

PROCEEDS OF CRIME ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Confiscation: England and Wales

Management receivers

Section 48: Appointment

98. The earlier confiscation legislation enables a receiver to be appointed by the High Court on the application of the prosecutor. In fact, receivers perform two quite different functions under the legislation. They manage property pending the defendant's conviction (and sometimes afterwards) and they dispose of it to satisfy the confiscation order. These receivers are known in practice as "management" and "enforcement" receivers respectively but the earlier legislation does not distinguish between them as such. The Act now deals separately with the two sorts of receivers' functions.
99. *Section 48* enables a management receiver to be appointed where a restraint order has been made. In accordance with the principle of the Crown Court as the main venue for confiscation, the appointment is made by the Crown Court, not the High Court. *Section 48(1)(b)* makes it clear that a receiver may only be appointed on application to the Crown Court by the applicant for the restraint order. However, the application need not be made by the same individual who applied for the restraint order (since that individual may, for example, become ill after applying for the order).