

Status: Point in time view as at 01/06/1992.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland (Emergency Provisions) Act 1991 (repealed 25.8.1996), Cross Heading: Application of proceeds of realisation and other sums. (See end of Document for details)

SCHEDULES

SCHEDULE 4

CONFISCATION ORDERS: SUPPLEMENTARY PROVISIONS

Application of proceeds of realisation and other sums

- 12 (1) Subject to sub-paragraph (2) below, the following sums in the hands of a receiver appointed under this Part or in pursuance of a charging order, that is—
- (a) the proceeds of the enforcement of any charge imposed under paragraph 6 above;
 - (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under paragraph 5 or 10 above; and
 - (c) any other sums, being property held by the defendant,
- shall first be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under paragraph 18(2) below and then shall, after such payments (if any) as the High Court may direct have been made out of those proceeds and sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.
- (2) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute them—
- (a) among such of those who held property which has been realised under this Schedule; and
 - (b) in such proportions,
- as the High Court may direct after giving a reasonable opportunity for such persons to make representations to the court.
- (3) The receipt of any sum by the proper officer on account of an amount payable under a confiscation order shall reduce the amount so payable, but the proper officer shall apply the money received for the purposes, and in the order, specified in this paragraph.
- (4) The proper officer shall first pay any expenses incurred by a person acting as an insolvency practitioner and payable under paragraph 18(2) below but not already paid under sub-paragraph (1) above.
- (5) If the money was paid to the proper officer by a receiver appointed under this Schedule or in pursuance of a charging order, the proper officer shall next pay the receiver's remuneration and expenses.
- (6) After making—
- (a) any payment required by sub-paragraph (4) above; and
 - (b) in a case to which sub-paragraph (5) above applies, any payment required by that sub-paragraph,

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the proper officer shall reimburse any amount paid under paragraph 14(2) below.

- (7) The proper officer shall finally pay any compensation directed to be paid out of any sums recovered under the confiscation order under section 48(7) of this Act.
- (8) Any balance in the hands of the proper officer after he has made all payments required by the foregoing provisions of this paragraph shall be treated as a fine for the purposes of section 20 of the ^{M1}Administration of Justice Act (Northern Ireland) 1954 (application of fines).
- (9) Where under sub-paragraph (3) above a sum falls to be applied in payment both of compensation and of other outgoings—
 - (a) the person entitled to the compensation shall be liable to pay into the Consolidated Fund of the United Kingdom such an amount as bears to the remuneration or expenses the same proportion as the amount payable in accordance with the direction mentioned in sub-paragraph (7) above bears to the total amount payable under the confiscation order;
 - (b) the proper officer shall deduct from the amount falling to be applied in payment of the compensation an amount equal to the amount of any liability arising by virtue of paragraph (a) above;
 - (c) notwithstanding the deduction under paragraph (b) above, the person entitled to compensation shall be treated as having received the whole of the amount which falls to be applied in payment of it; and
 - (d) the amount deducted shall be treated as a fine for the purposes of section 20 of the Administration of Justice Act (Northern Ireland) 1954.
- (10) In this paragraph “the proper officer” means the appropriate officer of the Crown Court.

Marginal Citations

M1 1954 c. 9 (N.I.).

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