
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Proceedings in connection with confiscation orders where defendant has died or absconded

Variation of confiscation orders made under Article 24

26.—(1) This Article applies where—

- (a) the High Court has made a confiscation order under Article 24(4), and
- (b) the defendant has ceased to be an absconder.

(2) If the defendant alleges that—

- (a) the value of his benefit from relevant criminal conduct or, as the case may be, proceeds of drug trafficking in the period by reference to which the assessment in question was made (the “original value”), or
- (b) the amount that might have been realised at the time the confiscation order was made,

was less than the amount ordered to be paid under the confiscation order, he may apply to the High Court for it to consider his evidence.

(3) If, having considered that evidence, the Court is satisfied that the defendant’s allegation is correct, it—

- (a) shall apply—
 - (i) Article 8(2) with respect to the amount of the value of the defendant’s benefit from relevant criminal conduct; or
 - (ii) Article 8(3) with respect to the amount the court assesses to be the value of the defendant’s proceeds of drug trafficking; and
- (b) may, if it considers it just in all the circumstances, vary the amount to be recovered under the confiscation order.

(4) In the case of any application of Article 8(3) under this Article, Article 10(5) shall not apply in relation to any of the defendant’s proceeds of drug trafficking taken into account in assessing the original value.

(5) Where the Court varies a confiscation order under this Article—

- (a) it shall substitute for the term of imprisonment or detention fixed under section 35(1)(c) of the Criminal Justice Act (Northern Ireland) 1945 in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of Article 13) in respect of the lesser amount; and
- (b) on the application of a person who held property which was realisable property, it may order compensation to be paid to the applicant in accordance with Article 29 if—

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- (i) it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order; and
 - (ii) having regard to all the circumstances of the case, the Court considers it to be appropriate.
- (6) No application shall be entertained by the Court under this Article if it is made after the end of the period of 6 years from the date on which the confiscation order was made.