



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

Enforcement, etc. of confiscation orders

76 Cases in which restraint orders and charging orders may be made

- (1) The powers conferred on the High Court by sections 77(1) and 78(1) below are exercisable where—
 - (a) proceedings have been instituted in England and Wales against the defendant for an offence to which this Part of this Act applies;
 - (b) the proceedings have not been concluded; and
 - (c) either a confiscation order has been made or it appears to the court that there are reasonable grounds for thinking that a confiscation order may be made in them.
- (2) Those powers are also exercisable where—
 - (a) the court is satisfied that, whether by the laying of an information or otherwise, a person is to be charged with an offence to which this Part of this Act applies; and
 - (b) it appears to the court that a confiscation order may be made in proceedings for the offence.
- (3) For the purposes of sections 77, 78 and 92 below at any time when those powers are exercisable before proceedings have been instituted—
 - (a) references in this Part of this Act to the defendant shall be construed as references to the person referred to in subsection (2)(a) above;
 - (b) references in this Part of this Act to the prosecutor shall be construed as references to the person who the High Court is satisfied is to have the conduct of the proposed proceedings; and

Status: This is the original version (as it was originally enacted).

- (c) references in this Part of this Act to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) above for an offence to which this Part of this Act applies.
- (4) Where the court has made an order under section 77(1) or 78(1) below by virtue of subsection (2) above, the court shall discharge the order if proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise) within such time as the court considers reasonable.