
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Statements, etc., in connection with confiscation orders

Provision of information by the prosecution

15.—(1) Where the prosecution asks the court to proceed under Article 8(1)(a) or the court is proceeding under Article 8(1)(b) and requires a statement under this Article from the prosecution, the prosecution shall, within such period as the court may direct, give the court a statement as to any matters relevant in connection with—

- (a) determining whether the defendant has benefited from any relevant criminal conduct or, as the case may be, from drug trafficking; or
- (b) assessing the value of the defendant's benefit from that conduct or, as the case may be, his proceeds of drug trafficking;

and, where such a statement is given in a case in which the prosecution asks the court to apply the provisions of Article 9, that statement shall also set out all such information available to the prosecution as may be relevant for the purposes of Article 9(2) and 3(b) or (c).

(2) Where the prosecution has given a statement under this Article—

- (a) the prosecution may at any time give to the court a further statement; and
- (b) the court may at any time require the prosecution to give it a further such statement within such period as it may direct.

(3) Where the prosecution has given any statement under this Article and the court is satisfied that a copy of the statement has been served on the defendant, the court may require the defendant—

- (a) to indicate to it, within such period as the court may direct, the extent to which he accepts each allegation in the statement; and
- (b) so far as he does not accept any such allegation, to give particulars of any matters on which he proposes to rely.

(4) Where the court has given a direction under this Article it may at any time vary it by giving a further direction.

(5) Where the defendant accepts to any extent any allegation in any statement given by the prosecution under this Article, the court may, for the purposes of—

- (a) determining whether the defendant has benefited from any relevant criminal conduct or, as the case may be, from drug trafficking, or
- (b) assessing the value of the defendant's benefit from such conduct or, as the case may be, proceeds from drug trafficking,

treat his acceptance as conclusive of the matters to which it relates.

(6) If the defendant fails in any respect to comply with a requirement under paragraph (3), he may be treated for the purposes of this Article as accepting every allegation in the statement in question given by the prosecution under this Article apart from—

- (a) any allegation in respect of which he has complied with the requirement; and
- (b) any allegation that he has—
 - (i) in a case of an offence of a relevant description, benefited from an offence or that any property was obtained by him as a result of or in connection with the commission of an offence; or
 - (ii) in a case of a drug trafficking offence, benefited from drug trafficking or that any payment or other reward was received by him in connection with drug trafficking carried on by him or another person.

(7) Where—

- (a) there is given to the court by the defendant a statement as to any matters relevant to assessing the amount that might be realised at the time the confiscation order is made; and
- (b) the prosecution accepts to any extent any allegation in the statement;

the court may, for the purposes of that assessment, treat the acceptance by the prosecution as conclusive of the matters to which it relates.

(8) An allegation may be accepted, or particulars of any matter may be given, for the purposes of this Article in such manner as may be prescribed by Crown Court rules or magistrates' courts rules or as the court may direct.

(9) No acceptance by the defendant under this Article that any payment or other reward was received by him in connection with drug trafficking carried on by him or another shall be admissible in evidence in any proceedings for an offence.

(10) If the court is satisfied as to any matter relevant for assessing the amount that might be realised at the time the confiscation order is made (whether by reason of the acceptance of an allegation made in a statement given under this Article or made in the giving of information under Article 16, or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the court assesses to be the value of the defendant's benefit from any relevant criminal conduct or, as the case may be, proceeds from drug trafficking.

Provision of information by the defendant

16.—(1) Where the prosecution has asked the court to proceed under Article 8(1)(a), or the court is proceeding under Article 8(1)(b), or is considering whether so to proceed for the purpose of obtaining information to assist it in carrying out its functions under this Order, the court may at any time order the defendant to give it such information as may be specified in the order.

(2) An order under paragraph (1) may require all, or any specified part, of the required information to be given to the court in such manner, and before such date, as may be specified in the order.

(3) Crown Court rules or magistrates' courts rules may make provision as to the maximum or minimum period that may be allowed under paragraph (2).

(4) If the defendant fails, without reasonable excuse, to comply with any order under this Article, the court may draw such inference from that failure as it considers appropriate.

(5) Where the prosecution accepts to any extent any allegation made by the defendant in giving to the court information required by an order under this Article, the court may treat that acceptance as conclusive of the matter to which it relates.

(6) For the purposes of this Article, an allegation may be accepted in such manner as may be prescribed by Crown Court rules or magistrates' courts rules or as the court may direct.