



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

71 Confiscation orders

- (1) The Crown Court and a magistrates' court shall each have power, in addition to dealing with an offender in any other way, to make an order under this section requiring him to pay such sum as the court thinks fit.
- (2) The Crown Court may make such an order against an offender where—
 - (a) he is found guilty of any offence to which this Part of this Act applies; and
 - (b) it is satisfied—
 - (i) that he has benefited from that offence or from that offence taken together with some other offence of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence, and which is not a drug trafficking offence; and
 - (ii) that his benefit is at least the minimum amount.
- (3) A magistrates' court may make such an order against an offender where—
 - (a) he is convicted of an offence listed in Schedule 4 to this Act; and
 - (b) it is satisfied—
 - (i) that he has benefited from that offence or from that offence taken together with some other offence listed in that Schedule of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence; and
 - (ii) that his benefit is at least the minimum amount.
- (4) For the purposes of this Part of this Act a person benefits from an offence if he obtains property as a result of or in connection with its commission and his benefit is the value of the property so obtained.

Status: This is the original version (as it was originally enacted).

- (5) Where a person derives a pecuniary advantage as a result of or in connection with the commission of an offence, he is to be treated for the purposes of this Part of this Act as if he had obtained as a result of or in connection with the commission of the offence a sum of money equal to the value of the pecuniary advantage.
- (6) The sum which an order made by a court under this section requires an offender to pay must be at least the minimum amount, but must not exceed—
- (a) the benefit in respect of which it is made; or
 - (b) the amount appearing to the court to be the amount that might be realised at the time the order is made,
- whichever is the less.
- (7) For the purposes of this Part of this Act the minimum amount is £10,000 or such other amount as the Secretary of State may specify by order made by statutory instrument.
- (8) A statutory instrument containing an order made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this Part of this Act—
- (a) an order made by a court under this section is referred to as a “confiscation order”;
 - (b) “drug trafficking offence” has the same meaning as in the Drug Trafficking Offences Act 1986;
 - (c) references to an offence to which this Part of this Act applies are references to any offence which—
 - (i) is listed in Schedule 4 to this Act; or
 - (ii) if not so listed, is an indictable offence, other than a drug trafficking offence; and
 - (d) a person against whom proceedings have been instituted for an offence to which this Part of this Act applies is referred to (whether or not he has been convicted) as “the defendant”.