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## SCHEDULES

### SCHEDULE 4

#### FORFEITURE ORDERS

#### PART I

#### ENGLAND AND WALES

##### *Restraint orders*

- 5 (1) The High Court may make a restraint order under this paragraph where—
- (a) proceedings have been instituted in England and Wales for [<sup>F1</sup>a relevant offence],
  - (b) the proceedings have not been concluded,
  - (c) an application for a restraint order is made to the High Court by the prosecutor, and
  - (d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.
- [<sup>F2</sup>(2) The High Court may also make a restraint order under this paragraph where—
- (a) a criminal investigation has been started in England and Wales with regard to [<sup>F1</sup>a relevant offence],
  - (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
  - (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.]
- (3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in [<sup>F3</sup>any proceedings] referred to in sub-paragraph (1) or (2).
- (4) An application for a restraint order may be made to a judge in chambers without notice.
- (5) In this paragraph a reference to dealing with property includes a reference to removing the property from Great Britain.
- [<sup>F4</sup>(6) In this paragraph “ criminal investigation ” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. ]

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#### Annotations:

#### Amendments (Textual)

- F1** Words in Sch. 4 para. 5(1)(a)(2)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F2** Sch. 4 Pt. 1 para. 5(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F3** Words in Sch. 4 Pt. 1 para. 5(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F4** Sch. 4 Pt. 1 para. 5(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para 2(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 6 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.
- (2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.
- [<sup>F5</sup>(3) A restraint order made under paragraph 5(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.
- (4) A restraint order made under paragraph 5(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of [<sup>F6</sup>relevant offences] are instituted within such time as the High Court considers reasonable, and
  - (b) if all proceedings in respect of [<sup>F6</sup>relevant offences] have been concluded.]

#### Annotations:

#### Amendments (Textual)

- F5** Sch. 4 para. 6(3)(4) substituted for Sch. 4 para. 6(3) (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(5)**; S.I. 2001/4019, **art. 2(1)(c)**
- F6** Words in Sch. 4 para. 6(4)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 7 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Great Britain.
- (2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

#### Annotations:

#### Modifications etc. (not altering text)

- C1** Sch. 4 para. 7 applied (13.12.2001) by S.I. 2001/3927, **art. 12**

- 8 (1) The <sup>M1</sup>Land Charges Act 1972 and the [<sup>F7</sup>Land Registration Act 2002]—
- (a) shall apply 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 recognizances, and [<sup>F8</sup>, except that no notice may be entered in the register of title under the Land Registration Act 2002 in respect of such orders]

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(b) shall apply in relation to applications for restraint orders as they apply in relation to other pending land actions.

(2) <sup>F9</sup> .....

(3) .....

**Annotations:**

**Amendments (Textual)**

**F7** Words in Sch. 4 para. 8(1) substituted (13.10.2003) by 2002 c. 9, s. 133, Sch. 11 para. 38(a) (with s. 129); S.I. 2003/1725, art. 2

**F8** Words in Sch. 4 para. 8(1)(a) inserted (13.10.2003) by 2002 c. 9, s. 133, Sch. 11 para. 38(b) (with s. 129); S.I. 2003/1725, art. 2

**F9** Sch. 4 para. 8(2)(3) repealed (13.10.2003) by 2002 c. 9, s. 135, Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2

**Modifications etc. (not altering text)**

**C2** Sch. 4 para. 8 applied (13.12.2001) by S.I. 2001/3927, art. 12

**Marginal Citations**

**M1** 1972 c. 61.

- 9 (1) This paragraph applies where a restraint order is discharged under [<sup>F10</sup>paragraph 6(4)(a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F11</sup>a relevant offence] which—
- (a) do not result in conviction for [<sup>F12</sup>a relevant offence],
  - (b) result in conviction for [<sup>F12</sup>a relevant offence] in respect of which the person convicted is subsequently pardoned by Her Majesty, or
  - (c) result in conviction for [<sup>F12</sup>a relevant offence] which is subsequently quashed.
- (3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (4) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
  - (b) that the person in default was or was acting as a member of a police force, or was a member of the Crown Prosecution Service or was acting on behalf of the Service,
  - (c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

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- (6) Compensation payable under this paragraph shall be paid—
- (a) where the person in default was or was acting as a member of a police force, out of the police fund out of which the expenses of that police force are met, and
  - (b) where the person in default was a member of the Crown Prosecution Service, or was acting on behalf of the Service, by the Director of Public Prosecutions.

**Annotations:**

**Amendments (Textual)**

- F10** Words in Sch. 4 Pt. 1 para. 9(1) substituted (20.12.2001) by [2001 c. 24, s. 3, Sch. 2 Pt. 2 para. 2\(7\)](#); [S.I. 2001/4019, art. 2\(1\)\(c\)](#)
- F11** Words in Sch. 4 para. 9(2) substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(8\)\(a\)](#) (with [s. 101\(2\)](#)); [S.I. 2009/1256, art. 2\(c\)](#)
- F12** Words in Sch. 4 para. 9(2)(a)(b)(c) substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(8\)\(b\)](#) (with [s. 101\(2\)](#)); [S.I. 2009/1256, art. 2\(c\)](#)

- 10 (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F13</sup>a relevant offence], and
  - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5).
- (2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (3) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (4) Compensation payable under this paragraph shall be paid by the Secretary of State.

**Annotations:**

**Amendments (Textual)**

- F13** Words in Sch. 4 para. 10(1)(a) substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(9\)](#) (with [s. 101\(2\)](#)); [S.I. 2009/1256, art. 2\(c\)](#)

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### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 4 para. 11(1)(aa) inserted by 2003 c. 44 Sch. 36 para. 14(2)
- Sch. 4 para. 11(2A) inserted by 2003 c. 44 Sch. 36 para. 14(3)
- Sch. 4 para. 11(1)(aa) words substituted by 2015 c. 2 Sch. 11 para. 17(2)
- Sch. 4 para. 11(2A) words substituted by 2015 c. 2 Sch. 11 para. 17(3)
- Sch. 5A para. 11 applied by S.I. 2018/521 art. 6(2)
- Sch. 5A para. 11 applied by S.I. 2018/521 art. 6(8)
- Sch. 5A para. 11 applied by S.I. 2018/521 art. 18(2)
- Sch. 5A para. 11 applied by S.I. 2018/521 art. 18(8)
- Sch. 5A para. 11 applied by S.I. 2018/521 art. 29(8)
- Sch. 5A para. 12 applied by S.I. 2018/521 art. 5(4)
- Sch. 5A para. 12 applied by S.I. 2018/521 art. 17(4)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 6(8)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 18(8)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 29(2)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 29(8)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 30(2)
- Sch. 5A para. 21 applied by S.I. 2018/521 art. 30(8)
- Sch. 5A para. 12 applied (with modifications) by S.I. 2018/521 art. 29(3)(4)
- Sch. 5A para. 12 applied (with modifications) by S.I. 2018/521 art. 30(3)(4)
- Sch. 5A para. 11 excluded by S.I. 2018/521 art. 29(2)
- Sch. 5A para. 11 excluded by S.I. 2018/521 art. 30(2)
- Sch. 5A para. 21 excluded by S.I. 2018/521 art. 6(2)
- Sch. 5A para. 21 excluded by S.I. 2018/521 art. 18(2)
- Sch. 8 para. 14(2A) inserted by 2008 c. 28 s. 16(3) (This amendment not applied to legislation.gov.uk. S. 16 repealed (31.10.2013) by 2012 c. 9, Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(d))
- Sch. 8 para. 14(4)(ba) inserted by 2008 c. 28 s. 16(5) (This amendment not applied to legislation.gov.uk. S. 16 repealed (31.10.2013) by 2012 c. 9, Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(d))
- Sch. 8 para. 15(1)(aa) (ab) inserted by 2010 c. 17 s. 17(4)(b) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 15(2A) inserted by 2010 c. 17 s. 17(7) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 15(4) inserted by 2010 c. 17 s. 17(8) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 14-14I substituted for Sch. 8 para. 14 by 2010 c. 17 s. 17(2) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 20(3)-(3C) substituted for Sch. 8 para. 20(3) by 2010 c. 17 s. 18(2)(a) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))