



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

Miscellaneous and supplemental

102 Part VI— Interpretation. **E+W**

(1) In this Part of this Act—

“constable” includes a person commissioned by the Commissioners of Customs and Excise;

“interest”, in relation to property, includes right;

[^{F1}“proceeds of criminal conduct”, in relation to any person who has benefited from criminal conduct, means that benefit;]

“property” includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

Expression	Relevant provision
Benefited from an offence	Section 71(4)
Charging order	Section 78(2)
Confiscation order	Section 71(9)(a)
[^{F2} Criminal conduct	Section 93A(7)]
Dealing with property	Section 77(9)
Defendant	Section 71(9)(d)

Status: Point in time view as at 04/07/1996. There are multiple versions of this provision on screen.

These apply to different geographical extents. This version of this provision has been superseded.

Changes to legislation: *Criminal Justice Act 1988, Section 102 is up to date with all changes known to be in force on or before 20 August 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)*

Gift caught by this Part of this Act	Section 74(10)
Making a gift	Section 74(12)
[^{F3} Offence of a relevant description	Section 71(1E)]
Offence to which this Part of this Act applies	Section 71(9)(c)
Realisable property	Section 74(1)
[^{F3} Relevant criminal conduct	Section 71(1D)]
Restraint order	Section 77(1)
Value of gift	Section 74(7) and (8)
Value of property	Section 74(4) to (6)

- (3) This Part of this Act applies to property wherever situated.
- (4) References in this Part of this Act to offences include a reference to offences committed before the commencement of this Part of this Act; but nothing in this Part of this Act confers any power on any court in connection with proceedings against a person for an offence instituted before the commencement of this Part of this Act.
- (5) References in this Part of this Act to property obtained, or to a pecuniary advantage derived, in connection with the commission of an offence include a reference to property obtained or to a pecuniary advantage derived, both in that connection and in some other connection.
- (6) The following provisions shall have effect for the interpretation of this Part of this Act.
- (7) Property is held by any person if he holds any interest in it.
- (8) References to property held by a person include a reference to property vested in his trustee in bankruptcy, permanent or interim trustee within the meaning of the ^{M1}Bankruptcy (Scotland) Act 1985 or liquidator.
- (9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.
- (10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.
- (11) Proceedings for an offence are instituted—
- (a) when a justice of the peace issues a summons or warrant under section 1 of the ^{M2}Magistrates' Courts Act 1980 in respect of that offence;
 - (b) when a person is charged with the offence after being taken into custody without a warrant;
 - (c) when a bill of indictment is preferred under section 2 of the ^{M3}Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section;
- and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

[^{F4}(12) Proceedings for an offence are concluded—

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- (a) when the defendant is acquitted on all counts or, as the case may be, every charge against him is dismissed;
 - (b) if he is convicted on one or more counts or charges but the court decides not to make a confiscation order against him, when the court makes that decision;
 - (c) if he is sentenced without the court having considered whether or not to proceed under section 71 above in his case, when he is sentenced; and
 - (d) if a confiscation order is made against him in those proceedings, when the order is satisfied.
- (12A) An application under section 74A, 74B or 74C above is concluded—
- (a) if the court decides not to make or, as the case may be, not to vary any order against the defendant on that application, when it makes that decision;
 - (b) if an order against the defendant is made or varied on that application, when the order is satisfied; and
 - (c) if the application is withdrawn, when the prosecutor notifies the withdrawal of the application to the court to which it was made.
- (12B) For the purposes of this Part of this Act, a confiscation order is satisfied when no amount is due under it.
- (12C) For the purposes only of section 84 above, a confiscation order shall be treated as satisfied when the defendant in respect of whom it was made has served a term of imprisonment or detention in default of payment of the amount due under the order.]
- (13) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

- F1** Definition in s. 102(1) inserted (15.2.1994) by 1993 c. 36, s. 29(2); S.I. 1994/71, art. 2
- F2** Entry in s. 102(2) Table inserted (15.2.1994) by 1993 c. 36, s. 29(3); S.I. 1994/71, art. 2
- F3** Entries in s. 102(2) inserted (E.W.) (1.11.1995) by 1995 c. 11, s. 15(1), Sch. 1 para.3; S.I. 1995/2650, art.2
- F4** S. 102(12)(12A)-(12C) substituted (E.W.) (1.11.1995) for s. 102(12) by 1995 c. 11, s. 8(8); S.I. 1995/2650, art.2

Marginal Citations

- M1** 1985 c. 66.
- M2** 1980 c. 43.
- M3** 1933 c. 36.

102 Part VI— Interpretation. **S**

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[^{F5}“proceeds of criminal conduct”, in relation to any person who has benefited from criminal conduct, means that benefit;]

“property” includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

- (2) The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

Expression	Relevant provision
Benefited from an offence	Section 71(4)
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- (7) Property is held by any person if he holds any interest in it.
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- (9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.
- (10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.
- (11) Proceedings for an offence are instituted—
- (a) when a justice of the peace issues a summons or warrant under section 1 of the ^{M5}Magistrates' Courts Act 1980 in respect of that offence;
 - (b) when a person is charged with the offence after being taken into custody without a warrant;
 - (c) when a bill of indictment is preferred under section 2 of the ^{M6}Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section;
- and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.
- (12) Proceedings are concluded—
- (a) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of a confiscation order being made in the proceedings;
 - (b) on the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the order or by the defendant serving imprisonment in default).
- (13) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Extent Information

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Textual Amendments

- F5** Definition in s. 102(1) inserted (15.2.1994) by 1993 c. 36, s. 29(2); S.I. 1994/71, art. 2
- F6** Entry in s. 102(2) Table inserted (15.2.1994) by 1993 c. 36, s. 29(3); S.I. 1994/71, art. 2

Marginal Citations

- M4** 1985 c. 66.
- M5** 1980 c. 43.
- M6** 1933 c. 36.

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