



Drug Trafficking Act 1994

1994 CHAPTER 37

PART I

CONFISCATION ORDERS

Confiscation orders

2 Confiscation orders

- (1) Subject to subsection (7) below, where a defendant appears before the Crown Court to be sentenced in respect of one or more drug trafficking offences (and has not previously been sentenced or otherwise dealt with in respect of his conviction for the offence or, as the case may be, any of the offences concerned), then—
 - (a) if the prosecutor asks the court to proceed under this section, or
 - (b) if the court considers that, even though the prosecutor has not asked it to do so, it is appropriate for it to proceed under this section,it shall act as follows.
- (2) The court shall first determine whether the defendant has benefited from drug trafficking.
- (3) For the purposes of this Act, a person has benefited from drug trafficking if he has at any time (whether before or after the commencement of this Act) received any payment or other reward in connection with drug trafficking carried on by him or another person.
- (4) If the court determines that the defendant has so benefited, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 5 of this Act the amount to be recovered in his case by virtue of this section.
- (5) The court shall then, in respect of the offence or offences concerned—
 - (a) order the defendant to pay that amount;
 - (b) take account of the order before—

Status: This is the original version (as it was originally enacted).

- (i) imposing any fine on him;
 - (ii) making any order involving any payment by him; or
 - (iii) making any order under section 27 of the Misuse of Drugs Act 1971 (forfeiture orders) or section 43 of the Powers of Criminal Courts Act 1973 (deprivation orders); and
 - (c) subject to paragraph (b) above, leave the order out of account in determining the appropriate sentence or other manner of dealing with him.
- (6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of an order under this section restrict the Crown Court from dealing with an offender in any way the court considers appropriate in respect of a drug trafficking offence.
- (7) Subsection (1) above does not apply in relation to any offence for which a defendant appears before the Crown Court to be sentenced if—
- (a) he has been committed to the Crown Court for sentence in respect of that offence under section 37(1) of the Magistrates' Courts Act 1980 (committal to Crown Court with a view to sentence of detention in a young offender institution); or
 - (b) the powers of the court (apart from this section) to deal with him in respect of that offence are limited to dealing with him in any way in which a magistrates' court might have dealt with him in respect of the offence.
- (8) The standard of proof required to determine any question arising under this Act as to—
- (a) whether a person has benefited from drug trafficking, or
 - (b) the amount to be recovered in his case by virtue of this section,
- shall be that applicable in civil proceedings.
- (9) In this Act “confiscation order” means an order under this section and includes, in particular, such an order made by virtue of section 13, 14 or 19 of this Act.