
STATUTORY INSTRUMENTS

2001 No. 3927

The Terrorism Act 2000 (Enforcement
of External Orders) Order 2001

PART III:

ENFORCEMENT OF EXTERNAL ORDERS IN SCOTLAND

Application of this Part

14. This Part applies for the purposes of enabling the enforcement in Scotland of external orders.

Representation of government of a designated country

15. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of that country for the Lord Advocate to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

16.—(1) On an application made by or on behalf of the Government of a designated country, the Court of Session may register an external forfeiture 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 in which the relevant order was made, 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 Scotland would not be contrary to the interests of justice.

(2) In paragraph (1) above, “appeal” includes—

- (a) any proceedings by way of discharging or setting aside a judgement, and
- (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

17.—(1) On an application made by or on behalf of the Government of a designated country, the Court of Session may, subject to paragraph (2) below, register an external restraint order made there if—

- (a) it is satisfied that at the time of registration the order is in force, and
- (b) it is of the opinion that enforcing the order in Scotland would not be contrary to the interests of justice.

(2) An external restraint order may only be registered where—

- (a) proceedings have been instituted against a person in a designated country, the proceedings have not been concluded, and either an external forfeiture order has been made in the proceedings or it appears to the court of Session that there are reasonable grounds for thinking that such an order may be made in those proceedings, or
- (b) proceedings are to be instituted against a person in a designated country and there are reasonable grounds for thinking that an external forfeiture order may be made in those proceedings.

Implementation of registered external forfeiture orders

18. If an external forfeiture order is registered in the Court of Session under article 16(1) above, the court shall have, in relation to that order, the same powers as a court has under paragraph 16(1) of Schedule 4 to the 2000 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it and paragraphs 16(3) to (5) and 17 of that Schedule apply accordingly.

Statutory provisions applicable where external restraint order has been registered

19. Paragraphs 20 and 21 of Schedule 4 to the 2000 Act shall apply to an external restraint order registered in the Court of Session under article 17(1) above as they apply to a restraint order and the Court of Session shall have the like power to make an order under section 1 of the Administration of Justice (Scotland) Act 1972(1) (extended power to order inspection of documents etc.) in relation to proceedings brought or likely to be brought for an external restraint order as if those proceedings had been brought or were likely to be brought in the Court of Session.

Enforcement of registered external orders

20.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the Court of Session under article 16 or 17 above—

- (a) the Court of Session 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 the Court of Session.

(2) The Court of Session may, additionally, for the purpose of—

- (a) assisting the achievement in Scotland of the purposes of an external order, or
- (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property,

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