

1988 No. 593

CRIMINAL LAW, ENGLAND AND WALES

**The Drug Trafficking Offences (Enforcement
in England and Wales) Order 1988**

Made - - - - - *23rd March 1988*

Coming into force *1st April 1988*

ARRANGEMENT OF ORDER

Article

1. Title and commencement.
2. Interpretation.
3. Recognition and enforcement of orders under the Criminal Justice (Scotland) Act 1987.
4. Provisions supplementary to article 3.
5. Exercise of powers.
6. Restraint orders—land.

At the Court at Buckingham Palace the 23rd day of March 1988

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 24A of the Drug Trafficking Offences Act 1986(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Title and Commencement

1. This Order may be cited as the Drug Trafficking Offences (Enforcement in England and Wales) Order 1988 and shall come into force on 1st April 1988.

(a) 1986 c.32; s.24A was inserted by section 31 of the Criminal Justice (Scotland) Act 1987 (c.41).

Interpretation

2. In this Order—

- “the 1986 Act” means the Drug Trafficking Offences Act 1986;
- “the 1987 Act” means the Criminal Justice (Scotland) Act 1987(a);
- “administrator” has the same meaning as in section 47(1) of the 1987 Act.

Recognition and enforcement of orders under the 1987 Act

3.—(1) An order to which this article applies shall, subject to the following provisions of this Order, have effect in the law of England and Wales, but shall be enforced in England and Wales only in accordance with the provisions of this Order and any provision made by rules of court as to the manner in which and conditions subject to which such orders are to be enforced there.

(2) The functions of an administrator appointed under section 13 of the 1987 Act shall, subject to the following provisions of this Order, have effect in the law of England and Wales.

(3) If an order to which this article applies is registered under article 4 of this Order—

- (a) the High Court shall have, in relation to its enforcement, the same power,
- (b) proceedings for or with respect to its enforcement may be taken, and
- (c) proceedings for or with respect to any contravention of such an order (whether before or after such registration) may be taken,

as if the order had originally been made in that Court.

(4) The orders to which this article applies are orders of the Court of Session—

- (a) made under sections 8, 11(1)(b), 12, 13, 14(3), 16, 24 and 41 of the 1987 Act,
- (b) relating to the exercise by that Court of its powers under those sections, or
- (c) relating to administrators in the performance of their functions under Part I of that Act,

but not including an order in proceedings for enforcement of any such order.

(5) In this article and in article 4 below “order” means any order, direction or judgment (by whatever name called).

Provisions supplementary to article 3

4.—(1) The High Court shall, on application made to it in accordance with rules of court for registration of an order to which article 3 of this Order applies, direct that the order shall, in accordance with such Rules, be registered in that Court.

(2) The High Court shall have the like power to make an order under section 33 of the Supreme Court Act 1981(b) (extended power to order inspection of property etc.) in relation to proceedings brought or likely to be brought under Part I of the 1987 Act in the Court of Session as if those proceedings had been brought or were likely to be brought in the High Court.

(3) The High Court may, additionally, for the purpose of—

- (a) assisting the achievement in England and Wales of the purposes of orders to which article 3 of this Order applies, or
- (b) assisting administrators performing functions there under or for the purposes of Part I of the 1987 Act,

make such orders and do otherwise as seems to it appropriate.

(4) A document purporting to be a copy of an order by the Court of Session under or for the purposes of Part I of the 1987 Act and to be certified as such by a proper officer of that court shall, in England and Wales, be received in evidence without further proof.

(a) 1987 c.41. (b) 1981 c.54.

Exercise of powers

5. Subsections (2) to (6) of section 23 of the 1987 Act (exercise of powers by Court of Session etc.) shall apply as regards the powers conferred on the High Court under this Order as those subsections apply as regards the powers conferred on the Court of Session by the sections mentioned in subsection (1) of the said section 23.

Restraint orders—land

6.—(1) The Land Charges Act 1972(a) and the Land Registration Act 1925(b) shall apply—

- (a) in relation to restraint orders made under section 8 of the 1987 Act, 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 such orders as they apply in relation to pending land actions.

(2) The Lord Advocate or any person conducting a prosecution in Scotland on his behalf 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 such a restraint order or an application for such an order relates.

G. I. de Deney
Clerk of the Privy Council

(a) 1972 c.61.

(b) 1925 c.21.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the enforcement in England and Wales of orders made in Scotland in connection with the confiscation of the proceeds of drug trafficking under Part I of the Criminal Justice (Scotland) Act 1987, "the 1987 Act" which comes into force on 1st April 1988 (Criminal Justice (Scotland) Act 1987 (Commencement No. 5) Order 1988 (S.I. 1988/482), Criminal Justice (Scotland) Act 1987 (Commencement No. 4) Order 1988 (S.I. 1988/483). Provision is made in sections 11, 27 and 28 of the 1987 Act for the enforcement in Scotland of similar orders made in England and Wales under the Drug Trafficking Offences Act 1986.

Article 3 provides for orders of the Court of Session (including restraint orders, orders appointing, empowering and regulating administrators, and orders for the disclosure of information), and the functions of an administrator appointed under the 1987 Act to have effect in the law of England and Wales. The enforcement of such orders of the Court of Session is by the High Court, upon registration of the order in accordance with *Article 4(1)*.

Article 4(1) makes provision for the procedure for registration of orders of the Court of Session. Paragraph (2) enables the High Court to exercise a specific power to order inspection in connection with proceedings in the Court of Session under the 1987 Act. Paragraph (3) confers upon the High Court a further general, ancillary power to enable it to assist in the achievement of the purposes of orders of the Court of Session, or in the performance by administrators of their functions under the 1987 Act.

Article 5 provides that in the exercise of its powers under this Order the High Court is to apply the principles applicable to the exercise by the Court of Session of its powers in relation to enforcement of its own orders under the 1987 Act.

Article 6 allows for the protection by registration under the Land Charges Act 1972 and the Land Registration Act 1925 of restraint orders made by the Court of Session under the 1987 Act.

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