



# Drug Trafficking Act 1994

## 1994 CHAPTER 37

### PART I

#### CONFISCATION ORDERS

##### *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
  - (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.