



Drug Trafficking Act 1994

1994 CHAPTER 37

PART I

CONFISCATION ORDERS

Enforcement of orders made outside England and Wales

37 Recognition and enforcement of orders and functions under Part I of the Criminal Justice (Scotland) Act 1987

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers expedient for the purpose—
 - (a) of enabling property in England and Wales which is realisable property for the purposes of Part I of the Criminal Justice (Scotland) Act 1987 to be used or realised for the payment of any amount payable under a confiscation order made under that Part of that Act; and
 - (b) of securing that, where no confiscation order has been made under that Part of that Act, property in England and Wales which is realisable property for the purposes of that Part of that Act is available, in the event that such an order is so made, to be used or realised for the payment of any amount payable under it.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, an Order in Council under this section may—
 - (a) provide that, subject to any specified conditions—
 - (i) the functions of a person appointed under section 13 of the Criminal Justice (Scotland) Act 1987, and
 - (ii) such descriptions of orders made under or for the purposes of Part I of that Act as may be specified,shall have effect in the law of England and Wales;
 - (b) make provision—

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- (i) for the registration in the High Court of such descriptions of orders made under or for the purposes of that Part of that Act as may be specified; and
 - (ii) for the High Court to have, in relation to the enforcement of orders made under or for the purposes of that Part of that Act which are so registered, such powers as may be specified; and
 - (c) make provision as to the proof in England and Wales of orders made under or for the purposes of that Part of that Act.
- (3) In subsection (2) above “specified” means specified in an Order in Council under this section.
- (4) An Order in Council under this section may amend or apply, with or without modifications, any enactment.
- (5) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.
- (6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

38 Enforcement of Northern Ireland orders

- (1) Her Majesty may by Order in Council provide that, for the purposes of sections 17 and 25 to 36 of this Act, this Act shall have effect as if—
- (a) references to confiscation orders included a reference to orders made by courts in Northern Ireland which appear to Her Majesty to correspond to confiscation orders;
 - (b) references to drug trafficking offences included a reference to any offence under the law of Northern Ireland (not being a drug trafficking offence) which appears to Her Majesty to correspond to such an offence;
 - (c) references to proceedings in England and Wales or to the institution or conclusion in England and Wales of proceedings included a reference to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings, as the case may be; and
 - (d) the references to the laying of an information in section 25(3) and (5) of this Act included references to making a complaint under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981.
- (2) An Order in Council under this section may provide for those sections to have effect, in relation to anything done or to be done in Northern Ireland, subject to such further modifications as may be specified in the order.
- (3) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.
- (4) An Order in Council under this section 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.
- (5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

39 Enforcement of external confiscation orders

- (1) Her Majesty may by Order in Council—
- (a) direct in relation to a country or territory outside the United Kingdom designated by the Order (a “designated country”) that, subject to such modifications as may be specified, the relevant provisions of this Act 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 section and section 40 of this Act, and
 - (iii) such incidental, consequential and transitional provision, as appears to Her Majesty to be expedient; and
 - (c) (without prejudice to the generality of this subsection) 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 shall be treated as reducing the amount payable under the order to such extent as may be specified.
- (2) In this section “external confiscation order” means an order made by a court in a designated country for the purpose of recovering, or recovering the value of, payments or other rewards received in connection with drug trafficking.
- (3) An Order in Council under this section may make different provision for different cases or classes of case.
- (4) The power to make an Order in Council under this section includes power to modify the relevant provisions of this Act in such a way as to confer power on a person to exercise a discretion.
- (5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) For the purposes of this section, “the relevant provisions of this Act” are this Part, except sections 10 and 16, and Part IV.

40 Registration of external confiscation orders

- (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 England and Wales would not be contrary to the interests of justice.
- (2) In subsection (1) above “appeal” includes—
- (a) any proceedings by way of discharging or setting aside a judgment; and

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- (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 section “designated country” and “external confiscation order” have the same meaning as in section 39 of this Act.