

PROCEEDS OF CRIME ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Confiscation: England and Wales

Committal

Section 70: Committal by magistrates' court

126. *Section 70* needs to be read in conjunction with *section 6(2)(c)*. Its effect is that a person may be committed to the Crown Court for confiscation proceedings following a conviction of any offence, indictable or summary, in the magistrates' court. Where the prosecutor asks the magistrates' court to do so, the court must commit the defendant to the Crown Court under this section. The power to have a person committed is granted only to the prosecutor, not to the Director of the Agency. However the Director can assume responsibility for the subsequent confiscation proceedings in the Crown Court.
127. Where the defendant is convicted of an either way offence, *subsection (5)* requires the magistrates' court to state whether it would have committed the defendant to the Crown Court for sentence anyway. This subsection is required because, under *section 71*, the Crown Court's sentencing powers following a committal for confiscation are normally limited to the sentencing powers the magistrates' court would have had in the same case.