
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 49

INTERNATIONAL CO-OPERATION

Overseas forfeiture orders

- 49.11.**—(1) This rule applies where—
- (a) the Crown Court can—
 - (i) make a restraint order under article 5 of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005⁽¹⁾, or
 - (ii) give effect to an external forfeiture order under article 19 of that Order;
 - (b) the Director of Public Prosecutions or the Director of the Serious Fraud Office receives—
 - (i) a request for the restraint of property to which article 3 of the 2005 Order applies, or
 - (ii) a request to give effect to an external forfeiture order to which article 15 of the Order applies; and
 - (c) the Director wants the Crown Court to—
 - (i) make such a restraint order, or
 - (ii) give effect to such a forfeiture order.
- (2) The Director must—
- (a) apply in writing;
 - (b) serve the application on the court officer; and
 - (c) serve the application on the defendant and on any other person affected by the order, unless the court is satisfied that—
 - (i) the application is urgent, or
 - (ii) there are reasonable grounds for believing that to give notice of the application would cause the dissipation of the property which is the subject of the application.
- (3) The application must—
- (a) identify the property the subject of the application;
 - (b) identify the person who is or who may become the subject of such a forfeiture order;
 - (c) explain how the requirements of the 2005 Order are satisfied, as the case may be—
 - (i) for making a restraint order, or
 - (ii) for giving effect to a forfeiture order;

⁽¹⁾ S.I. 2005/3180.

- (d) where the application is to give effect to a forfeiture order, include an application to appoint the Director as the enforcement authority; and
 - (e) propose the terms of the Crown Court order.
- (4) If the court allows the application, it must—
- (a) where it decides to make a restraint order—
 - (i) specify the property the subject of the order,
 - (ii) specify the person or persons who are prohibited from dealing with that property,
 - (iii) specify any exception to that prohibition, and
 - (iv) include any ancillary order that the court believes is appropriate to ensure that the restraint order is effective; and
 - (b) where it decides to give effect to a forfeiture order, exercise its power to—
 - (i) direct the registration of the order as an order of the Crown Court,
 - (ii) give directions for notice of the order to be given to any person affected by it, and
 - (iii) appoint the applicant Director as the enforcement authority.
- (5) Paragraph (6) applies where a person affected by an order, or the Director, wants the court to vary or discharge a restraint order or cancel the registration of a forfeiture order.
- (6) Such a person must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
 - (b) serve the application on the court officer and, as applicable—
 - (i) the other party, and
 - (ii) any other person who will or may be affected;
 - (c) explain why it is appropriate, as the case may be—
 - (i) for the restraint order to be varied or discharged, or
 - (ii) for the registration of the forfeiture order to be cancelled;
 - (d) propose the terms of any variation; and
 - (e) ask for a hearing, if one is wanted, and explain why it is needed.
- (7) The court may—
- (a) consider an application
 - (i) at a hearing, which must be in private unless the court otherwise directs, or
 - (ii) without a hearing; and
 - (b) allow an application to be made orally.

[Note. Under article 19 of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005, on the application of the Director of Public Prosecutions or the Director of the Serious Fraud Office the Crown Court may give effect to an order made by a court in a country outside the United Kingdom for the forfeiture and destruction, or other disposal, of any property in respect of which an offence has been committed in that country, or which was used or intended for use in connection with the commission of such an offence (described in the Order as an 'external forfeiture order').

Under article 5 of the 2005 Order, on the application of the Director of Public Prosecutions or the Director of the Serious Fraud Office the Crown Court may make a restraint order prohibiting any specified person from dealing with property, for the purpose of facilitating the enforcement of such a forfeiture order which has yet to be made.]

