



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Reconsideration

172 Order made: reconsideration of available amount

- (1) This section applies if—
 - (a) a court has made a confiscation order,
 - (b) the amount required to be paid was the amount found under section 157(2), and
 - (c) an applicant falling within subsection (2) applies to the Crown Court to make a new calculation of the available amount.
- (2) These applicants fall within this subsection—
 - (a) the prosecutor;
 - ^{F1}(b)
 - (c) a receiver appointed under section 198 ^{F2}....
- (3) In a case where this section applies the court must make the new calculation, and in doing so it must apply section 159 as if references to the time the confiscation order is made were to the time of the new calculation and as if references to the date of the confiscation order were to the date of the new calculation.
- (4) If the amount found under the new calculation exceeds the relevant amount the court may vary the order by substituting for the amount required to be paid such amount as—
 - (a) it believes is just, but
 - (b) does not exceed the amount found as the defendant's benefit from the conduct concerned.
- (5) In deciding what is just the court must have regard in particular to—

Changes to legislation: Proceeds of Crime Act 2002, Section 172 is up to date with all changes known to be in force on or before 30 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) View outstanding changes

- (a) any fine imposed on the defendant for the offence (or any of the offences) concerned;
 - (b) any order which falls within section 163(3) and has been made against him in respect of the offence (or any of the offences) concerned and has not already been taken into account by the court in deciding what is the free property held by him for the purposes of section 159;
 - (c) any order which has been made against him in respect of the offence (or any of the offences) concerned under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)) (compensation orders).
- (6) But in deciding what is just the court must not have regard to an order falling within subsection (5)(c) if a court has made a direction under section 163(6).
- (7) In deciding under this section whether one amount exceeds another the court must take account of any change in the value of money.
- (8) The relevant amount is—
- (a) the amount found as the available amount for the purposes of the confiscation order, if this section has not applied previously;
 - (b) the amount last found as the available amount in pursuance of this section, if this section has applied previously.
- (9) The amount found as the defendant’s benefit from the conduct concerned is—
- (a) the amount so found when the confiscation order was made, or
 - (b) if one or more new calculations of the defendant’s benefit have been made under section 171 the amount found on the occasion of the last such calculation.

Textual Amendments

- F1** S. 172(2)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 45(a), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F2** Words in s. 172(2)(c) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 45(b), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)

Modifications etc. (not altering text)

- C1** Pt. 4 applied by [S.I. 1989/1341 \(N.I. 12\)](#), [arts. 57\(5B\), 59\(8B\)](#) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), Supreme Court s. 458(1), Sch. 11 para. 19(2)(3); [S.I. 2003/333](#), art. 2, [Sch.](#))

Commencement Information

- I1** S. 172 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)