



Criminal Justice Act 1993

1993 CHAPTER 36

PART IV

FINANCING ETC. OF TERRORISM

Amendments of the 1991 Act

41 Availability of powers and satisfaction of orders

- (1) Schedule 4 to the Northern Ireland (Emergency Provisions) Act 1991 (supplementary provisions about confiscation orders) shall be amended as follows.
- (2) In paragraph 2 (application of procedure for enforcing fines), the following shall be added at the end—
 - “(6) Where the defendant serves a term of imprisonment or detention in default of paying any amount due under a confiscation order, his serving that term does not prevent the confiscation order from continuing to have effect, so far as any other method of enforcement is concerned.”.
- (3) In paragraph 4 (cases in which restraint orders and charging orders may be made), the following sub-paragraphs shall be substituted for sub-paragraphs (1) and (2)—
 - “(1) The powers conferred on the High Court by paragraphs 5(1) and 6(1) below are exercisable where—
 - (a) proceedings have been instituted in Northern Ireland against the defendant for a relevant offence or an application has been made by the prosecution in respect of the defendant under section 48A, 48B or 52B of this Act or paragraph 11 below,
 - (b) the proceedings have not, or the application has not, been concluded, and
 - (c) the court is satisfied that there is reasonable cause to believe—
 - (i) in the case of an application under section 48B of this Act or paragraph 11 below, that the court will be satisfied as

Status: This is the original version (as it was originally enacted).

- mentioned in section 48B(4) of this Act or, as the case may be, paragraph 11(1)(b) below, or
- (ii) in any other case, that the defendant has benefited from terrorist-related activities.
- (2) Those powers are also exercisable where—
- (a) the High Court is satisfied that, whether by the making of a complaint or otherwise, a person is to be charged with a relevant offence or that an application of a kind mentioned in sub-paragraph (1)(a) above is to be made in respect of the defendant, and
 - (b) it appears to the court that there is reasonable cause to believe—
 - (i) in the case of a proposed application under section 48B of this Act or paragraph 11 below, that the court will be satisfied as mentioned in section 48B(4) of this Act or, as the case may be, paragraph 11(1)(b) below, or
 - (ii) in any other case, that the defendant has benefited from terrorist-related activities.”.
- (4) The following sub-paragraphs shall be added at the end of paragraph 4—
- “(5) Where the court has made an order under paragraph 5(1) or 6(1) below in relation to a proposed application, by virtue of sub-paragraph (2) above, the court shall discharge the order if the application is not made within such time as the court considers reasonable.
- (6) The court shall not exercise powers under paragraph 5(1) or 6(1) below, by virtue of sub-paragraph (1) above, if it is satisfied that—
- (a) there has been undue delay in continuing the proceedings or application in question; or
 - (b) the prosecution does not intend to proceed.”.

(5) In paragraph 5 (restraint orders), the following sub-paragraph shall be substituted for sub-paragraph (6)—

“(6) A restraint order—

 - (a) may be discharged or varied in relation to any property, and
 - (b) shall be discharged on the conclusion of the proceedings or of the application in question.”.

(6) In paragraph 6 (charging orders), the following sub-paragraph shall be substituted for sub-paragraph (6)—

“(6) In relation to a charging order the court—

 - (a) may make an order discharging or varying it, and
 - (b) shall make an order discharging it—
 - (i) on the conclusion of the proceedings or of the application in question, or
 - (ii) on payment into court of the amount payment of which is secured by the charge.”.

(7) In paragraph 10 (realisation of property), the following sub-paragraph shall be substituted for sub-paragraph (1)—

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

- “(1) Where a confiscation order—
- (a) has been made under this Act,
 - (b) is not satisfied, and
 - (c) is not subject to appeal,
- the High Court may, on an application by the prosecution, exercise the powers conferred by sub-paragraphs (2) to (6) below.”.
- (8) In paragraph 16 (bankruptcy of defendant), the following shall be substituted for paragraphs (a) and (b) of sub-paragraph (6)—
- “(a) no order shall be made under Article 312 or 367 of the said Order of 1989 (avoidance of certain transactions) in respect of the making of the gift at any time when—
- (i) proceedings for a relevant offence have been instituted against him and have not been concluded;
 - (ii) an application has been made in respect of the defendant under section 48A, 48B or 52B of this Act or paragraph 11 below and has not been concluded; or
 - (iii) property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under either of those Articles after the conclusion of the proceedings or of the application shall take into account any realisation under this Schedule of property held by the person to whom the gift was made.”.
- (9) In paragraph 1 (interpretation), the following sub-paragraphs shall be substituted for sub-paragraph (3)—
- “(3) Proceedings for a relevant offence are concluded—
- (a) when the defendant is acquitted;
 - (b) if he is convicted, but the court decides not to make a confiscation order against him, when it makes that decision; or
 - (c) if a confiscation order is made against him in those proceedings, when the order is satisfied.
- (3A) An application under section 48A or 52B of this Act is concluded—
- (a) if the court decides not to make a confiscation order against the defendant, when it makes that decision; or
 - (b) if a confiscation order is made against him as a result of that application, when the order is satisfied.
- (3B) An application under section 48B of this Act or paragraph 11 below is concluded—
- (a) if the court decides not to vary the confiscation order in question, when it makes that decision; or
 - (b) if the court varies the confiscation order as a result of the application, when the order is satisfied.
- (3C) For the purposes of this Schedule, a confiscation order is satisfied when no amount is due under it.
- (3D) For the purposes of paragraph 16 below, a confiscation order is also satisfied when the defendant in respect of whom it was made has served

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

a term of imprisonment or detention in default of payment of the amount due under the order.”.