

SCHEDULE

Rule 2(b).

“Part VII

Applications under the Proceeds of Crime (Northern Ireland) Order 1996

Interpretation

51. In this Part of these Rules:—

“the 1996 Order” means the Proceeds of Crime (Northern Ireland) Order 1996(1); an Article referred to by number is a reference to the Article so numbered in the 1996 Order; and expressions which are defined in the 1996 Order have the same meaning as in the 1996 Order.

Statements, etc in connection with the making of confiscation orders under the 1996 Order

52.—(1) Where a defendant has been convicted of an offence to which the 1996 Order applies and the prosecutor or the defendant is required, or proposes, to give to the Court any statement or other document under Article 15 (Provision of information by the prosecution) or Article 16 (Provision of information by the defendant) he shall serve it within such time as the Court may direct on the chief clerk and at the same time serve a copy thereof on the opposite party.

(2) Any statement given to the Court by the prosecutor or the defendant under Article 15 or 16 shall include the following particulars—

- (a) the name of the defendant and the Crown Court case number;
- (b) the name of the person by whom the statement is given and, if different, the name of the person by whom it is made;
- (c) the date on which the conviction for the offence occurred; and
- (d) the facts relied on in support of any allegation made or matter indicated.

(3) Where in accordance with Article 15(3) the defendant is required to indicate the extent to which he accepts any allegation contained within a statement given by the prosecutor, he must indicate so in writing to the chief clerk, and at the same time serve a copy on the prosecutor.

(4) Where the prosecutor intends to indicate the extent to which he accepts any allegation contained within a statement given by the defendant under Article 15 or 16, he must indicate so in writing to the chief clerk, and at the same time serve a copy on the defendant.

Application for increase in term of imprisonment in default of payment

53.—(1) The following provisions of this rule shall have effect for the purposes of applications under Article 14(2).

(2) Notice of application under Article 14(2) to increase the term of imprisonment or detention fixed in default of payment of the confiscation order by a person (“the defendant”) shall be made by the prosecutor in writing to the chief clerk at the place where the confiscation order was made.

(3) The notice under paragraph (2) shall—

- (a) state the name and address of the defendant;

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- (b) specify the grounds of the application;
 - (c) give details of any enforcement measures taken;
 - (d) include a copy of the confiscation order.
- (4) On receiving a notice under paragraph (2) the chief clerk shall—
- (a) forthwith send to the defendant a copy of the said notice; and
 - (b) notify in writing the applicant and the defendant of the date, time and place appointed for the hearing of the application.
- (5) Where the Court makes an order pursuant to an application under Article 14(2), the chief clerk shall forthwith send a copy of the order—
- (a) to the applicant;
 - (b) to the defendant;
 - (c) where the defendant is in custody at the time of the making of the order, to the person having custody of him.

Investigations — discharge and variation of order

54.—(1) Where an order has been made under Article 50(2), the person required to comply with the order may apply to the county court judge who made the order or, where that judge is not available, to any other county court judge, to have the order discharged or varied.

(2) An application under paragraph (1) shall be made in writing, setting out the grounds of the application and shall be served on—

- (a) the chief clerk of the county court division in which the material the subject of the order is situated; and
- (b) the constable who obtained the order.

(3) The application may be determined by the judge either with or without a hearing and if a hearing is directed the chief clerk shall notify the parties of the time and place of the hearing.

Postponement of confiscation orders

54A.—(1) Notice of application by the defendant or prosecutor under Article 11(5) asking the Court to exercise its powers under Article 11(1) or (4), shall be made in writing to the chief clerk of the Court at the place where the defendant was convicted.

(2) On receiving a notice under paragraph (1), the chief clerk shall forthwith send a copy of the notice to the opposite party who shall within 28 days notify the applicant and the chief clerk, in writing, whether or not he proposes to oppose the application, giving the reason for any such opposition.

(3) After the expiry of the period referred to in paragraph (2), the Court shall determine whether an application under paragraph (1) is to be dealt with—

- (a) without a hearing, or
- (b) at a hearing at which the parties may be represented,

and the chief clerk, shall inform the parties accordingly.

(4) Where the Court makes an order pursuant to an application under Article 11(5), the chief clerk shall forthwith send a copy of the order to the applicant and to the other party.

Confiscation — revised assessments

54B.—(1) A notice of application by the prosecutor under Article 17, 18 or 19, shall be made in writing to the chief clerk of the Court at the place where the defendant was convicted.

(2) The notice under paragraph (1) shall—

- (a) state the name of the defendant and the Crown Court case number;
- (b) give the date on which any relevant conviction occurred;
- (c) give the date on which any relevant confiscation order was made or, as the case may be, varied;
- (d) specify the grounds on which the application is made; and
- (e) give an indication of the evidence available to support the application.

(3) On receiving a notice under paragraph (1) the chief clerk shall—

- (a) forthwith send to the defendant a copy of the said notice, and
- (b) notify in writing the applicant and the defendant of the date, time and place appointed for the hearing of the application.

(4) Where the Court makes an order pursuant to an application under Article 17, 18 or 19, the chief clerk shall forthwith send a copy of the order to the applicant and to the defendant.

Compensation where absconder is acquitted

54C. Where the Court cancels a confiscation order under Article 27, the chief clerk shall give notice to that effect to the Master (Queen’s Bench and Appeals) in the High Court.”