Proceeds of Crime (Scotland) Act 1995

1995 CHAPTER 43

PART I

CONFISCATION OF THE PROCEEDS OF CRIME

Confiscation orders

3 Assessing the proceeds of drug trafficking

(1) For the purposes of this Act—

(a) any payments or other rewards received by a person at any time (whether before or after the commencement of this Act) in connection with drug trafficking carried on by him or another are his proceeds of drug trafficking, and

(b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

(2) Without prejudice to section 9 of this Act the court may, in making an assessment as regards a person under section 1(5) of this Act, make the following assumptions, except in so far as any of them may be shown to be incorrect in that person's case—

(a) that any property appearing to the court—

(i) to have been held by him at any time since his conviction; or, as the case may be,

(ii) to have been transferred to him at any time since a date six years before his being indicted, or being served with the complaint,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him;

(b) that any expenditure of his since the date mentioned in paragraph (a)(ii) above was met out of payments received by him in connection with drug trafficking carried on by him, and

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interests in it.

(3) Subsection (2) above does not apply if the only offence by virtue of which the assessment is being made is an offence under section 14 of the Criminal Justice (International Co-operation) Act 1990 or section 37 or 38 of the Criminal Law (Consolidation) (Scotland) Act 1995.

(4) The court shall, in making an assessment as regards a person under section 1(5) of this Act, leave out of account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in a case where a confiscation order (whether under this Act or under and within the meaning of—

(a) section 2 of the 1994 Act; or

(b) any corresponding provision in Northern Ireland),

has previously been made against him.