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STATUTORY INSTRUMENTS

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**1996 No. 1299**

**The Proceeds of Crime (Northern Ireland) Order 1996**

**PART II**

**CONFISCATION ORDERS**

**Meaning of “amount that might be realised” and “realisable property”**

5.—(1) For the purposes of this Order the amount that might be realised at the time a confiscation order is made against the defendant is—

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Order.

(2) In this Order “realisable property” means, subject to paragraph (3)—

- (a) any property held by the defendant; and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Order.

(3) Property is not realisable property if there is in force in respect of it an order under—

- (a) Article 11 of the Criminal Justice (Northern Ireland) Order 1994 (deprivation orders);
- (b) section 27 of the Misuse of Drugs Act 1971 (forfeiture orders); or
- (c) section 13(2), (3) or (4) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (forfeiture orders).

(4) For the purposes of paragraph (1), an obligation has priority at any time if it is an obligation of the defendant to—

- (a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or
- (b) pay any sum which would be included among the preferential debts (within the meaning given by Article 346 of the Insolvency (Northern Ireland) Order 1989) in the defendant’s bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.