
STATUTORY INSTRUMENTS

1990 No. 2588

**The Criminal Justice (Confiscation)
(Northern Ireland) Order 1990**

Enforcement, etc., of confiscation orders

Increase in realisable property

17.—(1) Where by virtue of Article 4(1)(b) or 5(1)(b) the amount which a person is ordered to pay by a confiscation order is less than the benefit in respect of which it is made or, as the case may be, the amount assessed to be the value of his proceeds of drug trafficking, on an application made in accordance with paragraph (2) the High Court, if satisfied that the amount that might be realised in the case of that person is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased), shall issue a certificate to that effect, giving the Court's reasons.

(2) An application under paragraph (1) may be made either by the prosecution or by a receiver appointed under this Order in relation to the realisable property of the person mentioned in that paragraph.

(3) Where a certificate has been issued under paragraph (1) the prosecution may apply—

- (a) where the confiscation order was made by the Crown Court, to that Court; and
- (b) where the confiscation order was made by a court of summary jurisdiction, to a court of summary jurisdiction for the same county court division, for the amount to be recovered under the order to be increased.

(4) The Crown Court may, on an application under paragraph (3)—

- (a) substitute for the amount to be recovered under the order such amount (not exceeding the amount of the benefit in respect of which it is made or, as the case may be, the amount assessed as the value of the proceeds of drug trafficking) as appears to the Court to be appropriate having regard to the amount now shown to be realisable; and
- (b) increase the term of imprisonment or detention fixed in respect of the order under section 35(1)(c) of the Criminal Justice Act (Northern Ireland) 1945 (imprisonment in default of payment) if the effect of the substitution under sub-paragraph (a) is to increase the maximum period applicable in relation to the order under subsection (2) of that section as it has effect by virtue of Article 10(1)(b).

(5) A court of summary jurisdiction may, on an application under paragraph (3), substitute for the amount to be recovered under the order such amount (not exceeding the amount of the benefit in respect of which it is made) as appears to the court to be appropriate having regard to the amount now shown to be realisable.