



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

Enforcement, etc. of confiscation orders

77 Restraint orders

- (1) The High Court may by order (referred to in this Part of this Act as a “restraint order”) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, a restraint order may make such provision as the court thinks fit for living expenses and legal expenses.
- (3) A restraint order may apply—
 - (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
 - (b) to realisable property held by a specified person, being property transferred to him after the making of the order.
- (4) This section shall not have effect in relation to any property for the time being subject to a charge under section 78 below.
- (5) A restraint order—
 - (a) may be made only on an application by the prosecutor;
 - (b) may be made on an ex parte application to a judge in chambers; and
 - (c) shall provide for notice to be given to persons affected by the order.
- (6) A restraint order—
 - (a) may be discharged or varied in relation to any property; and
 - (b) shall be discharged when proceedings for the offence are concluded.

Status: This is the original version (as it was originally enacted).

- (7) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (8) Where the High Court has made a restraint order, the court may at any time appoint a receiver—
- (a) to take possession of any realisable property, and
 - (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,
- subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (9) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)—
- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
 - (b) removing the property from Great Britain.
- (10) Where the High Court has made a restraint order, a constable may for the purpose of preventing any realisable property being removed from Great Britain, seize the property.
- (11) Property seized under subsection (10) above shall be dealt with in accordance with the court's directions.
- (12) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply—
- (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and
 - (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.
- (13) The prosecutor shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.