
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Confiscation orders

Assessing the proceeds of drug trafficking

- 10.**—(1) Subject to paragraphs (3) and (4), the Crown Court shall, for the purpose—
- (a) of determining whether the defendant has benefited from drug trafficking, and
 - (b) if he has, of assessing the value of his proceeds of drug trafficking,
- make the assumptions set out in paragraph (2).
- (2) The assumptions are—
- (a) that any property appearing to the Court—
 - (i) to have been held by the defendant at any time since his conviction; 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 payment or reward in connection with drug trafficking carried on by him,
 - (b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with drug trafficking carried on by him; and
 - (c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property 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; or
 - (b) the Court is satisfied that there would be a serious risk of injustice in the defendant's case if the assumption were to be made;
- and where, by virtue of this paragraph, the Court does not make one or more of the required assumptions, it shall state its reasons.
- (4) Paragraph (1) does not apply if the only drug trafficking offence in respect of which the defendant is convicted is an offence under Article 4546 or 47.
- (5) For the purpose of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the Court shall leave out of account any of his proceeds of drug trafficking that are shown to the Court to have been taken into account in determining the amount to be recovered under that order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) References in paragraph (5) to a confiscation order include a confiscation order within the meaning of—

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