
STATUTORY INSTRUMENTS

2001 No. 3927

TERRORISM

The Terrorism Act 2000 (Enforcement
of External Orders) Order 2001

Made - - - - 11th December 2001

Coming into force - - 13th December 2001

At the Court at Buckingham Palace, the 11th day of December 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by paragraphs 14, 28 and 44 of Schedule 4 to the Terrorism Act 2000⁽¹⁾, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I:

GENERAL

Title, commencement and extent

1. This Order may be cited as the Terrorism Act 2000 (Enforcement of External Orders) Order 2001 and shall come into force on the second day after the day on which it is made.

Revocation

2. The Prevention of Terrorism (Temporary Provisions) Act 1989 (Enforcement of External Orders) Order 1995⁽²⁾ is hereby revoked.

⁽¹⁾ 2000 c. 11.

⁽²⁾ S.I.1995/760, this Order has effect as if made under the Terrorism Act 2000 by virtue of section 17(2)(b) of the Interpretation Act 1978 (c. 30).

Interpretation

3.—(1) In this Order—

“court of a designated country” includes a court of any state or territory of a designated country;

“appropriate authority of a designated country” means—

- (a) the authority of a designated country specified opposite that country in column 2 of the table in the Schedule to this Order, or
- (b) where no authority is so specified, the authority appearing to the court to be the appropriate authority for the purposes of this Order;

“designated country” means a country or territory designated under article 4 of this Order;

“the 2000 Act” means the Terrorism Act 2000.

(2) The following provisions of this article have effect for the interpretation of this Order.

(3) Proceedings are instituted in a designated country when—

- (a) under the law of the designated country concerned, one of the steps specified in relation to that country in column 3 of the table in the Schedule to this Order has been taken there in respect of the commission of an alleged offence, or
- (b) an application has been made to a court of a designated country for an external forfeiture order,

and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(4) Proceedings are concluded in a designated country—

- (a) when an external forfeiture order has been made in those proceedings and effect has been given to it in respect of all the money or other property to which it applies, or
- (b) when (disregarding any power of a court in a designated country to grant leave to appeal out of time) there is no further possibility of an external forfeiture order being made in the proceedings.

(5) An external order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Designation of countries and territories

4. Each of the countries and territories specified in column 1 of the table in the Schedule to this Order is hereby designated for the purposes of paragraphs 14, 28 and 44 of Schedule 4 to the 2000 Act.

Proof of orders and judgment of court of a designated country

5.—(1) For the purposes of this Order—

- (a) any order made or judgment given by a court of a designated country purporting to bear the seal of that court, or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person, and
- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court of a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court of a designated country is duly authenticated for the purposes of paragraph (1)(b) above if it purports to

be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by, or on behalf of, the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in a designated country

6.—(1) The following provisions of this article have effect for the purposes of this Order.

(2) A certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating—

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there,
- (b) that an external order is in force and is not subject to appeal,
- (c) that property recoverable in the designated country under an external order remains unrecovered there,
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country, or
- (e) that an order (however described) made by a court of a designated country is an external order, or that an order, if made by a court of a designated country, would be an external order,

shall be admissible as evidence or, for the purposes of Part III of this Order, constitute sufficient evidence, of the facts so stated.

(3) A statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court of a designated country, shall be admissible as evidence or, for the purposes of Part III of this Order, constitute sufficient evidence, of any fact stated therein.

(4) A document is duly authenticated for the purposes of paragraph (3) above if it purports to be certified by any person in his capacity as judge, magistrate or officer of the court of a designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

PART II:

ENFORCEMENT OF EXTERNAL ORDERS IN ENGLAND AND WALES

Application of this Part

7. This Part applies for the purpose of enabling the enforcement in England and Wales of external orders.

Representation of government of a designated country

8. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Crown Prosecution Service to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

9.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external forfeiture 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 in which the relevant order was made, 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 England and Wales would not be contrary to the interests of justice.
- (2) In paragraph (1) above, “appeal” includes—
- (a) any proceedings by way of discharging or setting aside a judgement, and
 - (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

10.—(1) On an application made by or on behalf of the Government of a designated country, the High Court may, subject to paragraph (2) below, register an external restraint order made there if—

- (a) it is satisfied that at the time of registration the order is in force, and
 - (b) it is of the opinion that enforcing the order in England and Wales would not be contrary to the interests of justice.
- (2) An external restraint order may only be registered where—
- (a) proceedings have been instituted against a person in a designated country, the proceedings have not been concluded, and either an external forfeiture order has been made in the proceedings or it appears to the High Court that there are reasonable grounds for thinking that such an order may be made in those proceedings, or
 - (b) proceedings are to be instituted against a person in a designated country and there are reasonable grounds for thinking that an external forfeiture order may be made in those proceedings.

Implementation of registered external forfeiture orders

11.—(1) If an external forfeiture order is registered in the High Court under article 9(1) above, the High Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) of Schedule 4 to the 2000 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it (and paragraph 3 of that Schedule applies accordingly) but any reference in the said paragraph 2(1) to “the proper officer” shall, for the purposes of this article, mean the appropriate officer of the High Court.

(2) After making any payment required by virtue of paragraph 2(1)(d) or 3 of Schedule 4 to the 2000 Act, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under paragraph (1) above shall be paid by him to the Secretary of State.

Statutory provisions applicable where external restraint order has been registered

12. Paragraphs 7 and 8 of Schedule 4 to the 2000 Act shall apply to an external restraint order registered in the High Court under article 10(1) above as they apply to a restraint order and the High Court shall have the like power to make an order under section 33 of the Supreme Court Act 1981⁽³⁾ (extended power to order inspection of property etc.) in relation to proceedings brought or likely to

(3) 1981 c. 54.

be brought for an external restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

Enforcement of registered external orders

13.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the High Court under article 9 or 10 above—

- (a) the High Court shall have, in relation to its enforcement, the same power,
- (b) proceedings for or with respect to its enforcement may be taken, and
- (c) proceedings for or with respect to any contravention of such an order (whether before or after such registration) may be taken,

as if the order had originally been made in the High Court.

(2) The High Court may, additionally, for the purpose of—

- (a) assisting the achievement in England and Wales of the purposes of an external order, or
- (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property,

make such orders or do otherwise as seems to it appropriate.

PART III:

ENFORCEMENT OF EXTERNAL ORDERS IN SCOTLAND

Application of this Part

14. This Part applies for the purposes of enabling the enforcement in Scotland of external orders.

Representation of government of a designated country

15. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of that country for the Lord Advocate to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

16.—(1) On an application made by or on behalf of the Government of a designated country, the Court of Session may register an external forfeiture 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 in which the relevant order was made, 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 paragraph (1) above, “appeal” includes—

- (a) any proceedings by way of discharging or setting aside a judgement, and
- (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

17.—(1) On an application made by or on behalf of the Government of a designated country, the Court of Session may, subject to paragraph (2) below, register an external restraint order made there if—

- (a) it is satisfied that at the time of registration the order is in force, and
 - (b) it is of the opinion that enforcing the order in Scotland would not be contrary to the interests of justice.
- (2) An external restraint order may only be registered where—
- (a) proceedings have been instituted against a person in a designated country, the proceedings have not been concluded, and either an external forfeiture order has been made in the proceedings or it appears to the court of Session that there are reasonable grounds for thinking that such an order may be made in those proceedings, or
 - (b) proceedings are to be instituted against a person in a designated country and there are reasonable grounds for thinking that an external forfeiture order may be made in those proceedings.

Implementation of registered external forfeiture orders

18. If an external forfeiture order is registered in the Court of Session under article 16(1) above, the court shall have, in relation to that order, the same powers as a court has under paragraph 16(1) of Schedule 4 to the 2000 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it and paragraphs 16(3) to (5) and 17 of that Schedule apply accordingly.

Statutory provisions applicable where external restraint order has been registered

19. Paragraphs 20 and 21 of Schedule 4 to the 2000 Act shall apply to an external restraint order registered in the Court of Session under article 17(1) above as they apply to a restraint order and the Court of Session shall have the like power to make an order under section 1 of the Administration of Justice (Scotland) Act 1972⁽⁴⁾ (extended power to order inspection of documents etc.) in relation to proceedings brought or likely to be brought for an external restraint order as if those proceedings had been brought or were likely to be brought in the Court of Session.

Enforcement of registered external orders

20.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the Court of Session under article 16 or 17 above—

- (a) the Court of Session shall have, in relation to its enforcement, the same power,
- (b) proceedings for or with respect to its enforcement may be taken, and
- (c) proceedings for or with respect to any contravention of such an order (whether before or after such registration) may be taken,

as if the order had originally been made in the Court of Session.

(2) The Court of Session may, additionally, for the purpose of—

- (a) assisting the achievement in Scotland of the purposes of an external order, or
- (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property,

make such orders or do otherwise as seems to it appropriate.

(4) 1972 c. 59.

PART IV:

ENFORCEMENT OF EXTERNAL ORDERS IN NORTHERN IRELAND

Application of this Part

21. This Part applies for the purpose of enabling the enforcement in Northern Ireland of external orders.

Representation of government of a designated country

22. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Director of Public Prosecutions for Northern Ireland, or the Crown Solicitor for Northern Ireland, to act on its behalf in proceedings pursuant to this Part of this Order.

Registration of external forfeiture orders

23.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external forfeiture 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 in which the relevant order was made, 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 Northern Ireland would not be contrary to the interests of justice.

(2) In paragraph (1) above, “appeal” includes—

- (a) any proceedings by way of discharging or setting aside a judgement, and
- (b) an application for a new trial or a stay of execution.

Registration of external restraint orders

24.—(1) On an application made by or on behalf of the Government of a designated country, the High Court may, subject to paragraph (2) below, register an external restraint order made there if—

- (a) it is satisfied that at the time of registration the order is in force, and
- (b) it is of the opinion that enforcing the order in Northern Ireland would not be contrary to the interests of justice.

(2) An external restraint order may only be registered where—

- (a) proceedings have been instituted against a person in a designated country, the proceedings have not been concluded, and either an external forfeiture order has been made in the proceedings or it appears to the High Court that there are reasonable grounds for thinking that such an order may be made in those proceedings, or
- (b) proceedings are to be instituted against a person in a designated country and there are reasonable grounds for thinking that an external forfeiture order may be made in those proceedings.

Implementation of registered external forfeiture orders

25.—(1) If an external forfeiture order is registered in the High Court under article 23(1) above, the High Court shall have, in relation to that order, the same powers as a court has under paragraph

30(1) of Schedule 4 to the 2000 Act (implementation of forfeiture orders) in relation to a forfeiture order made by it (and paragraph 31 of that Schedule applies accordingly) but any reference in the said paragraph 30(1) to “the proper officer” shall, for the purposes of this article, mean the appropriate officer of the High Court.

(2) After making any payment required by virtue of paragraph 30(1)(d) or 22 of Schedule 4 to the 2000 Act, the balance of any sums received by the appropriate officer of the High Court by virtue of such an order made under paragraph (1) above shall be paid into or disposed for the benefit of the Consolidated Fund.

Statutory provisions applicable where external restraint order has been registered

26. Paragraphs 35 and 38 of Schedule 4 to the 2000 Act shall apply to an external restraint order registered in the High Court under article 24(1) above as they apply to a restraint order and the High Court shall have the like power to make an order under section 21 of the Administration of Justice Act 1969(5) (extended power to order inspection of property etc.) in relation to proceedings brought or likely to be brought for an external restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

Enforcement of registered external orders

27.—(1) Without prejudice to the foregoing provisions, if an external order is registered in the High Court under article 23 or 24 above—

- (a) the High Court shall have, in relation to its enforcement, the same power,
- (b) proceedings for or with respect to its enforcement may be taken, and
- (c) proceedings for or with respect of any contravention of such an order (whether before or after such registration) may be taken,

as if the order had originally been made in the High Court.

(2) The High Court may, additionally, for the purpose of—

- (a) assisting the achievement in Northern Ireland of the purposes of an external order, or
- (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of the property,

make such orders or do otherwise as seems to it appropriate.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

Articles 3 and 4

DESIGNATED COUNTRIES AND TERRITORIES

<i>(1)</i> <i>Designated country</i>	<i>(2)</i> <i>Appropriate authority</i>	<i>(3)</i> <i>Point at which proceedings are instituted</i>
Austria		
Belgium		
Canada	The Minister of Justice or officials designated by that Minister	
Denmark		
Finland		
France		
Germany		When a person is notified that he is accused of an offence and will be brought before a court.
Greece		
India	The Ministry of Home Affairs	(a) (a) when information relating to commission of any crime is received by any law enforcement agency empowered to investigate such crime under the law for the time being in force and laid before a court of law; (b) when any allegation is made orally or in writing to a court of law that a person has committed an offence; (c) when a person is charged with an offence; or (d) when any investigation or inquiry into the commission of any offence is directed by a court of law.
Ireland	The Department of Justice, Equality and Law Reform	

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(1) Designated country	(2) Appropriate authority	(3) Point at which proceedings are instituted
Italy	The Ministry of Justice	(a) (a) when a person is notified, in accordance with article 369 of the Italian Code of Criminal Procedure, that a prosecution against him is in progress; or (b) when a proposal for the application of a preventive measure (<i>misura di prevenzione</i>) is laid before a court.
Japan		
Luxembourg		
The Netherlands	Afdeling Internationale Rechtshulp	(a) (a) when a pre-trial financial investigation has been initiated; (b) when a provisional measure has been ordered by an investigating magistrate; (c) when a public prosecutor has requested a pre-trial criminal investigation by an investigating magistrate to be instituted; (d) when a public prosecutor has laid an indictment.
Portugal	The Ministry of Justice	
Spain	El Ministerio de Justicia, Madrid	When by virtue of a judicial resolution it is decided to proceed against a person for an offence.
Sweden	The Ministry of Foreign Affairs	When a public prosecutor has established that there are reasonable grounds to suspect

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<i>(1)</i> <i>Designated country</i>	<i>(2)</i> <i>Appropriate authority</i>	<i>(3)</i> <i>Point at which proceedings are instituted</i>
The United States of America	The Attorney General of the United States of America	that a person has committed an offence and accordingly is obliged under the Code of Judicial Procedure to notify the person of the suspicion. When an indictment, information or complaint has been filed against a person in respect of an offence.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the purpose of enabling the enforcement in the United Kingdom of certain types of order made by a court in a designated country or territory. The types of order in question are orders which provide for the forfeiture of terrorist property (“external forfeiture orders”), or orders which make provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory (an external restraint order). Parts II, III and IV of this Order make provision in respect of England and Wales, Scotland and Northern Ireland respectively.

Article 2 revokes the Prevention of Terrorism (Temporary Provisions) Act 1989 (Enforcement of External Orders) Order 1995, which was made under the provisions equivalent to those in Schedule 4 to the Terrorism Act 2000 in the Prevention of Terrorism (Temporary Provisions) Act 1989. That order made identical provision for the enforcement in the United Kingdom of external forfeiture and restraint orders, but designated only India. This Order replaces that Order, but in contrast to it designates a number of countries and territories (specified in column 1 of the table in the Schedule).