1995 No. 411

CRIMINAL PROCEDURE

The Criminal Justice (Confiscation) (Enforcement of Confiscation Orders made in England and Wales or Scotland) Order (Northern Ireland) 1995

Made . . . . . *24th October 1995*

Coming into operation . . *12th December 1995*

To be laid before Parliament

The Secretary of State, in pursuance of Article 26 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990(**a**), hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Justice (Confiscation) (Enforcement of Confiscation Orders made in England and Wales or Scotland) Order (Northern Ireland) 1995.

(2) This Order shall come into operation on 12th December 1995 but Article 2 shall not apply to a confiscation order made before the date of coming into operation of this Order.

(3) In this Order—

"the Order" means the Criminal Justice (Confiscation) (Northern Ireland) Order 1990;

"the 1987 Act" means the Criminal Justice (Scotland) Act 1987(**b**);

"the 1988 Act" means the Criminal Justice Act 1988(**c**);

"the 1994 Act" means the Drug Trafficking Act 1994(**d**).

Enforcement of orders made in England and Wales or Scotland

2. For the purpose of the enforcement in Northern Ireland of orders made under Part I of the 1987 Act, Part VI of the 1988 Act and the 1994 Act, the Order (except Article 10) shall have effect as if—

(*a*) references to confiscation orders included a reference to confiscation orders made under Part I of the 1987 Act, Part VI of the 1988 Act and the 1994 Act;

(*b*) in relation to England and Wales—

(**a**) S.I. 1990/2588 (N.I. 17)
(**b**) 1987 c. 41
(**c**) 1988 c. 33
(**d**) 1994 c. 37; this Act consolidated the Drug Trafficking Offences Act 1986 (c. 32) and certain provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5) relating to drug trafficking

(i) references to drug trafficking offences included a reference to drug trafficking offences within the meaning of the 1994 Act;

(ii) references to offences to which the Order applies included a reference to offences to which Part VI of the 1988 Act applies;

(iii) references to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings included a reference to proceedings in England and Wales or to the institution or conclusion in England and Wales of proceedings, as the case may be; and

(iv) the references to the making of a complaint in Article 12(2) and (4) of the Order included references to laying an information under section 1 of the Magistrates' Courts Act 1980(**a**);

(*c*) in relation to Scotland—

(i) references to drug trafficking offences included a reference to offences to which section 1 of the 1987 Act relates; and

(ii) references to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings included a reference to proceedings in Scotland or to the institution or conclusion in Scotland of proceedings as the case may be;

(*d*) in relation to England and Wales and Scotland—

(i) Article 18(3) to (10) of the Order were omitted; and

(ii) any sums in the hands of a receiver which are to be applied on the defendant's behalf towards the satisfaction of the confiscation order were required to be paid in the case of a confiscation order made in England and Wales to the justices' clerk and in the case of a confiscation order made in Scotland to the sheriff clerk.

Institution and conclusion of proceedings in Scotland.

3.—(1) For the purpose of the enforcement of orders made in Scotland pursuant to Article 2 proceedings in Scotland shall be treated as instituted when—

(*a*) warrant to arrest and commit a person suspected of or charged with an offence to which section 1 of the 1987 Act relates has been granted and either—

(i) notice has been served on him calling upon him to appear at a trial diet in the High Court or at a diet of that Court fixed for the purposes of section 102 of the Criminal Procedure (Scotland) Act 1975(**b**) (whether or not the trial has commenced, provided that the proceedings as regards the offence have not been concluded); or

(ii) the Court of Session is satisfied that it is intended that any trial diet in respect of the suspected offence (or as the case may be the offence with which he has been charged) shall proceed in the High Court; or

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(**a**) 1980 c. 43
(**b**) 1975 c. 21