



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 3

#### CONFISCATION: SCOTLAND

##### *Appeals*

#### **115 Appeal by prosecutor**

- (1) Section 108 of the Procedure Act (Lord Advocate's right of appeal in solemn proceedings) is amended as provided in subsections (2) to (4).
- (2) In subsection (1), after paragraph (c) insert—
  - “(ca) a decision under section 92 of the Proceeds of Crime Act 2002 not to make a confiscation order;”
- (3) In subsection (2)(b)(ii), for the words “or (c)” substitute “, (c) or (ca) ”.
- (4) After subsection (2) insert—
  - “(3) For the purposes of subsection (2)(b)(i) above in its application to a confiscation order by virtue of section 92(11) of the Proceeds of Crime Act 2002, the reference to the disposal being unduly lenient is a reference to the amount required to be paid by the order being unduly low.”
- (5) Section 175 of the Procedure Act (right of appeal in summary proceedings) is amended as provided in subsections (6) to (8).
- (6) In subsection (4), after paragraph (c) insert—
  - “(ca) a decision under section 92 of the Proceeds of Crime Act 2002 not to make a confiscation order;”
- (7) In subsection (4A)(b)(ii), for the words “or (c)” substitute “, (c) or (ca) ”.
- (8) After subsection (4A) insert—

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*Status: Point in time view as at 01/01/2007.*

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Appeals is up to date with all changes known to be in force on or before 08 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)*

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“(4B) For the purposes of subsection (4A)(b)(i) above in its application to a confiscation order by virtue of section 92(11) of the Proceeds of Crime Act 2002, the reference to the disposal being unduly lenient is a reference to the amount required to be paid by the order being unduly low.”

**Modifications etc. (not altering text)**

- C1** Pt. 3 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 17(4A), 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 39(4)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7); S.I. 2003/333, art. 2, Sch.
- C2** Pt. 3 applied by 2000 c. 11, Sch. 8 para. 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 39(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7))

**Commencement Information**

- I1** S. 115 in force at 24.3.2003 by [S.S.I. 2003/210](#), **art. 2(1)(a)**

**Status:**

Point in time view as at 01/01/2007.

**Changes to legislation:**

Proceeds of Crime Act 2002, Cross Heading: Appeals is up to date with all changes known to be in force on or before 08 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.