

SCHEDULE 3

MODIFICATION OF PARTS I AND III OF THE ACT IN ITS APPLICATION TO EXTERNAL CONFISCATION ORDERS

PART III

RESTRAINT ORDERS

13. In section 28–
- (a) in subsection (1)–
 - (i) for the word “court” there shall be substituted the words “Court of Session”;
 - (ii) for the word “prosecutor” there shall be substituted the words “Lord Advocate”;
 - (b) subsection (1)(b) shall be omitted;
 - (c) in subsection (2) for the words “a confiscation” there shall be substituted the words “an external confiscation”;
 - (d) for subsection (3) there shall be substituted the following subsection–
 - “(3) A restraint order shall–
 - (a) be made on an *ex parte* application which shall be heard in chambers;
 - (b) be supported by a certificate which shall–
 - (i) state where applicable, the grounds for believing that an external confiscation order may be made in proceedings instituted or to be instituted in the designated country concerned;
 - (ii) give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
 - (iii) in a case to which section 29(3) applies, indicate when it is intended that proceedings should be instituted in the designated country concerned, and the certificate may, unless the Court of Session otherwise direct, contain a statement of information or belief with the sources and grounds thereof;
 - (c) without prejudice to the time when it becomes effective, be intimated to each person affected by it.”;
 - (e) in subsection (4) for the word “court” there shall be substituted the words “Court of Session”;
 - (f) in subsection (5)–
 - (i) the words “(including a restraint order made under and within the meaning of the 1994 Act)” shall be omitted;
 - (ii) the words “(including a drug trafficking offence within the meaning of the 1994 Act)” shall be omitted;
 - (iii) for the words “Great Britain” there shall be substituted the word “Scotland”;
 - (iv) for the word “court” there shall be substituted the words “Court of Session”;
 - (g) in subsection (6) for the words “court which made the order” there shall be substituted the words “Court of Session”;
 - (h) subsection (7) shall be omitted;
 - (i) in subsection (8) for the word “court” there shall be substituted the words “Court of Session”.