# Drug Trafficking Act 1994

**1994 CHAPTER 37**

An Act to consolidate the Drug Trafficking Offences Act 1986 and certain provisions of the Criminal Justice (International Co-operation) Act 1990 relating to drug trafficking. [3rd November 1994]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Extent Information**

**E1** For extent see s. 68 (and ss. 26, 29, 30)

**Commencement Information**

**I1** Act not in force at Royal Assent; Act wholly in force at 3.2.1995 see s.69(2)
Act modified (E.W.)(1.9.1995) by S.I. 1995/1967, **art. 2(1)**

## PART I

CONFISCATION ORDERS

**Modifications etc. (not altering text)**

**C1** Part I (ss. 1-41) except ss. 10, 16 applied (1.1.1997) with modifications by S.I. 1996/2880, arts. 3-6, **Schs. 1-3** (as amended by S.I. 1997/2980, arts. 2-5, **Sch.**)

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Introductory*

## 1 Meaning of "drug trafficking" and "drug trafficking offence".

(1) In this Act "drug trafficking" means, subject to subsection (2) below, doing or being concerned in any of the following, whether in England and Wales or elsewhere—

(a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse [M1] of Drugs Act 1971 or a corresponding law;

(b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;

(c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;

(d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal [M2] Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in England and Wales;

(e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act;

(f) conduct which is an offence under section 49 of this Act or which would be such an offence if it took place in England and Wales;

(g) acquiring, having possession of or using property in circumstances which amount to the commission of an offence under section 51 of this Act or which would amount to such an offence if it took place in England and Wales.

(2) "Drug trafficking" also includes a person doing the following, whether in England and Wales or elsewhere, that is to say, entering into or being otherwise concerned in an arrangement whereby—

(a) the retention or control by or on behalf of another person of the other person's proceeds of drug trafficking is facilitated; or

(b) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment.

(3) In this Act "drug trafficking offence" means any of the following—

(a) an offence under section 4(2) or (3) or 5(3) of the Misuse [M3] of Drugs Act 1971 (production, supply and possession for supply of controlled drugs);

(b) an offence under section 20 of that Act (assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law);

(c) an offence under—

(i) section 50(2) or (3) of the Customs [M4] and Excise Management Act 1979 (improper importation),

(ii) section 68(2) of that Act (exportation), or

(iii) section 170 of that Act (fraudulent evasion),

in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971;

(d) an offence under section 12 of the Criminal [M5] Justice (International Co-operation) Act 1990 (manufacture or supply of substance specified in Schedule 2 to that Act);

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(e) an offence under section 19 of that Act (using ship for illicit traffic in controlled drugs);

(f) an offence under section 49, 50 or 51 of this Act or section 14 of the Criminal Justice (International Co-operation) Act 1990 (which makes, in relation to Scotland and Northern Ireland, provision corresponding to section 49 of this Act);

(g) an offence under section 1 of the Criminal [M6] Law Act 1977 of conspiracy to commit any of the offences in paragraphs (a) to (f) above;

(h) an offence under section 1 of the Criminal [M7] Attempts Act 1981 of attempting to commit any of those offences; and

(i) an offence of inciting another person to commit any of those offences, whether under section 19 of the Misuse of Drugs Act 1971 or at common law;

and includes aiding, abetting, counselling or procuring the commission of any of the offences in paragraphs (a) to (f) above.

(4) In this section "corresponding law" has the same meaning as in the Misuse [M8] of Drugs Act 1971.

(5) For the purposes of the application of Part II of this Act in Scotland and Northern Ireland, "drug trafficking" shall be construed in accordance with section 48(2) of this Act.

**Marginal Citations**

**M1** 1971 c. 38.
**M2** 1990 c. 5.
**M3** 1971 c. 38.
**M4** 1979 c. 2.
**M5** 1990 c. 5.
**M6** 1977 c. 45.
**M7** 1981 c. 47.
**M8** 1971 c. 38.

*Confiscation orders*

## 2 Confiscation orders.

(1) Subject to subsection (7) below, where a defendant appears before the Crown Court to be sentenced in respect of one or more drug trafficking offences (and has not previously been sentenced or otherwise dealt with in respect of his conviction for the offence or, as the case may be, any of the offences concerned), then—

(a) if the prosecutor asks the court to proceed under this section, or

(b) if the court considers that, even though the prosecutor has not asked it to do so, it is appropriate for it to proceed under this section,

it shall act as follows.

(2) The court shall first determine whether the defendant has benefited from drug trafficking.

(3) For the purposes of this Act, a person has benefited from drug trafficking if he has at any time (whether before or after the commencement of this Act) received any

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

payment or other reward in connection with drug trafficking carried on by him or another person.

(4) If the court determines that the defendant has so benefited, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 5 of this Act the amount to be recovered in his case by virtue of this section.

(5) The court shall then, in respect of the offence or offences concerned—

(a) order the defendant to pay that amount;

(b) take account of the order before—

(i) imposing any fine on him;

(ii) making any order involving any payment by him; or

(iii) making any order under section 27 of the [M9]Misuse of Drugs Act 1971 (forfeiture orders) or section 43 of thePowers [M10] of Criminal Courts Act 1973 (deprivation orders); and

(c) subject to paragraph (b) above, leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of an order under this section restrict the Crown Court from dealing with an offender in any way the court considers appropriate in respect of a drug trafficking offence.

(7) Subsection (1) above does not apply in relation to any offence for which a defendant appears before the Crown Court to be sentenced if—

(a) he has been committed to the Crown Court for sentence in respect of that offence under section 37(1) of the Magistrates' [M11] Courts Act 1980 (committal to Crown Court with a view to sentence of detention in a young offender institution); or

(b) the powers of the court (apart from this section) to deal with him in respect of that offence are limited to dealing with him in any way in which a magistrates' court might have dealt with him in respect of the offence.

(8) The standard of proof required to determine any question arising under this Act as to—

(a) whether a person has benefited from drug trafficking, or

(b) the amount to be recovered in his case by virtue of this section,

shall be that applicable in civil proceedings.

(9) In this Act "confiscation order" means an order under this section and includes, in particular, such an order made by virtue of section 13, 14 or 19 of this Act.

**Marginal Citations**

**M9** 1971 c. 38.

**M10** 1973 c. 62.

**M11** 1980 c. 43.

### 3 Postponed determinations.

(1) Where the Crown Court is acting under section 2 of this Act but considers that it requires further information before—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) determining whether the defendant has benefited from drug trafficking, or

(b) determining the amount to be recovered in his case by virtue of that section,

it may, for the purpose of enabling that information to be obtained, postpone making the determination for such period as it may specify.

(2) More than one postponement may be made under subsection (1) above in relation to the same case.

(3) Unless it is satisfied that there are exceptional circumstances, the court shall not specify a period under subsection (1) above which—

(a) by itself, or

(b) where there have been one or more previous postponements under subsection (1) above or (4) below, when taken together with the earlier specified period or periods,

exceeds six months beginning with the date of conviction.

(4) Where the defendant appeals against his conviction, the court may, on that account—

(a) postpone making either or both of the determinations mentioned in subsection (1) above for such period as it may specify; or

(b) where it has already exercised its powers under this section to postpone, extend the specified period.

(5) A postponement or extension under subsection (1) or (4) above may be made—

(a) on application by the defendant or the prosecutor; or

(b) by the court of its own motion.

(6) Unless the court is satisfied that there are exceptional circumstances, any postponement or extension under subsection (4) above shall not exceed the period ending three months after the date on which the appeal is determined or otherwise disposed of.

(7) Where the court exercises its power under subsection (1) or (4) above, it may nevertheless proceed to sentence, or otherwise deal with, the defendant in respect of the relevant offence or any of the relevant offences.

(8) Where the court has so proceeded, section 2 of this Act shall have effect as if—

(a) in subsection (4), the words "before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned" were omitted; and

(b) in subsection (5)(c), after "determining" there were inserted " in relation to any offence in respect of which he has not been sentenced or otherwise dealt with ".

(9) In sentencing, or otherwise dealing with, the defendant in respect of the relevant offence or any of the relevant offences at any time during the specified period, the court shall not—

(a) impose any fine on him; or

(b) make any such order as is mentioned in section 2(5)(b)(ii) or (iii) of this Act.

(10) Where the court has sentenced the defendant under subsection (7) above during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned in section 2(5)(b)(ii) or (iii) of this Act, so long as it does so within a period corresponding to that allowed by section 47(2)

or (3) of the Supreme [M12] Court Act 1981 (time allowed for varying a sentence) but beginning with the end of the specified period.

(11) In this section—

"the date of conviction" means—

(a) the date on which the defendant was convicted; or

(b) where he appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions; and

"the relevant offence" means the drug trafficking offence in respect of which the defendant appears (as mentioned in section 2(1) of this Act) before the court;

and references to an appeal include references to an application under section 111 of the Magistrates' [M13] Courts Act 1980 (statement of case by magistrates' court).

**Marginal Citations**

**M12** 1981 c. 54.

**M13** 1980 c. 43.

## 4 Assessing the proceeds of drug trafficking.

(1) For the purposes of this Act—

(a) any payments or other rewards received by a person at any time (whether before or after the commencement of this Act) in connection with drug trafficking carried on by him or another person are his proceeds of drug trafficking; and

(b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

(2) Subject to subsections (4) and (5) below, the Crown Court shall, for the purpose—

(a) of determining whether the defendant has benefited from drug trafficking, and

(b) if he has, of assessing the value of his proceeds of drug trafficking,

make the required assumptions.

(3) The required assumptions are—

(a) that any property appearing to the court—

(i) to have been held by the defendant at any time since his conviction, or

(ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him;

(b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with drug trafficking carried on by him; and

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interests in it.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(4) The court shall not make any required assumption in relation to any particular property or expenditure if—

(a) that assumption is shown to be incorrect in the defendant's case; or

(b) the court is satisfied that there would be a serious risk of injustice in the defendant's case if the assumption were to be made;

and where, by virtue of this subsection, the court does not make one or more of the required assumptions, it shall state its reasons.

(5) Subsection (2) above does not apply if the only drug trafficking offence in respect of which the defendant appears before the court to be sentenced is an offence under section 49, 50 or 51 of this Act.

(6) For the purpose of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the court shall leave out of account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

(7) References in subsection (6) above to a confiscation order include a reference to a confiscation order within the meaning of—

(a) the Drug [M14] Trafficking Offences Act 1986; or

[F1(b) the Proceeds of Crime (Scotland) Act 1995;]

(8) For the purposes of the application of Part II of this Act in Scotland and Northern Ireland, the expression "proceeds of drug trafficking" shall be construed in accordance with section 48(2) of this Act.

**Textual Amendments**

**F1** S. 4(7)(b) substituted (1.4.1996) for s. 7(4)(b)(c) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(2)**

**Marginal Citations**

**M14** 1986 c. 32.

## 5 Amount to be recovered under confiscation order.

(1) Subject to subsection (3) below, the amount to be recovered in the defendant's case under the confiscation order shall be the amount the Crown Court assesses to be the value of the defendant's proceeds of drug trafficking.

(2) 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 reason of the acceptance of an allegation made in a statement given under section 11 of this Act or made in the giving of information under section 12 of this Act, or otherwise) the court may issue a certificate giving the court's opinion as to the matters concerned, and shall do so if satisfied as mentioned in subsection (3) below.

(3) If the court is 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 his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be—

(a) the amount appearing to the court to be the amount that might be so realised; or

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) a nominal amount, where it appears to the court (on the information available to it at the time) that the amount that might be so realised is nil.

## 6 Meaning of "amount that might be realised" and "realisable property".

(1) For the purposes of this Act the amount that might be realised at the time a confiscation order is made against the defendant is—

(a) the total of the values at that time of all the realisable property held by the defendant, less

(b) where there are obligations having priority at that time, the total amount payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Act.

(2) In this Act "realisable property" means, subject to subsection (3) below—

(a) any property held by the defendant; and

(b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.

(3) Property is not realisable property if there is in force in respect of it an order under any of the following enactments, namely—

(a) section 27 of the Misuse [M15] of Drugs Act 1971 (forfeiture orders);

(b) section 43 of the Powers [M16] of Criminal Courts Act 1973 (deprivation orders);

(c) section 223 or 436 of the Criminal [M17] Procedure (Scotland) Act 1975 (forfeiture of property);

(d) section 13(2), (3) or (4) of the Prevention [M18] of Terrorism (Temporary Provisions) Act 1989 (forfeiture orders).

**[**[F2](e) Part II of the Proceeds of Crime (Scotland) Act 1995 (forfeiture of property used in crime);**]**

**[**[F3](f) section 4(3) of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (forfeiture orders).**]**

(4) For the purposes of subsection (1) above, an obligation has priority at any time if it is an obligation of the defendant—

(a) to pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or the order was made before the confiscation order; or

(b) to pay any sum which would be included among the preferential debts (within the meaning given by section 386 of the Insolvency [M19] Act 1986) in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.

**Textual Amendments**

**F2** S. 6(3)(e) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(3)**

**F3** S. 6(3)(f) inserted (4.9.1998) by 1998 c. 40, s. 9(1), **Sch. 1 Pt. I para. 3**

**Marginal Citations**

**M15** 1971 c. 38.

**M16** 1973 c. 62.

**M17** 1975 c. 21.

**M18** 1989 c. 4.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

**M19** 1986 c. 45.

## 7 Value of property etc.

(1) Subject to the following provisions of this section and to section 8 of this Act, for the purposes of this Act the value of property (other than cash) in relation to any person holding the property is the market value of the property, except that, where any other person holds an interest in the property, the value is—

(a) the market value of the first-mentioned person's beneficial interest in the property, less

(b) the amount required to discharge any incumbrance (other than a charging order) on that interest.

(2) Subject to section 8(2) of this Act, references in this Act to the value at any time (referred to in subsection (3) below as "the material time") of a gift caught by this Act or of any payment or reward are references to—

(a) the value of the gift, payment or reward to the recipient when he received it, adjusted to take account of subsequent changes in the value of money, or

(b) where subsection (3) below applies, the value there mentioned,

whichever is the greater.

(3) Subject to section 8(2) of this Act, if at the material time the recipient holds—

(a) the property which he received (not being cash), or

(b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (2)(b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding in either case any charging order.

(4) References in this section to a charging order include a reference to a charging order within the meaning of the Drug [M20] Trafficking Offences Act 1986.

**Marginal Citations**
**M20** 1986 c. 32.

## 8 Gifts caught by this Act.

(1) A gift (including a gift made before the commencement of this Act) is caught by this Act if—

(a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him; or

(b) it was made by the defendant at any time and was a gift of property—

(i) received by the defendant in connection with drug trafficking carried on by him or another person; or

(ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(2) For the purposes of this Act—

**Status:** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and

(b) in those circumstances, the provisions of subsection (1) above and of section 7 of this Act shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

**9 Application of procedure for enforcing fines.**

(1) Where the Crown Court orders the defendant to pay any amount under section 2 of this Act, sections 31(1) to (3C) and 32(1) and (2) of the Powers [M21] of Criminal Courts Act 1973 (powers of Crown Court in relation to fines and enforcement of Crown Court fines) shall have effect as if that amount were a fine imposed on him by the Crown Court.

(2) Where—

(a) a warrant of commitment is issued for a default in payment of an amount ordered to be paid under section 2 of this Act in respect of an offence or offences, and

(b) at the time the warrant is issued, the defendant is liable to serve a term of custody in respect of the offence or offences,

the term of imprisonment or of detention under section 9 of the Criminal [M22] Justice Act 1982 (detention of persons aged 18 to 20 for default) to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b) above.

(3) The reference in subsection (2) above to the term of custody which the defendant is liable to serve in respect of the offence or offences is a reference to the term of imprisonment, detention in a young offender institution, or detention under section 4 of the 1982 Act which he is liable to serve in respect of the offence or offences; and for the purposes of this subsection—

(a) consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; and

(b) there shall be disregarded—

(i) any sentence suspended under section 22(1) of the 1973 Act (power to suspend sentence of imprisonment) which has not taken effect at the time the warrant is issued;

(ii) in the case of a sentence of imprisonment passed with an order under section 47(1) of the Criminal [M23] Law Act 1977 (sentences of imprisonment partly served and partly suspended) any part of the sentence which the defendant has not at that time been required to serve in prison; and

(iii) any term of imprisonment or detention fixed under section 31(2) of the 1973 Act (term to be served in default of payment of fine etc) for which a warrant of commitment has not been issued at that time.

(4) In the application of Part III of the Magistrates' [M24] Courts Act 1980 to amounts payable under confiscation orders—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) such an amount is not a sum adjudged to be paid by a conviction for the purposes of section 81 (enforcement of fines imposed on young offenders), or a fine for the purposes of section 85 (remission of fines), of that Act; and

(b) in section 87 of that Act (enforcement by High Court or county court), subsection (3) shall be omitted.

(5) Where the defendant serves a term of imprisonment or detention in default of paying any amount due under a confiscation order, his serving that term does not prevent the confiscation order from continuing to have effect, so far as any other method of enforcement is concerned.

(6) This section applies in relation to confiscation orders made by—

(a) the criminal division of the Court of Appeal, or

(b) the House of Lords on appeal from that division,

as it applies in relation to confiscation orders made by the Crown Court, and the last reference in subsection (1) above to the Crown Court shall be construed accordingly.

**Marginal Citations**

**M21** 1973 c. 62.
**M22** 1982 c. 48.
**M23** 1977 c. 45.
**M24** 1980 c. 43.

## 10 Interest on sums unpaid under confiscation orders.

(1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid (whether forthwith on the making of the order or at a time specified under section 31(1) of the Powers [M25] of Criminal Courts Act 1973) that person shall be liable to pay interest on that sum for the period for which it remains unpaid; and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.

(2) The Crown Court may, on the application of the prosecutor, increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the 1973 Act (as it has effect by virtue of section 9 of this Act) if the effect of subsection (1) above is to increase the maximum period applicable in relation to the order under subsection (3A) of that section.

(3) The rate of interest under subsection (1) above shall be **[**[F4]the same rate as that specified in section 17 of the Judgments Act 1838 (interest on civil judgment debts)**]**

**Textual Amendments**

**F4** Words in s. 10(3) inserted (1.11.1996) by 1995 c. 42, **s. 4(3)**; S.I. 1996/2515, **art. 2**

**Marginal Citations**

**M25** 1973 c. 62.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Statements etc in connection with confiscation orders*

**11 Statements relating to drug trafficking.**

(1) Where the prosecutor asks the court to proceed under section 2 of this Act he shall give the court, within such period as it may direct, a statement of matters which he considers relevant in connection with—

(a) determining whether the defendant has benefited from drug trafficking; or

(b) assessing the value of his proceeds of drug trafficking.

(2) In this section such a statement is referred to as a "prosecutor's statement".

(3) Where the court proceeds under section 2 of this Act without the prosecutor having asked it to do so, it may require him to give it a prosecutor's statement, within such period as it may direct.

(4) Where the prosecutor has given a prosecutor's statement—

(a) he may at any time give the court a further such statement; and

(b) the court may at any time require him to give it a further such statement, within such period as it may direct.

(5) Where any prosecutor's statement has been given and the court is satisfied that a copy of the statement has been served on the defendant, it may require the defendant—

(a) to indicate to it, within such period as it may direct, the extent to which he accepts each allegation in the statement; and

(b) so far as he does not accept any such allegation, to give particulars of any matters on which he proposes to rely.

(6) Where the court has given a direction under this section it may at any time vary it by giving a further direction.

(7) Where the defendant accepts to any extent any allegation in any prosecutor's statement, the court may, for the purposes of—

(a) determining whether the defendant has benefited from drug trafficking, or

(b) assessing the value of his proceeds of drug trafficking,

treat his acceptance as conclusive of the matters to which it relates.

(8) If the defendant fails in any respect to comply with a requirement under subsection (5) above he may be treated for the purposes of this section as accepting every allegation in the prosecutor's statement in question apart from—

(a) any allegation in respect of which he has complied with the requirement; and

(b) any allegation that he has benefited from drug trafficking or that any payment or other reward was received by him in connection with drug trafficking carried on by him or another person.

(9) Where—

(a) there is given to the Crown Court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made, and

(b) the prosecutor accepts to any extent any allegation in the statement,

the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(10) An allegation may be accepted, or particulars of any matter may be given, for the purposes of this section in such manner as may be prescribed by rules of court or as the court may direct.

(11) No acceptance by the defendant under this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or another person shall be admissible in evidence in any proceedings for an offence.

**Extent Information**
**E2** S. 11 extends to England and Wales only except that s. 11(11) extends also to Scotland.

## 12 Provision of information by defendant.

(1) This section applies where—
(a) the prosecutor has asked the court to proceed under section 2 of this Act; or
(b) no such request has been made but the court is nevertheless proceeding, or considering whether to proceed, under section 2.

(2) For the purpose of obtaining information to assist it in carrying out its functions, the court may at any time order the defendant to give it such information as may be specified in the order.

(3) An order under subsection (2) above may require all, or any specified part, of the required information to be given to the court in such manner, and before such date, as may be specified in the order.

(4) Crown Court Rules may make provision as to the maximum or minimum period that may be allowed under subsection (3) above.

(5) If the defendant fails, without reasonable excuse, to comply with any order under this section, the court may draw such inference from that failure as it considers appropriate.

(6) Where the prosecutor accepts to any extent any allegation made by the defendant in giving to the court information required by an order under this section, the court may treat that acceptance as conclusive of the matters to which it relates.

(7) For the purposes of this section, an allegation may be accepted in such manner as may be prescribed by Crown Court Rules or as the court may direct.

*Further proceedings in connection with confiscation orders*

## 13 Reconsideration of case where court has not proceeded under section 2.

(1) This section applies where the defendant has appeared before the Crown Court to be sentenced in respect of one or more drug trafficking offences but the court has not proceeded under section 2 of this Act.

(2) If the prosecutor has evidence—
(a) which was not available to him when the defendant appeared to be sentenced (and accordingly was not considered by the court), but

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) which the prosecutor believes would have led the court to determine that the defendant had benefited from drug trafficking if—

(i) the prosecutor had asked the court to proceed under section 2 of this Act, and

(ii) the evidence had been considered by the court,

he may apply to the Crown Court for it to consider the evidence.

(3) The court shall proceed under section 2 of this Act if, having considered the evidence, it is satisfied that it is appropriate to do so.

(4) In considering whether it is appropriate to proceed under that section, the court shall have regard to all the circumstances of the case.

(5) Where, having decided to proceed under that section, the court proposes to make a confiscation order against the defendant, it shall order the payment of such amount as it thinks just in all the circumstances of the case.

(6) In considering the circumstances of any case the court shall have regard, in particular, to the amount of any fine or fines imposed on the defendant in respect of the offence or offences in question.

(7) Where the court is proceeding under section 2 of this Act by virtue of this section, subsection (4) of that section shall have effect as if the words "before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned" were omitted.

(8) The court may take into account any payment or other reward received by the defendant on or after the date of conviction, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(9) In considering under this section any evidence which relates to any payment or reward to which subsection (8) above applies, the court shall not make the assumptions which would otherwise be required by section 4 of this Act.

(10) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(11) Sections 11 and 12 of this Act shall apply where the prosecutor makes an application under this section as they apply where the prosecutor asks the court to proceed under section 2 of this Act.

(12) In this section "the date of conviction" means—

(a) the date on which the defendant was convicted; or

(b) where he appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions.

### 14 Re-assessment of whether defendant has benefited from drug trafficking.

(1) This section applies where the court has made a determination under section 2(2) of this Act ("the section 2(2) determination") that the defendant has not benefited from drug trafficking.

(2) If the prosecutor has evidence—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) which was not considered by the court in making the section 2(2) determination, but

(b) which the prosecutor believes would have led the court to determine that the defendant had benefited from drug trafficking if it had been considered by the court,

he may apply to the Crown Court for it to consider that evidence.

(3) If, having considered the evidence, the court is satisfied that it would have determined that the defendant had benefited from drug trafficking if that evidence had been available to it, the court—

(a) shall make—

(i) a fresh determination under subsection (2) of section 2 of this Act; and

(ii) a determination under subsection (4) of that section of the amount to be recovered by virtue of that section; and

(b) may make an order under that section.

(4) Where the court is proceeding under section 2 of this Act by virtue of this section, subsection (4) of that section shall have effect as if the words "before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned" were omitted.

(5) The court may take into account any payment or other reward received by the defendant on or after the date of the section 2(2) determination, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(6) In considering under this section any evidence which relates to any payment or reward to which subsection (5) above applies, the court shall not make the assumptions which would otherwise be required by section 4 of this Act.

(7) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction; and in this subsection "the date of conviction" has the same meaning as in section 13 of this Act.

(8) Sections 11 and 12 of this Act shall apply where the prosecutor makes an application under this section as they apply where the prosecutor asks the court to proceed under section 2 of this Act.

## 15 Revised assessment of proceeds of drug trafficking.

(1) This section applies where the court has made a determination under subsection (4) of section 2 of this Act of the amount to be recovered in a particular case by virtue of that section ("the current section 2(4) determination").

(2) Where the prosecutor is of the opinion that the real value of the defendant's proceeds of drug trafficking was greater than their assessed value, the prosecutor may apply to the Crown Court for the evidence on which the prosecutor has formed his opinion to be considered by the court.

(3) Sections 11 and 12 of this Act shall apply where the prosecutor makes such an application as they apply where the prosecutor asks the court to proceed under section 2 of this Act, but subject (in the case of section 11) to subsection (9)(a) below.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(4) If, having considered the evidence, the court is satisfied that the real value of the defendant's proceeds of drug trafficking is greater than their assessed value (whether because the real value at the time of the current section 2(4) determination was higher than was thought or because the value of the proceeds in question has subsequently increased), the court shall make a fresh determination under subsection (4) of section 2 of this Act of the amount to be recovered by virtue of that section.

(5) In subsections (2) and (4) above—

"assessed value" means the value of the defendant's proceeds of drug trafficking as assessed by the court in accordance with section 5(1) of this Act; and

"real value" means the value of the defendant's proceeds of drug trafficking which took place—

(a) in the period by reference to which the current section 2(4) determination was made; or

(b) in any earlier period.

(6) Where the court is proceeding under section 2 of this Act by virtue of this section, subsection (4) of that section shall have effect as if the words "before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned" were omitted.

(7) Any determination under section 2(4) of this Act by virtue of this section shall be by reference to the amount that might be realised at the time when the determination is made.

(8) In the case of any determination under section 2(4) of this Act by virtue of this section, section 4(6) of this Act shall not apply in relation to any of the defendant's proceeds of drug trafficking taken into account in respect of the current section 2(4) determination.

(9) In relation to any such determination by virtue of this section—

(a) sections 5(2), 6(4) and 11(9)(a) of this Act shall have effect as if for "confiscation order" there were substituted " determination ";

(b) section 5(3) shall have effect as if for "confiscation order is made" there were substituted " determination is made "; and

(c) section 6(1) of this Act shall have effect as if for "a confiscation order is made against the defendant" there were substituted " of the determination ".

(10) The court may take into account any payment or other reward received by the defendant on or after the date of the current section 2(4) determination, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(11) In considering under this section any evidence which relates to any payment or reward to which subsection (10) above applies, the court shall not make the assumptions which would otherwise be required by section 4 of this Act.

(12) If, as a result of making the fresh determination required by subsection (4) above, the amount to be recovered exceeds the amount set by the current section 2(4) determination, the court may substitute for the amount to be recovered under the confiscation order which was made by reference to the current section 2(4) determination such greater amount as it thinks just in all the circumstances of the case.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(13) Where the court varies a confiscation order under subsection (12) above it shall substitute for the term of imprisonment or of detention fixed under section 31(2) of the Powers [M26] of Criminal Courts Act 1973 in respect of the amount to be recovered under the order a longer term determined in accordance with that section (as it has effect by virtue of section 9 of this Act) in respect of the greater amount substituted under subsection (12) above.

(14) Subsection (13) above shall apply only if the effect of the substitution is to increase the maximum period applicable in relation to the order under section 31(3A) of the 1973 Act.

(15) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction; and in this subsection "the date of conviction" has the same meaning as in section 13 of this Act.

**Marginal Citations**
**M26** 1973 c. 62.

## 16 Increase in realisable property.

(1) This section applies where, by virtue of section 5(3) of this Act, the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.

(2) If, on an application made in accordance with subsection (3) below, the High Court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.

(3) An application under subsection (2) above may be made either by the prosecutor or by a receiver appointed in relation to the realisable property of the person in question under section 26 or 29 of this Act or in pursuance of a charging order.

(4) Where a certificate has been issued under subsection (2) above the prosecutor may apply to the Crown Court for an increase in the amount to be recovered under the confiscation order; and on that application the court may—

(a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and

(b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the Powers [M27] of Criminal Courts Act 1973 (as it has effect by virtue of section 9 of this Act) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (3A) of that section.

**Marginal Citations**
**M27** 1973 c. 62.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

## 17 Inadequacy of realisable property.

(1) If, on an application made in respect of a confiscation order by—

(a) the defendant, or

(b) a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order,

the High Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, the court shall issue a certificate to that effect, giving the court's reasons.

(2) For the purposes of subsection (1) above—

(a) in the case of realisable property held by a person who has been adjudged bankrupt or whose estate has been sequestrated 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 this Act from any risk of realisation under this Act.

(3) Where a certificate has been issued under subsection (1) above, the person who applied for it may apply to the Crown Court for the amount to be recovered under the confiscation order to be reduced.

(4) The Crown Court shall, on an application under subsection (3) above—

(a) substitute for the amount to be recovered 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 of detention fixed under subsection (2) of section 31 of the Powers [M28] of Criminal Courts Act 1973 in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 9 of this Act) in respect of the lesser amount.

(5) Rules of court may make provision—

(a) for the giving of notice of any application under this section; and

(b) for any person appearing to the court to be likely to be affected by any exercise of its powers under this section to be given an opportunity to make representations to the court.

**Marginal Citations**

**M28** 1973 c. 62.

## 18 Compensation.

(1) If proceedings are instituted against a person for any drug trafficking offence or offences and either—

(a) the proceedings do not result in his conviction for any drug trafficking offence, or

(b) he is convicted of one or more drug trafficking offences but—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(i) the conviction or convictions concerned are quashed, or

(ii) he is pardoned by Her Majesty in respect of the conviction or convictions concerned,

the High Court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The High Court shall not order compensation to be paid in any case unless the court is satisfied—

(a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned, being a person mentioned in subsection (5) below; and

(b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of—

(i) an order of the High Court or a county court under sections 26 to 29 of this Act; or

**[**F5(ii) an order of the Court of Session under section 32, 33, 34 or 35 of the Proceeds of Crime (Scotland) Act 1995 (recognition and enforcement of orders under this Act and inhibition and arrestment of property affected by restraint orders);**]**

(3) The High Court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued even if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the High Court thinks just in all the circumstances of the case.

(5) Compensation payable under this section shall be paid—

(a) where the person in default was, or was acting as, a member of a police force, out of the police fund out of which the expenses of that police force are met;

(b) where the person in default was a member of the Crown Prosecution Service or was acting on behalf of the service, by the Director of Public Prosecutions; and

(c) where the person in default was an officer within the meaning of the Customs M29 and Excise Management Act 1979, by the Commissioners of Customs and Excise.

**Textual Amendments**

**F5** S. 18(2)(ii) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(4)**

**Marginal Citations**

**M29** 1979 c. 2.

*Confiscation orders where defendant has absconded or died*

### 19 Powers of High Court where defendant has absconded or died.

(1) Subsection (2) below applies where a person has been convicted of one or more drug trafficking offences.

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(2) If the prosecutor asks it to proceed under this section, the High Court may exercise the powers of the Crown Court under this Act to make a confiscation order against the defendant if satisfied that the defendant has died or absconded.

(3) Subsection (4) below applies where proceedings for one or more drug trafficking offences have been instituted against a person but have not been concluded.

(4) If the prosecutor asks it to proceed under this section, the High Court may exercise the powers of the Crown Court under this Act to make a confiscation order against the defendant if satisfied that the defendant has absconded.

(5) The power conferred by subsection (4) above may not be exercised at any time before the end of the period of two years beginning with the date which is, in the opinion of the court, the date on which the defendant absconded.

(6) In any proceedings on an application under this section—

(a) section 4(2) of this Act shall not apply;

(b) section 11 of this Act shall apply as it applies where the prosecutor asks the court to proceed under section 2 of this Act, but with the omission of subsections (5), (7) and (8);

(c) the court shall not make a confiscation order against a person who has absconded unless it is satisfied that the prosecutor has taken reasonable steps to contact him; and

(d) any person appearing to the court to be likely to be affected by the making of a confiscation order by the court shall be entitled to appear before the court and make representations.

(7) Subject to subsection (8) below, section 9 of this Act applies in relation to confiscation orders made by the High Court by virtue of this section as it applies in relation to confiscation orders made by the Crown Court and, for that purpose, references to the Crown Court in the provisions of the 1973 Act referred to in subsection (1) of that section (except in section 32(1)(b) of that Act) shall be construed as references to the High Court.

(8) Where the High Court makes a confiscation order by virtue of this section in relation to a defendant who has died, section 9(1) of this Act shall be read as referring only to sections 31(1) and 32(1) of the 1973 Act.

(9) Where the High Court—

(a) has been asked to proceed under this section in relation to a defendant who has absconded, but

(b) has decided not to make a confiscation order against him,

section 14 of this Act shall not apply at any time while he remains an absconder.

(10) Where a confiscation order has been made in relation to any defendant by virtue of this section, section 15 of this Act shall not apply at any time while he is an absconder.

### 20 Effect of conviction where High Court has acted under section 19.

(1) Where, in the case of any defendant, the High Court has made a confiscation order by virtue of section 19 of this Act, the Crown Court shall, in respect of the offence or, as the case may be, any of the offences concerned—

(a) take account of the order before—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(i) imposing any fine on the defendant;

(ii) making any order involving any payment by him; or

(iii) making any order under section 27 of theMisuse [M30] of Drugs Act 1971 (forfeiture orders) or section 43 of thePowers [M31] of Criminal Courts Act 1973 (deprivation orders); and

(b) subject to paragraph (a) above, leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(2) Where the High Court has made a confiscation order by virtue of section 19 of this Act and the defendant subsequently appears before the Crown Court to be sentenced in respect of one or more of the offences concerned, section 2(1) of this Act shall not apply so far as his appearance is in respect of that offence or those offences.

**Marginal Citations**

**M30** 1971 c. 38.

**M31** 1973 c. 62.

## 21 Variation of confiscation orders made by virtue of section 19.

(1) This section applies where—

(a) the High Court has made a confiscation order by virtue of section 19(4) of this Act, and

(b) the defendant has ceased to be an absconder.

(2) If the defendant alleges that—

(a) the value of his proceeds of drug trafficking in the period by reference to which the determination in question was made (the "original value"), or

(b) the amount that might have been realised at the time the confiscation order was made,

was less than the amount ordered to be paid under the confiscation order, he may apply to the High Court for it to consider his evidence.

(3) If, having considered that evidence, the court is satisfied that the defendant's allegation is correct, it—

(a) shall make a fresh determination under subsection (4) of section 2 of this Act; and

(b) may, if it considers it just in all the circumstances, vary the amount to be recovered under the confiscation order.

(4) In the case of any determination under section 2 of this Act by virtue of this section, section 4(6) of this Act shall not apply in relation to any of the defendant's proceeds of drug trafficking taken into account in determining the original value.

(5) Where the court varies a confiscation order under this section—

(a) it shall substitute for the term of imprisonment or of detention fixed under section 31(2) of the Powers [M32] of Criminal Courts Act 1973 in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 19 of this Act) in respect of the lesser amount; and

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) on the application of a person who held property which was realisable property, it may order compensation to be paid to the applicant in accordance with section 24 of this Act if—

(i) it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order; and

(ii) having regard to all the circumstances of the case, the court considers it to be appropriate.

(6) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date on which the confiscation order was made.

**Marginal Citations**

**M32** 1973 c. 62.

## 22 Compensation etc where absconder is acquitted.

(1) This section applies where—

(a) the High Court has made a confiscation order by virtue of section 19(4) of this Act, and

(b) the defendant is subsequently tried for the offence or offences concerned and acquitted on all counts.

(2) The court by which the defendant is acquitted shall cancel the confiscation order.

(3) The High Court may, on the application of a person who held property which was realisable property, order compensation to be paid to the applicant in accordance with section 24 of this Act if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order.

## 23 Power to discharge confiscation order and order compensation where absconder returns.

(1) This section applies where—

(a) the High Court has made a confiscation order by virtue of section 19(4) of this Act in relation to an absconder;

(b) the defendant has ceased to be an absconder; and

(c) section 22 of this Act does not apply.

(2) The High Court may, on the application of the defendant, cancel the confiscation order if it is satisfied that—

(a) there has been undue delay in continuing the proceedings in respect of which the power under section 19(4) of this Act was exercised; or

(b) the prosecutor does not intend to proceed with the prosecution.

(3) Where the High Court cancels a confiscation order under this section it may, on the application of a person who held property which was realisable property, order compensation to be paid to the applicant in accordance with section 24 of this Act if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

### 24 Provisions supplementary to sections 21, 22 and 23.

(1) Where the High Court orders compensation to be paid under section 21, 22 or 23 of this Act, the amount of that compensation shall be such as the court considers just in all the circumstances of the case.

(2) Rules of court may make provision—

(a) for the giving of notice of any application under section 21, 22 or 23 of this Act; and

(b) for any person appearing to the court to be likely to be affected by any exercise of its powers under any of those sections to be given an opportunity to make representations to the court.

(3) Any payment of compensation under any of those sections shall be made by the Lord Chancellor.

(4) Where the court cancels a confiscation order under section 22 or 23 of this Act it may make such consequential or incidental order as it considers appropriate in connection with the cancellation.

*Restraint orders and charging orders*

### 25 Cases in which restraint orders and charging orders may be made.

(1) The powers conferred on the High Court by sections 26(1) and 27(1) of this Act are exercisable where—

(a) proceedings have been instituted in England and Wales against the defendant for a drug trafficking offence or an application has been made by the prosecutor in respect of the defendant under section 13, 14, 15, 16 or 19 of this Act;

(b) the proceedings have not, or the application has not, been concluded; and

(c) the court is satisfied that there is reasonable cause to believe—

(i) in the case of an application under section 15 or 16 of this Act, that the court will be satisfied as mentioned in section 15(4) or, as the case may be, 16(2) of this Act; or

(ii) in any other case, that the defendant has benefited from drug trafficking.

(2) The court shall not exercise those powers by virtue of subsection (1) above if it is satisfied—

(a) that there has been undue delay in continuing the proceedings or application in question; or

(b) that the prosecutor does not intend to proceed.

(3) The powers mentioned in subsection (1) above are also exercisable where—

(a) the court is satisfied that, whether by the laying of an information or otherwise, a person is to be charged with a drug trafficking offence or that an application of a kind mentioned in subsection (1)(a) above is to be made in respect of the defendant; and

(b) the court is also satisfied as mentioned in subsection (1)(c) above.

(4) For the purposes of sections 26 and 27 of this Act, at any time when those powers are exercisable before proceedings have been instituted—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) references in this Act to the defendant shall be construed as references to the person referred to in subsection (3)(a) above;

(b) references in this Act to the prosecutor shall be construed as references to the person who the High Court is satisfied is to have the conduct of the proposed proceedings; and

(c) references in this Act to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (3)(a) above for a drug trafficking offence.

(5) Where the court has made an order under section 26(1) or 27(1) of this Act by virtue of subsection (3) above, the court shall discharge the order if proceedings in respect of the offence are not instituted, whether by the laying of an information or otherwise, or (as the case may be) if the application is not made, within such time as the court considers reasonable.

**Modifications etc. (not altering text)**

**C2** S. 25(1)(c) amended (1.2.1998) by S.I. 1996/2880, art. 3(2), **Sch. 2 para.8(c)** (as substituted (1.2.1998) by S.I. 1997/2980, **arts. 3**, 4)

## 26 Restraint orders.

(1) The High Court may by order (in this Act referred to as a "restraint order") prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply—

(a) to all realisable property held by a specified person, whether the property is described in the order or not; and

(b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 27 of this Act or section 9 of the Drug [M33] Trafficking Offences Act 1986.

(4) A restraint 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; and

(c) shall provide for notice to be given to persons affected by the order.

(5) A restraint order—

(a) may be discharged or varied in relation to any property; and

(b) shall be discharged on the conclusion of the proceedings or of the application in question.

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(7) Where the High Court has made a restraint order, the High Court or a county court—

(a) may at any time appoint a receiver—

(i) to take possession of any realisable property, and

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(ii) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and

(b) may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(8) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of that expression)—

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

(b) removing the property from Great Britain.

(9) Where a restraint order has been made a constable may seize any realisable property for the purpose of preventing its removal from Great Britain.

(10) In subsection (9) above, the reference to a restraint order includes a reference to a restraint order within the meaning of **[**[F6]the Proceeds of Crime (Scotland) Act 1995, and in relation to such an order "realisable property" has the same meaning as in that Act**]**

(11) Property seized under subsection (9) above shall be dealt with in accordance with the directions of the court which made the order.

(12) The Land [M34] Charges Act 1972 and the Land [M35] Registration Act 1925 shall apply—

(a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and

(b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.

(13) The prosecutor shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.

**Extent Information**

**E3** S. 26 as originally enacted extended to England and Wales only but see amendment by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))

**Textual Amendments**

**F6** Words in s. 26(10) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(5)**

**Modifications etc. (not altering text)**

**C3** S. 26 extended to Scotland (1.4.1996) (subject to ss. 35, 36 of the amending Act) by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))

**Marginal Citations**

**M33** 1986 c. 32.

**M34** 1972 c. 61.

**M35** 1925 c. 21.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

## 27 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) where a confiscation order has been made, of an amount not exceeding the amount payable under the confiscation order.

(2) For the purposes 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 including, 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 which is 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 Act and is an interest—

(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 ("the relevant 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 relevant 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) In relation to a charging order, the court—

(a) may make an order discharging or varying it; and

(b) shall make an order discharging it—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(i) on the conclusion of the proceedings or of the application in question; or

(ii) on payment into court of the amount payment of which is secured by the charge.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

(9) In this section "building society", "dividend", "government stock", "stock" and "unit trust" have the same meaning as in the Charging [M36] Orders Act 1979.

**Marginal Citations**

**M36** 1979 c. 53.

## 28 Charging orders: supplementary provisions.

(1) TheLand [M37] Charges Act 1972 and theLand [M38] Registration Act 1925 shall apply in relation to charging orders as they apply in relation to orders or writs made or issued for the purpose of enforcing judgments.

(2) Where a charging order has been registered under section 6 of the Land Charges Act 1972, subsection (4) of that section (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made in pursuance of the charging order.

(3) Subject to any provision made under section 29 of this Act or by rules of court, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

(4) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, an order under section 27(7) of this Act discharging the charging order may direct that the entry be cancelled.

(5) The Secretary of State may by order made by statutory instrument amend section 27 of this Act by adding to or removing from the kinds of asset for the time being referred to there any asset of a kind which in his opinion ought to be so added or removed.

(6) An order under subsection (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M37** 1972 c. 61.

**M38** 1925 c. 21.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Realisation of property*

## 29 Realisation of property.

(1) Where a confiscation order—

(a) has been made under this Act,

(b) is not satisfied, and

(c) is not subject to appeal,

the High Court or a county court may, on an application by the prosecutor, exercise the powers conferred by subsections (2) to (6) below.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower a receiver appointed under subsection (2) above, under section 26 of this Act or in pursuance of a charging order—

(a) to enforce any charge imposed under section 27 of this Act on realisable property or on interest or dividends payable in respect of such property; and

(b) in relation to any realisable property other than property for the time being subject to a charge under section 27 of this Act, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may—

(a) order any person holding an interest in realisable property to make to the receiver such payment as it may direct in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Act; and

(b) on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 27 of this Act or section 9 of the Drug [M39] Trafficking Offences Act 1986.

(8) The court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

**Extent Information**

**E4** S. 29 as originally enacted extended to England and Wales only but see amendment by 1995 c. 43, **ss. 35**(20(4) (with Sch. 2 para. 2(2))

**Modifications etc. (not altering text)**

**C4** S. 29 extended to Scotland (1.4.1996) (subject to ss. 35, 36 of the amending Act) by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

**Marginal Citations**
**M39** 1986 c. 32.

### 30 Application of proceeds of realisation and other sums.

(1) The following sums in the hands of a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order, that is—

(a) the proceeds of the enforcement of any charge imposed under section 27 of this Act,

(b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 26 or 29 of this Act, and

(c) any other sums, being property held by the defendant,

shall be applied, subject to subsection (2) below, on the defendant's behalf towards the satisfaction of the confiscation order.

(2) Before any such sums are so applied they shall be applied—

(a) first, in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 35(3) of this Act; and

(b) second, in making such payments (if any) as the High Court or a county court may direct.

(3) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver as is mentioned in subsection (1) above, the receiver shall distribute those sums—

(a) among such of those who held property which has been realised under this Act, and

(b) in such proportions,

as the High Court or a county court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(4) The receipt of any sum by a justices' clerk on account of an amount payable under a confiscation order shall reduce the amount so payable, but the justices' clerk shall apply the money received for the purposes specified in this section and in the order so specified.

(5) The justices' clerk shall first pay any expenses incurred by a person acting as an insolvency practitioner and payable under section 35(3) of this Act but not already paid under subsection (2) above.

(6) If the money was paid to the justices' clerk by a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order the justices' clerk shall next pay the receiver's remuneration and expenses.

(7) After making—

(a) any payment required by subsection (5) above, and

(b) in a case to which subsection (6) above applies, any payment required by that subsection,

the justices' clerk shall reimburse any amount paid under section 36(2) of this Act.

(8) Any balance in the hands of the justices' clerk after he has made all payments required by the preceding provisions of this section shall be treated for the purposes

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

of **[**F7section 60 of the Justices of the Peace Act 1997**]** (application of fines, etc.) as if it were a fine imposed by a magistrates' court.

(9) In this section "justices' clerk" has the same meaning as in **[**F8 the Justices of the Peace Act 1997**]**.

**Extent Information**

**E5** S. 30 extends to England and Wales only but see amendment by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))

**Textual Amendments**

**F7** Words in s. 30(8) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 36(a)** (with s. 73(1), Sch. 4 para. 27)

**F8** Words in s. 30(9) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 36(b)** (with s. 73(1), Sch. 4 para. 27)

**Modifications etc. (not altering text)**

**C5** S. 30 extended to Scotland (1.4.1996) (subject to ss. 35, 36 of the amending Act) by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))
S. 30 extended to Scotland (1.4.1996) (subject to ss. 35, 36 of the amending Act) by 1995 c. 43, **ss. 35(2)(4)**, 44 (with Sch. 2 para. 2(2))

*Exercise of powers for the realisation of property*

## 31 Exercise by High Court, county court or receiver of powers for the realisation of property.

(1) The following provisions apply to the powers conferred—

(a) on the High Court or a county court by sections 26 to 30 of this Act; or

(b) on a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case, the value for the time being of realisable property held by any person, by means of the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) In exercising the powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

(6) An order may be made or other action taken in respect of a debt owed by the Crown.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

**Modifications etc. (not altering text)**
**C6** S. 31(2)-(6) applied (S.) (1.4.1996) by 1995 c. 43, **ss. 16(7)**, 50(2)

*Insolvency of defendants etc*

## 32 Bankruptcy of defendant etc.

(1) Where a person who holds realisable property is adjudged bankrupt—

(a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and

(b) any proceeds of property realised by virtue of section 26(7) or 29(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 26 or 29 of this Act,

is excluded from the bankrupt's estate for the purposes of Part IX of the Insolvency [M40] Act 1986 ("the 1986 Act").

(2) Where a person has been adjudged bankrupt, the powers conferred on the High Court or a county court by sections 26 to 30 of this Act or on a receiver so appointed shall not be exercised in relation to—

(a) property for the time being comprised in the bankrupt's estate for the purposes of Part IX of the 1986 Act;

(b) property in respect of which his trustee in bankruptcy may (without leave of the court) serve a notice under section 307, 308 or 308A of that Act (after-acquired property and tools, clothes etc. exceeding value of reasonable replacement, and certain tenancies); and

(c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act;

but nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(3) Subsection (2) above does not affect the enforcement of a charging order—

(a) made before the order adjudging the person bankrupt; or

(b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(4) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of the 1986 Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.

(5) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Act—

(a) no order shall be made under section 339 or 423 of the 1986 Act (avoidance of certain transactions), in respect of the making of the gift, at any time when—

(i) proceedings for a drug trafficking offence have been instituted against him and have not been concluded;

(ii) an application has been made in respect of the defendant under section 13, 14, 15, 16 or 19 of this Act and has not been concluded; or

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(iii) property of the person to whom the gift was made is subject to a restraint order or charging order; and

(b) any order made under section 339 or 423 after the conclusion of the proceedings or of the application shall take into account any realisation under this Act of property held by the person to whom the gift was made.

**Marginal Citations**

**M40** 1986 c. 45.

## 33 Sequestration in Scotland of defendant etc.

(1) Where the estate of a person who holds realisable property is sequestrated—

(a) property for the time being subject to a restraint order made before the award of sequestration, and

(b) any proceeds of property realised by virtue of section 26(7) or 29(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 26 or 29 of this Act,

is excluded from the debtor's estate for the purposes of the Bankruptcy [M41] (Scotland) Act 1985 ("the 1985 Act").

(2) Where an award of sequestration has been made, the powers conferred on the High Court or a county court by sections 26 to 30 of this Act or on a receiver so appointed shall not be exercised in relation to—

(a) property comprised in the whole estate of the debtor within the meaning of section 31(8) of the 1985 Act; and

(b) any income of the debtor which has been ordered, under section 32(2) of that Act, to be paid to the permanent trustee or any estate which, under section 31(10) or 32(6) of that Act, vests in the permanent trustee;

and it shall not be competent to submit a claim in relation to the confiscation order to the permanent trustee in accordance with section 48 of that Act.

(3) Nothing in the 1985 Act shall be taken as restricting, or enabling the restriction of, the exercise of the powers mentioned in subsection (2) above.

(4) Subsection (2) above does not affect the enforcement of a charging order—

(a) made before the award of sequestration; or

(b) on property which was subject to a restraint order when the award of sequestration was made.

(5) Where, during the period before sequestration is awarded—

(a) an interim trustee stands appointed under section 2(5) of the 1985 Act, and

(b) any property in the debtor's estate is subject to a restraint order,

the powers conferred on the trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.

(6) Where the estate of a person is sequestrated and he has directly or indirectly made a gift caught by this Act—

(a) no decree shall be granted under section 34 or 36 of the 1985 Act (gratuitous alienations and unfair preferences), in respect of the making of the gift, at any time when—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(i) proceedings for a drug trafficking offence have been instituted against him and have not been concluded;

(ii) an application has been made in respect of the defendant under section 13, 14, 15, 16 or 19 of this Act and has not been concluded; or

(iii) property of the person to whom the gift was made is subject to a restraint order or charging order; and

(b) any decree made under section 34 or 36 after the conclusion of the proceedings or of the application shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(7) In any case in which, notwithstanding the coming into force of the 1985 Act, the Bankruptcy [M42] (Scotland) Act 1913 applies to a sequestration, subsection (2) above shall have effect as if for paragraphs (a) and (b) there were substituted—

"(a) property comprised in the whole property of the debtor which vests in the trustee under section 97 of the Bankruptcy (Scotland) Act 1913; and

(b) any income of the bankrupt which has been ordered under subsection (2) of section 98 of that Act to be paid to the trustee, or any estate which, under subsection (1) of that section, vests in the trustee;"and subsection (3) above shall have effect as if for the reference in that subsection to the 1985 Act there were substituted a reference to the Act of 1913.

**Marginal Citations**

**M41** 1985 c. 66.

**M42** 1913 c. 20.

## 34 Winding up of company holding realisable property.

(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up of the company, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—

(a) property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property realised by virtue of section 26(7) or 29(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 26 or 29 of this Act.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the High Court or a county court by sections 26 to 30 of this Act or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

(a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or

(b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property;

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

but nothing in the Insolvency [M43] Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(3) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(4) In this section—

" company" means any company which may be wound up under the Insolvency Act 1986; and

"the relevant time" means—

(a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;

(b) where—

(i) such an order has been made, but

(ii) before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company,

the time of the passing of the resolution; and

(c) in any other case where such an order has been made, the time of the making of the order.

**Marginal Citations**

**M43** 1986 c. 45.

*Protection for insolvency officers etc*

### 35 Insolvency officers dealing with property subject to restraint order.

(1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in any other Act, where—

(a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order, and

(b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting.

(2) A person acting as an insolvency practitioner shall, in the circumstances mentioned in subsection (1)(a) and (b) above, have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(3) Where a person acting as an insolvency practitioner—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) incurs expenses in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order, or

(b) incurs expenses other than expenses in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

that person shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under subsection (2) above) to payment of those expenses under section 30(2) or (5) of this Act.

(4) In this Act the expression "acting as an insolvency practitioner" shall be construed in accordance with section 388 of the Insolvency [M44] Act 1986 (interpretation) except that for the purposes of such construction—

(a) the reference in subsection (2)(a) of that section to a permanent or interim trustee in sequestration shall be taken to include a reference to a trustee in sequestration; and

(b) subsection (5) of that section (which includes provision to the effect that nothing in the section is to apply to anything done by the official receiver) shall be disregarded;

and the expression shall also comprehend the official receiver acting as receiver or manager of the property.

**Marginal Citations**

**M44** 1986 c. 45.

## 36 Receivers: supplementary provisions.

(1) Where a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order—

(a) takes any action in relation to property which is not realisable property, being action which he would be entitled to take if it were such property, and

(b) believes, and has reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 30(6) of this Act, be paid by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted, by the person on whose application the receiver was appointed.

**Extent Information**

**E6** S. 36 extends to England and Wales only except that s. 36(1) extends also to Scotland.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Enforcement of orders made outside England and Wales*

## 37 Recognition and enforcement of orders and functions under Part I of the Criminal Justice (Scotland) Act 1987.

(1) Her Majesty may by Order in Council make such provision as Her Majesty considers expedient for the purpose **[**F9in connection with a drug trafficking offence within the meaning of the Proceeds of Crime (Scotland) Act 1995**]**—

(a) of enabling property in England and Wales which is realisable property for the purposes of **[**F10that Act**]** to be used or realised for the payment of any amount payable under a confiscation order made under **[**F11that Part of**]**that Act; and

(b) of securing that, where no confiscation order has been made under **[**F11 that Part of**]**that Act, property in England and Wales which is realisable property for the purposes of **[**F11that Part of**]** that Act is available, in the event that such an order is so made, to be used or realised for the payment of any amount payable under it.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, an Order in Council under this section may—

(a) provide that, subject to any specified conditions—

(i) the functions of a person appointed under **[**F12Schedule 1 to the Proceeds of Crime (Scotland) Act 1995**]**, and

(ii) such descriptions of orders made under or for the purposes of **[**F13Part I of**]**that Act as may be specified,

shall have effect in the law of England and Wales;

(b) make provision—

(i) for the registration in the High Court of such descriptions of orders made under or for the purposes of **[**F11that Part of**]** that Act as may be specified; and

(ii) for the High Court to have, in relation to the enforcement of orders made under or for the purposes of **[**F11that Part of**]**that Act which are so registered, such powers as may be specified; and

(c) make provision as to the proof in England and Wales of orders made under or for the purposes of **[**F11that Part of**]** that Act.

(3) In subsection (2) above "specified" means specified in an Order in Council under this section.

(4) An Order in Council under this section may amend or apply, with or without modifications, any enactment.

(5) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.

(6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F9** Words in s. 37(1) inserted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(6)(a)(i)**

**F10** Words in s. 37(1)(a) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(6)(a)(ii)**

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

**F11** Words in s. 37 ceased to have effect (1.4.1996) by virtue of 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94** (6)(a)(iii)(b)(ii) and the said words in s. 37 expressed to be repealed (for Scotland only) (1.4.1996) by 1995 c. 40, ss. 6(1), 7(2)(3), **Sch. 5** (with s. 3, Sch. 3 paras. 1, 3)

**F12** Words in s. 37(2)(a)(i) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(6)(b)(i)**

**F13** Words in s. 37(2)(a)(ii) ceased to have effect (1.4.1996) by virtue of 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(6)(b)(i)** and the said words in s. 37 expressed to be repealed (for Scotland only) (1.4.1996) by 1995 c. 40, ss. 6(1), 7(2)(3), **Sch. 5** (with s. 3, Sch. 3 paras. 1, 3)

## 38 Enforcement of Northern Ireland orders.

(1) Her Majesty may by Order in Council provide that, for the purposes of sections 17 and 25 to 36 of this Act, this Act shall have effect as if—

(a) references to confiscation orders included a reference to orders made by courts in Northern Ireland which appear to Her Majesty to correspond to confiscation orders;

(b) references to drug trafficking offences included a reference to any offence under the law of Northern Ireland (not being a drug trafficking offence) which appears to Her Majesty to correspond to such an offence;

(c) references to proceedings in England and Wales or to the institution or conclusion in England and Wales of proceedings included a reference to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings, as the case may be; and

(d) the references to the laying of an information in section 25(3) and (5) of this Act included references to making a complaint under Article 20 of the Magistrates' [M45] Courts (Northern Ireland) Order 1981.

(2) An Order in Council under this section may provide for those sections to have effect, in relation to anything done or to be done in Northern Ireland, subject to such further modifications as may be specified in the order.

(3) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.

(4) An Order in Council under this section may, in particular, provide for section 18 of the Civil [M46] Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom) not to apply in relation to such orders as may be prescribed by the Order.

(5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M45** S.I. 1981/1675 (N.I. 26).

**M46** 1982 c. 27.

## 39 Enforcement of external confiscation orders.

(1) Her Majesty may by Order in Council—

(a) direct in relation to a country or territory outside the United Kingdom designated by the Order (a "designated country") that, subject to such modifications as may be specified, the relevant provisions of this Act shall

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;

(b) make—

(i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order,

(ii) such provision as to evidence or proof of any matter for the purposes of this section and section 40 of this Act, and

(iii) such incidental, consequential and transitional provision,

as appears to Her Majesty to be expedient; and

(c) (without prejudice to the generality of this subsection) direct that, in such circumstances as may be specified, proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order shall be treated as reducing the amount payable under the order to such extent as may be specified.

(2) In this section "external confiscation order" means an order made by a court in a designated country for the purpose of recovering, or recovering the value of, payments or other rewards received in connection with drug trafficking.

(3) An Order in Council under this section may make different provision for different cases or classes of case.

(4) The power to make an Order in Council under this section includes power to modify the relevant provisions of this Act in such a way as to confer power on a person to exercise a discretion.

(5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) For the purposes of this section, "the relevant provisions of this Act" are this Part, except sections 10 and 16, and Part IV.

### 40 Registration of external confiscation orders.

(1) On an application made by or on behalf of the Government of a designated country, the High Court may register an external confiscation order made there if—

(a) it is satisfied that at the time of registration the order is in force and not subject to appeal;

(b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) it is of the opinion that enforcing the order in England and Wales would not be contrary to the interests of justice.

(2) In subsection (1) above "appeal" includes—

(a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The High Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(4) In this section "designated country" and "external confiscation order" have the same meaning as in section 39 of this Act.

*Interpretation*

**41 Interpretation of Part I.**

(1) This section shall have effect for the interpretation of this Part.

(2) Proceedings for an offence are instituted—

(a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' [M47] Courts Act 1980 (issue of summons to, or warrant for arrest of, accused) in respect of the offence;

(b) when a person is charged with the offence after being taken into custody without a warrant;

(c) when a bill of indictment is preferred under section 2 of the Administration [M48] of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section (preferment by direction of the criminal division of the Court of Appeal or by direction, or with the consent, of a High Court judge);

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(3) Proceedings for a drug trafficking offence are concluded—

(a) when the defendant is acquitted on all counts;

(b) if he is convicted on one or more counts, but the court decides not to make a confiscation order against him, when it makes that decision; or

(c) if a confiscation order is made against him in those proceedings, when the order is satisfied.

(4) An application under section 13, 14 or 19 of this Act is concluded—

(a) if the court decides not to make a confiscation order against the defendant, when it makes that decision; or

(b) if a confiscation order is made against him as a result of that application, when the order is satisfied.

(5) An application under section 15 or 16 of this Act is concluded—

(a) if the court decides not to vary the confiscation order in question, when it makes that decision; or

(b) if the court varies the confiscation order as a result of the application, when the order is satisfied.

(6) A confiscation order is satisfied when no amount is due under it.

(7) For the purposes of this section as it applies to sections 32 and 33 of this Act, a confiscation order is also satisfied when the defendant in respect of whom it was made has served a term of imprisonment or detention in default of payment of the amount due under the order.

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(8) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

**Marginal Citations**

**M47** 1980 c. 43.

**M48** 1933 c. 36.

## PART II

DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

### 42 Seizure and detention.

(1) A customs officer or constable may seize and, in accordance with this section, detain any cash which is being imported into or exported from the United Kingdom if—

(a) its amount is not less than the prescribed sum; and

(b) he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of drug trafficking, or is intended by any person for use in drug trafficking.

(2) Cash seized by virtue of this section shall not be detained for more than 48 hours unless its continued detention is authorised by an order made by a justice of the peace or in Scotland the sheriff; and no such order shall be made unless the justice or, as the case may be, the sheriff is satisfied—

(a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and

(b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the United Kingdom or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.

(3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order; and a magistrates' court or in Scotland the sheriff, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that—

(a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and

(b) the total period of detention shall not exceed two years from the date of the order under subsection (2) above.

(4) Any order under subsection (2) above shall provide for notice to be given to persons affected by the order.

(5) Any application for an order under subsection (2) or (3) above shall be made—

(a) by the Commissioners of Customs and Excise or a constable if made to a justice or magistrates' court; and

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) by a procurator fiscal if made to the sheriff.

(6) At any time while cash is detained by virtue of the preceding provisions of this section—

(a) a magistrates' court or in Scotland the sheriff may direct its release if satisfied—

(i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer any, such grounds for its detention as are mentioned in subsection (2) above; or

(ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and

(b) a customs officer or constable, or in Scotland a procurator fiscal, may release the cash if satisfied that its detention is no longer justified, but shall first notify the justice, magistrates' court or sheriff under whose order it is being detained.

(7) If at a time when any cash is being detained by virtue of the preceding provisions of this section—

(a) an application for its forfeiture is made under section 43 of this Act, or

(b) proceedings are instituted (whether in the United Kingdom or elsewhere) against any person for an offence with which the cash is connected,

the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

(8) Cash seized under this section and detained for more than 48 hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

## 43 Forfeiture.

(1) A magistrates' court or in Scotland the sheriff may order the forfeiture of any cash which has been seized under section 42 of this Act if satisfied, on an application made while the cash is detained under that section, that the cash directly or indirectly represents any person's proceeds of drug trafficking, or is intended by any person for use in drug trafficking.

(2) Any application for an order under this section shall be made—

(a) by the Commissioners of Customs and Excise or a constable if made to a magistrates' court; and

(b) by a procurator fiscal if made to the sheriff.

(3) The standard of proof in proceedings on an application under this section shall be that applicable to civil proceedings; and an order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

(4) Proceedings on an application under this section to the sheriff shall be civil proceedings.

## 44 Appeal against forfeiture order made by a magistrates' court.

(1) This section applies where an order for the forfeiture of cash ("the forfeiture order") is made under section 43 of this Act by a magistrates' court.

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(2) Any party to the proceedings in which the forfeiture order is made (other than the applicant for the order) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Crown Court or, in Northern Ireland, to a county court.

(3) An appeal under this section shall be by way of a rehearing.

(4) On an application made by the appellant to a magistrates' court at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.

(5) The court hearing an appeal under this section may make such order as it considers appropriate.

(6) If it upholds the appeal, the court may order the release of the cash, or (as the case may be) the remaining cash, together with any accrued interest.

(7) Subsection (3) of section 43 of this Act applies in relation to a rehearing on an appeal under this section as it applies to proceedings under that section.

### 45 Appeal against forfeiture order made by sheriff.

Any party to proceedings in which an order for the forfeiture of cash is made by the sheriff under section 43 of this Act may appeal against the order to the Court of Session.

### 46 Rules of court.

(1) Provision may be made by rules of court with respect to applications or appeals to any court under this Part, for the giving of notice of such applications or appeals to persons affected, for the joinder, or in Scotland sisting, of such persons as parties and generally with respect to the procedure under those sections before any court.

(2) Subsection (1) above is without prejudice to the generality of any existing power to make rules.

### 47 Receipts.

(1) Any money representing cash forfeited under this Part or accrued interest thereon shall be paid into the Consolidated Fund.

(2) Subsection (1) above does not apply—

(a) where an appeal is made under section 44 or 45 of this Act, before the appeal is determined or otherwise disposed of; and

(b) in any other case—

(i) where the forfeiture was ordered by a magistrates' court, before the end of the period of 30 days mentioned in section 44(2) of this Act; or

(ii) where the forfeiture was ordered by the sheriff, before the end of any period within which, in accordance with rules of court, an appeal under section 45 of this Act must be made.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

### 48 Interpretation of Part II.

(1) In this Part—

"cash" includes coins and notes in any currency;

"customs officer" means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management [M49] Act 1979; and

"exported", in relation to any cash, includes its being brought to any place in the United Kingdom for the purpose of being exported.

(2) In the application of this Part in Scotland and Northern Ireland, "drug trafficking" and "the proceeds of drug trafficking"—

(a) as respects Scotland, have the same meaning as in **[**[F14]the Proceeds of Crime (Scotland) Act 1995**]**; and

(b) as respects Northern Ireland, have the same meaning as in the **[**[F15]Proceeds of Crime (Northern Ireland) Order 1996**]**.

(3) In section 42 of this Act "the prescribed sum" means such sum in sterling as may for the time being be prescribed for the purposes of that section by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and in determining under that section whether an amount of currency other than sterling is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.

(4) For the avoidance of doubt it is hereby declared that notwithstanding sections 8 and 9 of the Isle [M50] of Man Act 1979 references in this Part to importation into or export from the United Kingdom include references to importation into the United Kingdom from the Isle of Man and exportation from the United Kingdom to the Isle of Man.

**Textual Amendments**

**F14** Words in s. 48(2)(a) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 94(7)**

**F15** Words in s. 48(2)(b) substituted (25.8.1996) by S.I. 1996/1299 (N.I. 9) arts. 1, 57(1), Sch. 3 para. 18

**Marginal Citations**

**M49** 1979 c. 2.

**M50** 1979 c. 58.

## PART III

OFFENCES IN CONNECTION WITH PROCEEDS OF DRUG TRAFFICKING

### 49 Concealing or transferring proceeds of drug trafficking.

(1) A person is guilty of an offence if he—

(a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking, or

(b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order.

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(2) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he—

(a) conceals or disguises that property, or

(b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order.

(3) In subsections (1)(a) and (2)(a) above the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

**50 Assisting another person to retain the benefit of drug trafficking.**

(1) Subject to subsection (3) below, a person is guilty of an offence if he enters into or is otherwise concerned in an arrangement whereby—

(a) the retention or control by or on behalf of another person (call him "A") of A's proceeds of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise), or

(b) A's proceeds of drug trafficking—

(i) are used to secure that funds are placed at A's disposal, or

(ii) are used for A's benefit to acquire property by way of investment,

and he knows or suspects that A is a person who carries on or has carried on drug trafficking or has benefited from drug trafficking.

(2) In this section, references to any person's proceeds of drug trafficking include a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of drug trafficking.

(3) Where a person discloses to a constable a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking, or discloses to a constable any matter on which such a suspicion or belief is based—

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise; and

(b) if he does any act in contravention of subsection (1) above and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if—

(i) the disclosure is made before he does the act concerned and the act is done with the consent of the constable; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove—

(a) that he did not know or suspect that the arrangement related to any person's proceeds of drug trafficking;

(b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property was facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1)(b) above; or

(c) that—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(i) he intended to disclose to a constable such a suspicion, belief or matter as is mentioned in subsection (3) above in relation to the arrangement, but

(ii) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in paragraph (b)(i) or (ii) of that subsection.

(5) In the case of a person who was in employment at the time in question, subsections (3) and (4) above shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a constable.

**51 Acquisition, possession or use of proceeds of drug trafficking.**

(1) A person is guilty of an offence if, knowing that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires or uses that property or has possession of it.

(2) It is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration.

(3) For the purposes of subsection (2) above—

(a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property; and

(b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.

(4) The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (2) above.

(5) Where a person discloses to a constable a suspicion or belief that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, or discloses to a constable any matter on which such a suspicion or belief is based—

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise; and

(b) if he does any act in relation to the property in contravention of subsection (1) above, he does not commit an offence under this section if—

(i) the disclosure is made before he does the act concerned and the act is done with the consent of the constable; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(6) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(7) In proceedings against a person for an offence under this section, it is a defence to prove that—

(a) he intended to disclose to a constable such a suspicion, belief or matter as is mentioned in subsection (5) above, but

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in paragraph (b)(i) or (ii) of that subsection.

(8) In the case of a person who was in employment at the time in question, subsections (5) and (7) above shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a constable.

(9) No constable or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other enactment relating to drug trafficking or the proceeds of drug trafficking.

**52 Failure to disclose knowledge or suspicion of money laundering.**

(1) A person is guilty of an offence if—

(a) he knows or suspects that another person is engaged in drug money laundering,

(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, and

(c) he does not disclose the information or other matter to a constable as soon as is reasonably practicable after it comes to his attention.

(2) Subsection (1) above does not make it an offence for a professional legal adviser to fail to disclose any information or other matter which has come to him in privileged circumstances.

(3) It is a defence to a charge of committing an offence under this section that the person charged had a reasonable excuse for not disclosing the information or other matter in question.

(4) Where a person discloses to a constable—

(a) his suspicion or belief that another person is engaged in drug money laundering, or

(b) any information or other matter on which that suspicion or belief is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Without prejudice to subsection (3) or (4) above, in the case of a person who was in employment at the time in question, it is a defence to a charge of committing an offence under this section that he disclosed the information or other matter in question to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures.

(6) A disclosure to which subsection (5) above applies shall not be treated as a breach of any restriction imposed by statute or otherwise.

(7) In this section "drug money laundering" means doing any act—

(a) which constitutes an offence under section 49, 50 or 51 of this Act; or

(b) in the case of an act done otherwise than in England and Wales, which would constitute such an offence if done in England and Wales;

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

and for the purposes of this subsection, having possession of any property shall be taken to be doing an act in relation to it.

(8) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated, or given, to him—

(a) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by, or by a representative of, a person seeking legal advice from the adviser; or

(c) by any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(9) No information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

## 53 Tipping-off.

(1) A person is guilty of an offence if—

(a) he knows or suspects that a constable is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into drug money laundering, and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person is guilty of an offence if—

(a) he knows or suspects that a disclosure has been made to a constable under section 50, 51 or 52 of this Act ("the disclosure"), and

(b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.

(3) A person is guilty of an offence if—

(a) he knows or suspects that a disclosure of a kind mentioned in section 50(5), 51(8) or 52(5) of this Act ("the disclosure") has been made, and

(b) he discloses to any person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.

(4) Nothing in subsections (1) to (3) above makes it an offence for a professional legal adviser to disclose any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(5) Subsection (4) above does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(6) In proceedings against a person for an offence under subsection (1), (2) or (3) above, it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in that subsection.

(7) No constable or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other enactment relating to drug trafficking or the proceeds of drug trafficking.

(8) In this section "drug money laundering" has the same meaning as in section 52 of this Act.

### 54 Penalties.

(1) A person guilty of an offence under section 49, 50 or 51 of this Act shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine or to both.

(2) A person guilty of an offence under section 52 or 53 of this Act shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

## PART IV

MISCELLANEOUS AND SUPPLEMENTAL

**Modifications etc. (not altering text)**

**C7** Part IV (ss. 55-69) applied with modifications (1.1.1997) by S.I. 1996/2880, arts. 3-6, **Schs. 1-3** (as amended by S.I. 1997/2980, arts. 2-5, **Sch.**)

*Investigations into drug trafficking*

### 55 Order to make material available.

(1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Circuit judge for an order under subsection (2) below in relation to particular material or material of a particular description.

(2) If on such an application the judge is satisfied that the conditions in subsection (4) below are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—

(a) produce it to a constable for him to take away, or

(b) give a constable access to it,

within such period as the order may specify.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

This subsection has effect subject to section 59(11) of this Act.

(3) The period to be specified in an order under subsection (2) above shall be seven days unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) above are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that there are reasonable grounds for suspecting that the material to which the application relates—

(i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and

(ii) does not consist of or include items subject to legal privilege or excluded material; and

(c) that there are reasonable grounds for believing that it is in the public interest, having regard—

(i) to the benefit likely to accrue to the investigation if the material is obtained, and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

(5) Where the judge makes an order under subsection (2)(b) above in relation to material on any premises he may, on the application of a constable, order any person who appears to him to be entitled to grant entry to the premises to allow a constable to enter the premises to obtain access to the material.

(6) An application under subsection (1) or (5) above may be made ex parte to a judge in chambers.

(7) Provision may be made by Crown Court Rules as to—

(a) the discharge and variation of orders under this section; and

(b) proceedings relating to such orders.

(8) An order of a Circuit judge under this section shall have effect as if it were an order of the Crown Court.

(9) Where the material to which an application under subsection (1) above relates consists of information contained in a computer—

(a) an order under subsection (2)(a) above shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) an order under subsection (2)(b) above shall have effect as an order to give access to the material in a form in which it is visible and legible.

(10) An order under subsection (2) above—

(a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material;

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and

(c) may be made in relation to material in the possession of an authorised government department;

and in this subsection "authorised government department" means a government department which is an authorised department for the purposes of the Crown [M51] Proceedings Act 1947.

**Modifications etc. (not altering text)**

**C8** S. 55 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 55 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M51** 1947 c. 44.

## 56 Authority for search.

(1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Circuit judge for a warrant under this section in relation to specified premises.

(2) On such application the judge may issue a warrant authorising a constable to enter and search the premises if the judge is satisfied—

(a) that an order made under section 55 of this Act in relation to material on the premises has not been complied with;

(b) that the conditions in subsection (3) below are fulfilled; or

(c) that the conditions in subsection (4) below are fulfilled.

(3) The conditions referred to in subsection (2)(b) above are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that the conditions in subsection (4)(b) and (c) of section 55 of this Act are fulfilled in relation to any material on the premises; and

(c) that it would not be appropriate to make an order under that section in relation to the material because—

(i) it is not practicable to communicate with any person entitled to produce the material;

(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable could secure immediate access to the material.

(4) The conditions referred to in subsection (2)(c) above are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and

(c) that—

(i) it is not practicable to communicate with any person entitled to grant entry to the premises;

(ii) entry to the premises will not be granted unless a warrant is produced; or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable arriving at the premises could secure immediate entry to them.

(5) Where a constable has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

**Modifications etc. (not altering text)**

**C9** S. 56 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 56 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**C10** S. 56(5): Power of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2), **Sch. 1 Pt. 1 para. 59**
S. 56(5) modified (*prosp.*) by 2001 c. 16, ss. 55, 57(3), 68, 138(2), **Sch. 1 Pt.3 para. 108**

## 57 Provisions supplementary to sections 55 and 56.

(1) For the purposes of sections 21 and 22 of the Police [M52]and Criminal Evidence Act 1984 (access to, and copying and retention of, seized material)—

(a) an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence; and

(b) material produced in pursuance of an order under section 55(2)(a) of this Act shall be treated as if it were material seized by a constable.

(2) In sections 55 and 56 of this Act "excluded material", "items subject to legal privilege" and "premises" have the same meaning as in the 1984 Act.

**Modifications etc. (not altering text)**

**C11** S. 57 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 57 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M52** 1984 c. 60.

## 58 Offence of prejudicing investigation.

(1) Where, in relation to an investigation into drug trafficking—

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) an order under section 55 of this Act has been made or has been applied for and has not been refused, or

(b) a warrant under section 56 of this Act has been issued,

a person is guilty of an offence if, knowing or suspecting that the investigation is taking place, he makes any disclosure which is likely to prejudice the investigation.

(2) In proceedings against a person for an offence under this section, it is a defence to prove—

(a) that he did not know or suspect that the disclosure was likely to prejudice the investigation; or

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) Nothing in subsection (1) above makes it an offence for a professional legal adviser to disclose any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(4) Subsection (3) above does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

**Modifications etc. (not altering text)**

**C12** S. 58 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 58 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

## 59 Disclosure of information held by government departments.

(1) Subject to subsection (4) below, the High Court may on an application by the prosecutor order any material mentioned in subsection (3) below which is in the possession of an authorised government department to be produced to the court within such period as the court may specify.

(2) The power to make an order under subsection (1) above is exercisable if—

(a) the powers conferred on the court by sections 26(1) and 27(1) of this Act are exercisable by virtue of subsection (1) of section 25 of this Act; or

(b) those powers are exercisable by virtue of subsection (3) of that section and the court has made a restraint or charging order which has not been discharged;

but where the power to make an order under subsection (1) above is exercisable by virtue only of paragraph (b) above, subsection (4) of section 25 of this Act shall apply for the purposes of this section as it applies for the purposes of sections 26 and 27 of this Act.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(3) The material referred to in subsection (1) above is any material which—

(a) has been submitted to an officer of an authorised government department by the defendant or by a person who has at any time held property which was realisable property;

(b) has been made by an officer of an authorised government department in relation to the defendant or such a person; or

(c) is correspondence which passed between an officer of an authorised government department and the defendant or such a person;

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

(4) An order under subsection (1) above shall not require the production of any material unless it appears to the High Court that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by sections 26 to 29 of this Act or on a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order.

(5) The court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the department to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) above may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under any provision of this Act, apart from section 16, of the receiver or the Crown Court.

(7) The court may by order authorise the disclosure to a person mentioned in subsection (8) below of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless—

(a) a reasonable opportunity has been given for an officer of the department to make representations to the court; and

(b) it appears to the court that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) above are—

(a) any member of a police force;

(b) any member of the Crown Prosecution Service; and

(c) any officer within the meaning of the Customs [M53] and Excise Management Act 1979.

(9) Material disclosed in pursuance of an order under subsection (7) above may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under subsection (1) above and, in the case of material in the possession of an authorised government department, an order under section 55(2) of this Act may require any officer of the department (whether named in the order or not) who may

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

(a) shall take all reasonable steps to bring it to the attention of the officer concerned; and

(b) if the order is not brought to that officer's attention within the period referred to in subsection (1) above, shall report the reasons for the failure to the court;

and it shall also be the duty of any other officer of the department in receipt of the order to take such steps as are mentioned in paragraph (a) above.

(13) In this section "authorised government department" means a government department which is an authorised department for the purposes of the Crown [M54] Proceedings Act 1947.

**Extent Information**

**E7** S. 59 extends to England and Wales only except that s. 59(10)-(13) extend also to Scotland.

**Modifications etc. (not altering text)**

**C13** S. 59 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 59 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M53** 1979 c. 2.
**M54** 1947 c. 44.

*Prosecution of offences etc*

## 60 Prosecution by order of the Commissioners of Customs and Excise.

(1) Proceedings for a specified offence may be instituted by order of the Commissioners of Customs and Excise ("the Commissioners").

(2) Any proceedings for a specified offence which are so instituted shall be commenced in the name of an officer.

(3) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings for a specified offence were commenced, those proceedings may be continued by another officer.

(4) Where the Commissioners investigate, or propose to investigate, any matter with a view to determining—

(a) whether there are grounds for believing that a specified offence has been committed, or

(b) whether a person should be prosecuted for a specified offence,

that matter shall be treated as an assigned matter within the meaning of the Customs [M55] and Excise Management Act 1979.

(5) Nothing in this section shall be taken—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(a) to prevent any person (including any officer) who has power to arrest, detain or prosecute any person for a specified offence from doing so; or

(b) to prevent a court from proceeding to deal with a person brought before it following his arrest by an officer for a specified offence, even though the proceedings have not been instituted by an order made under subsection (1) above.

(6) In this section—

"officer" means a person commissioned by the Commissioners; and

"specified offence" means—

(a) an offence under Part III or section 58 of this Act;

(b) attempting to commit, conspiracy to commit or incitement to commit any such offence; or

(c) any other offence of a kind prescribed in regulations made by the Secretary of State for the purposes of this section;

and references to the institution of proceedings for an offence shall be construed in accordance with section 41(2) of this Act.

(7) The power to make regulations under subsection (6) above shall be exercisable by statutory instrument.

(8) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

**C14** S. 60 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 60 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M55** 1979 c. 2.

## 61 Extension of certain offences to Crown servants and exemptions for regulators etc.

(1) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, sections 49(2), 50 to 53 and 58 of this Act shall apply to such persons in the public service of the Crown, or such categories of person in that service, as may be prescribed.

(2) Section 52 of this Act shall not apply—

(a) to any person designated by regulations made by the Secretary of State for the purposes of this paragraph; or

(b) in such circumstances as may be prescribed, to any person who falls within such category of person as may be prescribed for the purposes of this paragraph.

(3) The Secretary of State may designate for the purposes of paragraph (a) of subsection (2) above any person appearing to him to be performing regulatory, supervisory, investigative or registration functions.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(4) The categories of person prescribed by the Secretary of State for the purposes of paragraph (b) of subsection (2) above shall be such categories of person connected with the performance by any designated person of regulatory, supervisory, investigative or registration functions as he considers it appropriate to prescribe.

(5) In this section—

"the Crown" includes the Crown in right of Her Majesty's Government in Northern Ireland; and

"prescribed" means prescribed by regulations made by the Secretary of State.

(6) Any power to make regulations under this section shall be exercisable by statutory instrument.

(7) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

**C15** S. 61 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 61 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

*Interpretation of Act*

## 62 Meaning of "property" and related expressions.

(1) In this Act "property" includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) This Act applies to property whether it is situated in England and Wales or elsewhere.

(3) In this Act "interest", in relation to property, includes right.

(4) In this Act—

(a) references to property held by a person include a reference to property vested in his trustee in bankruptcy, permanent or interim trustee within the meaning of the Bankruptcy [M56] (Scotland) Act 1985 or liquidator; and

(b) references to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(5) For the purposes of this Act—

(a) property is held by any person if he holds any interest in it; and

(b) property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

**Modifications etc. (not altering text)**

**C16** S. 62 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 62 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

**Marginal Citations**
**M56** 1985 c. 66.

## 63 General interpretation.

(1) In this Act—

"constable" includes a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs [M57] and Excise Management Act 1979;

"defendant" means a person against whom proceedings have been instituted (within the meaning given in section 41(2) of this Act) for a drug trafficking offence (whether or not he has been convicted);

"modifications" includes additions, alterations and omissions.

(2) In this Act references to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection.

(3) Subject to section 66(2) and (6) of this Act—

(a) any reference in this Act to an offence includes a reference to an offence committed before the commencement of this Act; and

(b) any reference in this Act to "drug trafficking" includes a reference to drug trafficking carried out before the commencement of this Act.

**Modifications etc. (not altering text)**
**C17** S. 63 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 63 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**
**M57** 1979 c. 2.

## 64 Index of defined expressions.

In this Act the expressions listed below are defined by, or otherwise fall to be construed in accordance with, the provisions of this Act indicated below—

| | |
|---|---|
| acting as an insolvency practitioner | section 35(4) |
| amount that might be realised | section 6(1) |
| amount to be recovered | section 5(1) |
| benefited from drug trafficking | section 2(3) |
| charging order | section 27(2) |
| conclusion of an application | |
| —under section 13, 14 or 19 | section 41(4) |
| —under section 15 or 16 | section 41(5) |
| conclusion of proceedings for a drug trafficking offence | section 41(3) |

| | |
|---|---|
| confiscation order | section 2(9) |
| constable | section 63(1) |
| defendant | section 63(1) |
| drug trafficking | |
| —generally | section 1(1) and (2) |
| —for the application of Part II in Scotland and Northern Ireland | section 48(2) |
| drug trafficking offence | section 1(3) |
| gift caught by this Act | section 8(1) |
| "held", in relation to property | section 62(5)(a) |
| institution of proceedings for an offence | section 41(2) |
| "interest", in relation to property | section 62(3) |
| making a gift | section 8(2) |
| modifications | section 63(1) |
| proceeds of drug trafficking | |
| —generally | section 4(1)(a) |
| —for the application of Part II in Scotland and Northern Ireland | section 48(2) |
| property | section 62(1) |
| realisable property | section 6(2) |
| restraint order | section 26(1) |
| "satisfied", in relation to a confiscation order | section 41(6) and (7) |
| "subject to appeal", in relation to an order | section 41(8) |
| "transferred" in relation to property | section 62(5)(b) |
| value of gift, payment or reward | section 7(2) |
| value of proceeds of drug trafficking | section 4(1)(b) |
| value of property | section 7(1). |

**Modifications etc. (not altering text)**

**C18** S. 64 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 64 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Supplemental*

## 65 Consequential amendments and modifications of other Acts.

(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments there specified (being amendments consequential upon the provisions of this Act).

(2) In section 1(2)(a) of the Rehabilitation [M58] of Offenders Act 1974 (failure to pay fines etc. not to prevent person becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

(3) Section 281(4) of the Insolvency [M59] Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

(4) Section 55(2) of the Bankruptcy [M60] (Scotland) Act 1985 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

**Extent Information**

**E8** S. 65(1) extends to Scotland and Northern Ireland see s. 68(1)-(3); s. 65(2)-(4) have the same extent as the enactments to which they relate see s.68(5).

**Modifications etc. (not altering text)**

**C19** S. 65 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 65 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M58** 1974 c. 53.
**M59** 1986 c. 45.
**M60** 1985 c. 66.

## 66 Transitional provisions and savings.

(1) The transitional provisions and savings set out in Schedule 2 to this Act shall have effect.

(2) Part I and section 59 of this Act shall not apply—

(a) in relation to any proceedings for, or in respect of, an offence if the person accused (or, as the case may be, convicted) of that offence was charged with the offence (whether by the laying of an information or otherwise) before the date on which this Act comes into force, or

(b) in relation to any proceedings not within paragraph (a) above instituted before that date,

and references in this subsection to proceedings include a reference to any order made by a court in the proceedings.

(3) Accordingly (and without prejudice to section 16 of the Interpretation [M61] Act 1978), the relevant enactments and any instrument made under any of those enactments shall continue to apply in relation to any proceedings within subsection (2)(a) or (b) above

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(and, in particular, in relation to any confiscation order, within the meaning of the Drug [M62] Trafficking Offences Act 1986, made in any such proceedings) as if this Act had not been passed.

(4) In subsection (3) above "the relevant enactments" are—

(a) the enactments reproduced in Part I and section 59 of this Act,

(b) any other enactment reproduced by this Act, so far as applicable in relation to any of the enactments reproduced in that Part or that section, and

(c) any enactment amended by this Act,

but do not include any enactment which, immediately before the date on which this Act comes into force, had not come into force.

(5) Subsection (2) above is without prejudice to section 4(7), 7(4), 26(3) or 29(7) of this Act.

(6) Nothing in section 19(3) or (4) of this Act shall apply to any proceedings—

(a) for an offence committed before the commencement of this Act; or

(b) for one or more offences, any one of which was so committed.

**Modifications etc. (not altering text)**

**C20** S. 66 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 66 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M61** 1978 c. 30.

**M62** 1986 c. 32.

## 67 Repeals etc.

(1) The enactments mentioned in Schedule 3 to this Act are repealed to the extent specified in the third column of that Schedule.

(2) Paragraph 9 of Schedule 2 to the Criminal [M63] Justice (Confiscation) (Northern Ireland) Order 1990 (which amends section 29(1) of the Criminal [M64] Justice (International Co-operation) Act 1990) is hereby revoked.

**Extent Information**

**E9** S. 67(1) extends to Scotland and Northern Ireland see s. 68(2)(3); s. 67(2) extends to Northern Ireland only see 68(4).

**Modifications etc. (not altering text)**

**C21** S. 67 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 67 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**

**M63** S.I. 1990/2588 (N.I. 17).

**M64** 1990 c. 5.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

## 68 Extent.

(1) Subject to the following provisions of this section, this Act extends to England and Wales only.

(2) The following provisions of this Act also extend to Scotland—

(a) section 11(11);
(b) sections 32 to 35 and 36(1);
(c) Part II;
(d) section 59(10) to (13);
(e) this section;
(f) section 69;
(g) sections 1, 41, 62, 63, 64, 65(1), 66 and 67(1), so far as they relate to provisions which extend to Scotland; and
(h) Schedule 2.

(3) The following provisions of this Act also extend to Northern Ireland—

(a) Part II;
(b) this section;
(c) section 69;
(d) sections 63, 64, 65(1), 66 and 67(1), so far as they relate to provisions which extend to Northern Ireland; and
(e) Schedule 2.

(4) Section 67(2) of this Act extends to Northern Ireland only.

(5) The modifications of other enactments specified in section 65(2) to (4) of this Act, and the amendments specified in Schedule 1 to this Act, have the same extent as the enactments to which they relate.

(6) Subject to subsection (7) below, the repeals contained in Schedule 3 to this Act have the same extent as the provisions to which they relate.

(7) The repeals of—

(a) sections 14 and 23A of the Criminal [M65] Justice (International Co-operation) Act 1990, and
(b) paragraph 5 of Schedule 4 to the Criminal [M66] Justice Act 1993,

extend to England and Wales only.

**Modifications etc. (not altering text)**
**C22** S. 68 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 68 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**Marginal Citations**
**M65** 1990 c. 5.
**M66** 1993 c. 36.

## 69 Short title and commencement.

(1) This Act may be cited as the Drug Trafficking Act 1994..

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(2) This Act comes into force at the end of the period of three months beginning with the day on which it is passed.

**Modifications etc. (not altering text)**

**C23** S. 69 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**
S. 69 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

# SCHEDULES

## SCHEDULE 1

Section 65.

**Extent Information**
**E10** Sch. 1 amendments as specified therein have the same extent as the enactments to which they relate.

CONSEQUENTIAL AMENDMENTS

*Land Registration Act 1925 (c. 21)*

1 In section 49 of the Land Registration Act 1925 (protection of certain interests etc by notice) in subsection (1)(g), the words "the Drug Trafficking Offences Act 1986 or" shall be omitted, and after the words "the Criminal Justice Act 1988" there shall be inserted the words " or the Drug Trafficking Act 1994 ".

*Criminal Appeal Act 1968 (c. 19)*

2 In section 50 of the Criminal Appeal Act 1968 (meaning of "sentence"), in subsection (1), as amended by paragraph 1 of Schedule 5 to the Criminal [M67] Justice Act 1993—

(a) in paragraph (d), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 "; and

(b) in paragraph (g), for the words "section 4A of the Act of 1986" there shall be substituted the words " section 19 of the Act of 1994 ".

**Marginal Citations**
**M67** 1993 c. 36.

*Misuse of Drugs Act 1971 (c. 38)*

3 In section 21 of the Misuse of Drugs Act 1971 (offences by corporations), after the word "1990" there shall be inserted the words " or section 49 of the Drug Trafficking Act 1994 ".

4 In section 23 of that Act (power to search and obtain evidence), in subsection (3A)—

(a) after the word "1990" there shall be inserted the words " or section 49 of the Drug Trafficking Act 1994 "; and

(b) after the words "that Act" there shall be inserted the words " of 1990 ".

5 In section 27 of that Act (forfeiture of things relating to certain offences), in subsection (1), for the words "section 38(1) of the Drug Trafficking Offences Act

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

1986" there shall be substituted the words " section 1(3) of the Drug Trafficking Act 1994 ".

*Civil Jurisdiction and Judgments Act 1982 (c. 27)*

6 In section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom) the following shall be substituted for subsection (4A)—

"(4A) This section does not apply as respects—

(a) the enforcement in Scotland of orders made by the High Court or a county court in England and Wales under or for the purposes of Part VI of the Criminal Justice Act 1988 or the Drug Trafficking Act 1994 (confiscation of the proceeds of certain offences or of drug trafficking); or

(b) the enforcement in England and Wales of orders made by the Court of Session under or for the purposes of Part I of the Criminal Justice (Scotland) Act 1987 (confiscation of the proceeds of drug trafficking)."

*Criminal Justice Act 1982 (c. 48)*

7 In Part II of Schedule 1 to the Criminal Justice Act 1982 (persons convicted of offences under certain enactments not eligible for early release), at the end there shall be added—

*" DRUG TRAFFICKING ACT 1994*

Section 49 (concealing or transferring the proceeds of drug trafficking).

Section 50 (assisting another person to retain the benefit of drug trafficking).

Section 51 (acquisition, possession or use of proceeds of drug trafficking)."

*Police and Criminal Evidence Act 1984 (c. 60)*

8 In section 65 of the Police and Criminal Evidence Act 1984 (provisions supplementary to Part V), for the words "Drug Trafficking Offences Act 1986", in both places where they occur, there shall be substituted the words " Drug Trafficking Act 1994 ".

9 In section 116 of that Act (meaning of "serious arrestable offence"), in subsection (2), paragraph (aa) shall be omitted and at the end there shall be added "and

(c) any of the offences mentioned in paragraphs (a) to (f) of section 1(3) of the Drug Trafficking Act 1994."

*Bankruptcy (Scotland) Act 1985 (c. 66)*

10 (1) In section 5 of the Bankruptcy (Scotland) Act 1985 (sequestration of the estate of a living or deceased debtor), in subsection (4), for the words "section 1(8) of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 2(9) of the Drug Trafficking Act 1994 ".

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(2) In section 7(1) of that Act (constitution of apparent insolvency)—

(a) in the definition of "charging order", the words "by section 9(2) of the Drug Trafficking Offences Act 1986 or" shall be omitted, and after the word "1988" there shall be inserted the words " or by section 27(2) of the Drug Trafficking Act 1994 ";

(b) in the definition of "confiscation order", for the words "section 1(8) of the said Act of 1986" there shall be substituted the words " section 2(9) of the said Act of 1994 "; and

(c) in the definition of "restraint order", for the words "section 8 of the said Act of 1986" there shall be substituted the words " section 26 of the said Act of 1994 ".

*Drug Trafficking Offences Act 1986 (c. 32)*

11 In section 40 of the Drug Trafficking Offences Act 1986 (extent), for subsection (4) there shall be substituted—

"(4) Section 34 of this Act and, so far as it relates to that section, this section, extend also to Scotland."

*Criminal Justice (Scotland) Act 1987 (c. 41)*

12 In section 3 of the Criminal Justice (Scotland) Act 1987 (assessment of the proceeds of drug trafficking), for paragraph (a) of subsection (4) there shall be substituted—

"(a) section 2 of the Drug Trafficking Act 1994; or".

13 In section 7 of that Act (application of provisions relating to fines to enforcement of confiscation orders), in subsection (2), in the entry relating to section 403 of the Criminal [M68] Procedure (Scotland) Act 1975, for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

**Marginal Citations**

**M68** 1975 c. 21.

14 In section 10 of that Act (seizure of property subject to restraint order), in subsection (1), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

15 In section 11 of that Act (inhibition and arrestment of property affected by restraint order or interdict under section 12 of that Act), in subsection (6) (which applies section 11 of that Act, with modifications, to certain orders under section 8 of the Drug Trafficking Offences Act 1986)—

(a) for the words "section 8 of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 26 of the Drug Trafficking Act 1994 ";

(b) in paragraph (a)—

(i) for the words "subsection (2) of section 7" there shall be substituted the words " subsection (3) of section 25 "; and

(ii) for the words "subsection (3)(b)" there shall be substituted the words " subsection (4)(b) ";

**Status:** *Point in time view as at 04/09/1998.*
**Changes to legislation:** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(c) in paragraph (b)—

(i) for the words "section 5" there shall be substituted the words " section 6 "; and

(ii) for the words "subsection (2) of the said section 7" there shall be substituted the words " subsection (3) of the said section 25 ";

(d) in the subsection (3A) set out in paragraph (g), for the words "section 13 of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 31 of the Drug Trafficking Act 1994 "; and

(e) in sub-paragraph (ii) of paragraph (h), for the words " "section 8, 11 or 12 of the said Act of 1986"" there shall be substituted the words " "section 26, 29 or 30 of the said Act of 1994" ".

16 In section 23 of that Act (exercise of powers by Court of Session or administrator), in subsection (7)—

(a) for the words "section 13 of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 31 of the Drug Trafficking Act 1994 "; and

(b) for the words "section 13", in the second place where they occur, there shall be substituted the words " section 31 ".

17 In section 26 of that Act (compensation), in subsection (2)(b), for the words "section 24A of the Drug Trafficking Offences Act 1986", there shall be substituted the words " section 37 of the Drug Trafficking Act 1994 ".

18 (1) Section 27 of that Act (recognition and enforcement of orders under the Drug Trafficking Offences Act 1986) shall be amended as set out in this paragraph.

(2) In subsection (2), for the words "section 8, 11 or 12 of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 26, 29 or 30 of the Drug Trafficking Act 1994 ".

(3) In subsection (4), for the words "section 11(3)(a) of the said Act of 1986" there shall be substituted the words " section 29(3)(a) of the said Act of 1994 ".

(4) In subsection (5)—

(a) in paragraph (a), for the words "section 8, 11, 12 or 30 of the said Act of 1986" there shall be substituted the words " section 26, 29, 30 or 59 of the said Act of 1994 "; and

(b) in paragraph (c), for the words "section 8, 11 or 12" there shall be substituted the words " section 26, 29 or 30 ".

(5) In subsection (6)—

(a) for the words "section 8 of the said Act of 1986" there shall be substituted the words " section 26 of the said Act of 1994 "; and

(b) for the words "section 7(4)" there shall be substituted the words " section 25(5) ".

(6) In subsection (8), for the words "section 11(6) of the said Act of 1986" there shall be substituted the words " section 29(6) of the said Act of 1994 ".

19 (1) Section 28 of that Act (provisions supplementary to section 27 of that Act) shall be amended as set out in this paragraph.

(2) In subsection (4), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

(3) In subsection (5)(b), for the words "section 8, 11 or 12 of the said Act of 1986" there shall be substituted the words " section 26, 29 or 30 of the said Act of 1994 ".

(4) In subsection (6) for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

20 In section 35 of that Act (winding up of company holding realisable property), in subsection (4), for the words "section 1 of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 2 of the Drug Trafficking Act 1994 ".

*Criminal Justice Act 1988 (c. 33)*

21 In section 71 of the Criminal Justice Act 1988 (confiscation orders), in subsection (9) (meaning of certain expressions used in Part VI of that Act), in paragraph (b), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

22 In section 151 of that Act (Customs and Excise power of arrest), in subsection (5), for the words "section 38(1) of the Drug Trafficking Offences Act 1986 other than an offence under section 24" there shall be substituted the words " section 1(3) of the Drug Trafficking Act 1994 other than an offence under section 50 ".

*Extradition Act 1989 (c. 33)*

23 In section 22(4) of the Extradition Act 1989 (offences in relation to which provision applying that Act may be made under that section), in sub-paragraph (i) of paragraph (h), for the words "Drug Trafficking Offences Act 1986; and" there shall be substituted the words " Drug Trafficking Act 1994; ".

24 In Schedule 1 to that Act (provisions deriving from the Extradition Act 1870 etc), in paragraph 15 (certain acts deemed to be offences committed within the jurisdiction of foreign state), in sub-paragraph (j), for the words "Drug Trafficking Offences Act 1986;" there shall be substituted the words " Drug Trafficking Act 1994; ".

*Criminal Justice (International Co-operation) Act 1990 (c. 5)*

25 In section 9(6) of the Criminal Justice (International Co-operation) Act 1990 (offences in connection with which power to make provision for the enforcement in the United Kingdom of foreign forfeiture etc orders may be exercised), for the words "section 38(1) of the Drug Trafficking Offences Act 1986" there shall be substituted the words " section 1(3) of the Drug Trafficking Act 1994 ".

26 In section 13(6) of that Act (purposes for which information obtained pursuant to regulations under that section may be disclosed), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

27 (1) Section 15 of that Act (interest on sums unpaid under confiscation orders) shall be amended as set out in sub-paragraphs (2) to (4) below.

(2) In subsection (1), the words "under section 31(1) of the Powers of Criminal Courts Act 1973 or" shall be omitted.

(3) The following shall be substituted for subsection (2)—

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

"(2) The sheriff may, on the application of the prosecutor, increase the term of imprisonment or detention fixed in respect of the confiscation order under section 396(2) of the said Act of 1975 (imprisonment in default of payment) if the effect of subsection (1) above is to increase the maximum period applicable in relation to the order under section 407(1A) of the said Act of 1975."

(4) In subsection (3), the words from "shall be that" to "Scotland" shall be omitted.

28 In section 24 of that Act (interpretation of Part II), in subsection (2), for the words "Drug Trafficking Offences Act 1986" there shall be substituted the words " Drug Trafficking Act 1994 ".

29 In section 32(4) of that Act (which provides that Her Majesty may by Order in Council direct that that Act shall extend to the Channel Islands, the Isle of Man or any colony), after the words "this Act" there shall be inserted the words " and those provisions of the Drug Trafficking Act 1994 which re-enact provisions of this Act ".

*Criminal Justice Act 1993 (c. 36)*

30 (1) Section 79 of the Criminal Justice Act 1993 shall be amended as set out in this paragraph.

(2) In subsection (2) (provisions extending to the United Kingdom), the references to section 25 and to paragraph 5 of Schedule 4 shall be omitted.

(3) In subsection (3) (provisions extending to Great Britain only), the words "13(9) to (11)," and "24(2), (3) and (7) to (10)," shall be omitted.

(4) In subsection (5) (provisions extending to Scotland and Northern Ireland only) after the word "34(2)" there shall be inserted the words " and paragraph 5 of Schedule 4 ".

## SCHEDULE 2

Section 66.

### TRANSITIONAL PROVISIONS ETC

*General transitional provisions and savings*

1 Anything done or having effect as if done (including the making of subordinate legislation) under or for the purposes of any provision repealed or revoked by this Act has effect as if done under or for the purposes of any corresponding provision of this Act.

2 Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision of this Act is (so far as the context permits) to be read as being or (according to the context) including in relation to times, circumstances and purposes before the commencement of this Act a reference to the corresponding provision repealed or revoked by this Act.

3 Any reference (express or implied) in any enactment, or in any instrument or document, to a provision repealed or revoked by this Act is (so far as the context permits) to be read as being or (according to the context) including in relation to

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

times, circumstances and purposes after the commencement of this Act a reference to the corresponding provision of this Act.

4 Paragraphs 1 to 3 above—

(a) have effect in place of section 17(2) of the Interpretation [M69] Act 1978 (but are without prejudice to any other provision of that Act); and

(b) are subject to section 66(2) to (6) of this Act.

**Marginal Citations**

**M69** 1978 c. 30.

*Provision in relation to section 32 of this Act*

5 In any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made, before 29 December 1986 (the date on which the Insolvency [M70] Act 1986 came into force), section 32 of this Act has effect with the following modifications—

(a) for references to the bankrupt's estate for the purposes of Part IX of that Act there are substituted references to the property of the bankrupt for the purposes of the Bankruptcy [M71] Act 1914;

(b) for references to the Act of 1986 and sections 280(2)(c), 286, 339 and 423 of that Act there are respectively substituted references to the Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act;

(c) the references in subsection (4) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to the receiver constituted by virtue of section 7 of the Act of 1914; and

(d) subsection (2)(b) is omitted.

**Marginal Citations**

**M70** 1986 c. 45.

**M71** 1914 c. 59.

*Provision in relation to section 34 of this Act*

6 In any case in which a winding up of a company commenced, or is treated as having commenced, before 29 December 1986 (the date on which the Insolvency Act 1986 came into force), section 34 of this Act has effect with the substitution for references to the Insolvency Act 1986 of references to the Companies [M72] Act 1985.

**Marginal Citations**

**M72** 1985 c. 6.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

*Provision in relation to Part II of this Act*

7 Nothing in sections 43(4), 44 or 45 of this Act shall apply to an order made before the coming into force of this Act under section 26 of the Criminal [M73] Justice (International Co-operation) Act 1990.

**Marginal Citations**
**M73** 1990 c. 5.

*Provision in relation to section 21(3) of the Criminal Justice Act 1993*

8 The repeal by this Act of subsection (2) of section 21 of the Criminal [M74] Justice Act 1993 (which substitutes a new subsection for section 24A(6) of the Drug [M75] Trafficking Offences Act 1986) shall not affect the operation of paragraphs (c) to (h) of subsection (3) of that section (which provides for the same subsection as is set out in subsection (2) to be substituted for certain other enactments).

**Marginal Citations**
**M74** 1993 c. 36.
**M75** 1986 c. 32.

*Provision in relation to section 26(1) of the Criminal Justice Act 1993*

9 The repeal by this Act of subsection (1) of section 26 of the Criminal Justice Act 1993 (which inserts subsections (2A) and (2B) into section 31 of the Drug Trafficking Offences Act 1986) shall not affect the operation of subsection (2) of that section (which provides for the same subsections to be inserted into section 42 of the Criminal [M76] Justice (Scotland) Act 1987).

**Marginal Citations**
**M76** 1987 c. 41.

*Provision in relation to Schedule 4 to the Criminal Justice Act 1993*

10 The repeal by this Act of paragraph 1 of Schedule 4 to the Criminal Justice Act 1993 (which inserts a section 36B into the Drug Trafficking Offences Act 1986) shall not affect the operation of the remaining provisions of that Schedule (which provide for a modified version of that section to be inserted into certain other Acts).

*Further transitional provision*

11 The Secretary of State may by order made by statutory instrument, in connection with the coming into force of any provision of this Act in so far as it reproduces the effect of any provision of the Criminal Justice Act 1993, make such further transitional provision or savings as he considers appropriate.

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

## SCHEDULE 3

Section 67.

REPEALS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1925 c. 21. | The Land Registration Act 1925. | In section 49(1)(g), the words "the Drug Trafficking Offences Act 1986 or". |
| 1984 c. 60. | The Police and Criminal Evidence Act 1984. | Section 116(2)(aa). |
| 1985 c. 66. | The Bankruptcy (Scotland) Act 1985. | In section 7(1), in the definition of "charging order", the words "by section 9(2) of the Drug Trafficking Offences Act 1986 or". |
| 1986 c. 32. | The Drug Trafficking Offences Act 1986. | The whole Act, except sections 24(6), 32, 34, and 40(1) and (3) to (5). |
| 1987 c. 41. | The Criminal Justice (Scotland) Act 1987. | Section 31. |
| | | Section 45(3) and (7). |
| 1988 c. 33. | The Criminal Justice Act 1988. | Section 103(1). |
| | | In Schedule 5, Part I. |
| 1988 c. 50. | The Housing Act 1988. | In Schedule 17, paragraphs 71 and 72. |
| 1990 c. 5. | The Criminal Justice (International Co-operation) Act 1990. | Section 14. |
| | | In section 15, in subsection (1), the words "under section 31(1) of the Powers of Criminal Courts Act 1973 or", and in subsection (3) the words from "shall be that" to "Scotland". |
| | | Section 16. |
| | | Section 23A. |
| | | Sections 25 to 29. |
| | | Section 30(2) and (3). |
| | | Section 31(2). |
| | | In Schedule 4, paragraph 4. |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | | |
|---|---|---|
| 1993 c. 36. | The Criminal Justice Act 1993. | Sections 7 to 16. |
| | | Section 18. |
| | | Section 20(1). |
| | | Section 21(2) and (3)(a) and (b). |
| | | Section 22(1). |
| | | Section 24(1) to (11). |
| | | Section 25. |
| | | Section 26(1). |
| | | Section 78(7). |
| | | In section 79, in subsection (2), the references to section 25 and to paragraph 5 of Schedule 4; and in subsection (3), the words “13(9) to (11),” and “24(2), (3) and (7) to (10),”. |
| | | In Schedule 4, paragraphs 1 and 5. |
| | | In Schedule 5, paragraphs 5 and 6. |
| 1994 c. 33. | The Criminal Justice and Public Order Act 1994. | In Schedule 9, paragraph 28. |

*TABLE OF DERIVATIONS*

*Notes:*

1 This Table shows the derivation of the provisions of the Act.

2 The following abbreviations are used in the table:—

| | |
|---|---|
| 1986 | = Drug Trafficking Offences Act 1986 (c. 32) |
| 1987 | = Criminal Justice (Scotland) Act 1987 (c. 41) |
| 1988 | = Criminal Justice Act 1988 (c. 33) |
| 1990 | = Criminal Justice (International Co-operation) Act 1990 (c. 5) |
| 1993 | = Criminal Justice Act 1993 (c. 36) |

| **Provision** | **Derivation** |
|---|---|

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| 1(1), (2) | 1986 s.38(1) “drug trafficking”; 1990 Sch.4 para.4(3); 1993 s.24(8). |
| (3) | 1986 s.38(1) “drug trafficking offence”; 1990 Sch.4 para.4(4); 1993 s.24(9). |
| (4) | 1986 s.38(1) “corresponding law”. |
| (5) | Drafting. |
| 2(1) | 1986 s.1(1); 1993 s.7(1). |
| (2) to (6) | 1986 s.1(2) to (6). |
| (7) | 1986 s.1(7); 1988 Sch.8 para.2. |
| (8) | 1986 s.1(7A); 1993 s.7(2). |
| (9) | 1986 s.38(1) “confiscation order”; 1993 Sch.5 para.6 (part). |
| 3(1) to (9) | 1986 s.1A (1) to (9); 1993 s.8 (part). |
| (10) | 1986 s.1A(9A); Criminal Justice and Public Order Act 1994 (c. 33) Sch. 9 para. 28. |
| (11) | 1986 s.1A(10), (11); 1993 s.8 (part). |
| 4(1) | 1986 s.2(1); 1990 s.29(1) (part). |
| (2) | 1986 s.2(2); 1993 s.9(2). |
| (3) | 1986 s.2(3); 1993 s.9(4). |
| (4) | 1986 s.2(2A), (2B); 1993 s.9(3). |
| (5) | 1986 s.2(4); 1990 Sch.4 para.4(2); 1993 s.16(2). |
| (6) | 1986 s.2(5) (part). |
| (7) | 1986 s.2(5) (part); 1987 s.45(7)(a); drafting. |
| (8) | Drafting. |
| 5(1), (2) | 1986 s.4(1), (2). |
| (3) | 1986 s.4(3); 1993 s.7(3). |
| 6(1) | 1986 s.5(3). |
| (2) | 1986 s.5(1). |
| (3) | 1986 s.5(2); Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4) Sch.8 para.7. |
| (4) | 1986 s.5(7). |
| 7(1) to (3) | 1986 s.5(4) to (6). |
| (4) | Drafting. |
| 8 | 1986 s.5(9), (10). |

| | |
|---|---|
| 9(1), (2) | 1986 s.6(1), (2). |
| (3) | 1986 s.6(3); 1988 Sch.8 para.2. |
| (4) | 1986 s.6(4). |
| (5) | 1986 s.6(7); 1993 s.13(1). |
| (6) | 1986 s.6(6) (part). |
| 10 | 1990 s.15 (part). |
| 11(1) | 1986 s.3(1) (part); 1993 s.10(2) (part). |
| (2) to (7) | 1986 s.3(1A) to (2); 1993 s.10(2) (part). |
| (8) | 1986 s.3(3); 1993 s.10(3), Sch.5 para.5. |
| (9) | 1986 s.3(4). |
| (10) | 1986 s.3(5); 1993 s.10(4). |
| (11) | 1986 s.3(6). |
| 12(1) | 1986 s.3A(1) (part); 1993 s.10(5) (part). |
| (2) to (7) | 1986 s.3A(2) to (7); 1993 s.10(5) (part). |
| 13(1) to (10) | 1986 s.5A(1) to (10); 1993 s.12 (part). |
| (11) | 1986 ss.3(1) (part), 3A(1) (part); 1993 s.10(2) (part), (5) (part). |
| (12) | 1986 s.5A(11); 1993 s.12 (part). |
| 14(1) to (6) | 1986 s.5B(1) to (6); 1993 s.12 (part). |
| (7) | 1986 s.5B(8); 1993 s.12 (part); drafting. |
| (8) | 1986 ss.3(1) (part), 3A(1) (part); 1993 s.10(2) (part), (5) (part). |
| 15(1), (2) | 1986 s.5C(1), (2); 1993 s.12 (part). |
| (3) | 1986 ss.3(1) (part), 3A(1) (part); 1993 s.10(2) (part), (5) (part). |
| (4) | 1986 s.5C(4); 1993 s.12 (part). |
| (5) | 1986 s.5C(3); 1993 s.12 (part). |
| (6) to (14) | 1986 s.5C(5) to (13); 1993 s.12 (part). |
| (15) | 1986 s.5C(15); 1993 s.12 (part); drafting. |
| 16 | 1990 s.16. |
| 17(1) | 1986 s.14(1); 1993 s.11(2). |
| (2) | 1986 s.14(2). |
| (3) | 1986 s.14(3); 1993 s.11(3). |
| (4) | 1986 s.14(4). |
| (5) | 1986 s.14(5); 1993 s.11(4). |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| 18(1) | 1986 s.19(1); 1988 Sch.5 para.12(b). |
| (2) | 1986 s.19(2); 1987 s.45(7)(d); 1993 s.24(2) (part). |
| (3) | 1986 s.19(2A); 1988 Sch.5 para.12(d). |
| (4), (5) | 1986 s.19(3), (4). |
| 19(1) to (5) | 1986 s.4A (1) to (5); 1993 s.14(1) (part). |
| (6) | 1986 ss.3(1) (part), 4A(6); 1993 ss.10(2) (part), 14(1) (part). |
| (7) | 1986 s.6(6) (part); 1993 s.14(2); drafting. |
| (8) | 1986 s.6(8); 1993 s.14(3). |
| (9) | 1986 s.5B(7); 1993 s.12 (part). |
| (10) | 1986 s.5C(14); 1993 s.12 (part). |
| 20 | 1986 s.4B; 1993 s.14(1) (part). |
| 21 | 1986 s.19C(1) to (5), (9); 1993 s.15 (part). |
| 22 | 1986 s.19A(1) to (3); 1993 s.15 (part). |
| 23 | 1986 s.19B(1) to (3); 1993 s.15 (part). |
| 24(1) | 1986 ss.19A(4), 19B(4), 19C(6); 1993 s.15 (part). |
| (2) | 1986 ss.19A(5), 19B(5), 19C(7); 1993 s.15 (part). |
| (3) | 1986 ss.19A(6), 19B(6), 19C(8); 1993 s.15 (part). |
| (4) | 1986 ss.19A(7), 19B(7); 1993 s.15 (part). |
| 25(1) | 1986 s.7(1); 1993 s.13(3). |
| (2) | 1986 s.7(6); 1993 s.13(5) (part). |
| (3) | 1986 s.7(2); 1993 s.13(4). |
| (4) | 1986 s.7(3). |
| (5) | 1986 s.7(4), (5); 1988 Sch.5 para.2(b); 1993 s.13(5) (part). |
| 26(1), (2) | 1986 s.8(1), (2). |
| (3) | 1986 s.8(3); drafting. |
| (4) | 1986 s.8(4). |
| (5) | 1986 s.8(5); 1993 s.13(6). |
| (6) | 1986 s.8(5A); 1988 Sch.5 para.3(1). |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| (7) | 1986 s.8(6); 1993 s.24(1). |
| (8) | 1986 s.8(7). |
| (9) | 1986 s.8(8) (part); 1987 s.45(7)(b)(i) (part). |
| (10) | 1986 s.8(8) (part); 1987 s.45(7)(b)(i) (part). |
| (11) | 1986 s.8(9); 1987 s.45(7)(b)(ii). |
| (12), (13) | 1986 s.8(10), (11); 1988 Sch.5 para.3(2). |
| 27(1), (2) | 1986 s.9(1), (2). |
| (3) | 1986 s.9(3); 1988 Sch.5 para.4(1). |
| (4) to (6) | 1986 s.9(4) to (6). |
| (7) | 1986 s.9(7); 1993 s.13(7). |
| (8) | 1986 s.9(8); 1988 Sch.5 para.4(2). |
| (9) | 1986 s.10(7). |
| 28 | 1986 s.10(2) to (6). |
| 29(1) | 1986 s.11(1); 1993 s.13(8). |
| (2) to (6) | 1986 s.11(2) to (6). |
| (7) | 1986 s. 11(7); drafting. |
| (8) | 1986 s.11(8). |
| 30(1) | 1986 s.12(1) (part). |
| (2) | 1986 s.12(1) (part); 1988 Sch.5 para.6(2); 1993 s.24(2) (part). |
| (3) | 1986 s.12(2); 1993 s.24(2) (part). |
| (4) to (9) | 1986 s.12(3) to (7); 1988 Sch.5 para.6(3). |
| 31(1) | 1986 s.13(1); 1993 s.24(2) (part). |
| (2) to (4) | 1986 s.13(2) to (4). |
| (5) | 1986 s.13(6). |
| (6) | 1986 s.13(5). |
| 32(1) | 1986 s.15(1). |
| (2) | 1986 s.15(2), (3); Housing Act 1988 (c. 50) Sch.17 para.71; 1993 s.24(2) (part). |
| (3), (4) | 1986 s.15(4), (5). |
| (5) | 1986 s.15(6); 1993 s.13(9). |
| 33(1) | 1986 s.16(1). |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| (2) | 1986 s.16(2); 1987 s.45(7)(c)(i); 1988 Sch.5 para.8(2); Housing Act 1988 (c. 50) Sch.17 para.72; 1993 s.24(2) (part). |
| (3), (4) | 1986 s.16(3), (4). |
| (5) | 1986 s.16(5); 1988 Sch.5 para.8(3); Interpretation Act 1978 (c. 30) s.17(2). |
| (6) | 1986 s.16(6); 1993 s.13(10). |
| (7) | 1986 s.16(7). |
| 34(1) | 1986 s.17(1). |
| (2) | 1986 s.17(2), (3); 1993 s.24(2) (part). |
| (3), (4) | 1986 s.17(4), (5). |
| 35(1), (2) | 1986 s.17A(1); 1988 Sch.5 para.10 (part). |
| (3) | 1986 s.17A(2); 1988 Sch.5 para.10 (part); 1993 s.24(3). |
| (4) | 1986 s.17A(3); 1988 Sch.5 para.10 (part). |
| 36(1) | 1986 s.18(1). |
| (2) | 1986 s.18(2); 1993 s.24(4). |
| 37(1) to (5) | 1986 s.24A(1) to (5); 1987 s.31 (part). |
| (6) | 1986 s.24A(6); 1987 s.31 (part); 1993 s.21(2). |
| 38(1) | 1986 s.25(1); 1988 Sch.5 para.14(1); 1993 s.22(1) (part). |
| (2), (3) | 1986 s.25(2), (3). |
| (4) | 1986 s.25(3A); 1993 s.22(1) (part). |
| (5) | 1986 s.25(4); 1993 s.21(3)(a). |
| 39(1) to (4) | 1986 s.26(1), (2) (part), (3), (4); 1988 Sch.5 para.15 (part). |
| (5) | 1986 s.26(5); 1993 s.21(3)(b). |
| (6) | Drafting. |
| 40(1) to (3). | 1986 s.26A; 1988 Sch.5 para.15 (part). |
| (4) | Drafting. |
| 41(1) | Drafting. |
| (2) | 1986 s.38(11). |
| (3) to (7) | 1986 s.38(12) to (12D); 1993 s.13(11). |
| (8) | 1986 s.38(13); 1988 Sch.5 para.16. |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| 42(1) to (3) | 1990 s.25(1) to (3). |
| (4) | 1990 s.28(1). |
| (5) to (7) | 1990 s.25(4) to (6). |
| (8) | 1990 s.27. |
| 43(1) to (3) | 1990 s.26(1) to (3). |
| (4) | 1990 s.26(4); 1993 s.25(3). |
| 44 | 1990 s.26A; 1993 s.25(1) (part). |
| 45 | 1990 s.26B; 1993 s.25(1) (part). |
| 46(1) | 1990 s.28(2); 1993 s.25(4). |
| (2) | 1990 s.28(3). |
| 47(1) | 1990 s.30(2). |
| (2) | 1990 s.30(3); 1993 s.25(5). |
| 48(1) | 1990 s.29(1) (part). |
| (2) | 1990 s.29(1) (part); Criminal Justice (Confiscation) (Northern Ireland) Order 1990, S.I.1990/2588 (N.I. 17), Sch.2 para.9. |
| (3), (4) | 1990 s.29(2), (3). |
| 49(1), (2) | 1990 s.14(1), (2) (part). |
| (3) | 1990 s.14(4) (part). |
| 50(1), (2) | 1986 s.24(1), (2). |
| (3) | 1986 s.24(3); 1993 s.18(2). |
| (4) | 1986 s.24(4). |
| (5) | 1986 s.24(4A); 1993 s.18(3). |
| 51 | 1986 s.23A(1) to (8), (10); 1993 s.16(1) (part). |
| 52(1) to (6) | 1986 s.26B(1) to (6); 1993 s.18(1) (part). |
| (7) | 1986 s.26B(7), (8); 1993 s.18(1) (part). |
| (8), (9) | 1986 s.26B(9), (10); 1993 s.18(1) (part). |
| 53(1) to (6) | 1986 s.26C(1) to (6); 1993 s.18(1) (part). |
| (7) | 1986 s.26C(9); 1993 s.18(1) (part). |
| (8) | 1986 s.26C(7); 1993 s.18(1) (part). |
| 54(1) | 1986 ss.23A(9), 24(5); 1990 s.14(6); 1993 s.16(1) (part). |

***Status:*** *Point in time view as at 04/09/1998.*
***Changes to legislation:*** *Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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)*

| | |
|---|---|
| (2) | 1986 ss.26B(11), 26C(8); 1993 s.18(1) (part). |
| 55(1) to (5) | 1986 s.27(1) to (5). |
| (6) | 1986 s.27(10); 1993 s.24(5) (part). |
| (7), (8) | 1986 s.27(6), (7). |
| (9) | 1986 s.27(8); 1993 s.24(5) (part). |
| (10) | 1986 ss.27(9), 38(1) "authorised government department". |
| 56 | 1986 s.28. |
| 57 | 1986 s.29. |
| 58(1), (2) | 1986 s.31(1), (2). |
| (3), (4) | 1986 s.31(2A), (2B); 1993 s.26(1). |
| (5) | 1986 s.31(3). |
| 59(1) to (12) | 1986 s.30. |
| (13) | 1986 s.38(1) "authorised government department". |
| 60 | 1986 s.36A; 1993 s.20(1). |
| 61 | 1986 s.36B; 1990 s.23A (part); 1993 Sch.4 paras.1, 5 (part). |
| 62(1) | 1986 s.38(1) "property". |
| (2) | 1986 s.38(3). |
| (3) | 1986 s.38(1) "interest". |
| (4) | 1986 s.38(8), (9). |
| (5) | 1986 s.38(7), (10). |
| 63(1) | "constable": 1986 s.38(1) "constable". |
| | "defendant": 1986 s.38(1) "defendant"; 1993 Sch.5 para.6 (part). |
| | "modifications": 1986 s.26(2) "modifications"; 1988 Sch.5 para.15 (part). |
| (2) | 1986 s.38(5). |
| (3) | 1986 s.38(4) (part); drafting. |
| 64 | 1986 s.38(2); drafting. |
| 65(1) | Drafting. |
| (2) | 1986 s.39(3). |
| (3), (4) | 1986 s.39(5), (6). |
| 66 to 69 | Drafting. |

**Status:**
Point in time view as at 04/09/1998.

**Changes to legislation:**
Drug Trafficking Act 1994 is up to date with all changes known to be in force on or before 12 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.