



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Restraint orders

190 Restraint orders

- (1) If any condition set out in section 189 is satisfied the High Court may make an order (a restraint order) prohibiting any specified person from dealing with any realisable property held by him.
- (2) A restraint order may provide that it applies—
 - (a) to all realisable property held by the specified person whether or not the property is described in the order;
 - (b) to realisable property transferred to the specified person after the order is made.
- (3) A restraint order may be made subject to exceptions, and an exception may in particular—
 - (a) make provision for reasonable living expenses and reasonable legal expenses;
 - (b) make provision for the purpose of enabling any person to carry on any trade, business, profession or occupation;
 - (c) be made subject to conditions.
- (4) But an exception to a restraint order may not make provision for any legal expenses which—
 - (a) relate to an offence which falls within subsection (5), and
 - (b) are incurred by the defendant or by a recipient of a tainted gift.
- (5) These offences fall within this subsection—
 - (a) the offence mentioned in section 189(2) or (3), if the first or second condition (as the case may be) is satisfied;

Status: This is the original version (as it was originally enacted).

- (b) the offence (or any of the offences) concerned, if the third, fourth or fifth condition is satisfied.
- (6) Subsection (7) applies if—
- (a) the court makes a restraint order, and
 - (b) the applicant for the order applies to the court to proceed under subsection (7) (whether as part of the application for the restraint order or at any time afterwards).
- (7) The court may make such order as it believes is appropriate for the purpose of ensuring that the restraint order is effective.
- (8) A restraint order does not affect property for the time being subject to a charge under any of these provisions—
- (a) section 9 of the Drug Trafficking Offences Act 1986 (c. 32);
 - (b) section 78 of the Criminal Justice Act 1988 (c. 33);
 - (c) Article 14 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17));
 - (d) section 27 of the Drug Trafficking Act 1994 (c. 37);
 - (e) Article 32 of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)).
- (9) Dealing with property includes removing it from Northern Ireland.