
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Confiscation orders

Confiscation relating to a course of criminal conduct

9.—(1) Where, on the conviction of a defendant of an offence of a relevant description, the prosecution asks the court to proceed under Article 8 and the defendant—

- (a) is convicted in the same proceedings of at least one other offence to which this Order applies, or
- (b) has been convicted of at least one other such offence during the period of 6 years ending when the proceedings were instituted against him,

if the prosecution also asks the court to apply the provisions of this Article, the Crown Court or a court of summary jurisdiction may, for the purpose—

- (i) of determining whether the defendant has benefited from relevant criminal conduct; and
- (ii) if he has, of assessing the value of the defendant's benefit from such conduct,

subject to paragraph (3), make the assumptions set out in paragraph (2).

(2) Those assumptions are—

- (a) that any property appearing to the court—
 - (i) to be held by the defendant at the date of conviction or at any time since that date, or
 - (ii) to have been transferred to him at any time since the beginning of the period of 6 years ending when the proceedings were instituted against him,was received by him, at the earliest time when he appears to the court to have held it, as a result of or in connection with the commission of offences to which this Order applies;
- (b) that any expenditure of his since the beginning of that period was met out of payments received by him as a result of or in connection with the commission of offences to which this Order applies; and
- (c) that, for the purposes of valuing any benefit which he had or which he is assumed to have had at any time, he received the benefit free of any other interests in it.

(3) The court shall not make any of the assumptions set out in paragraph (2) in relation to any particular property or expenditure if—

- (a) that assumption is shown to be incorrect in the defendant's case;
- (b) that assumption is shown to be correct in relation to an offence the defendant's benefit from which has been the subject of a previous confiscation order; or

(c) the court is satisfied that there would (for any other reason) be a serious risk of injustice in the defendant's case if the assumption were to be made.

(4) Where the assumptions set out in paragraph (2) are made, the offences from which, in accordance with those assumptions, the defendant is assumed to have benefited shall be treated as if they were comprised, for the purposes of this Order, in the conduct which is to be treated, in that case, as relevant criminal conduct in relation to the defendant.

(5) In paragraph (3)(b) the reference to a previous confiscation order includes a confiscation order within the meaning of—

- (a) the Criminal Justice (Confiscation) (Northern Ireland) Order 1990;
- (b) Part VI of the Criminal Justice Act 1988;
- (c) the Drug Trafficking Act 1994; or
- (d) the Proceeds of Crime (Scotland) Act 1995.

(6) In this Article “the date of conviction” means—

- (a) in a case not falling within sub-paragraph (b), the date on which the defendant is convicted of the offence in question, or
- (b) where he is convicted of that offence and one or more other offences in the proceedings in question and those convictions are not all on the same date, the date of the latest of those convictions.