



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

Enforcement, etc. of confiscation orders

77 Restraint orders. **E+W**

- (1) The High Court may by order (referred to in this Part of this Act as a “restraint order”) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, a restraint order may make such provision as the court thinks fit for living expenses and legal expenses.
- (3) A restraint order may apply—
 - (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
 - (b) to realisable property held by a specified person, being property transferred to him after the making of the order.
- (4) This section shall not have effect in relation to any property for the time being subject to a charge under section 78 below.
- (5) A restraint order—
 - (a) may be made only on an application by the prosecutor;
 - (b) may be made on an ex parte application to a judge in chambers; and
 - (c) shall provide for notice to be given to persons affected by the order.
- (6) A restraint order—
 - (a) may be discharged or varied in relation to any property; and
 - [^{F1}(b) shall be discharged on the conclusion of the proceedings or application in question.]

Status: Point in time view as at 01/04/1996. There are multiple versions of this provision on screen.

These apply to different geographical extents. This version of this provision has been superseded.

Changes to legislation: Criminal Justice Act 1988, Section 77 is up to date with all changes known to be in force on or before 04 July 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)

- (7) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (8) Where the High Court has made a restraint order, the court may at any time appoint a receiver—
- (a) to take possession of any realisable property, and
 - (b) in accordance with the court’s directions, to manage or otherwise deal with any property in respect of which he is appointed,
- subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (9) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)—
- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
 - (b) removing the property from Great Britain.
- (10) Where [^{F2}a restraint order has been made], a constable may for the purpose of preventing any realisable property being removed from Great Britain, seize the property. [^{F3}In this subsection, the reference to a restraint order includes a reference to a restraint order within the meaning of [^{F4}the Proceeds of Crime (Scotland) Act 1995] and, in relation to such an order, “realisable property” has the same meaning as in that Part]
- (11) Property seized under subsection (10) above shall be dealt with in accordance with the [^{F5}directions of the court which made the order].
- (12) The ^{M1}Land Charges Act 1972 and the ^{M2}Land Registration Act 1925 shall apply—
- (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and
 - (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.
- (13) The prosecutor shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.

Extent Information

E1 [S. 77](#): for extent of s. 77 see [s. 172](#)

E2 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F1 [S. 77\(6\)\(b\)](#) substituted (1.11.1995) by [1995 c. 11, s. 8\(4\)](#); [S.I. 1995/2650, art. 2](#)

F2 Words in [s. 77\(10\)](#) substituted (31.3.1996) by [1995 c. 20, s. 117\(1\), Sch. 6 Pt. II para. 186\(3\)\(a\)](#); [S.I. 1996/517, art. 3](#) (which substitution fell (S.) (1.4.1996) by reason of the repeal (S.) (1.4.1996) of s. 117(1), Sch. 6 Pt. II para. 186(3)(a) by [1995 c. 40, s. 6, Sch. 5](#))

F3 Words in [s. 77\(10\)](#) added (31.3.1996) by [1995 c. 20, s. 117\(1\), Sch. 6 Pt. II para. 186\(3\)\(a\)](#); [S.I. 1996/517, art. 3](#) (which addition fell (S.) (1.4.1996) by reason of the repeal (S.) (1.4.1996) of s. 117(1), Sch. 6 Pt. II para. 186(3)(a) by [1995 c. 40, s. 6, Sch. 5](#))

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- F4** Words in s. 77(10) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 69(3)**
- F5** Words in s. 77(11) substituted (31.3.1996) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. II para. 186(3)(b)**; S.I. 1996/517, **art. 3** (which substitution fell (S.) (1.4.1996) by reason of the repeal (S.) (1.4.1996) of s. 117(1), Sch. 6 Pt. II para. 186(3)(b) by 1995 c. 40, s. 6, **Sch. 5**)

Marginal Citations

- M1** 1972 c. 61.
M2 1925 c. 21.

77 Restraint orders. **S**

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- (2) Without prejudice to the generality of subsection (1) above, a restraint order may make such provision as the court thinks fit for living expenses and legal expenses.
- (3) A restraint order may apply—
 - (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
 - (b) to realisable property held by a specified person, being property transferred to him after the making of the order.
- (4) This section shall not have effect in relation to any property for the time being subject to a charge under section 78 below.
- (5) A restraint order—
 - (a) may be made only on an application by the prosecutor;
 - (b) may be made on an ex parte application to a judge in chambers; and
 - (c) shall provide for notice to be given to persons affected by the order.
- (6) A restraint order—
 - (a) may be discharged or varied in relation to any property; and
 - ^[F6](b) shall be discharged on the conclusion of the proceedings or application in question.]
- (7) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (8) Where the High Court has made a restraint order, the court may at any time appoint a receiver—
 - (a) to take possession of any realisable property, and
 - (b) in accordance with the court’s directions, to manage or otherwise deal with any property in respect of which he is appointed,subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (9) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)—
 - (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

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- (b) removing the property from Great Britain.
- (10) Where the High Court has made a restraint order, a constable may for the purpose of preventing any realisable property being removed from Great Britain, seize the property.
- (11) Property seized under subsection (10) above shall be dealt with in accordance with the court's directions.
- (12) The ^{M3}Land Charges Act 1972 and the ^{M4}Land Registration Act 1925 shall apply—
- (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and
 - (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.
- (13) The prosecutor shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.

Extent Information

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Textual Amendments

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Modifications etc. (not altering text)

C3 [S. 77](#) extended (S.) (1.4.1996) by [1995 c. 43, ss. 35\(2\)\(4\), 44, 50](#), [Sch. 2 para. 2\(2\)](#)

Marginal Citations

M3 [1972 c. 61](#).

M4 [1925 c. 21](#).

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