



Drug Trafficking Act 1994

1994 CHAPTER 37

PART I

CONFISCATION ORDERS

Further proceedings in connection with confiscation orders

17 Inadequacy of realisable property.

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

Status: Point in time view as at 25/08/2000. This version of this provision has been superseded.

Changes to legislation: Drug Trafficking Act 1994, Section 17 is up to date with all changes known to be in force on or before 04 June 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) 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 [^{F1}section 139 of the Powers of Criminal Courts (Sentencing) Act 2000] 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.

Textual Amendments

F1 Words in s. 17(4)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 170**

Status:

Point in time view as at 25/08/2000. This version of this provision has been superseded.

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