STATUTORY INSTRUMENTS

2024 No. 1043 (L. 18)

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

The Magistrates' Courts (Detention, Freezing and Forfeiture of Cryptoassets, and Miscellaneous Amendments) Rules 2024

Made - - - -	*16th October 2024*
Laid before Parliament	*17th October 2024*
Coming into force	*7th November 2024*

The Lady Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(**a**):

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Rules may be cited as the Magistrates' Courts (Detention, Freezing and Forfeiture of Cryptoassets, and Miscellaneous Amendments) Rules 2024, and come into force on 7th November 2024.

(2) These Rules extend to England and Wales.

Interpretation

2. In these Rules—

(a) "the Act" means the Proceeds of Crime Act 2002(**b**);

(b) "document" includes any notification required to be given under these Rules;

(c) "electronic communication" has the meaning given by section 15(1) of the Electronic Communications Act 2000(**c**);

(**a**) 1980 c. 43. Section 144 was amended by section 109(1) and (3) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003 (c. 39), section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005 (c. 4), section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007 (c. 29), article 3(2) and paragraphs 1(1), (2) to (6) of Schedule 2 to S.I. 2012/2398, section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013 (c. 22) and section 3 and paragraphs 5 and 10 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(**b**) 2002 c. 29. Chapters 3C, 3D and 3E were inserted by Schedule 9 to the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(**c**) 2000 c. 7. Section 15(1) is amended by section 406 of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(d) "freezing order" means an order made under—

(i) section 303Z3(2) of the Act (account freezing orders);

(ii) section 303Z37(2) of the Act (crypto wallet freezing orders);

(e) "order for further detention" means an order made under—

(i) section 295(2) of the Act (further detention of seized cash);

(ii) section 303L(1) of the Act (further detention of seized property);

(iii) section 303Z28(1) or (4) of the Act (further detention of cryptoasset-related items);

(iv) section 303Z32(1) or (4) of the Act (further detention of cryptoassets);

(f) "the solicitor acting for a government department" means the solicitor identified as acting for that department in civil proceedings in the list published under section 17 of the Crown Proceedings Act 1947(**a**);

(g) "the solicitor acting for the Secretary of State" means the solicitor identified as acting for the Home Office in civil proceedings in the list published under section 17 of the Crown Proceedings Act 1947;

(h) words and expressions used otherwise have the same meaning as in Chapter 3C, 3D and 3E of Part 5 of the Act.

PART 2

Magistrates' Courts Rules relating to detention, freezing and forfeiture of cryptoassets

Prior approval of searches for cryptoassets-related items

3.—(1) An application to a justice of the peace under section 303Z23(1) of the Act for prior approval of a search for cryptoasset-related items under section 303Z21 of the Act may be made without notice.

(2) A justice of the peace may grant such an application without a hearing and may conduct any hearing in private.

First application for the further detention of a seized cryptoasset-related item

4.—(1) The first application under section 303Z28(5) of the Act for an order under section 303Z28(1) or (4) of the Act for the further detention of property seized under section 303Z26 of the Act must be made in writing and sent to the court before which the applicant wishes to make the application.

(2) But where the reasonable grounds for suspicion which led to the seizure of property to which the application for further detention relates are connected to—

(a) the reasonable grounds for suspicion which led to the seizure of cash or other property to which a previous order for further detention relates, or

(b) the reasonable grounds for suspicion which led to the making of a previous freezing order,

then the application must specify the connection to any such previous order and may be sent to any court which made a previous order listed in sub-paragraph (a) or (b).

(3) Except where paragraph (4) or paragraph (7) applies, a copy of the written application and notification of the hearing of the application must be given by the applicant to the person from whom the cryptoasset-related item was seized.

(4) Where a seized cryptoasset-related item is found in a means of unattended dispatch, such as an unattended letter, parcel or container, copies of the written application and notification of the

(**a**) 1947 c. 44. Section 17(1) was amended by S.I. 1968/1656. There are other amendments, but none are relevant.

hearing of the application must be sent by the applicant to the sender and intended recipient of the means of unattended dispatch.

(5) But where paragraph (4) applies the applicant is not required to send copies of the written application and notification of the hearing to a sender or intended recipient who cannot be identified.

(6) Where paragraph (4) applies, the court must not decline to hear an application solely on the ground that it has not been proved that the sender and intended recipient have been given a copy of the written application and notification of the hearing.

(7) Where an unattended cryptoasset-related item is seized (other than where it is found in a means of unattended dispatch) the applicant need not give a copy of the written application made under section 303Z28(5) and notification of the hearing of that application to any person.

(8) The court must give copies of the order to the applicant.

(9) The applicant must give a copy of the order to the person from whom the cryptoasset-related item was seized and to any other person known to be affected by the order.

Further applications for the further detention of seized cryptoasset-related items

5.—(1) An application under section 303Z28(5) of the Act for a further order under section 303Z28(1) or (4) of the Act for the further detention of seized cryptoasset-related items may be sent to the court to which the first application under section 303Z28(5) was sent, and must specify the grounds on which it is made.

(2) The applicant must send a copy of the application to every person to whom a copy of a previous related order under section 303Z28(1) or (4) of the Act has been given.

(3) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date it is fixed, and must notify that date to the applicant.

(4) The applicant must notify the date fixed for the hearing of the application to every person to whom a copy of a previous related order has been given.

(5) The court must give copies of the order to the applicant.

(6) The applicant must give a copy of the order to every person to whom a copy of a previous related order has been given.

(7) The applicant must also give a copy of the order to any person other than one referred to in paragraph (6) known to be affected by the order.

Applications for prior authorisation for detention of cryptoassets

6.—(1) An application under section 303Z30(2) of the Act for an order under section 303Z30(1) of the Act for prior authorisation for the detention of cryptoassets that may be seized as a result of information obtained from a cryptoasset-related item may be made at the same time as an application under section 303Z28(5) of the Act for the further detention of cryptoasset-related items.

(2) The application under section 303Z30(2) of the Act must be made in writing and sent to the court to which the application under section 303Z28(5) of the Act was sent.

(3) A copy of the written application and notification of the hearing of the application must be given by the applicant to the person from whom the cryptoasset-related item was seized.

(4) The court must give copies of the order to the applicant.

(5) The applicant must give a copy of the order to every person to whom a copy of a previous related order has been given and to any other person known to be affected by the order.

First application for the further detention of seized cryptoassets

7.—(1) The first application under section 303Z32(5) of the Act for an order under section 303Z32(1) or (4) of the Act for the further detention of cryptoassets seized under section 303Z29 must be made in writing and sent to the court before which the applicant wishes to make the application.

(2) But where the reasonable grounds for suspicion which led to the application under section 303Z32(5) of the Act are connected to—

(a) the reasonable grounds for suspicion which led to the seizure of cash or other property to which a previous order for further detention relates, or

(b) the reasonable grounds for suspicion which led to the making of a previous freezing order,

then the application must specify the connection to any such previous order and may be sent to any court which made a previous order listed in sub-paragraph (a) or (b).

(3) Except where paragraph (4) or (7) applies, a copy of the written application and notification of the hearing of the application must be given by the applicant to the person from whom the cryptoassets were seized.

(4) Where the cryptoassets to which the application relates were seized as a result of information obtained from a cryptoasset-related item found in a means of unattended dispatch, such as an unattended letter, parcel or container, copies of the written application and notification of the hearing of the application must be sent by the applicant to the sender and intended recipient of the means of unattended dispatch.

(5) But where paragraph (4) applies the applicant is not required to send copies of the written application and notification of the hearing to a sender or intended recipient who cannot be identified.

(6) Where paragraph (4) applies, the court must not decline to hear an application solely on the ground that it has not been proved that the sender and intended recipient have been given a copy of the written application and notification of the hearing.

(7) Where the cryptoassets to which the application relates were seized as a result of information obtained from an unattended cryptoasset-related item (other than one found within a means of unattended dispatch), the applicant need not give a copy of the written application and notification of the hearing to any person.

(8) The court must give copies of the order to the applicant.

(9) The applicant must give a copy of the order to the person from whom the cryptoasset was seized and to any other person known to be affected by the order.

Further applications for the further detention of seized cryptoassets

8.—(1) An application under section 303Z32(5) of the Act for a further order under section 303Z32(1) or (4) of the Act for the further detention of seized cryptoassets may be sent to the court to which the first application under section 303Z32(5) was sent, and must specify the grounds on which it is made.

(2) The applicant must send a copy of the application to every person to whom a copy of a previous related order under section 303Z32(1) or (4) of the Act has been given.

(3) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date it is fixed, and must notify that date to the applicant.

(4) The applicant must notify the date fixed for the hearing of the application to every person to whom a copy of a previous related order has been given.

(5) The court must give copies of the order to the applicant.

(6) The applicant must give a copy of the order to every person to whom a copy of a previous related order has been given.

(7) The applicant must also give a copy of the order to any person other than one referred to in paragraph (6) known to be affected by the order.

Applications for the release of detained cryptoassets and cryptoasset-related items

9.—(1) An application under sections 303Z34(3) or 303Z50(1) of the Act for the release of detained cryptoassets or cryptoasset-related items must be made in writing and sent to the court before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given a copy of an order under any of sections 303Z28(1) or (4), 303Z30(1) or 303Z32(1) or (4) of the Act in respect of the detained property, then the application must be sent to the court which sent the applicant the copy of that order.

(3) The court must send copies of the application to—

(a) the Commissioners for His Majesty's Revenue and Customs, if the property to which the application relates was seized by an officer of Revenue and Customs,

(b) the Director of the SFO, if the property to which the application relates was seized by an SFO officer,

(c) the Director General of the National Crime Agency, if the property to which the application relates was seized by a National Crime Agency officer who is designated under section 10 of the Crime and Courts Act 2013,

(d) the chief officer of the police force to which the constable belongs, if the property to which the application relates was seized by a constable,

(e) the chief officer of the police force concerned, if the property to which the application relates was seized by an accredited financial investigator who is—

(i) a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011(**a**), or

(ii) a member of staff of the City of London police force,

(f) the solicitor acting for the Secretary of State, if the property to which the application relates was seized by an immigration officer,

(g) the solicitor acting for a government department, if the property to which the application relates was seized by an accredited financial investigator who is a member of staff of that department of the government in the United Kingdom, but who is not an officer of Revenue and Customs, a constable or an immigration officer,

(h) the employer of an accredited financial investigator, if the property to which the application relates was seized by that accredited financial investigator, and the employer is not otherwise mentioned in this paragraph, and

(i) the Director of Public Prosecutions, where the Director has given notification under rule 16.

(4) A person, other than the Director of Public Prosecutions, who has been sent copies of the application under paragraphs (3) must send a copy of the application to any other person to whom a copy of the most recent order under any of sections 303Z28(1) or (4), 303Z30(1) or 303Z32(1) or (4) of the Act has been given.

(5) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant and to every person to whom a copy of the application is required to be sent under paragraph (3).

(6) A person, other than the applicant or the Director of Public Prosecutions, who has been notified of the date fixed for the hearing of the application under paragraph (5) must notify that

(**a**) 2011 c. 13. Section 102(4) was amended by S.I. 2011/3019.

date to any other person to whom a copy of the most recent order under any of sections 303Z28(1) or (4), 303Z30(1) or 303Z32(1) or (4) of the Act has been given.

(7) At the hearing of an application under section 303Z50(1) of the Act, the court may, if it thinks fit, order that the application be heard with any other relevant proceedings in relation to the property which is the subject of the application.

(8) A direction under section 303Z34(2) or an order under section 303Z50(4) or (5) of the Act must provide for the release of the detained property within seven days of the date of the making of the direction or order, or such longer period as with the agreement of the applicant may be specified in the direction or order, except that cryptoassets may not be released whilst section 303Z42(2) of the Act applies.

(9) The court must give copies of the direction or order to the applicant and to the persons to whom copies of the application are required to be sent under paragraph (3).

(10) A person, other than the applicant or the Director of Public Prosecutions, who has been given copies of the direction or order under paragraph (9) must give a copy of the direction or order to any other person to whom a copy of the most recent order under any of sections 303Z28(1) or (4), 303Z30(1) or 303Z32(1) or (4) of the Act has been given.

Application for a crypto wallet freezing order, or for an order extending the period of such an order

10.—(1) An application under section 303Z36(2) of the Act for a crypto wallet freezing order under section 303Z37(2), or for an order under section 303Z37(5) of the Act extending the period of such an order from two to up to three years, must be made in writing and may be sent to the court before which the applicant wishes to make the application.

(2) But where the reasonable grounds for suspicion which led to an application for an order under section 303Z37(2) of the Act are connected to—

(a) the reasonable grounds for suspicion which led to the seizure of cash or other property to which a previous order for further detention relates, or

(b) the reasonable grounds for suspicion which led to the making of a previous freezing order,

then the application must specify the connection to any such previous order and may be sent to any court which made a previous order listed in sub-paragraph (a) or (b).

(3) Except where the application is made without notice, a copy of the written application and notification of the hearing of the application must be given by the applicant to the person by or for whom the crypto wallet which is the subject of the application is administered.

(4) But the applicant is not required to send copies of the written application and notification of the hearing to any person by or for whom the crypto wallet is administered who cannot be identified.

(5) Where paragraph (4) applies, the court must not decline to hear an application solely on the ground that it has not been proved that any person by or for whom the crypto wallet which is the subject of the application is administered has received a copy of the written application and notification of the hearing.

(6) The court must give copies of the order to the applicant.

(7) The applicant must give a copy of the order to any person by or for whom the crypto wallet which is the subject of the application is administered and to any other person known to be affected by the order, including the UK-connected cryptoasset service provider administering the crypto wallet.

Application for the variation or setting aside of a crypto wallet freezing order

11.—(1) An application under section 303Z38(1) of the Act to vary or set aside a crypto wallet freezing order under section 303Z37(2) of the Act must be made in writing and sent to the court

before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given a copy of an order under section 303Z37(2) of the Act in respect of the crypto wallet which is the subject of the application, then the application must be sent to the court which sent the applicant the copy of that order.

(3) Where the applicant is an enforcement officer, the applicant must send a copy of the application to every person to whom a copy of a previous related order made under section 303Z37(2) or 303Z38(1) of the Act has been given.

(4) Where the applicant is a person other than an enforcement officer who is affected by the crypto wallet freezing order—

(a) the court must send copies of the application to the enforcement officer who applied for the crypto wallet freezing order, and

(b) the enforcement officer must send a copy of the application to every person to whom a copy of a previous related order made under section 303Z37(2) or 303Z38(1) of the Act has been given.

(5) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed.

(6) Where the applicant is an enforcement officer—

(a) the court must notify the date fixed for the hearing of the application under paragraph (5) to the applicant, and

(b) the applicant must notify that date to every person to whom a copy of the application is required to be sent under paragraph (3).

(7) Where the applicant is a person other than an enforcement officer who is affected by the crypto wallet freezing order—

(a) the court must notify the date fixed for the hearing of the application under paragraph (5) to the applicant and to the enforcement officer who applied for the crypto wallet freezing order, and

(b) the enforcement officer must notify that date to every person to whom a copy of a previous related order made under section 303Z37(2) or 303Z38(1) of the Act has been given.

(8) At the hearing of an application under section 303Z38(1) of the Act, the court may, if it thinks fit, order that the application be heard with any other relevant proceedings in relation to the crypto wallet which is the subject of an order under section 303Z37(2) of the Act.

(9) Where the applicant is an enforcement officer—

(a) the court must give copies of the order to the applicant, and

(b) the applicant must give a copy of the order to—

(i) every person to whom copies of the previous related orders have been given, and

(ii) any person other than one referred to in sub-paragraph (i) who is known to be affected by the order.

(10) Where the applicant is a person other than an enforcement officer who is affected by the crypto wallet freezing order—

(a) the court must give copies of the order to the applicant and to the enforcement officer who applied for the crypto wallet freezing order, and

(b) the enforcement officer must give a copy of the order varying or setting aside the crypto wallet freezing order to the persons mentioned in sub-paragraphs (i) and (ii) of paragraph (9)(b).

Application for the release of frozen cryptoassets

12.—(1) An application under section 303Z51(1) of the Act for the release of cryptoassets held in a crypto wallet in respect of which a crypto wallet freezing order has effect must be made in writing to the court before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given a copy of an order under section 303Z37(2) or (5) of the Act in respect of the cryptoassets which are the subject of the application, then the application must be sent to the court which sent the applicant the copy of that order.

(3) The court must send copies of the application to–

(a) the Commissioners for His Majesty's Revenue and Customs, if the application for the crypto wallet freezing order was made by an officer of Revenue and Customs;

(b) the Director General of the National Crime Agency, if the application for the crypto wallet freezing order was made by a National Crime Agency officer who is designated under section 10 of the Crime and Courts Act 2013;

(c) the chief officer of the police force to which the constable belongs, if the application for the crypto wallet freezing order was made by a constable;

(d) the chief officer of the police force concerned, if the application for the crypto wallet freezing order was made by an accredited financial investigator who is—

(i) a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), or

(ii) a member of staff of the City of London police force;

(e) the solicitor acting for the Secretary of State, if the application for the crypto wallet freezing order was made by an immigration officer;

(f) the solicitor acting for a government department, if the application for the crypto wallet freezing order was made by an accredited financial investigator who is a member of staff of that government department, but who is not an officer of Revenue and Customs, a constable or an immigration officer;

(g) the employer of an accredited financial investigator, if the application for the crypto wallet freezing order was made by that accredited financial investigator, and the employer is not otherwise mentioned in this paragraph, and

(h) the Director of Public Prosecutions, where the Director has given notification under rule 16.

(4) A person, other than the applicant or the Director of Public Prosecutions, who has been sent copies of the application under paragraph (3) must send a copy of the application to every person to whom a copy of the crypto wallet freezing order has been given.

(5) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant and to every person to whom a copy of the application is required to be sent under paragraph (3).

(6) A person, other than the applicant or the Director of Public Prosecutions, who has been notified of the date fixed for the hearing of the application under paragraph (5) must notify that date to every person to whom the crypto wallet freezing order, or an order extending the period of such an order from two to up to three years under section 303Z37(5) of the Act, has been given.

(7) At the hearing of an application under section 303Z51(1) of the Act, the court may, if it thinks fit, order that the application be heard with any other relevant proceedings in relation to the crypto wallet which is the subject of the application.

(8) An order under section 303Z51(4) or (5) of the Act must provide for the release of the cryptoassets to which the application relates within seven days of the date of the making of the order or such longer period as with the agreement of the applicant may be specified in the order, except that the cryptoassets may not be released whilst section 303Z42(3) to (5) of the Act applies.

(9) The court must give copies of an order to the applicant and to the persons to whom copies of the application are required to be sent under paragraph (3).

(10) A person, other than the applicant or the Director of Public Prosecutions, who has been given copies of the order under paragraph (9) must give a copy of the order to any other person to whom a copy of the crypto wallet freezing order has been given.

Application for forfeiture of cryptoassets which are detained or frozen

13.—(1) An application under section 303Z41(2) of the Act for the forfeiture of detained cryptoassets must be made in writing and sent to the court to which any applications for prior authorisation for the detention of the cryptoassets under section 303Z30(2) of the Act, or for the further detention of the cryptoassets under section 303Z32(5) of the Act, have been sent.

(2) Where no applications in respect of the detained cryptoassets have been made under section 303Z30(2) or 303Z32(5) of the Act, the application for forfeiture must be sent—

(a) to the court before which the applicant wishes to make the application, or

(b) where the reasonable grounds for suspicion which led to the seizure of the cryptoassets to which the application for forfeiture relates are connected to—

(i) the reasonable grounds for suspicion which led to the seizure of cash or other property to which an order for further detention relates, or

(ii) the reasonable grounds for suspicion which led to the making of a freezing order,

to any court which made an order listed in sub-paragraph (i) or (ii).

(3) An application under section 303Z41(2) of the Act for the forfeiture of cryptoassets held in a crypto wallet which is subject to a crypto wallet freezing order under section 303Z37(2) of the Act must be made in writing and sent to the court to which the application for the crypto wallet freezing order under section 303Z36(2) was sent.

(4) But where the reasonable grounds for suspicion which led to the application for forfeiture of cryptoassets held in a crypto wallet which is subject to a crypto wallet freezing order are connected to the reasonable grounds for suspicion which led to the seizure of cash or other property to which a previous order for further detention relates—

(a) the application under section 303Z41(2) of the Act must specify the connection with the previous order, and

(b) the application under section 303Z41(2) of the Act may be sent to any court which made such a previous order.

(5) The applicant must send a copy of an application for forfeiture to every person to whom a copy of an order made under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act has been given, and to any other person identified by the applicant as being affected by the application.

(6) The court must fix a date for a directions hearing, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant.

(7) The applicant must notify the date fixed for the directions hearing to every person to whom a copy of the application is required to be sent under paragraph (5).

(8) At the directions hearing, the court may give directions relating to the management of the proceedings, including directions as to the date for the hearing of the application.

(9) If neither the person from whom the cryptoassets were seized, nor any other person who is affected by the detention of the cryptoassets or the crypto wallet freezing order, nor the person by or for whom the crypto wallet which is the subject of the application is administered, seeks to contest the application, the court may decide the application at the directions hearing.

(10) The court must give copies of the order for the forfeiture of cryptoassets under section 303Z41(4) or 303Z45(7) of the Act to the applicant.

(11) The applicant must give a copy of the order for the forfeiture of cryptoassets to every person to whom a copy of an order made under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) in respect of the detained cryptoassets or the crypto wallet has been given and to any other person known to be affected by the order for forfeiture of cryptoassets.

Agreements about associated and joint property

14.—(1) Where section 303Z44(1) of the Act applies (agreements about associated and joint property) and the parties agree, the court may order the person who holds the associated property or who is the excepted joint owner to make a payment to the person identified in the order.

(2) Prior to the making of an order under section 303Z44(1) of the Act, the court must request and the parties must provide—

(a) details of the proposed agreement between the parties as to the value of the forfeitable property;

(b) details of any agreed reduction in the amount payable;

(c) confirmation that the agreement is in writing, and

(d) a draft order for the court's consideration.

(3) Where section 303Z44(1) of the Act applies but the court has not been notified that the parties agree that the court should make an order under section 303Z44(1), the court may give directions as to the date by which the parties are to communicate the details in paragraph (2) to the court.

(4) A copy of an order under section 303Z44(1) of the Act must be given by the applicant for the order for forfeiture of the cryptoassets under section 303Z41(2) of the Act to—

(a) every person to whom a copy of an order made under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act has been given,

(b) every person to whom a copy of the application under section 303Z41(2) has been sent, and

(c) any other person known to be affected by the order.

Application for compensation

15.—(1) An application under section 303Z52(2) of the Act for an order for compensation under section 303Z52(3) must be made in writing and sent to the court before which the applicant wishes to make the application.

(2) But if the applicant has been given a copy of an order under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act in respect of the cryptoassets which are the subject of the application, then the application must be sent to the court which sent the applicant the copy of that order.

(3) The court must send copies of the application to—

(a) the Commissioners for His Majesty's Revenue and Customs, if the cryptoassets which are the subject of the application were seized by a customs officer;

(b) the Director General of the National Crime Agency, if the cryptoassets which are the subject of the application were seized by a National Crime Agency officer who is designated under section 10 of the Crime and Courts Act 2013;

(c) the chief officer of the police force to which the constable belongs, if the cryptoassets which are the subject of the application were seized by a constable;

(d) the Director of the Serious Fraud Office, if the cryptoassets which are the subject of the application were seized by an officer of the Serious Fraud Office;

(e) the Secretary of State, if the property which is the subject of the application was seized by an immigration officer, and

(f) the person identified under section 303Z52(9) of the Act, if the cryptoassets which are the subject of the application were seized by an accredited financial investigator.

(4) The person who has been sent copies of the application under paragraph (3) must send a copy of the application to every person to whom a copy of an order under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act in respect of the cryptoassets which are the subject of the application has been given.

(5) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed, and must notify the date to the applicant and to every person to whom a copy of the application is required to be sent under paragraph (3).

(6) A person, other than the applicant, who has been notified of the date fixed for the hearing of the application under paragraph (5) must notify that date to every person to whom a copy of an order under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act in respect of the cryptoassets which are the subject of the application has been given.

(7) The court must give copies of the order for compensation under section 303Z52(3) of the Act to the applicant and to the person to whom copies of the application are required to be sent under paragraph (3).

(8) The person, other than the applicant, who has been given copies of the order under paragraph (7) must give a copy of the order to any other person to whom a copy of the most recent order under any of sections 303Z30(1), 303Z32(1) or (4) or 303Z37(2) or (5) of the Act in respect of the cryptoassets which are the subject of the application has been given.

Director of Public Prosecutions appearing in proceedings

16. Where the Director of Public Prosecutions has agreed under section 303Z53 of the Act to appear in proceedings under Chapter 3E of Part 5 of the Act for—

(a) a constable,

(b) an accredited financial investigator,

(c) the Commissioners for His Majesty's Revenue and Customs,

(d) an officer of Revenue and Customs, or

(e) an immigration officer,

the Director must notify the court which is dealing with the proceedings if the Director wants documents given under these Rules to be given also to the Director.

Giving of documents

17.—(1) Any document required to be given to any person under these Rules may be given—

(a) by post in accordance with rule 18;

(b) by means of electronic communication in accordance with rule 19, or

(c) by any method authorised by the court in accordance with rule 20.

(2) If any document is given to a person in accordance with paragraph (1), it is deemed to have been received by that person unless the contrary is shown.

Giving documents by post

18.—(1) In order to give a document by post to a person (other than to the court), it must be sent by properly addressing, pre-paying and posting to an address which has been given by that person for the purpose of receipt of documents under these Rules.

(2) If no address has been given as is mentioned in paragraph (1), the document must be sent to an address which is shown in the following table.

Person to whom document is to be given	*Address*
1. Individual	Last known residential address
2. Individual in their business capacity	Last known residential address of the individual, or principal or last known place of business
3. Individual in their capacity as a partner in a partnership	Last known residential address of the individual, or principal or last known place of business of the partnership
4. Limited Liability Partnership (within the meaning of the Limited Liability Partnerships Act 2000(1)	Principal office of the partnership, or any place of business of the partnership
5. Corporation (other than a company)	Principal office of the corporation, or any place where the corporation carries on its activities
6. Company	Principal office of the company, or any place of business of the company

(1) 2000 c. 12.

(3) Unless the contrary is shown, the document is to be deemed as having been given to the person on the second day after it was posted, provided that day is a business day, or if not, the next business day after that day.

Giving documents by means of electronic communication

19.—(1) In order to give a document by email or other means of electronic communication, the intended recipient of the document must previously have indicated in writing to the person giving the document the email address or other electronic identification to which documents must be sent.

(2) Giving a document by means of electronic communication is effected by sending or transmitting the document in accordance with the written indication given by the intended recipient under paragraph (1).

(3) The document is to be treated as having been given on the day on which it is sent or transmitted if the electronic communication containing it is sent or transmitted before 4.30pm. If the electronic communication is sent or transmitted after 4.30pm, the document is to be treated as having been given the following day.

(4) Where a document is given by electronic means, the person giving the document need not in addition send or deliver a hard copy.

Giving of documents by an alternative method or at an alternative place

20.—(1) Where it appears to the court that there is a good reason to authorise the giving of a document by a method or at a place not otherwise permitted by these Rules, the court may make an order permitting the giving of a document by an alternative method or at an alternative place.

(2) On an application under this rule, the court may order that steps already taken to give the document to a person by an alternative method or at an alternative place constitute the giving of that document under these Rules.

(3) An application for an order under this rule—

(a) must be supported by evidence, and

(b) may be made without notice.

(4) An order under this rule must specify—

(a) the method by which the document may be given, if it is not a method permitted by these Rules;

(b) the place at which the document may be given, if it is not a place permitted by these Rules, and

(c) the date on which the document is deemed to be given.

Giving a document to a child or protected person

21.—(1) Where the intended recipient of a document is known to be a child who is not also a protected person, the document must be given to the child and—

(a) one of the child's parents or guardians, or

(b) if there is no parent or guardian, an adult with whom the child resides or in whose care the child is.

(2) Where the intended recipient of a document is known to be a protected person, the document must be given to the protected person and—

(a) where the protected person is resident in England and Wales, to one of the following persons—

(i) the attorney under a registered enduring power of attorney which relates to the protected person;

(ii) the donee of a lasting power of attorney which relates to the protected person, or

(iii) the deputy appointed in relation to the protected person by the Court of Protection;

(b) where the protected person is resident in Northern Ireland, to one of the following persons—

(i) the attorney under a registered enduring power of attorney which relates to the protected person;

(ii) the controller appointed in relation to the protected person by the Office of Care and Protection;

(c) where the protected person is resident in Scotland, to one of the following persons—

(i) the continuing attorney under a continuing power of attorney which relates to the protected person;

(ii) the welfare attorney under a welfare power of attorney which relates to the protected person;

(iii) the person authorised under an intervention order in respect of the protected person;

(iv) the person authorised under a guardianship order in respect of the protected person;

(v) the person authorised under a withdrawal certificate in respect of the protected person, or

(d) if in any case under sub-paragraph (a), (b) or (c) there is no such person, to an adult with whom the protected person resides or in whose care the protected person is.

(3) Any reference in these Rules to a person to whom a document is to be given includes the person to be given documents on behalf of a child or protected person under paragraph (1) or (2).

(4) The court may make an order permitting a document to be given to a child or protected person, or to a person other than the person specified in paragraph (1) or (2), and an application for such an order may be made without notice.

(5) In this rule—

(a) "child" means a person under 18 years, and

(b) "protected person" means—

(i) in relation to England and Wales, a person who lacks capacity (within the meaning of the Mental Capacity Act 2005(**a**)) to understand the nature of forfeiture proceedings;

(ii) in relation to Northern Ireland, a person who is 16 years or over who lacks capacity to understand the nature of forfeiture proceedings because of an impairment of, or a disturbance in the functioning of, the mind or brain;

(**a**) 2005 c. 9.

(iii) in relation to Scotland, a person who is incapable (within the meaning of the Adults with Incapacity (Scotland) Act 2000(**a**)) of understanding the nature of forfeiture proceedings.

Giving of documents to persons outside the United Kingdom

22.—(1) If a document is to be given to a person who resides outside the United Kingdom, the document must be given in accordance with the terms of any relevant declaration.

(2) In this rule, "relevant declaration" means—

(a) a declaration made in accordance with Article 31(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism agreed at Warsaw on 16th May 2005 that judicial documents may not be sent directly to persons abroad by postal channels, or

(b) a declaration made in accordance with Article 21(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime agreed at Strasbourg on 8th November 1990 that judicial documents may not be sent directly to persons abroad by postal channels.

Procedure at hearing

23.—(1) At the hearing of an application under Chapter 3C, 3D or 3E of Part 5 of the Act, any person to whom a copy of the application has been given may attend and be heard on the question of whether the application should be granted, but the fact that any such person does not attend does not prevent the court from hearing the application.

(2) Subject to the foregoing provisions of these Rules, proceedings on such an application are regulated in the same manner as proceedings on a complaint, and accordingly for the purposes of these Rules, the application is deemed to be a complaint, the applicant a complainant, a respondent to be a defendant and any notice given under rules 5(3), 8(3), 9(5), 11(5), 12(5), 13(6) or 15(5), to be a summons.

(3) But nothing in this rule enables a warrant of arrest to be issued for failure to appear in answer to any such notice.

(4) At the hearing of an application under Chapter 3C, 3D or 3E of the Act, the court must require the matters contained in the application to be sworn by the applicant under oath, may require the applicant to answer any questions under oath and may require any response from a respondent to the application to be made under oath.

(5) The court must record or cause to be recorded the substance of any statements made under oath which are not already recorded in the written application.

PART 3

Miscellaneous Amendments to Magistrates' Courts Rules

Amendment of the Magistrates' Courts (Detention and Forfeiture of Cash) Rules 2002

24.—(1) The Magistrates' Courts (Detention and Forfeiture of Cash) Rules 2002(**b**) are amended as follows.

(2) In rule 2 (interpretation), after paragraph (ab), insert—

"(ac) "order for further detention" means an order under—

(i) section 295(2) of the Act (further detention of seized cash);

(**a**) 2000 asp 4.
(**b**) S.I. 2002/2998, amended by S.I. 2017/1291. There are other amendments, but none is relevant.

(ii) section 303l(1) of the Act (further detention of seized property);

(iii) section 303Z28(1) or (4) of the Act (further detention of cryptoasset related items);

(iv) section 303Z32(1) or (4) of the Act (further detention of cryptoassets);

(ad) "freezing order" means an order under—

(i) section 303Z3(2) of the Act (account freezing orders);

(ii) section 303Z37(2) of the Act (crypto wallet freezing orders).".

(3) In rule 4 (first application for the further detention of seized cash), in paragraph (2)—

(a) in sub-paragraph (a), for "previous order made under sections 295(2) or 303L(1) of the Act" substitute "previous order for further detention";

(b) in sub-paragraph (b), for "previous account freezing order under section 303Z3(2) of the Act", substitute "previous freezing order,".

(4) In rule 7 (application for forfeiture of detained cash), in paragraph (2)(b)—

(a) in sub-paragraph (i), for "order made under section 295(2) or 303L(1)" of the Act substitute "order for further detention";

(b) in sub-paragraph (ii), for "an account freezing order under section 303Z3(2) of the Act", substitute "a freezing order".

Amendment of the Magistrates' Courts (Detention and Forfeiture of Listed Assets) Rules 2017

25.—(1) The Magistrates' Courts (Detention and Forfeiture of Listed Assets) Rules 2017(**a**) are amended as follows.

(2) In rule 2 (interpretation), after paragraph (c), insert—

"(ca) "freezing order" means an order made under—

(i) section 303Z3(2) of the Act (account freezing orders);

(ii) section 303Z37(2) of the Act (crypto wallet freezing orders);

(cb) "order for further detention" means an order made under—

(i) section 295(2) of the Act (further detention of seized cash);

(ii) section 303l(1) of the Act (further detention of seized property);

(iii) section 303Z28(1) or (4) of the Act (further detention of cryptoasset related items);

(iv) section 303Z32(1) or (4) of the Act (further detention of cryptoassets);".

(3) In rule 4 (first application for the further detention of seized property), in paragraph (2)—

(a) in sub-paragraph (a), for "previous order made under sections 295(2) or 303L(1) of the Act" substitute "previous order for further detention";

(b) in sub-paragraph (b), for "previous account freezing order under section 303Z3(2) of the Act" substitute "previous freezing order".

(4) In rule 7 (application for forfeiture of detained property), in paragraph (2)(b)—

(a) in sub-paragraph (i), for "order made under section 295(2) or 303L(1) of the Act" substitute "order for further detention";

(b) in sub-paragraph (ii), for "an account freezing order made under section 303Z3(2) of the Act" substitute "a freezing order".

(5) In rule 17 (transfer of proceedings), in paragraph (7), for "303O(1)" substitute "303O(3)".

(**a**) S.I. 2017/1293, to which there are amendments not relevant to these Rules.

Amendment of the Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017

26.—(1) The Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017(**a**) are amended as follows.

(2) In rule 2 (interpretation), after paragraph (c), insert—

"(ca) "freezing order" means an order made under—

(i) section 303Z3(2) of the Act (account freezing orders);

(ii) section 303Z37(2) of the Act (crypto wallet freezing orders);

(cb) "order for further detention" means an order made under—

(i) section 295(2) of the Act (further detention of seized cash);

(ii) section 303l(1) of the Act (further detention of seized property);

(iii) section 303Z28(1) or (4) of the Act (further detention of cryptoasset related items);

(iv) section 303Z32(1) or (4) of the Act (further detention of cryptoassets).".

(3) In rule 3 (application for account freezing order)—

(a) in paragraph (1), for "paragraph" substitute "section";

(b) in paragraph (3), at the beginning, insert "Except where the application is made without notice,".

(4) After rule 4 insert—

"Application for the release of frozen money

4A.—(1) An application under section 303Z17A(1) of the Act for the release of money in respect of which an account freezing order has effect must be made in writing and sent to the court before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given notice of an order under section 303Z3(2) of the Act in respect of the account which is the subject of the application, then the application must be sent to the court which sent the applicant that notice.

(3) The court must send a copy of the application to—

(a) the Commissioners for His Majesty's Revenue and Customs, if the application for the account freezing order was made by an officer of Revenue and Customs;

(b) the Director of the SFO, if the application for the account freezing order was made by an SFO officer;

(c) the Director General of the National Crime Agency, if the application for the account freezing order was made by a National Crime Agency officer who is designated under section 10 of the Crime and Courts Act 2013;

(d) the chief officer of the police force to which the constable belongs, if the application for the account freezing order was made by a constable;

(e) the chief officer of the police force concerned, if the application for the account freezing order was made by an accredited financial investigator who is—

(i) a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), or

(ii) a member of staff of the City of London police force;

(**a**) S.I. 2017/1297, to which there are amendments not relevant to these Rules.

(f) the solicitor acting for the Secretary of State, if the application for the account freezing order was made by an immigration officer;

(g) the solicitor acting for a government department, if the application for the account freezing order was made by an accredited financial investigator who is a member of staff of that government department, but who is not an officer of Revenue and Customs, a constable or an immigration officer;

(h) the employer of an accredited financial investigator, if the application for the account freezing order was made by that accredited financial investigator, and the employer is not otherwise mentioned in this paragraph;

(i) the Director of Public Prosecutions, where the Director has given notification under rule 16, and

(j) every person to whom notice of the account freezing order has been given.

(4) The court must fix a date for the hearing of the application, which, unless directed otherwise, must not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant and to every person to whom a copy of the application is required to be sent under paragraph (3).

(5) At the hearing of an application under section 303Z17A(1) of the Act, the court may, if it thinks fit, order that the application be heard with any other relevant proceedings in relation to the property which is the subject of the application.

(6) An order under section 303Z17A(4) or (5) must provide for the release of the money within seven days of the making of the order or such longer period as with the agreement of the applicant may be specified in the order, except that money may not be released whilst section 303Z17A(8) applies.".

(5) In rule 5 (application for forfeiture of frozen money), in paragraph (2), for "order made under section 295(2) or 303L(1) of the Act" substitute "order for further detention".

Carr of Walton-on-the-Hill, C.J.
Lady Chief Justice

14th October 2024

I concur

Heidi Alexander
Minister of State
Ministry of Justice

16th October 2024

EXPLANATORY NOTE

(This note is not part of the Rules)

Part 2 of these Rules prescribes the procedure to be followed for applications to a magistrates' court for orders under Chapters 3C, 3D and 3E of Part 5 of the Proceeds of Crime Act 2002 (c. 29) ("POCA").

These Chapters were inserted by Schedule 9 to the Economic Crime and Corporate Transparency Act 2023 (c. 56) and make provision for the seizure and detention of cryptoasset-related items and cryptoassets, and for the freezing and forfeiture of cryptoassets, that are either recoverable property or intended for use in unlawful conduct. "Cryptoassets" and "cryptoasset-related items" are defined by section 303Z20(1) and 303Z21(2) of POCA.

The Rules in this Part provide the relevant procedure for:

— prior approval for searches for cryptoasset-related items (see section 303Z21 of POCA);

— applications for further detention of seized cryptoasset-related items (see section 303Z28 of POCA);

— applications for prior authorisation for detention of cryptoassets (see section 303Z30 of POCA);

— applications for further detention of seized cryptoassets (see section 303Z32 of POCA);

— applications for release of cryptoassets and cryptoasset-related items (see section 303Z34 of POCA);

— applications for crypto wallet freezing orders (see section 303Z36 and 303Z37 of POCA);

— applications for the variation or setting aside of a crypto wallet freezing order (see section 303Z38 of POCA);

— applications for release of frozen cryptoassets (see section 303Z51 of POCA);

— applications for forfeiture of detained cryptoassets and cryptoassets subject to a crypto wallet freezing order (see section 303Z41 and 303Z45 of POCA);

— agreements about associated and joint property (see section 303Z44 of POCA);

— applications for compensation (see section 303Z52 of POCA.

In addition, Part 2 of these Rules makes provision for the manner in which documents are to be given in proceedings under Chapters 3C, 3D and 3E of Part 5 of POCA, and for the procedure at hearings.

Part 3 of these Rules amends the Magistrates' Courts (Detention and Forfeiture of Cash) Rules 2002 (the Cash Rules), the Magistrates' Courts (Detention and Forfeiture of Listed Assets) Rules 2017 (the Listed Assets Rules) and the Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017 (the Account Freezing Rules).

Rules 25 and 26 amend the provisions in the Cash Rules and the Listed Assets Rules requiring applications to be sent to courts which have made certain connected orders to include the orders which may be made under Chapters 3C, 3D and 3E of Part 5 of POCA, and to improve the accessibility of those provisions.

Rule 27 makes similar amendments to the Account Freezing Rules. It also resolves a small typographical error in Rule 3 of those rules, and amends the same rule to reflect the fact that applications for account freezing orders can be made without notice in certain circumstances. Finally, Rule 27 inserts a new Rule 4A into the Account Freezing Rules to prescribe the procedure for applications for the release of frozen money under section 303Z17A of POCA.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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£8.14

http://www.legislation.gov.uk/id/uksi/2024/1043

ISBN 978-0-34-826455-5

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