

Status: Point in time view as at 01/06/1992.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legislation: There are currently no known outstanding effects for the Northern Ireland (Emergency Provisions) Act 1991 (repealed 25.8.1996), Cross Heading: Charging orders in respect of land, securities, etc.. (See end of Document for details)

SCHEDULES

SCHEDULE 4

CONFISCATION ORDERS: SUPPLEMENTARY PROVISIONS

Charging orders in respect of land, securities, etc.

- 6 (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) A charging order—
- (a) may be made—
 - (i) where it is applied for before the defendant is convicted of the offence, only on the application of an officer of the Royal Ulster Constabulary not below the rank of superintendent; and
 - (ii) otherwise, only on the application of the prosecution;
 - (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.
- (3) Subject to sub-paragraph (5) 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 Part VII of this Act—
 - (i) in any asset of a kind mentioned in sub-paragraph (4) 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.
- (4) The assets referred to in sub-paragraph (3) above are—
- (a) land in Northern Ireland; or
 - (b) securities of any of the following kinds—
 - (i) government funds or stock;
 - (ii) stock of any body incorporated within Northern Ireland (other than a building society);

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- (iii) stock of any body incorporated outside Northern Ireland (other than a building society incorporated in Great Britain) or of any country or territory outside the United Kingdom, being stock registered in a register kept at any place within Northern Ireland;
 - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within Northern Ireland.
- (5) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in sub-paragraph (4)(b) above, the High Court may provide for the charge to extend to any interest or dividend payable in respect of the asset.
- (6) The High 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.
- (7) An application for the discharge or variation of a charging order may be made by any person affected by it.

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