



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Confiscation orders*

## 6 Making of order

- (1) The Crown Court must proceed under this section if the following two conditions are satisfied.
- (2) The first condition is that a defendant falls within any of the following paragraphs—
  - (a) he is convicted of an offence or offences in proceedings before the Crown Court;
  - (b) he is committed to the Crown Court for sentence in respect of an offence or offences under [<sup>F1</sup>section 3, 4 or 6][<sup>F1</sup>section 3, 3A, 3B, 3C, 4, 4A or 6] of the Sentencing Act;
  - (c) he is committed to the Crown Court in respect of an offence or offences under section 70 below (committal with a view to a confiscation order being considered).
- (3) The second condition is that—
  - (a) the prosecutor <sup>F2</sup>... asks the court to proceed under this section, or
  - (b) the court believes it is appropriate for it to do so.
- (4) The court must proceed as follows—
  - (a) it must decide whether the defendant has a criminal lifestyle;
  - (b) if it decides that he has a criminal lifestyle it must decide whether he has benefited from his general criminal conduct;
  - (c) if it decides that he does not have a criminal lifestyle it must decide whether he has benefited from his particular criminal conduct.

*Status: Point in time view as at 05/11/2012. This version of this provision has been superseded.*

*Changes to legislation: Proceeds of Crime Act 2002, Section 6 is up to date with all changes known to be in force on or before 26 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)*

- (5) If the court decides under subsection (4)(b) or (c) that the defendant has benefited from the conduct referred to it must—
- (a) decide the recoverable amount, and
  - (b) make an order (a confiscation order) requiring him to pay that amount.
- (6) But the court must treat the duty in subsection (5) as a power if it believes that any victim of the conduct has at any time started or intends to start proceedings against the defendant in respect of loss, injury or damage sustained in connection with the conduct.
- (7) The court must decide any question arising under subsection (4) or (5) on a balance of probabilities.
- (8) The first condition is not satisfied if the defendant absconds (but section 27 may apply).
- (9) References in this Part to the offence (or offences) concerned are to the offence (or offences) mentioned in subsection (2).

#### Textual Amendments

- F1** Words in s. 6(2)(b) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 75\(2\)](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F2** Words in s. 6(3)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 2](#), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)

#### 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.](#))

#### Commencement Information

- II** S. 6 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#) (with arts. 3(1), 7, 10-13) (as amended (6.3.2003) by [S.I. 2003/531](#), art. 3)

**Status:**

Point in time view as at 05/11/2012. This version of this provision has been superseded.

**Changes to legislation:**

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