

SCHEDULE 3

PART VI OF THE CRIMINAL JUSTICE ACT 1988 AS MODIFIED

Restraint Orders

77.—(1) The High Court may by order (referred to in this Part of this Act as “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) where an application under subsection (5) below relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
- (b) in any other case—
 - (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not; and
 - (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint 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 or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 97 below, by a receiver appointed under section 80 below, a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise;
- (b) may be made on an ex parte application to a judge in chambers; and
- (c) notwithstanding anything in Order 11 of the Rules of the Supreme Court may provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct.

(6) a restraint order—

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged when the proceedings in relation to which the order was made are concluded.

(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)—

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- (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 England and Wales.
- (10) Where the High Court has made a restraint order, a constable may for the purpose of preventing any realisable property being removed from England and Wales, seize the property.
- (11) Property seized under subsection (10) above shall be dealt with in accordance with the court's directions.
- (12) The Land Charges Act 1972⁽¹⁾ and the Land Registration Act 1925⁽²⁾ 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) A person applying for a restraint order under subsection (5)(a) above 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.

(1) 1972 c. 61.
(2) 1925 c. 21.