STATUTORY RULES OF NORTHERN IRELAND

2003 No. 122

MAGISTRATES' COURTS

Magistrates' Courts (Proceeds of Crime Act 2002) (Confiscation) Rules (Northern Ireland) 2003

Made - - - -	*3rd March 2003*
Coming into operation	*24th March 2003*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**), and all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules: –

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Proceeds of Crime Act 2002) (Confiscation) Rules (Northern Ireland) 2003 and shall come into operation on 24th March 2003.

Interpretation

2. In these Rules, "the Act" means the Proceeds of Crime Act 2002(**2**) and a reference to a section by number alone is a reference to that section as numbered in the Act and expressions used have the same meaning as in Part 4 of the Act.

Seized Money

3.—(1) An application under section 215(5) for an order that money be paid to the appropriate chief clerk ("payment order") shall be made in Form 1, or a form with the same effect, and shall be accompanied by: –

(a) a copy of the restraint order which has effect in relation to the money; and

(b) a copy of the confiscation order against the person who holds the money.

(2) The applicant shall, not less than fourteen days prior to the date of the hearing, serve the application on the clerk of petty sessions and at the same time serve a copy thereof on the bank or building society against which the payment order is sought at its registered or principal office, if

(**1**) S.I.1981/1675 (N.I. 26)
(**2**) 2002 Ch 29

such office is situated in Northern Ireland, or otherwise at any place of business maintained by it in Northern Ireland.

(3) Where the money has been seized under Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989(**3**), the applicant shall, at the same time, serve a copy of the application on: –

(a) the Chief Constable or, as the case may be, the chief officer of the police force which maintains the account in which the money is held; or

(b) the Commissioners of Her Majesty's Customs and Excise,

as appropriate.

(4) In this rule a reference to the clerk of petty sessions shall mean the clerk of petty sessions for the petty sessions district in which the bank or building society is served with a copy of the application in accordance with paragraph (2).

4. Notwithstanding the provisions of the Interpretation Act (Northern Ireland) 1954(**4**), a payment order shall be served forthwith by the clerk of petty sessions by ordinary first class post on: –

(a) the bank or building society which is the subject of the order;

(b) every person who was served with a copy of the application;

(c) the person who holds the money; and

(d) the appropriate chief clerk.

Committal

5. Where a magistrates' court commits a defendant to the Crown Court under section 218(2) of the Act, as soon as practicable the clerk of petty sessions shall send to the chief clerk for the county court division in which is located the court which will deal with the defendant: –

(a) a certificate of order;

(b) any written statements tendered in evidence and any depositions taken at the magistrates' court;

(c) such documents and articles produced in evidence before the court as have been retained by the court;

(d) any report relating to the defendant considered by the court;

(e) if the defendant is committed to the Crown Court on bail, the recognizance of the defendant;

(f) any recognizance entered into by any person as surety for the defendant.

6. The Magistrates' Courts Rules (Northern Ireland) 1984(**5**) shall have effect subject to the provisions of these Rules.

Dated 3rd March 2003. *Irvine of Lairg,* C.

(**3**) 1989 No. 1341 (N.I. 12)
(**4**) 1954 Ch 33
(**5**) S.R. 1984 No. 225

SCHEDULE

FORM 1PROCEEDS OF CRIME ACT 2002*(section 215, rule 3)***Application for Money to be Paid to Chief Clerk**

Of Petty Sessions
District of

Applicant

County Court Division of

Respondent

TAKE NOTICE that I *(name of applicant)* of *(address)* intend to apply to the magistrates' court at *(place)* on *(date)* at *(time)* for an order under section 215(5) of the Proceeds of Crime Act 2002 that the respondent pay to the chief clerk for the county court division of money held by *(insert name of person against whom the confiscation order was made)* which is held in an account by the respondent at *(insert name and address of branch at which the account is held)* on account of the amount payable under a confiscation order made against *(insert name of person against whom the confiscation order was made)* in the amount of £ by the Crown Court sitting at on the day of and will state that –

(a) a restraint order has effect in relation to the money to which this application applies;

(b) a receiver has not been appointed under section 198 of the Act;

(c) the confiscation order is not subject to appeal;

(d) the Director of the Assets Recovery Agency has not been appointed as the enforcement authority for the confiscation order;

(e) the time allowed under section 161 of the Act for payment of the amount to be paid under the confiscation order has ended and the amount of £ is outstanding.

Dated this day of 20

Applicant

To: The Clerk of Petty Sessions

Copy to: Respondent

Chief Constable / Chief Officer of Police/ Commissioners of Her Majesty's Customs and Excise [*where appropriate*]

The application served on the Clerk of Petty Sessions shall be endorsed with details of the time and manner in which service on each of the parties to the proceedings was effected.

FORM 2PROCEEDS OF CRIME ACT 2002*(section 215)***Order for Money to be Paid to Chief Clerk**

Of Petty Sessions
District of

Applicant

Of County Court Division of

Respondent.

Before the magistrates' court sitting at *(place)* on the day of .

WHEREAS *(applicant)* applied for an order under section 215(5) of the Proceeds of Crime Act 2002.

IT WAS ORDERED that, [within days of the date of this order] [by *(insert date by which money is to be paid)*], *(respondent)* pay to the chief clerk for the county court division of the sum of £ , being money held by *(insert name of person against whom the confiscation order was made)* in *(insert account number and sort code, if known)* an account maintained by [him] *(insert name of police force which maintains the account)* [the Commissioners of Customs and Excise] at *(insert name and address of the branch at which the account is held, if known)* on account of the amount of £ , being the amount outstanding under a confiscation order in the amount of £ made by the Crown Court sitting at on the day of .

Dated this day of 200

Resident Magistrate

[Clerk of Petty Sessions]

To: Respondent

Person who holds the money

Chief Constable / Chief Officer of Police / Commissioners of Her Majesty's Customs and Excise [where appropriate]

Chief Clerk

WARNING

If you fail to comply with this order, you may be ordered to pay a fine of up to £5000.

FORM 3PROCEEDS OF CRIME ACT 2002*(section 218)***Certificate of Order of Magistrates' Court for Committal to Crown Court**