



Criminal Justice Act 1993

1993 CHAPTER 36

PART II

DRUG TRAFFICKING OFFENCES

Miscellaneous

24 Miscellaneous amendments

- (1) In section 8(6) of the Drug Trafficking Offences Act 1986 (restraint orders), for “the court may” there shall be substituted “the High Court or a county court may”.
- (2) In sections 12(1) and (2), 13(1), 15(2), 16(2), 17(2) and 19(2)(b)(i) of that Act after “High Court” there shall be inserted, in each case, “or a county court”.
- (3) In section 17A(2) of that Act (expenses of insolvency practitioner dealing with property subject to restraint order), for “(3)(za)” there shall be substituted “(4)”.
- (4) In section 18(2) of that Act (remuneration and expenses of receiver), for “(3B)” there shall be substituted “(5)”.
- (5) In section 27 of that Act (application for an order to make material available), in subsection (8) for “this section” there shall be substituted “subsection (1) above” and the following subsection shall be added at the end—

“(10) An application under subsection (1) or (5) above may be made ex parte to a judge in chambers.”.
- (6) In section 27(5) of that Act the words “or, as the case may be, the sheriff” (which are spent) shall be omitted.
- (7) Section 38(1) of that Act (interpretation) shall be amended in accordance with subsections (8) and (9).

Status: This is the original version (as it was originally enacted).

- (8) In the definition of “drug trafficking”, in paragraph (d), the words “or would be such an offence if it took place in England and Wales” shall be inserted at the end and the following paragraphs shall be inserted after paragraph (d)—
- “(e) acquiring, having possession of or using property in circumstances which amount to the commission of an offence under section 23A of this Act or which would be such an offence if it took place in England and Wales;
 - (f) conduct which is an offence under section 14 (concealing or transferring proceeds of drug trafficking) of the Criminal Justice (International Co-operation) Act 1990 or which would be such an offence if it took place in England and Wales;
 - (g) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of the Act of 1990;”.
- (9) In the definition of “drug trafficking offence”, the following paragraph shall be inserted after paragraph (c)—
- “(cc) an offence under section 23A of this Act;”.
- (10) In section 18(4A) of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom), after “High Court” there shall be inserted “or a county court”.
- (11) In section 116(2)(aa) of the Police and Criminal Evidence Act 1984 (drug trafficking offences to be arrestable offences that are always serious), for “(d)” there shall be substituted “(dd)”.
- (12) Section 1 of the Criminal Justice (Scotland) Act 1987 (confiscation orders in relation to drug trafficking offences) shall be amended in accordance with subsections (13) to (15).
- (13) In subsection (2) (offences in relation to which confiscation orders may be made), the following paragraph shall be inserted after paragraph (b)—
- “(bb) an offence under section 42A of this Act;”.
- (14) In subsection (6) (definition of “drug trafficking”), after paragraph (e) there shall be inserted the following paragraphs—
- “(f) acquiring, having possession of or using property in contravention of section 42A of this Act;
 - (g) concealing or transferring the proceeds of drug trafficking in contravention of section 14 of the Act of 1990;
 - (h) using any ship for illicit traffic in controlled drugs in contravention of section 19 of the Act of 1990;”.
- (15) After subsection (6) there shall be inserted the following subsection—
- “(7) In paragraphs (e) to (g) of subsection (6) above, references to conduct in contravention of the enactments mentioned in those paragraphs include conduct which would contravene the enactments if it took place in Scotland.”.

25 Appeal against order forfeiting drug trafficking cash

- (1) The following sections shall be inserted in the Criminal Justice (International Co-operation) Act 1990, after section 26—

“26A Appeal against section 26 order

- (1) This section applies where an order for the forfeiture of cash (“the forfeiture order”) is made under section 26 above by a magistrates' court.
- (2) Any party to the proceedings in which the forfeiture order is made (other than the applicant for the order) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Crown Court or, in Northern Ireland, to a county court.
- (3) An appeal under this section shall be by way of a rehearing.
- (4) On an application made by the appellant to a magistrates' court at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.
- (5) The court hearing an appeal under this section may make such order as it considers appropriate.
- (6) If it upholds the appeal, the court may order the release of the cash, or (as the case may be) the remaining cash, together with any accrued interest.
- (7) Section 26(3) applies in relation to a rehearing on an appeal under this section as it applies to proceedings under section 26.

26B Appeal against section 26 order: Scotland

Any party to proceedings in which an order for the forfeiture of cash is made by the sheriff under section 26 above may appeal against the order to the Court of Session.”.

- (2) The Act of 1990 shall be further amended as follows.
- (3) In section 26 (forfeiture of drug trafficking cash), after subsection (3) there shall be inserted the following subsection—
 - “(4) Proceedings on an application under this section to the sheriff shall be civil proceedings.”.
- (4) In section 28 (procedure), the words “or appeals” shall be inserted after the word “applications” in each place where it occurs in subsection (2).
- (5) In section 30 (forfeited cash to be paid into the Consolidated Fund), the following subsection shall be added at the end—
 - “(3) Subsection (2) above does not apply—
 - (a) where an appeal is made under section 26A or 26B above, before the appeal is determined or otherwise disposed of; and
 - (b) in any other case—

Status: This is the original version (as it was originally enacted).

- (i) where the forfeiture was ordered by a magistrates' court, before the end of the period of 30 days mentioned in section 26A(2); or
 - (ii) where the forfeiture was ordered by the sheriff, before the end of any period within which, in accordance with rules of court, an appeal under section 26B must be made.”.
- (6) The amendments made by this section apply only in relation to orders under section 26 of the Act of 1990 made on or after the date on which this section comes into force.

26 Disclosure of information etc. received in privileged circumstances

- (1) In section 31 of the Drug Trafficking Offences Act 1986 (offence of prejudicing investigation), the following subsections shall be inserted after subsection (2)—
- “(2A) Nothing in subsection (1) above makes it an offence for a professional legal adviser to disclose any information or other matter—
- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
 - (b) to any person—
 - (i) in contemplation of, or in connection with, legal proceedings; and
 - (ii) for the purpose of those proceedings.
- (2B) Subsection (2A) above does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.”.
- (2) The same subsections as are inserted in section 31 of the Act of 1986 by subsection (1) shall be inserted in section 42 of the Criminal Justice (Scotland) Act 1987 (corresponding Scottish provision).