
STATUTORY INSTRUMENTS

2002 No. 3133

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002

Made - - - - *17th December 2002*
Laid before Parliament *6th January 2003*
Coming into force - - *24th February 2003*

At the Court at Buckingham Palace, the 17th day of December 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 443 of the Proceeds of Crime Act 2002(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTION

Title and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002 and shall come into force on 24th February 2003.

Interpretation

2. In this Order—

“the Act” means the Proceeds of Crime Act 2002;

“an English or Welsh receivership order” means an order made under or for the purposes of any of the following provisions of the Act—

- (a) section 48(2) (appointment of management receiver—England and Wales);
- (b) section 49 (powers of management receiver—England and Wales);

- (c) section 50(2) (appointment of enforcement receiver—England and Wales);
- (d) section 51 (powers of enforcement receiver—England and Wales);
- (e) section 52(3) (appointment of Director’s receiver—England and Wales);
- (f) section 53 (powers of Director’s receiver—England and Wales);
- (g) section 54(3) (sums in enforcement receiver’s hands—England and Wales);
- (h) section 56(3) (sums in Director’s receiver’s hands—England and Wales);
- (i) section 62(4) (further application in relation to receivers—England and Wales);
- (j) section 63(2) (discharge and variation of receivership orders—England and Wales);
- (k) section 64(2) and (6) (discharge of management receiver—England and Wales);
- (l) section 65(6) (appeal to Court of Appeal in respect of receivership matters—England and Wales);
- (m) section 66(3) (appeal to House of Lords in respect of receivership matters—England and Wales),

but does not include an order made in proceedings for the enforcement, in England and Wales, of an order made under or for the purposes of the provisions listed above;

“an English or Welsh restraint order” means an order made under or for the purposes of the following provisions of the Act—

- (a) section 41(1) (restraint orders—England and Wales);
- (b) section 41(7) (orders for the purpose of making restraint orders effective—England and Wales);
- (c) section 42(5) (discharge and variation of restraint orders—England and Wales);
- (d) section 43(3) (appeal to Court of Appeal in respect of restraint orders—England and Wales);
- (e) section 44(3) (appeal to House of Lords in respect of restraint orders—England and Wales),

but does not include an order made in proceedings for the enforcement, in England and Wales, of an order made under or for the purposes of the provisions listed above;

“a Northern Ireland receivership order” means an order made under or for the purposes of the following provisions of the Act—

- (a) section 196(2) (appointment of management receiver—Northern Ireland);
- (b) section 197 (powers of management receiver—Northern Ireland);
- (c) section 198(2) (appointment of enforcement receiver—Northern Ireland);
- (d) section 199 (powers of enforcement receiver—Northern Ireland);
- (e) section 200(3) (appointment of Director’s receiver—Northern Ireland);
- (f) section 201 (powers of Director’s receiver—Northern Ireland);
- (g) section 202(3) (sums in enforcement receiver’s hands—Northern Ireland);
- (h) section 204(3) (sums in Director’s receiver’s hands—Northern Ireland);
- (i) section 210(4) (further application in relation to receivers—Northern Ireland);
- (j) section 211(2) (discharge and variation of receivership orders—Northern Ireland);
- (k) section 212(2) and (6) (discharge of management receiver—Northern Ireland);
- (l) section 213(6) (appeal to Court of Appeal in respect of receivership matters—Northern Ireland);

(m) section 214(3) (appeal to House of Lords in respect of receivership matters—Northern Ireland),

but does not include an order made in proceedings for the enforcement, in Northern Ireland, of an order made under or for the purposes of the provisions listed above;

“a Northern Ireland restraint order” means an order made under or for the purposes of the following provisions of the Act—

- (a) section 190(1) (restraint orders—Northern Ireland);
- (b) section 190(7) (orders for the purpose of making restraint orders effective—Northern Ireland);
- (c) section 191(5) (discharge and variation of restraint orders—Northern Ireland);
- (d) section 192(3) (appeal to Court of Appeal in respect of restraint order—Northern Ireland);
- (e) section 193(3) (appeal to House of Lords in respect of restraint order—Northern Ireland),

but does not include an order made in proceedings for the enforcement, in Northern Ireland, of an order made under or for the purposes of the provisions listed above;

“a Scottish administration order” means an order made under or for the purposes of the following provisions of the Act—

- (a) section 125 (management administrators—Scotland);
- (b) section 128 (enforcement administrators—Scotland);
- (c) section 129(2) (management administrators: discharge—Scotland);
- (d) section 130(4) (sums in administrator’s hands—Scotland);
- (e) section 135(2) (recall and variation of administration order—Scotland);
- (f) section 136(6) (appeal in respect of administrators—Scotland);
- (g) paragraph 5(4) of Schedule 3 (vesting of property in administrator—Scotland);
- (h) paragraph 8(1) of Schedule 3 (supervision of administrators—Scotland),

but does not include an order made in proceedings for the enforcement, in Scotland, of an order made under or for the purposes of the provisions listed above;

“a Scottish restraint order” means an order made under or for the purposes of the following provisions of the Act—

- (a) section 120(1) (restraint orders—Scotland);
- (b) section 120(6) (orders for the purpose of making restraint orders effective—Scotland);
- (c) section 121(7) (recall and variation of restraint orders—Scotland);
- (d) section 122 (appeal in respect of restraint orders—Scotland),

but does not include an order made in proceedings for the enforcement, in Scotland, of an order made under or for the purposes of the provisions listed above.

PART II

ENFORCEMENT OF SCOTTISH AND NORTHERN IRELAND ORDERS IN ENGLAND AND WALES

Restraint orders

3.—(1) Any Northern Ireland restraint order or Scottish restraint order has effect in England and Wales.

(2) Proceedings for or with respect to the enforcement or contravention of a Northern Ireland restraint order or a Scottish restraint order may only be taken if the order is registered in accordance with article 6.

Administrators and receivers

4.—(1) Any Northern Ireland receivership order or Scottish administration order has effect in England and Wales and the functions of—

- (a) an administrator appointed in pursuance of Part 3 of the Act; and
- (b) a receiver appointed in pursuance of Part 4 of the Act,

are exercisable in England and Wales.

(2) Proceedings for or with respect to the enforcement or contravention of a Northern Ireland receivership order or a Scottish administration order may only be taken if the order is registered in accordance with article 6.

Enforcement

5.—(1) If any order is registered in accordance with article 6—

- (a) the Crown Court in England and Wales 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 the order may be taken,

as if the Crown Court in England and Wales had made the order itself.

(2) Paragraph (1) shall have effect whether the contravention of the order occurs before or after the registration of the order.

Registration

6.—(1) Where an application for the registration of a Northern Ireland receivership order, a Northern Ireland restraint order, a Scottish administration order or a Scottish restraint order is made to the Crown Court in England and Wales, the Crown Court must direct that the order be registered in that court.

(2) Where the Crown Court has directed that an order be registered, it may make such order as it believes is appropriate for the purpose of—

- (a) ensuring that the order is effective; or
- (b) assisting an administrator appointed in pursuance of Part 3 of the Act or a receiver appointed in pursuance of Part 4 of the Act to exercise his functions.

Supplementary

7.—(1) Section 47 of the Act (which makes provision about land registration) applies in relation to restraint orders made under section 120(1) of the Act and section 190(1) of the Act as it applies in relation to restraint orders made under section 41(1) of the Act.

(2) A document purporting to be a copy of a Northern Ireland receivership order, a Northern Ireland restraint order, a Scottish administration order or a Scottish restraint order and certified as such by a proper officer of the court which made the order is admissible in evidence in the Crown Court in England and Wales without further proof.

PART III

ENFORCEMENT OF ENGLISH, WELSH AND NORTHERN IRELAND ORDERS IN SCOTLAND

Restraint orders

8.—(1) Any English or Welsh restraint order or Northern Ireland restraint order has effect in Scotland.

(2) Proceedings for or with respect to the enforcement or contravention of an English or Welsh restraint order or a Northern Ireland restraint order may only be taken if the order is registered in accordance with article 11.

Receivers

9.—(1) Any English or Welsh receivership order or Northern Ireland receivership order has effect in Scotland and the functions of a receiver appointed in pursuance of Part 2 or Part 4 of the Act are exercisable in Scotland.

(2) Proceedings for or with respect to the enforcement or contravention of an English or Welsh receivership order or a Northern Ireland receivership order may only be taken if the order is registered in accordance with article 11.

Enforcement

10.—(1) If any order is registered in accordance with article 11—

- (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 the order may be taken,

as if the Court of Session had made the order itself.

(2) Paragraph (1) shall have effect whether the contravention of the order occurs before or after the registration of the order.

Registration

11.—(1) Where an application for the registration of an English or Welsh receivership order, an English or Welsh restraint order, a Northern Ireland receivership order or a Northern Ireland restraint order is made to the Court of Session, the Court of Session must direct that the order be registered in that court.

(2) Where the Court of Session has directed that an order be registered, it may make such order as it believes is appropriate for the purpose of—

- (a) ensuring that the order is effective; or
- (b) assisting a receiver appointed in pursuance of Part 2 or Part 4 of the Act to exercise his functions.

Supplementary

12.—(1) Section 123 of the Act (inhibition of property affected by order) applies in relation to restraint orders made under section 41(1) of the Act and section 190(1) of the Act as it applies in relation to restraint orders made under section 120(1) of the Act.

(2) Section 124 of the Act (arrestment of property affected by order) applies in relation to restraint orders made under section 41(1) of the Act and section 190(1) of the Act as it applies in relation to restraint orders made under section 120(1) of the Act.

(3) Nothing in section 49(6), 51(6), 53 (6), 197(6), 199(6) or 201(6) of the Act prejudices any enactment or rule of law in respect of the recording of deeds relating to heritable property in Scotland or the registration of interests in such property.

(4) A document purporting to be a copy of an English or Welsh receivership order, an English or Welsh restraint order, a Northern Ireland receivership order or a Northern Ireland restraint order, and to be certified as such by a proper officer of the court which made the order shall, in Scotland, be sufficient evidence of the order.

PART IV

ENFORCEMENT OF ENGLISH, WELSH AND SCOTTISH ORDERS IN NORTHERN IRELAND

Restraint orders

13.—(1) Any English or Welsh restraint order or Scottish restraint order has effect in Northern Ireland.

(2) Proceedings for or with respect to the enforcement or contravention of an English or Welsh restraint order or a Scottish restraint order may only be taken if the order is registered in accordance with article 16.

Administrators and receivers

14.—(1) Any English or Welsh receivership order or Scottish administration order has effect in Northern Ireland and the functions of—

- (a) a receiver appointed in pursuance of Part 2 of the Act; and
- (b) an administrator appointed in pursuance of Part 3 of the Act,

are exercisable in Northern Ireland.

(2) Proceedings for or with respect to the enforcement or contravention of a English or Welsh receivership order or a Scottish administration order may only be taken if the order is registered in accordance with article 16.

Enforcement

15.—(1) If any order is registered in accordance with article 16—

- (a) the High Court in Northern Ireland 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 the order may be taken,
as if the High Court in Northern Ireland had made the order itself.

(2) Paragraph (1) shall have effect whether the contravention of the order occurs before or after the registration of the order.

Registration

16.—(1) Where an application for the registration of an English or Welsh receivership order, an English or Welsh restraint order, a Scottish administration order or a Scottish restraint order is made to the High Court in Northern Ireland, the High Court must direct that the order be registered in that court.

(2) Where the High Court has directed that an order be registered, it may make such order as it believes is appropriate for the purpose of—

- (a) ensuring that the order is effective; or
- (b) assisting an administrator appointed in pursuance of Part 3 of the Act or a receiver appointed in pursuance of Part 2 of the Act to exercise his functions.

Supplementary

17.—(1) Section 195 of the Act (which makes provision about land registration) applies in relation to restraint orders made under section 41(1) of the Act and section 120(1) of the Act as it applies in relation to restraint orders made under section 190(1) of the Act.

(2) A document purporting to be a copy of an English or Welsh receivership order, an English or Welsh restraint order, a Scottish administration order or a Scottish restraint order and certified as such by a proper officer of the court which made the order is admissible in evidence in the High Court in Northern Ireland without further proof.

A. K. Galloway
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for orders relating to restraint and receivership made under the Proceeds of Crime Act 2002 made in one part of the United Kingdom to be enforced in another part. Part I is introductory. Part II deals with the enforcement of Scottish and Northern Ireland orders in England and Wales. Part III deals with the enforcement of English or Welsh orders and Northern Ireland orders in Scotland. Part IV deals with the enforcement of English or Welsh orders and Scottish orders in Northern Ireland.

The same model is used for each jurisdiction. Orders automatically have effect throughout the United Kingdom. However, proceedings for their enforcement may only be brought if the orders are registered in the Crown Court for England and Wales, the Court of Session for Scotland and the High Court for Northern Ireland. The court in which the order is registered then has the same powers to enforce the order as if it had made the order itself. Supplementary provision is made about land registration and admissibility of evidence. For Scotland, supplementary provision is also made about inhibition, arrestment and deeds relating to heritable property.