



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 3

CONFISCATION: SCOTLAND

Reconsideration

108 Inadequacy of available amount: variation of order

- (1) This section applies if—
 - (a) a court has made a confiscation order, and
 - (b) the accused or the prosecutor applies to the court to vary the order under this section.
- (2) In such a case the court must calculate the available amount and in doing so it must apply section 95 as if references to the time the confiscation order is made were to the time of the calculation and as if references to the date of the confiscation order were to the date of the calculation.
- (3) If the court finds that the available amount (as so calculated) is inadequate to meet the amount remaining to be paid it may vary the order by substituting for the amount required to be paid such smaller amount as the court believes is just.
- (4) If a person's estate has been sequestrated or he has been adjudged bankrupt, or if an order for the winding up of a company has been made, the court must take into account the extent to which realisable property held by him or by the company may be distributed among creditors.
- (5) The court may disregard any inadequacy which it thinks is attributable (wholly or partly) to anything done by the accused for the purpose of preserving property held by the recipient of a tainted gift from any risk of realisation under this Part.
- (6) In subsection (4) "company" means any company which may be wound up under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).