



# Drug Trafficking Act 1994

## 1994 CHAPTER 37

### PART I

#### CONFISCATION ORDERS

##### *Confiscation orders*

#### **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;

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*Status: This is the original version (as it was originally enacted).*

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- (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.
- (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 Trafficking Offences Act 1986; or
  - (b) Part I of the Criminal Justice (Scotland) Act 1987.
- (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.