

---

STATUTORY INSTRUMENTS

---

**2015 No. 1490**

**The Criminal Procedure Rules 2015**

**PART 33**

**CONFISCATION AND RELATED PROCEEDINGS**

*CONFISCATION PROCEEDINGS*

**Statements in connection with confiscation orders**

**33.13.**—(1) This rule applies where—

- (a) the court can make a confiscation order; and
- (b) the prosecutor asks the court to make such an order, or the court decides to make such an order on its own initiative.

(2) Within such periods as the court directs—

- (a) if the court so orders, the defendant must give such information, in such manner, as the court directs;
- (b) the prosecutor must serve a statement of information relevant to confiscation on the court officer and the defendant;
- (c) if the court so directs—
  - (i) the defendant must serve a response notice on the court officer and the prosecutor, and
  - (ii) the parties must identify what is in dispute.

(3) Where it appears to the court that a person other than the defendant holds, or may hold, an interest in property held by the defendant which property is likely to be realised or otherwise used to satisfy a confiscation order—

- (a) the court must not determine the extent of the defendant's interest in that property unless that other person has had a reasonable opportunity to make representations; and
- (b) the court may order that other person to give such information, in such manner and within such a period, as the court directs.

(4) The court may—

- (a) shorten or extend a time limit which it has set;
- (b) vary, discharge or supplement an order which it has made;
- (c) postpone confiscation proceedings without a hearing.

(5) A prosecutor's statement of information must—

- (a) identify the maker of the statement and show its date;
- (b) identify the defendant in respect of whom it is served;

- (c) specify the conviction which gives the court power to make the confiscation order, or each conviction if more than one;
  - (d) if the prosecutor believes the defendant to have a criminal lifestyle, include such matters as the prosecutor believes to be relevant in connection with deciding—
    - (i) whether the defendant has such a lifestyle,
    - (ii) whether the defendant has benefited from his or her general criminal conduct,
    - (iii) the defendant’s benefit from that conduct, and
    - (iv) whether the court should or should not make such assumptions about the defendant’s property as legislation permits;
  - (e) if the prosecutor does not believe the defendant to have a criminal lifestyle, include such matters as the prosecutor believes to be relevant in connection with deciding—
    - (i) whether the defendant has benefited from his or her particular criminal conduct, and
    - (ii) the defendant’s benefit from that conduct;
  - (f) in any case, include such matters as the prosecutor believes to be relevant in connection with deciding—
    - (i) whether to make a determination about the extent of the defendant’s interest in property in which another person holds, or may hold, an interest, and
    - (ii) what determination to make, if the court decides to make one.
- (6) A defendant’s response notice must—
- (a) indicate the extent to which the defendant accepts the allegations made in the prosecutor’s statement of information; and
  - (b) so far as the defendant does not accept an allegation, give particulars of any matters on which the defendant relies,
- in any manner directed by the court.
- (7) The court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary)—
- (a) that if the defendant accepts to any extent an allegation in a prosecutor’s statement of information, then the court may treat that as conclusive for the purposes of deciding whether the defendant has benefited from general or particular criminal conduct, and if so by how much;
  - (b) that if the defendant fails in any respect to comply with a direction to serve a response notice, then the court may treat that as acceptance of each allegation to which the defendant has not replied, except the allegation that the defendant has benefited from general or particular criminal conduct; and
  - (c) that if the defendant fails without reasonable excuse to comply with an order to give information, then the court may draw such inference as it believes is appropriate.

*[Note. Under section 6 of the Proceeds of Crime Act 2002(1), where a defendant is convicted of an offence the Crown Court must (with some exceptions)—*

- (a) *decide whether the defendant has ‘a criminal lifestyle’, within the meaning of the Act, or has benefited from particular criminal conduct;*
- (b) *decide the ‘recoverable amount’, within the meaning of the Act; and*
- (c) *make a confiscation order requiring the defendant to pay that amount.*

---

(1) 2002 c. 29; section 6 was amended by paragraph 75 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), section 74(2) of, and paragraphs 1 and 2 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 10 of, and paragraphs 11 and 12 of the Schedule to, the Prevention of Social Housing Fraud Act 2013 (c. 3).

*Under section 14 of the 2002 Act(2), unless exceptional circumstances apply the court may postpone confiscation proceedings for a maximum of 2 years from the date of conviction, or until the end of a period of 3 months following the determination of an appeal by the defendant against conviction, if that is later.*

*Under section 16 of the 2002 Act(3), where the Crown Court is considering confiscation the prosecutor must give the court a statement of information which the prosecutor believes to be relevant to what the court must decide, within such period as the court directs. Under section 17 of the Act(4), where the prosecutor gives such a statement the court may order the defendant to respond and, if the defendant does not do so, then the court may treat the defendant as accepting the prosecutor's allegations. Under section 18(5), for the purpose of obtaining information to help it in carrying out its functions the court may at any time order the defendant to give it information specified in the order and, if the defendant does not do so, then the court may draw such inference as it believes appropriate. Under section 18A(6), for the purpose of obtaining information to help it to determine the extent of the defendant's interest in property the court may at any time order a person who the court thinks may hold an interest in that property to give it information specified in the order and, if that person does not do so, then the court may draw such inference as it believes appropriate.*

*Under section 27 of the 2002 Act(7), special provisions apply where the defendant absconds.*

*Under section 97 of the Serious Organised Crime and Police Act 2005(8), the Secretary of State may by order provide for confiscation orders to be made by magistrates' courts.]*

- 
- (2) 2002 c. 29; section 14 was amended by section 74(2) of, and paragraphs 1 and 4 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).
- (3) 2002 c. 29; section 16 was amended by section 74(2) of, and paragraphs 1 and 5 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 2 of the Serious Crime Act 2015 (c. 9).
- (4) 2002 c. 29; section 17 was amended by section 74(2) of, and paragraphs 1 and 6 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).
- (5) 2002 c. 29; section 18 was amended by section 74(2) of, and paragraphs 1 and 7 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).
- (6) 2002 c. 29; section 18A was inserted by section 2 of the Serious Crime Act 2015 (c. 9).
- (7) 2002 c. 29; section 27 was amended by paragraph 75 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and section 74 of, and paragraphs 1 and 14 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).
- (8) 2005 c. 15; section 97 was amended by S.I. 2010/976.