Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 3

CONFISCATION: SCOTLAND

Accused unlawfully at large

112 Accused neither convicted nor acquitted

(1) This section applies if—

(a) proceedings for an offence or offences are instituted against an accused but are not concluded,

(b) he is unlawfully at large, and

(c) the period of **[**[F1]three months**]** (starting with the day the court believes he first became unlawfully at large) has ended.

(2) If this section applies the court may, on an application by the prosecutor and if it believes it is appropriate for it to do so, proceed under section 92 in the same way as it must proceed if the conditions there mentioned are satisfied; but this is subject to subsection (3).

(3) If the court proceeds under section 92 as applied by this section, this Part has effect with these modifications—

(a) any person the court believes is likely to be affected by an order under section 92 is entitled to appear before the court and make representations;

(b) the court must not make an order under section 92 unless the prosecutor has taken reasonable steps to contact the accused;

(c) section 92(12) applies as if the reference to subsection (2) were to subsection (1) of this section;

(d) sections 96, 101(3), 102, 103, 104 and 105 do not apply;

(e) section 106 does not apply while the accused is still unlawfully at large.

[[F2](4) Once the accused has ceased to be unlawfully at large—

Changes to legislation: *Proceeds of Crime Act 2002, Section 112 is up to date with all changes known to be in force on or before 10 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*

(a) section 106 has effect as if subsection (1) read—

"(1) This section applies if—

(a) a court has made a confiscation order,

(b) the prosecutor believes that if the court were to find the amount of the accused's benefit in pursuance of this section it would exceed the relevant amount,

(c) before the end of the period of six years starting with the day when the accused ceased to be unlawfully at large, the prosecutor applies to the court to proceed under this section, and

(d) the court thinks it is appropriate for it to do so.";

(b) the modifications set out in subsection (3)(a) to (d) of this section do not apply to proceedings that take place by virtue of section 106 (as applied by this subsection).**]**

(5) If—

(a) the court makes an order under section 92 as applied by this section, and

(b) the accused is later convicted of the offence (or any of the offences) concerned,

section 92 does not apply so far as that conviction is concerned.

Textual Amendments

F1 Words in s. 112(1)(c) substituted (1.3.2016) by Serious Crime Act 2015 (c. 9), **ss. 18(3)**, 88(2)(a); S.S.I. 2016/11, reg. 2(c)

F2 S. 112(4) substituted (1.3.2016) by Serious Crime Act 2015 (c. 9), **ss. 18(4)**, 88(2)(a); S.S.I. 2016/11, reg. 2(c)

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. 112 in force at 24.3.2003 by S.S.I. 2003/210, **art. 2(1)(a)** (with arts. 3(3), 7)

Changes to legislation:
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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)