



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 2

CONFISCATION: ENGLAND AND WALES

Defendant absconds

28 Defendant neither convicted nor acquitted

- (1) This section applies if the following two conditions are satisfied.
- (2) The first condition is that—
 - (a) proceedings for an offence or offences are started against a defendant but are not concluded,
 - (b) he absconds, and
 - (c) the period of [^{F1}three months] (starting with the day the court believes he absconded) has ended.
- (3) The second condition is that—
 - (a) the prosecutor ^{F2}... applies to the Crown Court to proceed under this section, and
 - (b) the court believes it is appropriate for it to do so.
- (4) If this section applies the court must proceed under section 6 in the same way as it must proceed if the two conditions there mentioned are satisfied; but this is subject to subsection (5).
- (5) If the court proceeds under section 6 as applied by this section, this Part has effect with these modifications—
 - (a) any person the court believes is likely to be affected by an order under section 6 is entitled to appear before the court and make representations;
 - (b) the court must not make an order under section 6 unless the prosecutor ^{F3}... has taken reasonable steps to contact the defendant;

Changes to legislation: *Proceeds of Crime Act 2002, Section 28 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (c) section 6(9) applies as if the reference to subsection (2) were to subsection (2) of this section;
- (d) sections 10, 16(4) and 17 to 20 must be ignored;
- (e) section 21 must be ignored while the defendant is still an absconder.

[^{F4}(6) Once the defendant has ceased to be an absconder—

- (a) section 21 has effect as if subsection (1) read—

“(1) This section applies if—

- (a) a court has made a confiscation order,
- (b) the prosecutor believes that if the court were to find the amount of the defendant's benefit in pursuance of this section it would exceed the relevant amount,
- (c) before the end of the period of six years starting with the day when the defendant ceased to be an absconder, the prosecutor applies to the Crown Court to proceed under this section, and
- (d) the court believes it is appropriate for it to do so.”;
- (b) the modifications set out in subsection (5)(a) to (d) of this section do not apply to proceedings that take place by virtue of section 21 (as applied by this subsection).]

(7) If—

- (a) the court makes an order under section 6 as applied by this section, and
- (b) the defendant is later convicted in proceedings before the Crown Court of the offence (or any of the offences) concerned,

section 6 does not apply so far as that conviction is concerned.

Textual Amendments

- F1** Words in s. 28(2)(c) substituted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 9(3)**, 88(1); S.I. 2015/820, reg. 3(f)
- F2** Words in s. 28(3)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 15(2), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F3** Words in s. 28(5)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 15(3), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F4** S. 28(6) substituted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 9(4)**, 88(1); S.I. 2015/820, reg. 3(f)

Modifications etc. (not altering text)

- C1** Pt. 2 applied by [Terrorism Act 2000 \(c. 11\)](#), Sch. 8 paras. 8(5A), **34(3A)** (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 39(2)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), **sch.** (with art. 7); S.I. 2003/333, art. 2, **Sch.**)
- C2** Pt. 2 applied by [Police and Criminal Evidence Act 1984 \(c. 60\)](#), **ss. 56(5B)**, 58(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 14(2)(3)**; S.I. 2003/333, art. 2, **Sch.**)
- C3** Pt. 2 applied (with modifications) (1.6.2015) by [The Restraint Orders \(Legal Aid Exception and Relevant Legal Aid Payments\) Regulations 2015 \(S.I. 2015/868\)](#), regs. 1, **5** (with reg. 4)

Commencement Information

- I1** S. 28 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.** (with arts. 3(2), 10-13)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)