



Criminal Justice Act 1993

1993 CHAPTER 36

PART IV

FINANCING ETC. OF TERRORISM

Amendments of the 1991 Act

42 Defendant who has died or absconded

The following section shall be inserted in the Northern Ireland (Emergency Provisions) Act 1991, after section 52A—

“52B Powers of High Court where defendant has died or absconded

- (1) Subsection (2) below applies where a person has been convicted of a relevant offence.
- (2) If the prosecution asks it to proceed under this section, the High Court may exercise the powers of the Crown Court under this Act to make a confiscation order against the defendant if satisfied that the defendant has died or absconded.
- (3) Subsection (4) below applies where proceedings have been instituted against the defendant for one or more relevant offences but have not been concluded.
- (4) If the prosecution asks it to proceed under this section, the High Court, if satisfied that the defendant has absconded, may exercise the powers of the Crown Court under this Act to make a confiscation order against the defendant as if the defendant had been convicted of the relevant offence or each of the relevant offences for which the proceedings had been instituted.
- (5) The power conferred by subsection (4) above may not be exercised at any time before the end of the period of two years beginning with the date which is, in the opinion of the court, the date on which the defendant absconded.

Status: This is the original version (as it was originally enacted).

- (6) Where the prosecution makes an application to the court under this section it shall, on making the application, give the court a statement under section 52 above.
- (7) In any proceedings on an application under this section—
- (a) sections 51, 52(1C), (2) and (3) and 52A above shall not apply,
 - (b) the court shall not make a confiscation order against a person who has absconded unless it is satisfied that the prosecution has taken reasonable steps to contact him, and
 - (c) any person appearing to the court to be likely to be affected by the making of a confiscation order by the court shall be entitled to appear before the court and make representations.
- (8) Where the High Court has made a confiscation order by virtue of this section, in a case where the defendant has been or is subsequently convicted of one or more of the offences concerned, sections 47 and 48(1) to (5) and (7) above shall not apply in respect of his conviction of that offence or those offences; but any court dealing with him in respect of that conviction or any of those convictions—
- (a) shall take account of the order before—
 - (i) imposing any fine on him; or
 - (ii) making any order involving any payment by him, other than an order under Article 3 of the Criminal Justice (Northern Ireland) Order 1980 (compensation orders); or
 - (iii) making any order under Article 7 of that Order (deprivation orders),but subject to that shall leave the order out of account in determining the appropriate sentence or other manner of dealing with him; and
 - (b) if it makes an order for the payment of compensation under Article 3 of the Order of 1980, and is of the opinion that the defendant will not have sufficient means to satisfy both that order and the confiscation order in full, shall direct that so much of the compensation as will not in its opinion be recoverable because of the insufficiency of his means is to be paid out of any sums recovered under the confiscation order.”.