



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 3

#### CONFISCATION: SCOTLAND

#### *Accused unlawfully at large*

#### **111 Conviction or other disposal of accused**

- (1) This section applies if an accused is unlawfully at large [<sup>F1</sup>and, either before or after he became unlawfully at large] —
  - (a) he is convicted of an offence or offences, whether in solemn or summary proceedings, or
  - (b) in the case of summary proceedings in respect of an offence (without proceeding to conviction) an order is made discharging him absolutely.
- (2) If this section applies the court may, on the application of 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 and 103 do not apply;
  - (e) sections 104, 105 and 106 do not apply while the accused is still unlawfully at large.

*Changes to legislation: Proceeds of Crime Act 2002, Section 111 is up to date with all changes known to be in force on or before 28 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*

[<sup>F2</sup>(4) Once the accused has ceased to be unlawfully at large—

(a) section 104 has effect as if subsection (1) read—

“(1) This section applies if—

- (a) in a case where section 111 applies the court did not proceed under section 92,
- (b) 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 section 92, and
- (c) the court thinks it is appropriate for it to do so.”;

(b) section 105 has effect as if subsection (3) read—

“(3) The second condition is that—

- (a) 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 reconsider whether the accused has benefited from his general or particular criminal conduct (as the case may be), and
- (b) the court thinks it is appropriate for it to do so.”;

(c) 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.”;

(d) 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 104, 105 or 106 (as applied by this subsection).]

#### Textual Amendments

- F1** Words in s. 111(1) substituted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\), ss. 18\(1\), 88\(2\)\(a\)](#); S.S.I. 2016/11, reg. 2(c)
- F2** S. 111(4) substituted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\), ss. 18\(2\), 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. 111 in force at 24.3.2003 by [S.S.I. 2003/210, art. 2\(1\)\(a\)](#) (with arts. 3(2), 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\(4\)](#)