
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Further proceedings in connection with confiscation orders

Reconsideration of cases where proceeds of crime not assessed

17.—(1) If, in any case where a person has been convicted of an offence to which this Order applies but the Crown Court or, as the case may be, the court of summary jurisdiction has not proceeded under Article 8, the prosecution has evidence—

- (a) which, at the date of conviction or, if later, when any determination not to proceed under Article 8 was made, was not available to the prosecution (and, accordingly, was not considered by the court);
- (b) but which the prosecution believes would have led the court to determine that the defendant had benefited from relevant criminal conduct or, as the case may be, drug trafficking, if—
 - (i) the prosecution had asked the court to proceed under Article 8(1)(a), and
 - (ii) the evidence had been considered by the court,

the prosecution may apply to the relevant court for it to consider the evidence.

(2) If, having considered the evidence, the relevant court is satisfied, having regard to all the circumstances of the case, that it is appropriate to do so, it shall proceed under Article 8 and Article 11 shall apply accordingly.

(3) Where, having decided to proceed under Article 8, the relevant court—

- (a) in a case of an offence of a relevant description, determines that the defendant did benefit from relevant criminal conduct—
 - (i) Article 8(2) shall not apply with respect to the amount to be recovered in that case; but
 - (ii) that court may make a confiscation order ordering the defendant to pay such amount as the court thinks fit, being an amount which shall not exceed the amount which the court would have ordered under Article 8(2) if that paragraph had applied;
- (b) in the case of a drug trafficking offence, proposes to make a confiscation order against the defendant, it shall order the payment of such amount as it thinks just in all the circumstances of the case.

(4) In considering the circumstances of any case the relevant court shall have regard, in particular, to—

- (a) any fine imposed on the defendant in respect of any relevant criminal conduct or, as the case may be, the offence or offences in question; and

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- (b) any order made in connection with the offence or offences under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (compensation orders).