
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Further proceedings in connection with confiscation orders

Provisions supplementary to Articles 17,18 and 19

20.—(1) In this Article “application” means an application under Article 17, 18 or 19.

(2) Where, on an application under Article 17 or 18, the prosecution asks the court to apply the provisions of Article 9, that Article shall apply (subject to paragraph (3)) to any determination on the application as if it were a determination in proceedings to which Article 9(1) applies.

(3) For the purposes of any determination to which Article 9 applies by virtue of paragraph (2), or for the purposes of any assessment on an application under Article 19 in any case to which Article 9 applies, none of the assumptions specified in Article 9(2) shall be made in relation to any property unless it is property held by or transferred to the defendant on or after the date of conviction.

(4) On an application the relevant court may take into account any payment or other reward received by the defendant on or after the date of conviction, the original determination or the current assessment, as the case may require, but only—

- (a) in a case of an offence of a relevant description, to the extent that they represent respects in which the defendant has benefited from any relevant criminal conduct; and
- (b) in a case of a drug trafficking offence, if the prosecution shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(5) In considering under this Article in a case of a drug trafficking offence, any evidence which relates to any payment or reward to which paragraph (4) applies, the court shall not make the assumptions which would otherwise be required by Article 10.

(6) No application shall be entertained by a court if it is made after the end of the period of 6 years from the date of conviction.

(7) Article 11 shall apply where the court is acting on an application as it applies where the court is acting under Article 8.

(8) Articles 15 and 16 shall apply where the prosecution makes an application as they apply where the prosecution asks the court to proceed under Article 8(1), but—

- (a) as if any reference in Article 15(1) to Article 9 were a reference to paragraph (2); and
- (b) as if any reference in Article 15(10) to the time the confiscation order is made were a reference to the time the order or, as the case may be, the assessment is made on that application.

(9) In Article 17 and this Article “the date of conviction” means—

- (a) in a case not falling within sub-paragraph (b), the date on which the defendant was convicted of the offence in question, or
 - (b) where he was convicted of that offence and one or more other offences in the same proceedings and those convictions were not all on the same date, the date of the latest of those convictions.
- (10) In Articles 17 to 19 and this Article “the relevant court” means—
- (a) where the application is in respect of a conviction, determination or assessment in proceedings before the Crown Court, that Court; and
 - (b) where that conviction, determination or assessment was in proceedings before a court of summary jurisdiction, a court of summary jurisdiction for the same county court division.