

Case summary

Issue(s)

1. Where property is held by the defendant and another person, in what circumstances is the court making a confiscation order required by section 160A of the Proceeds of Crime Act 2002, in determining the available amount, to give that other person a reasonable opportunity to make representations to it at the time the order is made?
2. If section 160A does so require, does a failure to give that other such an opportunity render the confiscation order invalid?

Facts

On 22 September 2015 the respondent pleaded guilty to three offences contrary to s 105A Social Security Administration (Northern Ireland) Act 1972. The prosecution sought and was granted a confiscation order. In determining the amount of property owned by the respondent available for confiscation, the court took into account her half share of the matrimonial home, which was jointly owned with her husband. Section 160A (2) of the Proceeds of Crime Act 2002 provides that the court must give any person other than the defendant holding an interest in the property an opportunity to make representations, before exercising the power to determine the extent of the defendant's interest. The Court of Appeal held that the failure of the court to provide this opportunity to the respondent's husband rendered the confiscation order invalid.