

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Terrorism Act 2000, Part III is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### FORFEITURE ORDERS

#### PART III

#### NORTHERN IRELAND

##### *Interpretation*

- 29 In this Part of this Schedule—
- “forfeiture order” means an order made by a court in Northern Ireland under section 23 [<sup>F1</sup>or 23A], and
- “forfeited property” means the money or other property to which a forfeiture order applies.
- [<sup>F2</sup> “relevant offence ” means—
- (a) an offence under any of sections 15 to 18, or
  - (b) an offence to which section 23A applies.]

##### **Textual Amendments**

- F1** Sch. 4 para. 29: words in definition of "forfeiture order" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(19)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(e)**
- F2** Sch. 4 para. 29: definition of "relevance offence" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(19)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

##### *Implementation of forfeiture orders*

- 30 (1) Where a court in Northern Ireland makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—
- (a) require any of the forfeited property to be paid or handed over to the proper officer or to a member of the Royal Ulster Constabulary designated for the purpose by the Chief Constable;
  - (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;
  - (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;

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- (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within [<sup>F3</sup>section 23B(1)].
- (2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).
- (3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.
- (4) Article 58 of the <sup>M1</sup>Magistrates' Courts (Northern Ireland) Order 1981 (disposal of non-pecuniary forfeitures) shall not apply.

#### Textual Amendments

**F3** Words in Sch. 4 para. 30(1)(d) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(20)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

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

**C1** Sch. 4 para. 30(1) extended (with modifications) (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

#### Marginal Citations

**M1** S.I. 1981/1675 (N.I. 26).

- 31 (1) A receiver appointed under paragraph 30 shall be entitled to be paid his remuneration and expenses by the proper officer out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 30(1)(c).
- (2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.
- (3) A receiver appointed under paragraph 30 shall not be liable to any person in respect of any loss or damage resulting from action—
- which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
  - which he would be entitled to take if the property were forfeited property, and
  - which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.
- (4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

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

**C2** Sch. 4 para. 31 applied (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

- 32 (1) In paragraphs 30 and 31 “the proper officer” means—
- where the forfeiture order is made by a court of summary jurisdiction, the clerk of petty sessions, and
  - where the forfeiture order is made by the Crown Court, the appropriate officer of the Crown Court.

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- (2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by—
  - (a) the prosecutor in the proceedings in which the forfeiture order was made,
  - (b) the defendant in those proceedings, or
  - (c) a person whom the court heard under [<sup>F4</sup>section 23B(1)] before making the order.
- (3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.
- (4) Any balance in the hands of the proper officer after making any payment required under paragraph 30(1)(d) or 31 shall be treated for the purposes of section 20 of the <sup>M2</sup>Administration of Justice (Northern Ireland) Act 1954 (application of fines, &c.) as if it were a fine.

#### Textual Amendments

- F4** Words in Sch. 4 para. 32(2)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(21)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### Marginal Citations

- M2** 1954 c. 9 (N.I.).

### *[<sup>F5</sup>Application of proceeds to compensate victims*

#### Textual Amendments

- F5** Sch. 4 para. 32A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 37(3), 100(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 32A (1) Where a court makes a forfeiture order in a case where—
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
  - (b) any such offence is taken into consideration by the court in determining sentence,
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of—
    - (a) any forfeited money, and
    - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,reduced by the amount of any payment under paragraph 30(1)(d) or 31(1).
  - (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 under which the offender would have been required to pay compensation of an amount not less than the specified amount.]

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### *Restraint orders*

- 33 (1) The High Court may make a restraint order under this paragraph where—
- (a) proceedings have been instituted in Northern Ireland for [<sup>F6</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>F7</sup>(2) The High Court may also make a restraint order under this paragraph where—
- (a) a criminal investigation has been started in Northern Ireland with regard to [<sup>F6</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>F8</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) For the purposes of this paragraph a reference to dealing with property includes a reference to removing the property from Northern Ireland.
- [<sup>F9</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. ]

#### **Textual Amendments**

- F6** Words in Sch. 4 para. 33(1)(a)(2)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(22)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F7** Sch. 4 Pt. 3 para. 33(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F8** Words in Sch. 4 Pt. 3 para. 33(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F9** Sch. 4 Pt. 3 para. 33(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 34 (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.

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- [<sup>F10</sup>(3) A restraint order made under paragraph 33(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 33(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of [<sup>F11</sup>relevant offences] are instituted within such time as the High Court considers reasonable, and
- (b) if all proceedings in respect of [<sup>F11</sup>relevant offences] have been concluded.]

#### Textual Amendments

- F10** Sch. 4 Pt. 3 para. 34(3)(4) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(5)**; S.I. 2001/4019, **art. 2(1)(c)**
- F11** Words in Sch. 4 para. 34(4)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(23)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

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

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

- C3** Sch. 4 para. 35 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

- [<sup>F12</sup>36 (1) The power to make a restraint order under the provisions of paragraph 33 shall be exercisable by the Secretary of State in any case in which it appears to him that the information which it would be necessary to provide in support of an application to the High Court or a judge under those provisions would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18.
- (2) In their application by virtue of sub-paragraph (1) paragraphs 33 to 35 shall have effect with the necessary modifications and as if references to the High Court were references to the Secretary of State.
- (3) An order made by the Secretary of State by virtue of this paragraph may be varied or discharged by the High Court under paragraph 34.]

#### Textual Amendments

- F12** Sch. 4 para. 36 ceased to have effect (N.I.) (19.2.2003) by virtue of **The Terrorism Act 2000 (Continuance of Part VII) Order 2003** (S.I. 2003/427), **art. 2(2)(b)**; and repealed (N.I.) (19.2.2006) by **Terrorism (Northern Ireland) Act 2006** (c. 4), s. 5(2)(3), **Sch.**

- 37 (1) A person commits an offence if he contravenes a restraint order.
- (2) It is a defence for a person charged with an offence under this paragraph to prove that he had a reasonable excuse for the contravention.

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- (3) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum, or to both.
- (4) Nothing in this paragraph shall be taken to prejudice any power of the High Court to deal with the contravention of a restraint order as a contempt of court.

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

- C4** Sch. 4 para. 37 modified (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {1(9)}, 5(3)

- 38 (1) The prosecutor shall be treated for the purposes of section 66 of the <sup>M3</sup>Land Registration Act (Northern Ireland) 1970 (cautions) as a person interested in respect of any registered land to which a restraint order or an application for such an order relates.
- (2) On the application of the prosecutor, the Registrar of Titles shall, in respect of any registered land to which a restraint order or an application for such an order relates, make an entry inhibiting any dealing with the land without the consent of the High Court.
- (3) Subsections (2) and (4) of section 67 of the <sup>M4</sup>Land Registration Act (Northern Ireland) 1970 (inhibitions) shall apply to an entry made on the application of the prosecutor under sub-paragraph (2) as they apply to an entry made on the application of any person interested in the registered land under subsection (1) of that section.
- (4) In this paragraph—
- “registered land” has the meaning assigned to it by section 45(1)(a) of the <sup>M5</sup>Interpretation Act (Northern Ireland) 1954,
- “Registrar of Titles” and “entry” have the same meanings as in the <sup>M6</sup>Land Registration Act (Northern Ireland) 1970, and
- “prosecutor” in a case where a restraint order is made under paragraph 33(2) or an application for such an order is made, means the person who the High Court is satisfied has or will have the conduct of [<sup>F13</sup>any proceedings for [<sup>F14</sup>a relevant offence]].

**Textual Amendments**

- F13** Words in Sch. 4 para. 38(4) substituted (20.12.2001) by [2001 c. 24, s. 3, Sch. 2 Pt. 2 para. 4\(6\)](#); [S.I. 2001/4019, art. 2\(1\)\(c\)](#)
- F14** Sch. 4 para. 38(4): words in definition of "prosecutor" substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(24\)](#) (with [s. 101\(2\)](#)); [S.I. 2009/1256, art. 2\(c\)](#)

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

- C5** Sch. 4 para. 38 applied (13.12.2001) by [S.I. 2001/3927, art. 26](#)

**Marginal Citations**

- M3** [1970 c. 18\(N.I.\)](#).

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**M4** 1970 c. 18(N.I.).  
**M5** 1954 c. 33(N.I.).  
**M6** 1970 c. 18(N.I.).

- <sup>x139</sup> (1) This paragraph applies where a restraint order is discharged under [F<sup>15</sup>paragraph 34(4)(a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [F<sup>16</sup>a relevant offence] which—
- (a) do not result in conviction for [F<sup>17</sup>a relevant offence],
  - (b) result in conviction for [F<sup>17</sup>a relevant offence] in respect of which the person convicted is subsequently pardoned by Her Majesty, or
  - (c) result in a conviction for [F<sup>17</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 the Royal Ulster Constabulary, or was a [F<sup>18</sup>member of staff of the Public Prosecution Service for Northern Ireland],
  - (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.
- (6) Compensation payable under this paragraph shall be paid—
- (a) where the person in default was or was acting as a member of the Royal Ulster Constabulary, out of funds put at the disposal of the Chief Constable under section 10(5) of the <sup>M7</sup>Police (Northern Ireland) Act 1998, and
  - (b) where the person in default was a [F<sup>19</sup>member of staff of the Public Prosecution Service for Northern Ireland], by the Director of Public Prosecutions for Northern Ireland.

#### **Editorial Information**

**X1** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

#### **Textual Amendments**

**F15** Word in Sch. 4 Pt. 3 para. 39(1) substituted (20.12.2001) by 2001 c. 24, s. 3, Sch. 2 Pt. 2 para. 4(7); S.I. 2001/4019, art. 2(1)(c)



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- F16** Words in Sch. 4 para. 39(2) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F17** Words in Sch. 4 para. 39(2)(a)(b)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F18** Words in Sch. 4 para. 39(4)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**
- F19** Words in Sch. 4 para. 39(6)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**

#### Marginal Citations

- M7** 1998 c. 32.

- <sup>x2</sup><sub>40</sub> (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F20</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), as applied by section 8(2).
- (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.

#### Editorial Information

- X2** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

#### Textual Amendments

- F20** Words in Sch. 4 para. 40(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(27)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

*F21 . . .*

#### Textual Amendments

- F21** Sch. 4 para. 39: preceding cross-heading omitted (18.6.2009) by virtue of Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(25)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**



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*Proceedings for an offence: timing*

- 41 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—
- (a) when a summons or warrant is issued under Article 20 of the <sup>M8</sup>Magistrates' Courts (Northern Ireland) Order 1981 in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (c) when an indictment charging a person with the offence is presented under section 2(2)(c), (e) or (f) of the <sup>M9</sup>Grand Jury (Abolition) Act (Northern Ireland) 1969.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part of this Schedule proceedings are concluded—
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or
  - (b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

**Marginal Citations**

- M8** [S.I. 1981/1675 \(N.I. 26\)](#).  
**M9** [1969 c. 15\(N.I.\)](#).

*<sup>F22</sup>Domestic and overseas freezing orders*

**Textual Amendments**

- F22** Sch. 4 paras. 41A-41G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), [Sch. 4 para. 7](#); S.I. 2014/3192, art. 2(b)

- 41A (1) This paragraph has effect for the purposes of paragraphs 41B to 41G.
- (2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.
- (3) A listed offence means—
- (a) an offence described in Article 3(2) of the relevant Framework Decision, or
  - (b) a prescribed offence or an offence of a prescribed description.
- (4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 41D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.
- (5) Specified information, in relation to a certificate under paragraph 41B or 41D, means—

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- (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
  - (b) any prescribed information.
- (6) In this paragraph, “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A participating country means—
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
  - (b) any other member State designated by an order made by the Secretary of State.
- (8) “Country” includes territory.
- (9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

*Domestic freezing orders: certification*

- 41B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph.
- (2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
  - (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.
- (3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
  - (b) gives the specified information.
- (4) If the High Court makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  - (b) paragraph 34(2) to (4) applies to the certificate as it applies to the restraint order.

*Sending domestic freezing orders*

- 41C (1) If a certificate is made under paragraph 41B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or
  - (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.
- (2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.

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- (3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).
- (4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.  

The signature may be an electronic signature.
- (5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1).

#### *Overseas freezing orders*

- 41D (1) Paragraph 41E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.
- (2) An overseas freezing order is an order prohibiting dealing with property—
    - (a) which is in the United Kingdom,
    - (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
    - (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,and in respect of which the following requirements of this paragraph are met.
  - (3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.
  - (4) The order must relate to—
    - (a) criminal proceedings instituted in the participating country, or
    - (b) a criminal investigation being carried on there.
  - (5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.
  - (6) The certificate must—
    - (a) be signed by or on behalf of the court or authority which made or confirmed the order,
    - (b) include a statement as to the accuracy of the information given in it,
    - (c) if it is not in English, include a translation of it into English.

The signature may be an electronic signature.
  - (7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.
  - (8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—

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- (a) a court exercising criminal jurisdiction in the country,
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.
- (9) References in paragraphs 41E to 41G to an overseas freezing order include its accompanying certificate.

*Enforcement of overseas freezing orders*

- 41E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the High Court and to the Director of Public Prosecutions for Northern Ireland.
- (2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.
- (3) Before giving effect to the overseas freezing order, the court must give the Director an opportunity to be heard.
- (4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 41F The High Court may postpone giving effect to an overseas freezing order in respect of any property—
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
  - (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.
- 41G (1) Where the High Court decides to give effect to an overseas freezing order, it must—
- (a) register the order in that court,
  - (b) provide for notice of the registration to be given to any person affected by it.
- (2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court.
- (3) Paragraph 35 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 33.
- (4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the Director of Public Prosecutions for Northern Ireland or any other person affected by it, if or to the extent that—
- (a) the court is of the opinion mentioned in paragraph 41E(4), or
  - (b) the court is of the opinion that the order has ceased to have effect in the participating country.
- (5) Her Majesty may by Order in Council make further provision for the enforcement in Northern Ireland of registered overseas freezing orders.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases,
  - (b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

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### *Enforcement of orders made elsewhere in the British Islands*

- 42 In the following provisions of this Part of this Schedule—
- “an England and Wales order” means—
- (a) an order made in England and Wales under section 23 [<sup>F23</sup>or 23A] (“an England and Wales forfeiture order”),
  - (b) an order made under paragraph 5 (“an England and Wales restraint order”), or
  - (c) an order made under any other provision of Part I of this Schedule in relation to an England and Wales forfeiture or restraint order;
- “a Scottish order” means—
- (a) an order made in Scotland under section 23 [<sup>F23</sup>or 23A] (“a Scottish forfeiture order”),
  - (b) an order made under paragraph 18 (“a Scottish restraint order”), or
  - (c) an order made under any other provision of Part II of this Schedule in relation to a Scottish forfeiture or restraint order;
- “an Islands order” means an order made in any of the Islands under a provision of the law of that Island corresponding to—
- (a) section 23 [<sup>F23</sup>or 23A] (“an Islands forfeiture order”),
  - (b) paragraph 33 (“an Islands restraint order”), or
  - (c) any other provision of this Part of this Schedule.

#### **Textual Amendments**

**F23** Words in Sch. 4 para. 42 inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), Sch. 3 para. 5(28) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

- 43 (1) Subject to the provisions of this paragraph, an England and Wales, Scottish or Islands order shall have effect in the law of Northern Ireland.
- (2) But such an order shall be enforced in Northern Ireland only in accordance with—
- (a) the provisions of this paragraph, and
  - (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.
- (3) On an application made to it in accordance with rules of court for registration of an England and Wales, Scottish or Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.
- (4) Rules of court shall also make provision—
- (a) for cancelling or varying the registration of an England and Wales, Scottish or Islands forfeiture order when effect has been given to it, whether in Northern Ireland or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;
  - (b) for cancelling or varying the registration of an England and Wales, Scottish or Islands restraint order which has been discharged or varied by the court by which it was made.
- (5) If an England and Wales, Scottish or Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 30(1) to give effect to a forfeiture order made by it and—

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- (a) paragraph 31 shall apply accordingly,
  - (b) any functions of the clerk of petty sessions or the appropriate officer of the Crown Court shall be exercised by the appropriate officer of the High Court, and
  - (c) after making any payment required by virtue of paragraph 30(1)(d) or 31, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under this sub-paragraph shall be paid into the Consolidated Fund.
- (6) If an England and Wales, Scottish or Islands restraint order is registered under this paragraph—
- (a) paragraphs 35 and 38 shall apply as they apply to a restraint order under paragraph 33, and
  - (b) the High Court shall have the like power to make an order under section 21 of the <sup>M10</sup>Administration of Justice Act 1969 (extended power to order inspection of property, &c.) in relation to proceedings brought or likely to be brought for an England and Wales, Scottish or Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.
- (7) In addition, if an England and Wales, Scottish or Islands order is registered under this paragraph—
- (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
  - (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, 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 High Court.
- (8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of—
- (a) assisting the achievement in Northern Ireland of the purposes of an England and Wales, Scottish or Islands order, or
  - (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property.
- (9) The following documents shall be received in evidence in Northern Ireland without further proof—
- (a) a document purporting to be a copy of an England and Wales, Scottish or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  - (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 32(2) and (3) and to be certified by a proper officer of the court concerned.

#### Commencement Information

- II** Sch. 4 wholly in force at 19.2.2001; Sch. 4 not in force at Royal Assent see s. 128; Sch. 4 para. 43(2) (b)(3)(4) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(h\)\(iii\)](#); Sch. 4 para. 43 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

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### Marginal Citations

**M10** 1969 c. 58.

#### *Enforcement of orders made in designated countries*

- 44 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in Northern Ireland of external orders.
- (2) An “external order” means an order [ <sup>F24</sup>(other than an overseas freezing order within the meaning of paragraph 41D) ] —
- (a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and
  - (b) which makes relevant provision.
- (3) “Relevant provision” means—
- (a) provision for the forfeiture of terrorist property (“an external forfeiture order”), or
  - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory (“an external restraint order”).
- (4) An Order in Council under this paragraph may, in particular, include provision—
- (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;
  - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 43(1) to (8) in relation to the orders to which that paragraph applies;
  - (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.
- (5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases, and
  - (b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

### Textual Amendments

**F24** Words in Sch. 4 para. 44(2) inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), [Sch. 4 para. 8](#); S.I. 2014/3192, art. 2(b)



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