

Status: Point in time view as at 31/07/2014.

Changes to legislation: Terrorism Act 2000, Cross Heading: Restraint orders is up to date with all changes known to be in force on or before 18 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)

SCHEDULES

SCHEDULE 4

FORFEITURE ORDERS

PART III

NORTHERN IRELAND

Restraint orders

- 33 (1) The High Court may make a restraint order under this paragraph where—
- (a) proceedings have been instituted in Northern Ireland for [^{F1}a relevant offence],
 - (b) the proceedings have not been concluded,
 - (c) an application for a restraint order is made to the High Court by the prosecutor, and
 - (d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.
- [^{F2}(2) The High Court may also make a restraint order under this paragraph where—
- (a) a criminal investigation has been started in Northern Ireland with regard to [^{F1}a relevant offence],
 - (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
 - (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.]
- (3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in [^{F3}any proceedings] referred to in sub-paragraph (1) or (2).
- (4) An application for a restraint order may be made to a judge in chambers without notice.
- (5) For the purposes of this paragraph a reference to dealing with property includes a reference to removing the property from Northern Ireland.
- [^{F4}(6) In this paragraph “ criminal investigation ” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.]

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Textual Amendments

- F1** Words in Sch. 4 para. 33(1)(a)(2)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(22)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F2** Sch. 4 Pt. 3 para. 33(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F3** Words in Sch. 4 Pt. 3 para. 33(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F4** Sch. 4 Pt. 3 para. 33(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 34 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.
- (2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.
- [^{F5}(3) A restraint order made under paragraph 33(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.
- (4) A restraint order made under paragraph 33(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of [^{F6}relevant offences] are instituted within such time as the High Court considers reasonable, and
 - (b) if all proceedings in respect of [^{F6}relevant offences] have been concluded.]

Textual Amendments

- F5** Sch. 4 Pt. 3 para. 34(3)(4) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(5)**; S.I. 2001/4019, **art. 2(1)(c)**
- F6** Words in Sch. 4 para. 34(4)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(23)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 35 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Northern Ireland.
- (2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

Modifications etc. (not altering text)

- C1** Sch. 4 para. 35 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

- [^{F7}36 (1) The power to make a restraint order under the provisions of paragraph 33 shall be exercisable by the Secretary of State in any case in which it appears to him that the information which it would be necessary to provide in support of an application to the High Court or a judge under those provisions would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18.

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- (2) In their application by virtue of sub-paragraph (1) paragraphs 33 to 35 shall have effect with the necessary modifications and as if references to the High Court were references to the Secretary of State.
- (3) An order made by the Secretary of State by virtue of this paragraph may be varied or discharged by the High Court under paragraph 34.]

Textual Amendments

F7 Sch. 4 para. 36 ceased to have effect (N.I.) (19.2.2003) by virtue of [The Terrorism Act 2000 \(Continuance of Part VII\) Order 2003 \(S.I. 2003/427\)](#), **art. 2(2)(b)**; and repealed (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), s. 5(2)(3), **Sch.**

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- (1) A person commits an offence if he contravenes a restraint order.
 - (2) It is a defence for a person charged with an offence under this paragraph to prove that he had a reasonable excuse for the contravention.
 - (3) A person guilty of an offence under this paragraph shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum, or to both.
 - (4) Nothing in this paragraph shall be taken to prejudice any power of the High Court to deal with the contravention of a restraint order as a contempt of court.

Modifications etc. (not altering text)

C2 Sch. 4 para. 37 modified (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {1(9)}, 5(3)

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- (1) The prosecutor shall be treated for the purposes of section 66 of the ^{M1}Land Registration Act (Northern Ireland) 1970 (cautions) as a person interested in respect of any registered land to which a restraint order or an application for such an order relates.
 - (2) On the application of the prosecutor, the Registrar of Titles shall, in respect of any registered land to which a restraint order or an application for such an order relates, make an entry inhibiting any dealing with the land without the consent of the High Court.
 - (3) Subsections (2) and (4) of section 67 of the ^{M2}Land Registration Act (Northern Ireland) 1970 (inhibitions) shall apply to an entry made on the application of the prosecutor under sub-paragraph (2) as they apply to an entry made on the application of any person interested in the registered land under subsection (1) of that section.
 - (4) In this paragraph—

“registered land” has the meaning assigned to it by section 45(1)(a) of the ^{M3}Interpretation Act (Northern Ireland) 1954,

“Registrar of Titles” and “entry” have the same meanings as in the ^{M4}Land Registration Act (Northern Ireland) 1970, and

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“prosecutor” in a case where a restraint order is made under paragraph 33(2) or an application for such an order is made, means the person who the High Court is satisfied has or will have the conduct of [^{F8}any proceedings for [^{F9}a relevant offence]].

Textual Amendments

- F8** Words in Sch. 4 para. 38(4) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(6)**; S.I. 2001/4019, **art. 2(1)(c)**
- F9** Sch. 4 para. 38(4): words in definition of "prosecutor" substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(24)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

Modifications etc. (not altering text)

- C3** Sch. 4 para. 38 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

Marginal Citations

- M1** 1970 c. 18(N.I.).
- M2** 1970 c. 18(N.I.).
- M3** 1954 c. 33(N.I.).
- M4** 1970 c. 18(N.I.).

- ^{x139} (1) This paragraph applies where a restraint order is discharged under [^{F10}paragraph 34(4)(a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [^{F11}a relevant offence] which—
- do not result in conviction for [^{F12}a relevant offence],
 - result in conviction for [^{F12}a relevant offence] in respect of which the person convicted is subsequently pardoned by Her Majesty, or
 - result in a conviction for [^{F12}a relevant offence] which is subsequently quashed.
- (3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (4) The High Court may order compensation to be paid to the applicant if satisfied—
- that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
 - that the person in default was or was acting as a member of the Royal Ulster Constabulary, or was a [^{F13}member of staff of the Public Prosecution Service for Northern Ireland],
 - that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
 - that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.
- (6) Compensation payable under this paragraph shall be paid—

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- (a) where the person in default was or was acting as a member of the Royal Ulster Constabulary, out of funds put at the disposal of the Chief Constable under section 10(5) of the ^{M5}Police (Northern Ireland) Act 1998, and
- (b) where the person in default was a [^{F14}member of staff of the Public Prosecution Service for Northern Ireland], by the Director of Public Prosecutions for Northern Ireland.

Editorial Information

- X1** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

Textual Amendments

- F10** Word in Sch. 4 Pt. 3 para. 39(1) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(7)**; S.I. 2001/4019, **art. 2(1)(c)**
- F11** Words in Sch. 4 para. 39(2) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F12** Words in Sch. 4 para. 39(2)(a)(b)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F13** Words in Sch. 4 para. 39(4)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**
- F14** Words in Sch. 4 para. 39(6)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**

Marginal Citations

- M5** 1998 c. 32.

- ^{x240} (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [^{F15}a relevant offence], and
 - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5), as applied by section 8(2).
- (2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (3) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
 - (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (4) Compensation payable under this paragraph shall be paid by the Secretary of State.

Editorial Information

- X2** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

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Textual Amendments

F15 Words in Sch. 4 para. 40(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(27)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

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