



Criminal Justice (International Co-operation) Act 1990

1990 CHAPTER 5

PART II

THE VIENNA CONVENTION

Proceeds of drug trafficking

14 Concealing or transferring proceeds of drug trafficking

- (1) A person is guilty of an offence if he—
 - (a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking; or
 - (b) converts or transfers that property or removes it from the jurisdiction, for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order.
- (2) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he—
 - (a) conceals or disguises that property; or
 - (b) converts or transfers that property or removes it from the jurisdiction, for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order.
- (3) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires that property for no, or for inadequate, consideration.

Status: This is the original version (as it was originally enacted).

- (4) In subsections (1)(a) and (2)(a) above the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
- (5) For the purposes of subsection (3) above consideration given for any property is inadequate if its value is significantly less than the value of that property, and there shall not be treated as consideration the provision for any person of services or goods which are of assistance to him in drug trafficking.
- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both.

15 Interest on sums unpaid under confiscation orders

- (1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid (whether forthwith on the making of the order or at a time specified under section 31(1) of the Powers of Criminal Courts Act 1973 or under section 396(1) of the Criminal Procedure (Scotland) Act 1975) that person shall be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.
- (2) The Crown Court or, in Scotland, the sheriff may, on the application of the prosecutor, increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the said Act of 1973 (imprisonment in default of payment) or under subsection (2) of section 396 of the said Act of 1975 (which makes similar provision for Scotland) if the effect of subsection (1) above is to increase the maximum period applicable in relation to the order under subsection (3A) of the said section 31 or under section 407(1A) of the said Act of 1975.
- (3) The rate of interest under subsection (1) above shall be that for the time being applying to a civil judgment debt under section 17 of the Judgments Act 1838 and in Scotland shall be the rate applicable to an award of damages in the Court of Session.

16 Increase in realisable property

- (1) This section has effect where by virtue of section 4(3) of the Drug Trafficking Offences Act 1986 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.
- (2) If, on an application made in accordance with subsection (3) below, the High Court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.
- (3) An application under subsection (2) above may be made either by the prosecutor or by a receiver appointed under the said Act of 1986 in relation to the realisable property of the person in question.

- (4) Where a certificate has been issued under subsection (2) above the prosecutor may apply to the Crown Court for an increase in the amount to be recovered under the confiscation order; and on that application the court may—
- (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
 - (b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the Powers of Criminal Courts Act 1973 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (3A) of that section.

17 Increase in realisable property: Scotland

- (1) This section has effect where by virtue of section 1(1)(b) of the Criminal Justice (Scotland) Act 1987 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.
- (2) If, on an application made in accordance with subsection (3) below, the Court of Session is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.
- (3) An application under subsection (2) above may be made either by the prosecutor or by an administrator appointed under section 13(1) of the said Act of 1987 in relation to the realisable property of the person in question.
- (4) Where a certificate has been issued under subsection (2) above the prosecutor may apply to the High Court of Justiciary for an increase in the amount to be recovered under the confiscation order; and on that application the court may—
- (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
 - (b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 396 of the Criminal Procedure (Scotland) Act 1975 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (1A) of section 407 of that Act.