



Criminal Justice Act 1993

1993 CHAPTER 36

PART III

PROCEEDS OF CRIMINAL CONDUCT

Confiscation orders

27 Confiscation orders

- (1) Section 71 of the Criminal Justice Act 1988 (confiscation orders) shall be amended as follows.
- (2) The following subsection shall be inserted after subsection (7)—
 - “(7A) The standard of proof required to determine any question arising under this Part of this Act as to—
 - (a) whether a person has benefited as mentioned in subsection (2)(b)(i) above;
 - (b) whether his benefit is at least the minimum amount; or
 - (c) the amount to be recovered in his case by virtue of section 72 below, shall be that applicable in civil proceedings.”.
- (3) The following subsection shall be inserted at the end—
 - “(10) Subsection (9) above is subject to section 93E below.”.

28 Postponed determinations

The following section shall be inserted in the Criminal Justice Act 1988, after section 72—

Status: This is the original version (as it was originally enacted).

“72A Postponed determinations

- (1) Where a court is acting under section 71 above but considers that it requires further information before—
 - (a) determining whether the defendant has benefited as mentioned in section 71(2)(b)(i) above;
 - (b) determining whether his benefit is at least the minimum amount; or
 - (c) determining the amount to be recovered in his case by virtue of section 72 above,it may, for the purpose of enabling that information to be obtained, postpone making that determination for such period as it may specify.
- (2) More than one postponement may be made under subsection (1) above in relation to the same case.
- (3) Unless it is satisfied that there are exceptional circumstances, the court shall not specify a period under subsection (1) above which—
 - (a) by itself; or
 - (b) where there have been one or more previous postponements under subsection (1) above or (4) below, when taken together with the earlier specified period or periods,exceeds six months beginning with the date of conviction.
- (4) Where the defendant appeals against his conviction, the court may, on that account—
 - (a) postpone making any of the determinations mentioned in subsection (1) above for such period as it may specify; or
 - (b) where it has already exercised its powers under this section to postpone, extend the specified period.
- (5) A postponement or extension under subsection (1) or (4) above may be made—
 - (a) on application by the defendant or the prosecutor; or
 - (b) by the court of its own motion.
- (6) Unless the court is satisfied that there are exceptional circumstances, any postponement or extension under subsection (4) above shall not exceed the period ending three months after the date on which the appeal is determined or otherwise disposed of.
- (7) Where the court exercises its power under subsection (1) or (4) above, it may nevertheless proceed to sentence, or otherwise deal with, the defendant in respect of the offence or any of the offences concerned.
- (8) Where the court has so proceeded, section 72 above shall have effect as if—
 - (a) in subsection (4), the words from “before sentencing” to “offences concerned” were omitted; and
 - (b) in subsection (5), after “determining” there were inserted “in relation to any offence in respect of which he has not been sentenced or otherwise dealt with”.

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

- (9) In sentencing, or otherwise dealing with, the defendant in respect of the offence, or any of the offences, concerned at any time during the specified period, the court shall not—
- (a) impose any fine on him; or
 - (b) make any such order as is mentioned in section 72(5)(b) or (c) above.
- (10) In this section, references to an appeal include references to an application under section 111 of the Magistrates' Courts Act 1980 (statement of case by magistrates' court).
- (11) In this section “the date of conviction” means—
- (a) the date on which the defendant was convicted of the offence concerned, or
 - (b) where he was convicted in the same proceedings, but on different dates, of two or more offences which may be taken together for the purposes of subsection (2) or, as the case may be, (3) of section 71 above, the date of the latest of those convictions.”.