



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Reconsideration*

### 23 Inadequacy of available amount: variation of order

- (1) This section applies if—
  - (a) a court has made a confiscation order, and
  - (b) the defendant [<sup>F1</sup> or the prosecutor] , or a receiver appointed under section 50 <sup>F2</sup> ..., applies to the Crown Court to vary the order under this section.
- (2) In such a case the court must calculate the available amount, 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 calculation and as if references to the date of the confiscation order were to the date of the calculation.
- (3) If the court finds that the available amount (as so calculated) is inadequate for the payment of any amount remaining to be paid under the confiscation order it may vary the order by substituting for the amount required to be paid such smaller amount as the court believes is just.
- (4) If a person has been [<sup>F3</sup>made] bankrupt or his estate has been sequestrated, or if an order for the winding up of a company has been made, the court must take into account the extent to which realisable property held by that person or that company may be distributed among creditors.
- (5) The court may disregard any inadequacy which it believes is attributable (wholly or partly) to anything done by the defendant for the purpose of preserving property held by the recipient of a tainted gift from any risk of realisation under this Part.

**Changes to legislation:** Proceeds of Crime Act 2002, Section 23 is up to date with all changes known to be in force on or before 05 July 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

- (6) In subsection (4) “company” means any company which may be wound up under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

#### Textual Amendments

- F1** Words in s. 23(1)(b) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 8(1)**, 88(1); S.I. 2015/820, reg. 3(e)
- F2** Words in s. 23(1)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 12, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F3** Word in s. 23(4) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, **Sch. 1 para. 18**

#### Modifications etc. (not altering text)

- C1** Pt. 2 applied by [Terrorism Act 2000 \(c. 11\)](#), Sch. 8 paras. 8(5A), **34(3A)** (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 39(2)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), **sch.** (with art. 7); S.I. 2003/333, art. 2, **Sch.**)
- C2** Pt. 2 applied by [Police and Criminal Evidence Act 1984 \(c. 60\)](#), **ss. 56(5B)**, 58(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 14(2)(3)**; S.I. 2003/333, art. 2, **Sch.**)

#### Commencement Information

- I1** S. 23 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\(4\)](#)