



Coroners and Justice Act 2009

2009 CHAPTER 25

PART 4

SENTENCING

CHAPTER 2

OTHER PROVISIONS RELATING TO SENTENCING

Confiscation orders

140 Appeals against certain confiscation orders (England and Wales)

- (1) The [Criminal Appeal Act 1968 \(c. 19\)](#) is amended in accordance with subsections (2) and (3).
- (2) In section 11 (supplementary provisions as to appeal against sentence), after subsection (3) insert—
 - “(3A) Where the Court of Appeal exercise their power under paragraph (a) of subsection (3) to quash a confiscation order, the Court may, instead of proceeding under paragraph (b) of that subsection, direct the Crown Court to proceed afresh under the relevant enactment.
 - (3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.
 - (3C) The Court of Appeal shall exercise the power to give such directions so as to ensure that any confiscation order made in respect of the appellant by the Crown Court does not deal more severely with the appellant than the order quashed under subsection (3)(a).
 - (3D) For the purposes of this section—

“confiscation order” means a confiscation order made under—

Status: This is the original version (as it was originally enacted).

- (a) section 1 of the Drug Trafficking Offences Act 1986,
- (b) section 71 of the Criminal Justice Act 1988,
- (c) section 2 of the Drug Trafficking Act 1994, or
- (d) section 6 of the Proceeds of Crime Act 2002;

“relevant enactment”, in relation to a confiscation order quashed under subsection (3)(a), means the enactment under which the order was made.”

(3) After that section insert—

“11A Quashing of certain confiscation orders: supplementary

- (1) This section applies where the Court of Appeal—
 - (a) quash a confiscation order under section 11(3)(a) (“the quashed order”), and
 - (b) under section 11(3A), direct the Crown Court to proceed afresh under the relevant enactment.
- (2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any such sum is not to be repaid until such time as the Crown Court makes a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 11(3A).
- (3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.
- (4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 11(3D).”

141 Appeals against certain confiscation orders (Northern Ireland)

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended in accordance with subsections (2) and (3).
- (2) In section 10 (supplementary provisions as to appeals against sentence), after subsection (3) insert—
 - “(3A) Where the Court of Appeal exercises its power under subsection (3) to quash a confiscation order, the Court may, instead of passing a sentence in substitution for that order, direct the Crown Court to proceed afresh under the relevant enactment.
 - (3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.
 - (3C) For the purposes of this section—
 - “confiscation order” means a confiscation order made under—
 - (a) Article 4 or 5 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990,

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

(b) Article 8 of the Proceeds of Crime (Northern Ireland) Order 1996, or

(c) section 156 of the Proceeds of Crime Act 2002;

“relevant enactment”, in relation to a confiscation order quashed under subsection (3), means the enactment under which the order was made.”

(3) After that section insert—

“10A Quashing of certain confiscation orders: supplementary

(1) This section applies where the Court of Appeal—

(a) quashes a confiscation order under section 10(3) (“the quashed order”), and

(b) under section 10(3A), directs the Crown Court to proceed afresh under the relevant enactment.

(2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any sum is not to be repaid until such time as the Crown Court makes a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 10(3A).

(3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.

(4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 10(3C).”