



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 [F¹section 3, 4 or 6][F²[F¹section 3, 3A, 3B, 3C, 4, 4A or 6] of the Sentencing Act][F²any provision of sections 14 to 20 of the Sentencing Code];
 - (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 ^{F³} 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.

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 25 June 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 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.

[^{F4}Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable 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.

[^{F5}(6A) The court must also treat the duty in subsection (5) as a power if—

- (a) an order has been made, or it believes an order may be made, against the defendant under section 4 (criminal unlawful profit orders) of the Prevention of Social Housing Fraud Act 2013 in respect of profit made by the defendant in connection with the conduct, or
- (b) it believes that a person has at any time started or intends to start proceedings against the defendant under section 5 (civil unlawful profit orders) of that Act in respect of such profit.]

(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(2)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 181](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F3** 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)
- F4** Words in s. 6(5) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 19](#); S.I. 2015/820, reg. 3(q)(iii)
- F5** S. 6(6A) 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. 12](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

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.](#))

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- 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. 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)

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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\(4\)](#)