Once seized, the cash can be detained for 48 hours, but this can be extended for up to two years with consent of the Court.
- ✓ You can contest the seizure of your cash.