



Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

1990 CHAPTER 40

PART IV

MISCELLANEOUS REFORMS

Drug trafficking confiscation orders

63 Registration and enforcement of external confiscation orders

The following sections shall be substituted for section 30 of the Criminal Justice (Scotland) Act 1987—

“30 Enforcement of other external orders

(1) Her Majesty may by Order in Council—

- (a) direct in relation to a country or territory outside the United Kingdom designated by the order (“a designated country”) that, subject to such modifications as may be specified, this Part of this Act shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;
- (b) make—
 - (i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order; and
 - (ii) such provision as to evidence or proof of any matter for the purposes of this section and section 30A of this Act; and
 - (iii) such incidental, consequential and transitional provision, as appears to Her Majesty to be expedient; and

Status: This is the original version (as it was originally enacted).

(c) without prejudice to the generality of this subsection, direct that in such circumstances as may be specified proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order shall be treated as reducing the amount payable under the order to such extent as may be specified.

(2) In this Part of this Act—

“external confiscation order” means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value; and
“modifications” includes additions, alterations and omissions.

(3) An Order in Council under this section may make different provision for different cases or classes of case.

(4) The power to make an Order in Council under this section includes power to modify this Part of this Act in such a way as to confer power on a person to exercise a discretion.

(5) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

30A Registration of external confiscation orders

(1) On an application made by or on behalf of the Government of a designated country, the Court of Session may register an external confiscation 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, 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 subsection (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) The Court of Session shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.”