



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Interpretation*

#### **85 Proceedings**

- (1) Proceedings for an offence are started—
  - (a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' Courts Act 1980 (c. 43) in respect of the 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 Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36) in a case falling within subsection (2)(b) of that section (preferment by Court of Appeal or High Court judge).
- (2) If more than one time is found under subsection (1) in relation to proceedings they are started at the earliest of them.
- (3) If the defendant is acquitted on all counts in proceedings for an offence, the proceedings are concluded when he is acquitted.
- (4) If the defendant is convicted in proceedings for an offence and the conviction is quashed or the defendant is pardoned before a confiscation order is made, the proceedings are concluded when the conviction is quashed or the defendant is pardoned.
- (5) If a confiscation order is made against the defendant in proceedings for an offence (whether the order is made by the Crown Court or the Court of Appeal) the proceedings are concluded—
  - (a) when the order is satisfied or discharged, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) when the order is quashed and there is no further possibility of an appeal against the decision to quash the order.
- (6) If the defendant is convicted in proceedings for an offence but the Crown Court decides not to make a confiscation order against him, the following rules apply—
- (a) if an application for leave to appeal under section 31(2) is refused, the proceedings are concluded when the decision to refuse is made;
  - (b) if the time for applying for leave to appeal under section 31(2) expires without an application being made, the proceedings are concluded when the time expires;
  - (c) if on appeal under section 31(2) the Court of Appeal confirms the Crown Court’s decision, and an application for leave to appeal under section 33 is refused, the proceedings are concluded when the decision to refuse is made;
  - (d) if on appeal under section 31(2) the Court of Appeal confirms the Crown Court’s decision, and the time for applying for leave to appeal under section 33 expires without an application being made, the proceedings are concluded when the time expires;
  - (e) if on appeal under section 31(2) the Court of Appeal confirms the Crown Court’s decision, and on appeal under section 33 the House of Lords confirms the Court of Appeal’s decision, the proceedings are concluded when the House of Lords confirms the decision;
  - (f) if on appeal under section 31(2) the Court of Appeal directs the Crown Court to reconsider the case, and on reconsideration the Crown Court decides not to make a confiscation order against the defendant, the proceedings are concluded when the Crown Court makes that decision;
  - (g) if on appeal under section 33 the House of Lords directs the Crown Court to reconsider the case, and on reconsideration the Crown Court decides not to make a confiscation order against the defendant, the proceedings are concluded when the Crown Court makes that decision.
- (7) In applying subsection (6) any power to extend the time for making an application for leave to appeal must be ignored.
- (8) In applying subsection (6) the fact that a court may decide on a later occasion to make a confiscation order against the defendant must be ignored.