



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

72 Making of confiscation orders

- (1) A court shall not make a confiscation order unless the prosecutor has given written notice to the court to the effect that it appears to him that, were the court to consider that it ought to make such an order, it would be able to make an order requiring the offender to pay at least the minimum amount.
- (2) If the prosecutor gives the court such a notice, the court shall determine whether it ought to make a confiscation order.
- (3) When considering whether to make a confiscation order the court may take into account any information that has been placed before it showing that a victim of an offence to which the proceedings relate has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with the offence.
- (4) If the court determines that it ought to make such an order, the court shall, before sentencing or otherwise dealing with the offender in respect of the offence or, as the case may be, any of the offences concerned, determine the amount to be recovered in his case by virtue of this section and make a confiscation order for that amount specifying the offence or offences.
- (5) Where a court makes a confiscation order against a defendant in any proceedings, it shall be its duty, in respect of any offence of which he is convicted in those proceedings, to take account of the order before—
 - (a) imposing any fine on him;
 - (b) making any order involving any payment by him, other than an order under section 35 of the Powers of Criminal Courts Act 1973 (compensation orders);
or
 - (c) making any order under—

Status: This is the original version (as it was originally enacted).

- (i) section 27 of the Misuse of Drugs Act 1971 (forfeiture orders); or
- (ii) section 43 of the Powers of Criminal Courts Act 1973 (deprivation orders),

but subject to that shall leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

- (6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of a confiscation order restrict the court from dealing with an offender in any way it considers appropriate in respect of an offence to which this Part of this Act applies.
- (7) Where—
- (a) a court makes both a confiscation order and an order for the payment of compensation under section 35 of the Powers of Criminal Courts Act 1973 against the same person in the same proceedings; and
 - (b) it appears to the court that he will not have sufficient means to satisfy both the orders in full,

it shall direct that so much of the compensation as will not in its opinion be recoverable because of the insufficiency of his means shall be paid out of any sums recovered under the confiscation order.