



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Reconsideration*

#### **22 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 7(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;
  - (b) the Director;
  - (c) a receiver appointed under section 50 or 52.
- (3) In a case where this section applies the court must make the new calculation, and in doing so it must apply section 9 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—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) any fine imposed on the defendant for the offence (or any of the offences) concerned;
  - (b) any order which falls within section 13(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 9;
  - (c) any order which has been made against him in respect of the offence (or any of the offences) concerned under section 130 of the Sentencing Act (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 13(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 21 the amount found on the occasion of the last such calculation.