



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 4 **N.I.**

#### CONFISCATION: NORTHERN IRELAND

##### *Enforcement as fines etc*

#### 185 Enforcement as fines etc **N.I.**

- (1) This section applies if a court makes a confiscation order.
- (2) Section 35(1)(c), <sup>F1</sup>... (4) and (5) of the Criminal Justice Act (Northern Ireland) 1945 (c. 15) (functions of court as to fines) apply as if the amount ordered to be paid were a fine imposed on the defendant by the Crown Court.

[<sup>F2</sup>(2A) Where a court is fixing a term of imprisonment or detention under section 35(1)(c) of that Act (as applied by subsection (2) above) in respect of an amount ordered to be paid under a confiscation order, the maximum terms are those specified in the second column of the Table for amounts described in the corresponding entry in the first column.

TABLE

<i>Amount</i>	<i>Maximum term</i>
£10,000 or less	6 months
More than £10,000 but no more than £500,000	5 years
More than £500,000 but no more than £1 million	7 years
More than £1 million	14 years

(2B) The Department of Justice in Northern Ireland may by order—

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- (a) amend subsection (2A) so as to provide for minimum terms of imprisonment or detention under section 35(1)(c) of that Act (as applied by subsection (2) above) in respect of amounts ordered to be paid under a confiscation order;
  - (b) amend the Table in subsection (2A) so as to remove, alter or replace any entry (including an entry inserted by virtue of the power in paragraph (a) of this subsection) or to add any entry.]
- (3) An amount payable under a confiscation order is not a fine, costs, damages or compensation for the purposes of Article 35 of the Criminal Justice [<sup>F3</sup> (Children)] (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (parent or guardian to pay fine etc. instead of child).

#### Textual Amendments

- F1 Word in s. 185(2) omitted (1.6.2015) by virtue of Serious Crime Act 2015 (c. 9), s. 88(3)(b), **Sch. 4 para. 49(a)**; S.R. 2015/190, reg. 3(2)(b)
- F2 S. 185(2A)(2B) inserted (1.6.2015) by Serious Crime Act 2015 (c. 9), **ss. 32(1)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(f)
- F3 Word in s. 185(3) inserted (1.6.2015) by Serious Crime Act 2015 (c. 9), s. 88(3)(b), **Sch. 4 para. 49(b)**; S.R. 2015/190, reg. 3(2)(b)

#### 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.)
- C2 Pt. 4 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), reg. 1(b), **Sch. 2 para. 11(5)**
- C3 Pt. 4 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), reg. 1(b), **Sch. 2 para. 6(5)**
- C4 S. 185 excluded (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), reg. 1(b), **Sch. 2 para. 11(6)**

#### Commencement Information

- I1 S. 185 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

### <sup>F4</sup>186 Director's application for enforcement **N.I.**

#### Textual Amendments

- F4 S. 186 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 53, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

### 187 Provisions about imprisonment or detention **N.I.**

- (1) Subsection (2) applies if—
  - (a) a warrant committing the defendant to prison or detention is issued for a default in payment of an amount ordered to be paid under a confiscation order in respect of an offence or offences, and

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- (b) at the time the warrant is issued the defendant is liable to serve a term of custody in respect of the offence (or any of the offences).
- (2) In such a case the term of imprisonment or of detention to be served in default of payment of the amount does not begin to run until after the term mentioned in subsection (1)(b) above.
- (3) The reference in subsection (1)(b) to the term of custody the defendant is liable to serve in respect of the offence (or any of the offences) is a reference to the term of imprisonment, or detention under section 5 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)), which he is liable to serve in respect of the offence (or any of the offences).
- (4) For the purposes of subsection (3) consecutive terms and terms which are wholly or partly concurrent must be treated as a single term and the following must be ignored—
- (a) any sentence of imprisonment or order for detention suspended under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 which has not taken effect at the time the warrant is issued;
- (b) any term of imprisonment or detention fixed under section 35(1)(c) of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) (term to be served in default of payment of fine etc) for which a warrant committing the defendant to prison or detention has not been issued at that time.
- (5) If the defendant serves a term of imprisonment or detention in default of paying any amount due under a confiscation order, his serving that term does not prevent the confiscation order from continuing to have effect so far as any other method of enforcement is concerned.

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

**C5** S. 187 excluded (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), [Sch. 2 para. 11\(6\)](#)

**Commencement Information**

**I2** S. 187 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

**188 Reconsideration etc: variation of prison term** **N.I.**

- (1) Subsection (2) applies if—
- (a) a court varies a confiscation order under section 171, 172, 173, 179, 182 or 183,
- (b) the effect of the variation is to vary the maximum period applicable in relation to the order under section 35(2) of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)), and
- (c) the result is that that maximum period is less than the term of imprisonment or detention fixed in respect of the order under section 35(1)(c) of that Act.
- (2) In such a case the court must fix a reduced term of imprisonment or detention in respect of the confiscation order under section 35(1)(c) of that Act in place of the term previously fixed.
- (3) Subsection (4) applies if paragraphs (a) and (b) of subsection (1) apply but paragraph (c) does not.

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- (4) In such a case the court may amend the term of imprisonment or detention fixed in respect of the confiscation order under section 35(1)(c) of that Act.
- (5) If the effect of section 162 is to increase the maximum period applicable in relation to a confiscation order under section 35(2) of that Act, on the application of the [<sup>F5</sup>prosecutor] the Crown Court may amend the term of imprisonment or detention fixed in respect of the order under section 35(1)(c) of that Act.

<sup>F6</sup>(6) .....

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**Textual Amendments**

- F5** Word in s. 188(5) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 54\(2\)](#); [S.I. 2008/755, art. 2\(1\)\(a\)](#) (with arts. 3-14)
- F6** S. 188(6) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 54\(3\), Sch. 14](#); [S.I. 2008/755, art. 2\(1\)\(a\)\(d\)](#) (with arts. 3-14)

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

- C6** S. 188 excluded (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\), reg. 1\(b\), Sch. 2 para. 11\(6\)](#)

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**Commencement Information**

- I3** S. 188 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\(4\)](#)