

*Status: Point in time view as at 03/02/1995.*

**Changes to legislation:** There are currently no known outstanding effects for the Northern Ireland (Emergency Provisions) Act 1991 (repealed 25.8.1996), Cross Heading: Variation of confiscation orders. (See end of Document for details)

## SCHEDULES

### SCHEDULE 4

#### CONFISCATION ORDERS: SUPPLEMENTARY PROVISIONS

##### *Variation of confiscation orders*

- 15 (1) If, on an application by the defendant [<sup>F1</sup>or a receiver appointed under this Schedule, or in pursuance of a charging order, made] in respect of a confiscation order, the High Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be paid under the order the court shall issue a certificate to that effect, giving the court's reasons.
- (2) For the purposes of sub-paragraph (1) above—
- (a) in the case of realisable property held by a person who has been adjudged bankrupt the court shall take into account the extent to which any property held by him may be distributed among creditors; and
  - (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by Part VII of this Act from any risk of realisation under this Schedule.
- (3) Where a certificate has been issued under sub-paragraph (1) above, the [<sup>F2</sup>person who applied for it] may apply to the Crown Court for the amount to be paid under the confiscation order to be reduced.
- (4) The Crown Court shall, on an application under sub-paragraph (3) above—
- (a) substitute for the amount to be paid under the order such lesser amount as the court thinks just in all the circumstances of the case; and
  - (b) substitute for the term of imprisonment or detention fixed in respect of the order under subsection (1)(c) of section 35 of the <sup>M1</sup>Criminal Justice Act (Northern Ireland) 1945 (imprisonment in default of payment) a shorter term if the effect of the substitution under paragraph (a) above is to reduce the maximum period applicable in relation to the order under subsection (2) of that section as it has effect by virtue of paragraph 2(1)(b) above.
- [<sup>F3</sup>(5) Rules of court may make provision—
- (a) for the giving of notice of any application under this paragraph; and
  - (b) for any person appearing to the court to be likely to be affected by any exercise of its powers under this paragraph to be given an opportunity to make representations to the court.]

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#### **Textual Amendments**

- F1** Words in Sch. 4 para. 15(1) inserted (3.2.1995) by 1993 c. 36, **ss. 40(2), 78(3)** (with s. 78(6)); S.I. 1995/43, arts. 2, 3, **Sch.**
- F2** Words in Sch. 4 para. 15(3) substituted (3.2.1995) by 1993 c. 36, **ss. 40(3), 78(3)** (with s. 78(6)); S.I. 1995/43, arts. 2, 3, **Sch.**
- F3** sch. 4 para. 15(5) added (3.2.1995) by 1993 c. 36, **ss. 40(4), 78(3)** (with s. 78(6)); S.I. 1995/43, arts. 2, 3, **Sch.**
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#### **Marginal Citations**

- M1** 1945 c. 15 (N.I.).

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