

**Proceeds of Crime Act 1995**

*Making of confiscation orders*

1 Duty to make confiscation orders

(1) Section 71 of the [1988 c. 33.] Criminal Justice Act 1988 (“the 1988 Act”) shall be amended as follows.

(2) For subsections (1) to (3) (orders confiscating the proceeds of an offence) there shall be substituted the following subsections—

“(1) Where an offender is convicted, in any proceedings before the Crown Court or a magistrates' court, of an offence of a relevant description, it shall be the duty of the court—

(a) if the prosecutor has given written notice to the court that he considers that it would be appropriate for the court to proceed under this section, or

(b) if the court considers, even though it has not been given such notice, that it would be appropriate for it so to proceed,

to act as follows before sentencing or otherwise dealing with the offender in respect of that offence or any other relevant criminal conduct.

(1A) -----

(1B) -----

(a) -----

(b) -----.

**(1C) If, in a case falling within subsection (1B) above, the court is satisfied that a victim of any relevant criminal conduct has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with that conduct—**

**(a) the court shall have a power, instead of a duty, to make an order under this section;**

(b) -----

.”

**Proceeds of Crime Act 2002**

6 Making of order

(1) The Crown Court must proceed under this section if the following two conditions are satisfied.

(2) The first condition is that a defendant falls within any of the following paragraphs—

(a) he is convicted of an offence or offences in proceedings before the Crown Court;

(b) he is committed to the Crown Court for sentence in respect of an offence or offences under section 3, 4 or 6 of the Sentencing Act;

(c) he is committed to the Crown Court in respect of an offence or offences under section 70 below (committal with a view to a confiscation order being considered).

(3) The second condition is that—

(a) the prosecutor or the Director asks the court to proceed under this section, or

(b) the court believes it is appropriate for it to do so.

(4) -----

(5) -----

**(6) But the court must treat the duty in subsection (5) as a power if it believes that any victim of the conduct has at any time started or intends to start proceedings against the defendant in respect of loss, injury or damage sustained in connection with the conduct.**

### *Confiscation orders*

#### 92 Making of order

(1) The court must act under this section where the following three conditions are satisfied.

(2) The first condition is that an accused falls within either of the following paragraphs—

(a) he is convicted of an offence or offences, whether in solemn or summary proceedings, or

(b) in the case of summary proceedings in respect of an offence (without proceeding to conviction) an order is made discharging him absolutely.

(3) The second condition is that the prosecutor asks the court to act under this section.

(4) -----.

(5) -----;

(6) -----

**(7) But the court must treat the duty in subsection (6) as a power if it believes that any victim of the conduct has at any time started or intends to start proceedings against the accused in respect of loss, injury or damage sustained in connection with the conduct**