



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

73 Statements, etc. relevant to making confiscation orders.

[^{F1}(1) Subsection (1A) below applies in a case where a person has been convicted of an offence of a relevant description if—

- (a) the prosecutor has given written notice to the court for the purposes of subsection (1)(a) of section 71 above; or
- (b) the court is proceeding in pursuance of subsection (1)(b) of that section and requires a statement under this section from the prosecutor.

(1A) Where this subsection applies, the prosecutor shall, within such period as the court may direct, tender to the court a statement as to any matters relevant—

- (a) to determining whether the defendant has benefited from any relevant criminal conduct; or
- (b) to an assessment of the value of the defendant's benefit from that conduct;

and, where such a statement is tendered in a case in which a declaration has been made for the purposes of subsection (1)(b) of section 72AA above, that statement shall also set out all such information available to the prosecutor as may be relevant for the purposes of subsections (4) and (5)(b) or (c) of that section.

(1B) Where a statement is tendered to the court under this section—

- (a) the prosecutor may at any time tender to the court a further statement as to the matters mentioned in subsection (1A) above; and
- (b) the court may at any time require the prosecutor to tender a further such statement within such period as it may direct.

(1C) Where—

- (a) any statement has been tendered to any court by the prosecutor under this section, and

Status: Point in time view as at 01/11/1995. This version of this provision has been superseded.

Changes to legislation: Criminal Justice Act 1988, Section 73 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) the defendant accepts to any extent any allegation in the statement, the court may, for the purpose of determining whether the defendant has benefited from any relevant criminal conduct or of assessing the value of the defendant's benefit from such conduct, treat his acceptance as conclusive of the matters to which it relates.]

(2) Where—

- (a) a statement is tendered [^{F2}by the prosecutor under this section], and
- (b) the court is satisfied that a copy of that statement has been served on the defendant,

the court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with a requirement under subsection (2) above, he may be treated for the purposes of this section as accepting every allegation in the statement apart from—

- (a) any allegation in respect of which he has complied with the requirement; and
- (b) any allegation that he has benefited from an offence or that any property was obtained by him as a result of or in connection with the commission of an offence.

^{F3}(4)

(5) An allegation may be accepted or a matter indicated for the purposes of this section either—

- (a) orally before the court; or
- (b) in writing in accordance with rules of court.

(6) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by an acceptance under this section or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the court assesses to be the value of the defendant's benefit from [^{F4}any relevant criminal conduct.]

[^{F5}(7) Where the court has given a direction under this section, it may at any time vary the direction by giving a further direction.]

Textual Amendments

- F1** S. 73(1)(1A)-(1C) substituted (1.11.1995) by 1995 c. 11, s. 3(1); S.I. 1995/2650, art.2
- F2** Words in s. 73(2)(a) substituted (1.11.1995) by 1995 c. 11, s. 3(2); S.I. 1995/2650, art.2
- F3** S. 73(4) repealed (1.11.1995) by 1995 c. 11, s. 15(4), Sch.2; S.I. 1995/2650, art.2
- F4** Words in s. 73(6) substituted (1.11.1995) by 1995 c. 11, s. 3(3); S.I. 1995/2650, art.2
- F5** S. 73(7) inserted (1.11.1995) by 1995 c. 11, s. 3(4); S.I. 1995/2650, art.2

Status:

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