
STATUTORY INSTRUMENTS

1996 No. 1299

The Proceeds of Crime (Northern Ireland) Order 1996

PART II

CONFISCATION ORDERS

Enforcement of orders made outside Northern Ireland

Enforcement of orders made in England and Wales or Scotland

41.—(1) The Secretary of State may by order provide that for the purpose of the enforcement in Northern Ireland of orders made under the Drug Trafficking Act 1994, the Proceeds of Crime (Scotland) Act 1995 and Part VI of the Criminal Justice Act 1988, this Order (except Article 13) shall have effect as if—

- (a) references to confiscation orders included a reference to confiscation orders made under the 1994 Act, the 1995 Act and Part VI of the 1988 Act;
- (b) in relation to England and Wales—
 - (i) references to drug trafficking offences included a reference to drug trafficking offences within the meaning of the 1994 Act;
 - (ii) references to offences of a relevant description and to offences to which the Order applies included a reference to offences to which Part VI of the 1988 Act applies;
 - (iii) references to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings included a reference to proceedings in England and Wales or to the institution or conclusion in England and Wales of proceedings, as the case may be; and
 - (iv) the references to the making of a complaint in Article 30(3) and (5) included references to laying an information under section 1 of the Magistrates' Courts Act 1980;
- (c) in relation to Scotland—
 - (i) references to drug trafficking offences included a reference to drug trafficking offences within the meaning of the 1995 Act;
 - (ii) references to offences of a relevant description and to offences to which the Order applies included a reference to offences to which Part I of the 1995 Act applies;
 - (iii) such other modifications were made as may be specified in the order, being modifications which appear to the Secretary of State to be requisite or desirable having regard to procedural differences which may for the time being exist between Northern Ireland and Scotland; and without prejudice to the generality of this head modifications may include provision as to the circumstances in which proceedings in Scotland are to be treated for the purpose of such enforcement in Northern Ireland as instituted or as concluded.

(2) An order under paragraph (1) may provide for the provisions of this Order to have effect in relation to anything done or to be done in England and Wales or, as the case may be, in Scotland subject to such further modifications as may be specified in the order.

(3) An order under paragraph (1) may contain such incidental, consequential and transitional provisions as the Secretary of State considers expedient.

(4) An order under paragraph (1) may, in particular, provide for section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom) not to apply in relation to such orders as may be prescribed by the order under paragraph (1).

(5) An order under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Enforcement of external confiscation orders

42.—(1) The Secretary of State may by order—

- (a) direct in relation to a country or territory outside the United Kingdom designated by an Order in Council under section 39 of the Drug Trafficking Act 1994 or section 96 of the Criminal Justice Act 1988 (“a designated country”) that, subject to such modifications as may be specified, this Order shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;
- (b) make—
 - (i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;
 - (ii) such provision as to evidence or proof of any matter for the purposes of this Article and Article 43; and
 - (iii) such incidental, consequential and transitional provision, as appears to the Secretary of State to be expedient; and
- (c) without prejudice to the generality of this paragraph, direct that in such circumstances as may be specified proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order and which are retained there shall nevertheless be treated as reducing the amount payable under the order to such extent as may be specified.

(2) The power to make an order under this Article includes power to modify this Order in such a way as to confer power on a person to exercise a discretion.

(3) An order under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Registration of external confiscation orders

43.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

- (c) it is of the opinion that enforcing the order in Northern Ireland would not be contrary to the interests of justice.
- (2) In paragraph (1) “appeal” includes—
 - (a) any proceedings by way of discharging or setting aside a judgment; and
 - (b) an application for a new trial or a stay of execution.
- (3) The High Court shall cancel the registration of an external confiscation order if it appears to the Court that the order has been satisfied by payment of the amount due under it.
- (4) In this Article “designated country” has the same meaning as in Article 42.