



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Procedural matters

164 Postponement

- (1) The court may—
 - (a) proceed under section 161 before it sentences the defendant for the offence (or any of the offences) concerned, or
 - (b) postpone proceedings under section 161 for a specified period.
- (2) A period of postponement may be extended.
- (3) A period of postponement (including one as extended) must not end after the permitted period ends.
- (4) But subsection (3) does not apply if there are exceptional circumstances.
- (5) The permitted period is the period of two years starting with the date of conviction.
- (6) But if—
 - (a) the defendant appeals against his conviction for the offence (or any of the offences) concerned, and
 - (b) the period of three months (starting with the day when the appeal is determined or otherwise disposed of) ends after the period found under subsection (5),the permitted period is that period of three months.
- (7) A postponement or extension may be made—
 - (a) on application by the defendant;
 - (b) on application by the prosecutor ^{F1}...;
 - (c) by the court of its own motion.

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- (8) If—
- (a) proceedings are postponed for a period, and
 - (b) an application to extend the period is made before it ends,
- the application may be granted even after the period ends.
- (9) The date of conviction is—
- (a) the date on which the defendant was convicted of the offence concerned, or
 - (b) if there are two or more offences and the convictions were on different dates, the date of the latest.
- (10) References to appealing include references to applying under Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (statement of case).
- (11) A confiscation order must not be quashed only on the ground that there was a defect or omission in the procedure connected with the application for or the granting of a postponement.
- (12) But subsection (11) does not apply if before it made the confiscation order the court—
- (a) imposed a fine on the defendant;
 - (b) made an order falling within section 163(3);
 - (c) made an order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)) (compensation orders).

Textual Amendments

- F1** Words in s. 164(7)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 38, [Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

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.)

Commencement Information

- I1** S. 164 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

165 Effect of postponement

- (1) If the court postpones proceedings under section 156 it may proceed to sentence the defendant for the offence (or any of the offences) concerned.
- (2) In sentencing the defendant for the offence (or any of the offences) concerned in the postponement period the court must not—
 - (a) impose a fine on him,
 - (b) make an order falling within section 163(3), or
 - (c) make an order for the payment of compensation under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)).
- (3) If the court sentences the defendant for the offence (or any of the offences) concerned in the postponement period, after that period ends it may vary the sentence by—

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- (a) imposing a fine on him,
 - (b) making an order falling within section 163(3), or
 - (c) making an order for the payment of compensation under Article 14 of the Criminal Justice (Northern Ireland) Order 1994.
- (4) But the court may proceed under subsection (3) only within the period of 28 days which starts with the last day of the postponement period.
- (5) For the purposes of—
 - (a) section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (time limit for notice of appeal or of application for leave to appeal), and
 - (b) paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (c. 33) (time limit for notice of application for leave to refer a case under section 36 of that Act),the sentence must be regarded as imposed or made on the day on which it is varied under subsection (3).
- (6) If the court proceeds to sentence the defendant under subsection (1), section 156 has effect as if the defendant's particular criminal conduct included conduct which constitutes offences which the court has taken into consideration in deciding his sentence for the offence or offences concerned.
- (7) The postponement period is the period for which proceedings under section 156 are postponed.

Commencement Information

I2 S. 165 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

166 Statement of information

- (1) If the court is proceeding under section 156 in a case where section 156(3)(a) applies, the prosecutor ^{F2}... must give the court a statement of information within the period the court orders.
- (2) If the court is proceeding under section 156 in a case where section 156(3)(b) applies and it orders the prosecutor to give it a statement of information, the prosecutor must give it such a statement within the period the court orders.
- (3) If the prosecutor ^{F3}... believes the defendant has a criminal lifestyle the statement of information is a statement of matters the prosecutor ^{F4}... believes are relevant in connection with deciding these issues—
 - (a) whether the defendant has a criminal lifestyle;
 - (b) whether he has benefited from his general criminal conduct;
 - (c) his benefit from the conduct.
- (4) A statement under subsection (3) must include information the prosecutor ^{F5}... believes is relevant—
 - (a) in connection with the making by the court of a required assumption under section 160;
 - (b) for the purpose of enabling the court to decide if the circumstances are such that it must not make such an assumption.

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- (5) If the prosecutor ^{F6}... does not believe the defendant has a criminal lifestyle the statement of information is a statement of matters the prosecutor ^{F7}... believes are relevant in connection with deciding these issues—
- (a) whether the defendant has benefited from his particular criminal conduct;
 - (b) his benefit from the conduct.
- (6) If the prosecutor ^{F8}... gives the court a statement of information—
- (a) he may at any time give the court a further statement of information;
 - (b) he must give the court a further statement of information if it orders him to do so, and he must give it within the period the court orders.
- [^{F9}(6A) A statement of information (other than one to which subsection (6B) applies) must include any information known to the prosecutor which the prosecutor believes is or would be relevant for the purpose of enabling the court to decide—
- (a) whether to make a determination under section 160A, or
 - (b) what determination to make (if the court decides to make one).
- (6B) If the court has decided to make a determination under section 160A, a further statement of information under subsection (6)(b) must, if the court so orders, include specified information that is relevant to the determination.]
- (7) If the court makes an order under this section it may at any time vary it by making another one.

Textual Amendments

- F2** Words in s. 166(1) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(2), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F3** Words in s. 166(3) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(3) (a), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F4** Words in s. 166(3) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(3) (b), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F5** Words in s. 166(4) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(4), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F6** Words in s. 166(5) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(5) (a), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F7** Words in s. 166(5) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(5) (b), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F8** Words in s. 166(6) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 39(6), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F9** [S. 166\(6A\)\(6B\)](#) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 25\(1\)](#), 88(3)(a); [S.R. 2015/190](#), reg. 3(1)(a)

Commencement Information

- I3** [S. 166](#) in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

167 Defendant's response to statement of information

- (1) If the prosecutor ^{F10}... gives the court a statement of information and a copy is served on the defendant, the court may order the defendant—

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- (a) to indicate (within the period it orders) the extent to which he accepts each allegation in the statement, and
 - (b) so far as he does not accept such an allegation, to give particulars of any matters he proposes to rely on.
- (2) If the defendant accepts to any extent an allegation in a statement of information the court may treat his acceptance as conclusive of the matters to which it relates for the purpose of deciding the issues referred to in section 166(3) or (5) (as the case may be).
- (3) If the defendant fails in any respect to comply with an order under subsection (1) he may be treated for the purposes of subsection (2) as accepting every allegation in the statement of information apart from—
 - (a) any allegation in respect of which he has complied with the requirement;
 - (b) any allegation that he has benefited from his general or particular criminal conduct.
- (4) For the purposes of this section an allegation may be accepted or particulars may be given in a manner ordered by the court.
- (5) If the court makes an order under this section it may at any time vary it by making another one.
- (6) No acceptance under this section that the defendant has benefited from conduct is admissible in evidence in proceedings for an offence.

Textual Amendments

F10 Words in s. 167(1) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 40, Sch. 14; S.I. 2008/755, art. 2\(1\)\(a\)\(d\)](#) (with arts. 3-14)

Commencement Information

I4 S. 167 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

168 Provision of information by defendant

- (1) This section applies if—
 - (a) the court is proceeding under section 156 in a case where section 156(3)(a) applies, or
 - (b) it is proceeding under section 156 in a case where section 156(3)(b) applies or it is considering whether to proceed.
- (2) For the purpose of obtaining information to help it in carrying out its functions ^[F11] (including functions under section 160A) the court may at any time order the defendant to give it information specified in the order.
- (3) An order under this section may require all or a specified part of the information to be given in a specified manner and before a specified date.
- (4) If the defendant fails without reasonable excuse to comply with an order under this section the court may draw such inference as it believes is appropriate.
- (5) Subsection (4) does not affect any power of the court to deal with the defendant in respect of a failure to comply with an order under this section.

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- (6) If the prosecutor ^{F12}... accepts to any extent an allegation made by the defendant—
- (a) in giving information required by an order under this section, or
 - (b) in any other statement given to the court in relation to any matter relevant to ^{F13}deciding—
 - (i) the available amount under section 159, or
 - (ii) whether to make a determination under section 160A, or what determination to make (if the court decides to make one),]
 the court may treat the acceptance as conclusive of the matters to which it relates.
- (7) For the purposes of this section an allegation may be accepted in a manner ordered by the court.
- (8) If the court makes an order under this section it may at any time vary it by making another one.
- (9) No information given under this section which amounts to an admission by the defendant that he has benefited from criminal conduct is admissible in evidence in proceedings for an offence.

Textual Amendments

- F11** Words in s. 168(2) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 25(2)(a)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(a)
- F12** Words in s. 168(6) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 41, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F13** Words in s. 168(6)(b) substituted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 25(2)(b)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(a)

Commencement Information

- I5** S. 168 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, **Sch.**

^{F14}168A Provision of information as to defendant's interest in property

- (1) This section applies if the court—
- (a) is considering whether to make a determination under section 160A of the extent of the defendant's interest in any property, or
 - (b) is deciding what determination to make (if the court has decided to make a determination under that section).

In this section “interested person” means a person (other than the defendant) who the court thinks is or may be a person holding an interest in the property.

- (2) For the purpose of obtaining information to help it in carrying out its functions under section 160A the court may at any time order an interested person to give it information specified in the order.
- (3) An order under this section may require all or a specified part of the information to be given in a specified manner and before a specified date.
- (4) If an interested person fails without reasonable excuse to comply with an order under this section the court may draw such inference as it believes is appropriate.

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- (5) Subsection (4) does not affect any power of the court to deal with the person in respect of a failure to comply with an order under this section.
- (6) If the prosecutor accepts to any extent an allegation made by an interested person—
 - (a) in giving information required by an order under this section, or
 - (b) in any other statement given to the court in relation to any matter relevant to a determination under section 160A,the court may treat the acceptance as conclusive of the matters to which it relates.
- (7) For the purposes of this section an allegation may be accepted in a manner ordered by the court.
- (8) If the court makes an order under this section it may at any time vary it by making another one.
- (9) No information given by a person under this section is admissible in evidence in proceedings against that person for an offence.]

Textual Amendments

F14 S. 168A inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 25(3)**, 88(3)(a); S.R. 2015/190, reg. 3(1)(a)

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\(4\)](#)