

SCHEDULES

SCHEDULE 4

CONFISCATION ORDERS: SUPPLEMENTARY PROVISIONS

Restraint orders

- 5 (1) The High Court may by order (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 sub-paragraph (1) above, a restraint order may make such provision as the High Court thinks fit for living expenses or 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 paragraph shall not have effect in relation to any property for the time being subject to a charge under paragraph 6 below.
- (5) A restraint order—
- (a) may be made—
 - (i) where it is applied for before the defendant is convicted of the offence, only on the application of an officer of the Royal Ulster Constabulary not below the rank of superintendent; and
 - (ii) otherwise, only on the application of the prosecution;
 - (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.
- (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,

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subject to such exceptions and conditions as may be specified by the court; and the court 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 paragraph, 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 Northern Ireland.
- (10) Where the High Court has made a restraint order, a constable may, for the purpose of preventing any realisable property being removed from Northern Ireland, seize the property.
- (11) Property seized under sub-paragraph (10) above shall be dealt with in accordance with the directions of the High Court.
- (12) The person by whom an application for a restraint order is made shall be treated for the purposes of section 66 of the Land Registration Act (Northern Ireland) 1970 (cautions) as a person interested in relation to any registered land to which the order or the application for an order relates.
- (13) On the application of the person by whom an application for a restraint order is made the Registrar shall, in respect of any registered land to which the order or the application for an order relates, make an entry inhibiting any dealing with the land without the consent of the High Court.
- (14) Subsections (2) and (4) of section 67 of the said Act of 1970 (inhibitions) shall apply to an entry made on an application under sub-paragraph (13) above as they apply to an entry made on the application of any person interested in the registered land under subsection (1) of that section.
- (15) Where a restraint order has been protected by an entry registered under the said Act of 1970 or the Registration of Deeds Acts, an order under sub-paragraph (6) above discharging the restraint order may direct that the entry be vacated.
- (16) In this paragraph “Registrar” and “entry” have the same meanings as in the said Act of 1970 and “registered land” means land the title to which is registered under Part III of that Act.