



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART VI

#### CONFISCATION OF THE PROCEEDS OF AN OFFENCE

##### *Enforcement, etc. of confiscation orders*

#### **78 Charging orders in respect of land, securities, etc.**

- (1) The High Court may make a charging order on realisable property for securing the payment to the Crown—
  - (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged; and
  - (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.
- (2) For the purposes of this Part of this Act, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.
- (3) A charging order—
  - (a) may be made only on an application by the prosecutor;
  - (b) may be made on an ex parte application to a judge in chambers;
  - (c) shall provide for notice to be given to persons affected by the order; and
  - (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.
- (4) Subject to subsection (6) below, a charge may be imposed by a charging order only on—
  - (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Part of this Act—

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*Status: Point in time view as at 01/04/1995. This version of this provision has been superseded.*

**Changes to legislation:** *Criminal Justice Act 1988, Section 78 is up to date with all changes known to be in force on or before 09 September 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)*

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- (i) in any asset of a kind mentioned in subsection (5) below; or
    - (ii) under any trust; or
  - (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.
- (5) The assets referred to in subsection (4) above are—
- (a) land in England and Wales; or
  - (b) securities of any of the following kinds—
    - (i) government stock;
    - (ii) stock of any body (other than a building society) incorporated within England and Wales;
    - (iii) stock of any body incorporated outside England and Wales or of any country or territory outside the United Kingdom, being stock registered in a register kept at any place within England and Wales;
    - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within England and Wales.
- (6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.
- (7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount payment of which is secured by the charge is paid into court.
- (8) An application for the discharge or variation of a charging order may be made by any person affected by it.

**Status:**

Point in time view as at 01/04/1995. This version of this provision has been superseded.

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