
STATUTORY INSTRUMENTS

1995 No. 760

**PREVENTION AND
SUPPRESSION OF TERRORISM**

**The Prevention of Terrorism (Temporary Provisions)
Act 1989 (Enforcement of External Orders) Order 1995**

Made - - - - *15th March 1995*
Coming into force - - *24th March 1995*

At the Court at Buckingham Palace, the 15th day of March 1995
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by resolution of each House of Parliament:
Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by paragraphs 10, 20 and 30 of Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**PART I:
GENERAL**

Title, commencement and extent

1.—(1) This Order may be cited as the Prevention of Terrorism (Temporary Provisions) Act 1989 (Enforcement of External Orders) Order 1995 and shall come into force on 24th March 1995.

(2) This Order extends to the United Kingdom only.

Interpretation

2.—(1) In this Order—

(1) 1989 c. 4; Schedule 4 was amended by paragraph 5(7), (8) and (9) of Schedule 7 to the Northern Ireland (Emergency Provisions) Act 1991 (c. 24).

“court of a designated country” includes a court of any state or territory of a designated country,
“appropriate authority” means the authority of a designated country specified opposite that country in Schedule 2 to this Order,

“designated country” means a country or territory designated under article 3 of this Order,

“external forfeiture order” means an order which is made in a designated country and which provides for the forfeiture of terrorist funds within the meaning of section 11(3)(a) or (b) of the 1989 Act,

“external restraint order” means an order which is made in a designated country and which makes 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 there,

“external order” means an external forfeiture order or an external restraint order,

“property” includes property wherever situated and whether real or personal, heritable or movable and things in action and other intangible or incorporeal property,

“the 1989 Act” means the Prevention of Terrorism (Temporary Provisions) Act 1989(2).

(2) The following provisions of this article shall have effect for the interpretation of this Order.

(3) Proceedings are instituted in a designated country when—

- (a) under the law of the designated country concerned, one of the steps specified in relation to that country in the right-hand column of Schedule 1 to this Order has been taken there in respect of the commission of an alleged offence, or
- (b) an application has been made to a court of a designated country for an external forfeiture order,

and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(4) Proceedings are concluded in a designated country—

- (a) when an external forfeiture order has been made in those proceedings and effect has been given to it in respect of all the money or other property to which it applies, or
- (b) when (disregarding any power of a court in a designated country to grant leave to appeal out of time) there is no further possibility of an external forfeiture order being made in the proceedings.

(5) An external order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Designation of countries and territories

3. Each of the countries and territories specified in Schedule 2 to this Order is hereby designated for the purposes of paragraphs 10(2), 20(2) and 30(2) of Schedule 4 to the 1989 Act.

Proof of orders and judgment of court of a designated country

4.—(1) For the purposes of this Order—

- (a) any order made or judgment given by a court of a designated country purporting to bear the seal of that court, or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person, and

- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court of a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court of a designated country is duly authenticated for the purposes of paragraph (1)(b) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by, or on behalf of, the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in a designated country

5. For the purposes of this Order—

(1) A certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating—

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there,
- (b) that an external order is in force and is not subject to appeal,
- (c) that property recoverable in the designated country under an external order remains unrecovered there,
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country, or
- (e) that an order (however described) made by a court of a designated country is an external order, or that an order, if made by a court of a designated country, would be an external order,

shall be admissible as evidence or, for the purposes of Part III of this Order, constitute sufficient evidence, of the facts so stated.

(2) A statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court of a designated country, shall be admissible as evidence or, for the purposes of Part III of this Order, constitute sufficient evidence, of any fact stated therein.

(3) A document is duly authenticated for the purposes of paragraph (2) above if it purports to be certified by any person in his capacity as judge, magistrate or officer of the court of a designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

PART II:

ENFORCEMENT OF EXTERNAL ORDERS IN ENGLAND AND WALES

Application of this Part

6. This Part applies for the purpose of enabling the enforcement in England and Wales of external orders.

Representation of government of a designated country

7. 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 the

government of that country for the Crown Prosecution Service to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

8.—(1) On an application made by or on behalf of the government of a designated country, the High Court 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 England and Wales 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 judgment, and
 - (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

9.—(1) On an application made by or on behalf of the Government of a designated country, the High Court 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 England and Wales 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 High Court 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

10.—(1) If an external forfeiture order is registered in the High Court under article 8(1) of this Order, the High Court shall have, in relation to that order, the same powers as a court has under paragraph 1(1) of Schedule 4 to the 1989 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it (and paragraph 2 of that Schedule applies accordingly) but any reference in the said paragraph 1(1) to “the proper officer” shall, for the purposes of this article, mean the appropriate officer of the High Court.

(2) After making any payment required by virtue of paragraph 1(1)(d) or 2 of Schedule 4 to the 1989 Act, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under paragraph (1) above shall be paid by him to the Secretary of State.

Statutory provisions applicable where external restraint order has been registered

11. Paragraphs 3(7), 5 and 6 of Schedule 4 to the 1989 Act shall apply to a registered external restraint order as they apply to a restraint order and the High Court shall have the like power to make

an order under section 33 of the Supreme Court Act 1981⁽³⁾ (extended power to order inspection of property 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 High Court.

Enforcement of registered external orders

12.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the High Court under article 8 or article 9 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 the High Court.

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

- (a) assisting the achievement in England and Wales 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.

PART III:

ENFORCEMENT OF EXTERNAL ORDERS IN SCOTLAND

Application of this Part

13. This Part applies for the purpose of enabling the enforcement in Scotland of external orders.

Representation of government of a designated country

14. 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 the Order.

Registration of external forfeiture orders

15.—(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 judgment, and
- (b) an application for a new trial or a stay of execution.

(3) 1981 c. 54.

Registration of external restraint orders

16.—(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

17. If an external forfeiture order is registered in the Court of Session under article 15(1) of this Order, the Court shall have, in relation to that order, the same powers as a court has under paragraph 11(1) and (2) of Schedule 4 to the 1989 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it and paragraphs 11(4) to (6) and 12 of that Schedule apply accordingly.

Statutory provisions applicable where external restraint order has been registered

18. Paragraphs 13(6), 15 and 16 of Schedule 4 to the 1989 Act shall apply to a registered external restraint order 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⁽⁴⁾ (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

19.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the Court of Session under article 15 or article 16 of this Order—

- (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.

(4) 1972 c. 59.

PART IV:

ENFORCEMENT OF EXTERNAL ORDERS IN NORTHERN IRELAND

Application of this Part

20. This Part applies for the purpose of enabling the enforcement in Northern Ireland of external orders.

Representation of government of a designated country

21. 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 the government of that country for the Director of Public Prosecutions for Northern Ireland, or the Crown Solicitor for Northern Ireland to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

22.—(1) On an application made by or on behalf of the government of a designated country, the High Court 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 Northern Ireland 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 judgment, and
- (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

23.—(1) On an application made by or on behalf of the Government of a designated country, the High Court 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 Northern Ireland 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 High Court 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

24.—(1) If an external forfeiture order is registered in the High Court under article 22(1) of this Order, the High Court shall have, in relation to that order, the same powers as a court has under

paragraph 21(1) of Schedule 4 to the 1989 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it (and paragraph 22 of that Schedule applies accordingly) but any reference in the said paragraph 21(1) to “the proper officer” shall for the purposes of this article, mean the appropriate officer of the High Court.

(2) After making any payment required by virtue of paragraph 21(1)(d) or 22 of Schedule 4 to the 1989 Act, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under paragraph (1) above shall be paid into or disposed for the benefit of the Consolidated Fund.

Statutory provisions applicable where external restraint order has been registered

25. Paragraphs 23(7), 25 and 26 of Schedule 4 to the 1989 Act and the Land Registration Act (Northern Ireland) 1970 and the Registration of Deeds Act (Northern Ireland) 1970 shall apply to a registered external restraint order as they apply to a restraint order and the High Court shall have the like power to make an order under section 21 of the Administration of Justice Act 1969⁽⁵⁾ (extended power to order inspection of property 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 High Court.

Enforcement of registered external orders

26.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the High Court under article 22 or article 23 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 the High Court.

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

- (a) assisting the achievement in Northern Ireland 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 the property,

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

N.H. Nicholls
Clerk of the Privy Council

(5) 1969 c. 58.

SCHEDULE 1

Article 2(3)(a)

INSTITUTION OF PROCEEDINGS

| Designated country | Point at which proceedings are instituted |
|--------------------|---|
| India | <ul style="list-style-type: none"> (a) (a) when information relating to commission of any crime is received by any law enforcement agency empowered to investigate such crime under the law for the time being in force and laid before a court of law; (b) when any allegation is made orally or in writing to a court of law that a person has committed an offence; (c) when a person is charged with an offence; or (d) when any investigation or inquiry into the commission of any offence is directed by a court of law. |

SCHEDULE 2

Article 3

| Designated country | Appropriate authority |
|--------------------|------------------------------|
| India | The Ministry of Home Affairs |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the purpose of enabling the enforcement in the United Kingdom of certain types of order made by a court in a designated country or territory. The types of order in question are orders which provide for the forfeiture of terrorist funds within the meaning of section 11(3)(a) or (b) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (“external forfeiture orders”), or orders which make 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 to be instituted in the designated country or territory.

Article 3 of, and Schedule 2 to, the Order designate the countries and territories to which the Order applies. India is specified as a designated country for the purposes of paragraphs 10(2), 20(2) and 30(2) of Schedule 4 to the 1989 Act.