

---

STATUTORY INSTRUMENTS

---

**2005 No. 3179**

The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Northern Ireland) Order 2005

PART 2

Requests for Restraint of Property

**Powers of management receivers**

12.—(1) If the court appoints a receiver under article 11 it may act under this article on the application of the relevant Director.

(2) The court may by order confer on the receiver the following powers in relation to any property which is specified in the restraint order—

- (a) power to take possession of the property;
- (b) power to manage or otherwise deal with the property;
- (c) power to start, carry on or defend any legal proceedings in respect of the property;
- (d) power to realise so much of the property as is necessary to meet the receiver's remuneration and expenses.

(3) The court may by order confer on the receiver power to enter any premises in Northern Ireland and to do any of the following—

- (a) search for or inspect anything authorised by the court;
- (b) make or obtain a copy, photograph or other record of anything so authorised;
- (c) remove anything which the receiver is required or authorised to take possession of in pursuance of an order of the court.

(4) The court may by order authorise the receiver to do any of the following for the purpose of the exercise of his functions—

- (a) hold property;
- (b) enter into contracts;
- (c) sue and be sued;
- (d) employ agents;
- (e) execute powers of attorney, deeds or other instruments;
- (f) take any other steps the court thinks appropriate.

(5) The court may order any person who has possession of property which is specified in the restraint order to give possession of it to the receiver.

(6) The court—

- (a) may order a person holding an interest in property which is specified in the restraint order to make to the receiver such payment as the court specifies in respect of a beneficial interest held by the defendant or the recipient of a tainted gift;
  - (b) may (on the payment being made) by order transfer, grant or extinguish any interest in the property.
- (7) Paragraphs (2), (5) and (6) do not apply to property for the time being subject to a charge under any of these provisions—
- (a) section 9 of the Drug Trafficking Offences Act 1986<sup>(1)</sup>;
  - (b) section 78 of the Criminal Justice Act 1988<sup>(2)</sup>;
  - (c) Article 14 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990<sup>(3)</sup>;
  - (d) section 27 of the Drug Trafficking Act 1994<sup>(4)</sup>;
  - (e) Article 32 of the Proceeds of Crime (Northern Ireland) Order 1996<sup>(5)</sup>.
- (8) The court must not—
- (a) confer the power mentioned in paragraph (2)(b) or (d) in respect of property, or
  - (b) exercise the power conferred on it by paragraph (6) in respect of property,
- unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.
- (9) The court may order that a power conferred by an order under this article is subject to such conditions and exceptions as it specifies.
- (10) Managing or otherwise dealing with property includes—
- (a) selling the property or any part of it or interest in it;
  - (b) carrying on or arranging for another person to carry on any trade or business the assets of which are or are part of the property;
  - (c) incurring capital expenditure in respect of the property.

---

(1) 1986 c. 32.  
(2) 1988 c. 33.  
(3) S.I. 1990/2588 (N.I. 17).  
(4) 1994 c. 37.  
(5) S.I. 1996/1299 (N.I. 9).