



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

#### *Appeals*

#### **32 Court's powers on appeal**

- (1) On an appeal under section 31(1) the Court of Appeal may confirm, quash or vary the confiscation order.
- (2) On an appeal under section 31(2) the Court of Appeal may confirm the decision, or if it believes the decision was wrong it may—
  - (a) itself proceed under section 6 (ignoring subsections (1) to (3)), or
  - (b) direct the Crown Court to proceed afresh under section 6.
- [<sup>F1</sup>(2A) On an appeal under section 31(4) the Court of Appeal may—
  - (a) confirm the determination, or
  - (b) make such order as it believes is appropriate.]
  - (3) In proceeding afresh in pursuance of this section the Crown Court must comply with any directions the Court of Appeal may make.
  - (4) If a court makes or varies a confiscation order under this section or in pursuance of a direction under this section it must—
    - (a) have regard to any fine imposed on the defendant in respect of the offence (or any of the offences) concerned;
    - (b) have regard to any order which falls within section 13(3) and has been made against him in respect of the offence (or any of the offences) concerned, unless the order has already been taken into account by a court in deciding what is the free property held by the defendant for the purposes of section 9.

**Changes to legislation:** *Proceeds of Crime Act 2002, Section 32 is up to date with all changes known to be in force on or before 02 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*

- (5) If the Court of Appeal proceeds under section 6 or the Crown Court proceeds afresh under that section in pursuance of a direction under this section subsections (6) to (10) apply.
- (6) If a court has already sentenced the defendant for the offence (or any of the offences) concerned, section 6 has effect as if his particular criminal conduct included conduct which constitutes offences which the court has taken into consideration in deciding his sentence for the offence or offences concerned.
- (7) If an order has been made against the defendant in respect of the offence (or any of the offences) concerned under [<sup>F2</sup>section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 or Chapter 2 of Part 7 of the Sentencing Code] (compensation orders)[<sup>F3</sup>, section 161A of the Criminal Justice Act 2003 [<sup>F4</sup>or section 42 of the Sentencing Code] (orders requiring payment of surcharge)][<sup>F5</sup>or section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders)]—
- the court must have regard to it, and
  - section 13(5) and (6) above do not apply [<sup>F6</sup>in relation to it].
- (8) Section 8(2) does not apply, and the rules applying instead are that the court must—
- take account of conduct occurring before the relevant date;
  - take account of property obtained before that date;
  - take account of property obtained on or after that date if it was obtained as a result of or in connection with conduct occurring before that date.
- (9) In section 10—
- the first and second assumptions do not apply with regard to property first held by the defendant on or after the relevant date;
  - the third assumption does not apply with regard to expenditure incurred by him on or after that date;
  - the fourth assumption does not apply with regard to property obtained (or assumed to have been obtained) by him on or after that date.
- (10) Section 26 applies as it applies in the circumstances mentioned in subsection (1) of that section.
- (11) The relevant date is the date on which the Crown Court decided not to make a confiscation order.

#### Textual Amendments

- F1** S. 32(2A) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\), ss. 3\(2\)](#), 88(1); S.I. 2015/820, reg. 3(a)
- F2** Words in s. 32(7) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 190\(a\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F3** Words in s. 32(7) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 28](#); S.I. 2015/820, reg. 3(q)(iii)
- F4** Words in s. 32(7) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 190\(b\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F5** Words in s. 32(7) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 20](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2
- F6** Words in s. 32(7)(b) inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), [Sch. 5 para. 18](#); S.I. 2015/1476, reg. 2(j)

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**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. 32 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

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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\(4\)](#)