



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 3

#### CONFISCATION: SCOTLAND

##### *Procedural matters*

#### **100 Effect of postponement**

- (1) If the court postpones proceedings under section 92 it may proceed to sentence the accused for the offence (or any of the offences) concerned.
- (2) Subsection (1) is without prejudice to sections 201 and 202 of the Procedure Act.
- (3) In sentencing the accused for the offence (or any of the offences) concerned in the postponement period the court must not—
  - (a) impose a fine on him,
  - (b) make an order falling within section 97(3),<sup>F1</sup>...
  - (c) make an order for the payment of compensation under section 249 of the Procedure Act.
  - [<sup>F2</sup>(d) make a restitution order, or
  - (e) order the accused under section 253F(2) of the Procedure Act to pay a victim surcharge.]
- (4) If the court sentences the accused for the offence (or any of the offences) concerned in the postponement period, after that period ends it may vary the sentence by—
  - (a) imposing a fine on him,
  - (b) making an order falling within section 97(3),<sup>F3</sup>...
  - (c) making an order for the payment of compensation under section 249 of the Procedure Act.
  - [<sup>F4</sup>(d) making a restitution order, or
  - (e) ordering the accused under section 253F(2) of the Procedure Act to pay a victim surcharge.]

*Changes to legislation: Proceeds of Crime Act 2002, Section 100 is up to date with all changes known to be in force on or before 20 April 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) But the court may proceed under subsection (4) only within the period of 28 days which starts with the last day of the postponement period.
- (6) Where the court postpones proceedings under section 92 following conviction on indictment, section 109(1) of the Procedure Act (intimation of intention to appeal against conviction or conviction and sentence) has effect as if the reference to the final determination of the proceedings were a reference to the relevant day.
- (7) Despite subsection (6), the accused may appeal under section 106 of the Procedure Act against any confiscation order made, or any other sentence passed, after the end of the postponement period, in respect of the conviction.
- (8) Where the court postpones proceedings under section 92 following conviction on complaint—
- (a) section 176(1) of the Procedure Act (stated case: manner and time of appeal) has effect in relation to an appeal under section 175(2)(a) or (d) as if the reference to the final determination of the proceedings were a reference to the relevant day, and
  - (b) the draft stated case in such an appeal must be prepared and issued within 3 weeks of the relevant day.
- (9) Despite subsection (8), the accused may appeal under section 175(2)(b), and the prosecutor may appeal under section 175(3)(b), of the Procedure Act against any confiscation order made, or any other sentence passed, after the end of the postponement period, in respect of the conviction.
- (10) The relevant day is—
- (a) in the case of an appeal against conviction where the court has sentenced the accused under subsection (1), the day on which the postponement period commenced;
  - (b) in any other case, the day on which sentence is passed in open court.
- (11) The postponement period is the period for which proceedings under section 92 are postponed.

#### Textual Amendments

- F1** Word in s. 100(3)(b) omitted (25.11.2019 for specified purposes, 10.2.2021 in so far as not already in force) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(2)(c), [Sch. 4 para. 37\(2\)\(a\)](#); S.S.I. 2019/281, reg. 2; S.S.I. 2020/407, reg. 2(1)(c)
- F2** S. 100(3)(d)(e) inserted (25.11.2019 for specified purposes, 10.2.2021 in so far as not already in force) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(2)(c), [Sch. 4 para. 37\(2\)\(b\)](#); S.S.I. 2019/281, reg. 2; S.S.I. 2020/407, reg. 2(1)(c)
- F3** Word in s. 100(4)(b) omitted (25.11.2019 for specified purposes, 10.2.2021 in so far as not already in force) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(2)(c), [Sch. 4 para. 37\(3\)\(a\)](#); S.S.I. 2019/281, reg. 2; S.S.I. 2020/407, reg. 2(1)(c)
- F4** S. 100(4)(d)(e) inserted (25.11.2019 for specified purposes, 10.2.2021 in so far as not already in force) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(2)(c), [Sch. 4 para. 37\(3\)\(b\)](#); S.S.I. 2019/281, reg. 2; S.S.I. 2020/407, reg. 2(1)(c)

---

**Changes to legislation:** *Proceeds of Crime Act 2002, Section 100 is up to date with all changes known to be in force on or before 20 April 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*

---

**Modifications etc. (not altering text)**

- C1** Pt. 3 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 17(4A), 34(3A) (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 39(4)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7); S.I. 2003/333, art. 2, Sch.

**Commencement Information**

- I1** S. 100 in force at 24.3.2003 by S.S.I. 2003/210, **art. 2(1)(a)**

**Changes to legislation:**

Proceeds of Crime Act 2002, Section 100 is up to date with all changes known to be in force on or before 20 April 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.

[View outstanding changes](#)

**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\(4\)](#)