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SCHEDULES

SCHEDULE 4

FORFEITURE ORDERS

PART III

NORTHERN IRELAND

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 an offence under any of sections 15 to 18,

(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.

[[F1](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 an offence under any of sections 15 to 18,

(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 **[**[F2]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.

[[F3](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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Textual Amendments

F1 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)**

F2 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)**

F3 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.

[[F4](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 offences under any of sections 15 to 18 are instituted within such time as the High Court considers reasonable, and

(b) if all proceedings in respect of offences under any of sections 15 to 18 have been concluded.**]**

Textual Amendments

F4 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)**

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)

C1 Sch. 4 para. 35 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

[[F5]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.

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(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

F5 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.

(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)

C2 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 [M1]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 [M2]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 [M3]Interpretation Act (Northern Ireland) 1954,

"Registrar of Titles" and "entry" have the same meanings as in the [M4]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

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High Court is satisfied has or will have the conduct of **[**[F6]any proceedings for an offence under any of sections 15 to 18**]**.

Textual Amendments

F6 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)**

Modifications etc. (not altering text)

C3 Sch. 4 para. 38 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

Marginal Citations

M1 1970 c. 18(N.I.).
M2 1970 c. 18(N.I.).
M3 1954 c. 33(N.I.).
M4 1970 c. 18(N.I.).

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