



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART VI

#### CONFISCATION OF THE PROCEEDS OF AN OFFENCE

##### *Enforcement, etc. of confiscation orders*

#### **81 Application of proceeds of realisation and other sums**

- (1) Subject to subsection (2) below, the following sums in the hands of a receiver appointed under this Part of this Act or in pursuance of a charging order, that is—
- the proceeds of the enforcement of any charge imposed under section 78 above;
  - the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 77 or 80 above; and
  - any other sums, being property held by the defendant;

shall first be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 87(2) below and then shall, after such payments (if any) as the High Court may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

- (2) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute them—
- among such of those who held property which has been realised under this Part of this Act, and
  - in such proportions,

as the High Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

- (3) The receipt of any sum by a justices' clerk on account of an amount payable under a confiscation order shall reduce the amount so payable, but the justices' clerk shall apply the money received for the purposes specified in this section and in the order so specified.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The justices' clerk shall first pay any expenses incurred by a person acting as an insolvency practitioner and payable under section 87(2) below but not already paid under subsection (1) above.
- (5) If the money was paid to the justices' clerk by a receiver appointed under this Part of this Act or in pursuance of a charging order, the justices' clerk shall next pay the receiver's remuneration and expenses.
- (6) After making—
  - (a) any payment required by subsection (4) above; and
  - (b) in a case to which subsection (5) above applies, any payment required by that subsection,the justices' clerk shall reimburse any amount paid under section 88(2) below.
- (7) The justices' clerk shall finally pay any compensation directed to be paid out of any sums recovered under the confiscation order under section 72(7) above.
- (8) Any balance in the hands of the justices' clerk after he has made all payments required by the foregoing provisions of this section shall be treated for the purposes of section 61 of the Justices of the Peace Act 1979 (application of fines, etc.) as if it were a fine imposed by a magistrates' court.
- (9) Where under subsection (3) above a sum falls to be applied in payment both of compensation and of other outgoings—
  - (a) the person entitled to the compensation shall be liable to pay to the Secretary of State such an amount as bears to the remuneration or expenses the same proportion as the amount payable in accordance with the direction under section 72(7) above bears to the total amount payable under the confiscation order;
  - (b) the justices' clerk shall deduct from the amount falling to be applied in payment of the compensation an amount equal to the amount of any liability arising by virtue of paragraph (a) above;
  - (c) notwithstanding the deduction under paragraph (b) above, the person entitled to the compensation shall be treated as having received the whole amount which falls to be applied in payment of it; and
  - (d) the amount deducted shall be treated for the purposes of section 61 of the Justices of the Peace Act 1979 as if it were a fine imposed by a magistrates' court.
- (10) In this section, "justices' clerk" has the same meaning as in the Justices of the Peace Act 1979.