

*These notes refer to the Proceeds of Crime Act 2002
(c.29) which received Royal Assent on 24 July 2002*

PROCEEDS OF CRIME ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Confiscation: Northern Ireland

Reconsideration

Section 174: Inadequacy of available amount: discharge of order

239. As in England and Wales under current legislation, there is no provision for writing off a confiscation order. The same practical difficulties outlined elsewhere in the explanatory notes clearly equally apply in Northern Ireland. However there are no justices' chief executives in Northern Ireland nor are Crown Court orders enforced through the magistrates' courts. Accordingly the section is drafted to reflect the operational circumstances in Northern Ireland.
240. *Section 174* therefore provides that, the prosecutor enforcing a confiscation order, may apply to the Crown Court to write the order off if the outstanding sum is under £1,000 and the reason for the shortfall is a fluctuation in exchange rates or some other factor specified in secondary legislation, or some combination of the two. No similar provision is available where the Director is enforcing a confiscation order because enforcement by the Director will always involve the appointment of a receiver, who will be able to apply to the Crown Court under *section 173*.