



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 3

CONFISCATION: SCOTLAND

[^{F1}Search and seizure powers

[^{F1}127B Conditions for exercise of powers

- (1) An appropriate officer may exercise the power conferred by section 127C if satisfied that any of the following conditions is met.
- (2) The first condition is that—
 - (a) a criminal investigation has been started in Scotland with regard to an indictable offence,
 - (b) [^{F2}a person has been arrested for the offence,]
 - (c) proceedings for the offence have not yet been started against the person in Scotland,
 - (d) there [^{F3}are reasonable grounds to suspect] that the person has benefited from conduct constituting the offence, and
 - (e) a restraint order is not in force in respect of any realisable property.
- (3) The second condition is that—
 - (a) a criminal investigation has been started in Scotland with regard to an indictable offence,
 - (b) [^{F4}a person has been arrested for the offence,]
 - (c) proceedings for the offence have not yet been started against the person in Scotland, and
 - (d) a restraint order is in force in respect of any realisable property.
- (4) The third condition is that—
 - (a) proceedings for an indictable offence have been started in Scotland and have not been concluded,

Changes to legislation: *Proceeds of Crime Act 2002, Section 127B is up to date with all changes known to be in force on or before 25 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*

- (b) there is reasonable cause to believe that the accused has benefited from conduct constituting the offence, and
 - (c) a restraint order is not in force in respect of any realisable property.
- (5) The fourth condition is that—
- (a) proceedings for an indictable offence have been started in Scotland and have not been concluded, and
 - (b) a restraint order is in force in respect of any realisable property.
- (6) The fifth condition is that—
- (a) an application by the prosecutor has been made under section 104, 105, 111 or 112 and not concluded, or the officer believes that such an application is to be made, and
 - (b) there is reasonable cause to believe that the accused has benefited from criminal conduct.
- (7) The sixth condition is that—
- (a) an application by the prosecutor has been made under section 106 and not concluded, or the officer believes that such an application is to be made, and
 - (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the accused's benefit exceeds the relevant amount (as defined in that section).
- (8) The seventh condition is that—
- (a) an application by the prosecutor has been made under section 107 and not concluded, or the officer believes that such an application is to be made, and
 - (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the available amount exceeds the relevant amount (as defined in that section).
- (9) The third or fourth condition is not met if the officer believes that—
- (a) there has been undue delay in continuing the proceedings, or
 - (b) the prosecutor does not intend to proceed.
- (10) If an application mentioned in the fifth, sixth or seventh condition has been made the condition is not met if the officer believes that—
- (a) there has been undue delay in continuing the application, or
 - (b) the prosecutor does not intend to proceed.
- (11) In relation to the first or second condition references in sections 127C to 127R to the accused are to the person mentioned in that condition.
- (12) In relation to the first or second condition section 144(8) has effect as if proceedings for the offence had been started against the accused when the investigation was started.]

Textual Amendments

- F1** Ss. 127A-127R and cross-heading inserted (22.11.2014 for the insertion of ss. 127A, 127G, 127R for specified purposes, 1.6.2015 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 56\(2\)](#), 116(1); S.I. 2014/3101, art. 3; S.I. 2015/983, art. 2(2)(a)
- F2** S. 127B(2)(b) omitted (26.10.2023 for specified purposes) by virtue of [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 8 para. 20\(a\)](#)

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- F3** Words in s. 127B(2)(d) substituted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 22(1)**, 88(2)(a); [S.S.I. 2016/11](#), reg. 2(g)
- F4** S. 127B(3)(b) omitted (26.10.2023 for specified purposes) by virtue of [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(2)(b)(4)(a), **Sch. 8 para. 20(b)**

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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\(4\)](#)