

Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order

(Cap. 405 sub. leg. A)

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Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order

(Cap. 405, section 28)

(Enacting provision omitted— E.R. 5 of 2022)

[18 January 1991]

(Format changes— E.R. 5 of 2022)

1. Citation

This Order may be cited as the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order.

(E.R. 5 of 2022)

2. Interpretation

In this Order— *(E.R. 5 of 2022)*

appropriate authority (有關當局), in relation to a designated country, means—

- (a) an authority specified opposite that country in Schedule 1;
- (b) where either—
 - (i) no authority is so specified; or
 - (ii) that country is a designated country by virtue of paragraph 3(1)(b),

the authority appearing to the court to be the appropriate authority of that country for the purposes of sections 28 and 29 of the Ordinance, and of the other provisions

of the Ordinance as applied under paragraph 3(2);
(*L.N. 308 of 1997*)

court in a designated country (指定國家的法院) includes a court
in any state or territory of a designated country;

designated country (指定國家) means a country, territory or place
designated under paragraph 3(1). (*15 of 1999 s. 3*)

3. Designation of and application of the Ordinance to countries, territories and places

- (1) Each of the countries, territories and places—
 - (a) specified in Schedule 1; or
 - (b) in relation to which the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is applicable (and whether or not such country, territory or place is specified in Schedule 1),
is designated for the purposes of sections 28 and 29 of the Ordinance. (*L.N. 308 of 1997; 15 of 1999 s. 3*)
- (2) In relation to a designated country, the Ordinance as modified in Schedule 2 shall apply to external confiscation orders and to proceedings (whether criminal or civil in nature, and whether those proceedings are in the form of proceedings against a person or against property) which have been or are to be instituted in the designated country and which may result in an external confiscation order being made there. (*26 of 2002 s. 4*)

4. Proof of orders and judgments of court in a designated country

- (1) For the purposes of sections 28 and 29 of the Ordinance, and of the other provisions of the Ordinance as applied under paragraph 3(2)—

- (a) any order made or judgment given by a court in 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 in 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 judgement given by a court in a designated country is duly authenticated for the purpose of subparagraph (1)(b) 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.

5. Evidence in relation to proceedings and orders in a designated country

- (1) For the purposes of sections 28 and 29 of the Ordinance, and of the other provisions of the Ordinance as applied under paragraph 3(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 confiscation order is in force and is not subject to appeal;
 - (c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the

designated country, or that other property recoverable under an external confiscation 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 in the designated country has the purpose of—
 - (i) recovering (including forfeiting and confiscating)—
 - (A) payments or other rewards received in connection with drug trafficking or their value;
 - (B) property derived or realised, directly or indirectly, from payments or other rewards received in connection with drug trafficking or the value of such property; or
 - (C) property used or intended to be used in connection with drug trafficking or the value of such property; or
 - (ii) depriving a person of a pecuniary advantage obtained in connection with drug trafficking, (*87 of 1997 s. 36*)

shall, in any proceedings in the Court of First Instance, be admissible as evidence of the facts so stated. (*25 of 1998 s. 2*)

- (2) In any such proceedings 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 in a designated country, shall be admissible as evidence of any fact stated therein.

- (3) A document is duly authenticated for the purposes of subparagraph (2) if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in the 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.
- (4) Nothing in this paragraph shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this paragraph.

5A. Certificate as to appropriate authority of designated country, etc.

- (1) Where—
 - (a) in relation to a designated country no authority is specified in Schedule 1; or
 - (b) a designated country is such a country by virtue of paragraph 3(1)(b),a certificate signed by the Secretary for Justice certifying that the authority specified in the certificate is the appropriate authority for the purposes of sections 28 and 29 of the Ordinance, and of the other provisions of the Ordinance as applied under paragraph 3(2), shall be evidence of that fact.
- (2) Where a designated country is such a country by virtue of paragraph 3(1)(b), a certificate signed by the Secretary for Justice, certifying that the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is applicable to that country shall be evidence of that fact.

(L.N. 308 of 1997; L.N. 362 of 1997)

6. Representation of government of designated country

A request for assistance sent to the Secretary for Justice 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 Secretary for Justice to act on its behalf in any proceedings in the Court of First Instance under section 29 of the Ordinance or any other provision of the Ordinance as applied by paragraph 3(2).

(L.N. 362 of 1997; 25 of 1998 s. 2)

7. Satisfaction of confiscation order in a designated country

(1) Where—

- (a) a confiscation order has been made under section 3 of the Ordinance;
- (b) a request has been sent by the Secretary for Justice to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request property is recovered in that country,

the amount payable under the confiscation order shall be treated as reduced by the value of property so recovered.

(2) For the purposes of this paragraph, and without prejudice to the admissibility of any evidence which may be admissible apart from this subparagraph, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that property has been recovered there in execution of a request by the Secretary for Justice, stating the value of the property so recovered and the date on which it was recovered shall, in any proceedings in a court in Hong Kong, be admissible as evidence of the facts so stated.

(L.N. 362 of 1997)

8. Currency conversion

- (1) Where the value of property recovered as described in paragraph 7(1) is expressed in a currency other than that of Hong Kong, the extent to which the amount payable under the confiscation order is to be reduced under that paragraph shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.
- (2) Where an amount of money payable or remaining to be paid under an external confiscation order registered in the Court of First Instance under section 29 of the Ordinance is expressed in a currency other than that of Hong Kong, for the purpose of any action taken in relation to that order under the Ordinance as applied under paragraph 3(2) the amount shall be converted into the currency of Hong Kong on the basis of the exchange rate prevailing on the date of registration of the order. *(25 of 1998 s. 2)*
- (3) For the purposes of this paragraph a certificate purporting to be signed by or on behalf of the Monetary Authority and stating the exchange rate prevailing on a specified date shall be admissible in any proceedings as evidence of the facts so stated. *(82 of 1992 s. 45)*

9. *(Repealed 26 of 2002 s. 4)*

10. *(Omitted as spent— E.R. 5 of 2022)*

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Schedule 1

[paras. 2, 3 & 5A]

Designated country	Appropriate authority
Afghanistan	
Algeria	
Anguilla	The Attorney General of Anguilla
Antigua and Barbuda	
Argentina	The Ministry of Foreign Affairs
Armenia	
Australia	The Attorney General's Department
Austria	
Azerbaijan	
The Bahamas	The Attorney General of the Bahamas
Bahrain	
Bangladesh	
Barbados	The Attorney General
Belarus	
Belgium	
Belize	
Bermuda	The Attorney General of Bermuda

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Designated country	Appropriate authority
Bhutan	
Bolivia	
Bosnia and Herzegovina	
Brazil	
British Virgin Islands	The Attorney General of the British Virgin Islands
Brunei Darussalam	
Bulgaria	
Burkina Faso	
Burundi	
Cameroon	
Canada	The Minister of Justice or an official designated by that Minister
Cape Verde	
Cayman Islands	The Attorney General of the Cayman Islands
Chad	
Chile	
China (except Hong Kong) (<i>15 of 1999 s. 3</i>)	
Colombia	
Costa Rica	
Cote d'Ivoire	
Croatia	
Cuba	

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Designated country	Appropriate authority
Cyprus	
Czech Republic	
Denmark	
Dominica	
Dominican Republic	
Ecuador	
Egypt	
El Salvador	
England and Wales	Home Office
Ethiopia	
Fiji	
Finland	
France	
Gambia	
Germany	
Ghana	
Gibraltar	The Attorney General of Gibraltar
Greece	
Grenada	The Ministry of External Affairs
Guatemala	
Guernsey	Her Majesty's Attorney General for the Bailiwick of Guernsey

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Designated country	Appropriate authority
Guinea	
Guinea-Bissau	
Guyana	
Haiti	
Honduras	
India	
Iran	
Isle of Man	Her Majesty's Attorney General for the Isle of Man
Italy	The Ministry of Justice
Jamaica	
Japan	
Jersey	Her Majesty's Attorney General for the Bailiwick of Jersey
Jordan	
Kenya	
Kingdom of Thailand	The Attorney General of the Kingdom of Thailand or a person designated by him
Kyrgyzstan	
Latvia	
Lesotho	
Lithuania	
Luxembourg	

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Designated country	Appropriate authority
Macedonia, The Former Yugoslav Republic of	
Madagascar	
Malawi	
Malaysia	The Inspector General of Police or a person designated by him
Mali	
Malta	
Mauritania	
Moldova	
Monaco	
Montserrat	The Attorney General of Montserrat
Morocco	
Myanmar	
Nepal	
Netherlands	
Nicaragua	
Niger	
Nigeria	
Northern Ireland	Home Office
Norway	
Oman	
Pakistan	
Panama	

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Designated country	Appropriate authority
Paraguay	
Peru	
Poland	
Portugal	
Qatar	
Romania	
The Russian Federation	
Saint Kitts and Nevis	
Saint Lucia	
Saint Vincent and the Grenadines	
Sao Tome and Principe	
Saudi Arabia	
Scotland	Home Office
Senegal	
Seychelles	
Sierra Leone	
Slovakia	
Slovenia	
South Africa	
Spain	
Sri Lanka	
Sudan	
Suriname	

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Designated country	Appropriate authority
Swaziland	
Sweden	
Switzerland	
Syrian Arab Republic	
Tajikistan	
Togo	
Trinidad and Tobago	
Tunisia	
Turkey	
Turkmenistan	
Turks and Caicos Islands	
Uganda	
Ukraine	
United Arab Emirates	
United Mexican States	
United States of America	The Attorney General of the United States of America or a person designated by him
Uruguay	
Uzbekistan	
Venezuela	
Yemen	
Yugoslavia (Serbia and Montenegro, Federal Republic of)	
Zambia	

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Schedule 1

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Designated country

Appropriate authority

Zimbabwe

(Schedule 1 replaced L.N. 308 of 1997)

Schedule 2

[para. 3(2)]
(26 of 2002 s. 4)

Drug Trafficking (Recovery of Proceeds) Ordinance as Modified

1.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

authorized officer (獲授權人) means—

- (a) any police officer;
- (b) any member of the Customs and Excise Service established by section 3 of the Customs and Excise Service Ordinance (Cap. 342); and
- (c) any other person authorized in writing by the Secretary for Justice for the purposes of this Ordinance; (*L.N. 362 of 1997*)

corresponding law (相應的法律) has the same meaning as in section 2(1) of the Dangerous Drugs Ordinance (Cap. 134);

dangerous drug (毒品) has the same meaning as in section 2(1) of the Dangerous Drugs Ordinance (Cap. 134);

dealing (處理), in relation to property referred to in the definition of *drug trafficking* or section 10(1), includes—

- (a) receiving or acquiring the property;
- (b) concealing or disguising the property (whether by concealing or disguising its nature, source, location,

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disposition, movement or ownership or any rights with respect to it or otherwise);

- (c) disposing of or converting the property;
- (d) bringing into or removing from Hong Kong the property;
- (e) using the property to borrow money, or as security (whether by way of charge, mortgage or pledge or otherwise); (*89 of 1995 s. 33*)

drug trafficking (販毒) means doing or being concerned in, whether in Hong Kong or elsewhere, any act constituting—

- (a) an offence specified in Schedule 1; or
- (b) an offence punishable under a corresponding law,

and includes dealing, whether in Hong Kong or elsewhere, with any property which in whole or in part directly or indirectly represents any person's proceeds of drug trafficking; (*89 of 1995 s. 33*)

interest (權益) in relation to property, includes right;

property (財產) includes both movable and immovable property within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap. 1);

Registrar (司法常務官) means the Registrar of the High Court. (*89 of 1995 s. 33; 25 of 1998 s. 2*)

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- (2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Ordinance listed in the right hand column in relation to those expressions.

Expression	Relevant provision
Charging order (抵押令)	Section 11(2)
Defendant (被告)	Section 3(3)
External confiscation order (外地沒收令)	Section 3(1)
Gift caught by this Ordinance (受本條例圍制的饋贈)	Section 7(9)
Making a gift (作出饋贈)	Section 7(10)
Realisable property (可變現財產)	Section 7(1)
Restraint order (限制令)	Section 10(1)
Value of gift, payment or reward (饋贈、付款或酬賞的價值)	Section 7
Value of property (財產的價值)	Section 7(4)

(89 of 1995 s. 33)

- (3) This Ordinance applies to property whether it is situated in Hong Kong or elsewhere.
- (4)
- (5) References in this Ordinance to property received in connection with drug trafficking include a reference to property received both in that connection and in some other connection, and whether received before or after the commencement* of the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order

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(Cap. 405 sub. leg. A) and whether received in connection with drug trafficking carried on by the recipient or some other person.

- (6) Subsections (7) to (13) shall have effect for the interpretation of this Ordinance.
- (7) Property is held by any person if he holds any interest in it.
- (8) References to property held by a person include a reference to property vested in his trustee in bankruptcy or in a liquidator.
- (9) References to an interest held by a person beneficially in property include, where the property is vested in his trustee in bankruptcy or in a liquidator, a reference to an interest which would be held by him beneficially if the property were not so vested.
- (10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.
- (11) 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 2 of Schedule 1A has been taken there in respect of alleged drug trafficking by the defendant; or
 - (b) an application has been made to a court in a designated country for an external confiscation order,and where the application of this subsection 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.
- (12) Proceedings are concluded—
 - (a) when, disregarding any power of a court to grant leave to appeal out of time, there is no further possibility

- of an external confiscation order being made in the proceedings;
- (b) on the satisfaction of an external confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).
- (13) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is not further possibility of an appeal on which the order could be varied or set aside.

Editorial Note:

* Commencement date: 18 January 1991.

3. External confiscation orders

- (1) An order made by a court in a designated country for the purpose of—
- (a) recovering (including forfeiting and confiscating)—
- (i) payments or other rewards received in connection with drug trafficking or their value;
- (ii) property derived or realised, directly or indirectly, from payments or other rewards received in connection with drug trafficking or the value of such property; or
- (iii) property used or intended to be used in connection with drug trafficking or the value of such property; or
- (b) depriving a person of a pecuniary advantage obtained in connection with drug trafficking,

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and whether the proceedings which gave rise to the order are criminal or civil in nature, and whether those proceedings are in the form of proceedings against a person or property, is referred to in this Ordinance as an *external confiscation order* (外地沒收令). (87 of 1997 s. 36)

- (2) In subsection (1) the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.
- (3) A person (however described in the proceedings in the designated country) against whom, or in relation to whose property, an external confiscation order has been, or may be, made is referred to in this Ordinance as *the defendant* (被告). (L.N. 247 of 1993)

4-6.

6A. Interest on amounts to be recovered under external confiscation orders

- (1) Where a fixed amount is payable under an external confiscation order, that amount shall be treated as a judgment debt for the purposes of section 49 of the High Court Ordinance (Cap. 4) and, for those purposes, the date on which the external confiscation order was registered under section 29 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) shall be treated as the date of the judgment debt. (25 of 1998 s. 2)
- (2) Where by virtue of subsection (1) any interest accrues on the amount payable under an external confiscation order, the defendant shall be liable to pay that interest and the amount of the interest shall for the purposes of enforcement be treated as part of the amount payable under the external confiscation order.

(89 of 1995 s. 33)

7. Definition of principal terms used

- (1) In this Ordinance, *realisable property* (可變現財產) means, subject to subsection (2)—
 - (a) in relation to an external confiscation order—
 - (i) made in respect of specified property, the property which is specified in the order;
 - (ii) which may be made as the result of proceedings which have been, or are to be, instituted in a designated country, the property which may be specified in the order; and (*L.N. 247 of 1993*)
 - (b) in any other case—
 - (i) any property held by the defendant; (*89 of 1995 s. 33*)
 - (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance; and (*89 of 1995 s. 33*)
 - (iii) any property that is subject to the effective control of the defendant. (*89 of 1995 s. 33*)
- (2) Property is not realisable property if—
 - (a) an order under section 102 or 103 of the Criminal Procedure Ordinance (Cap. 221); or
 - (b) an order under section 38F or 56 of the Dangerous Drugs Ordinance (Cap. 134),is in force in respect of the property.
- (3)

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- (4) Subject to the following subsections, for the purposes of this Ordinance the value of property (other than cash) in relation to any person holding the property—
- (a) where any other person holds an interest in the property, is—
 - (i) the market value of the first mentioned person’s beneficial interest in the property, less
 - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest; and
 - (b) in any other case, is its market value.
- (5) Subject to subsection (10), references in this Ordinance to the value at any time (referred to in subsection (6) as *the material time* (關鍵時間)) of a gift caught by this Ordinance or of any payment or reward are references to—
- (a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or
 - (b) where subsection (6) applies, the value there mentioned, whichever is the greater.
- (6) Subject to subsection (10), if at the material time the recipient holds—
- (a) the property which he received (not being cash); or
 - (b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,
- the value referred to in subsection (5)(b) is the value to him at the material time of the property mentioned in paragraph (a) or, as the case may be, of the property mentioned in paragraph (b) so far as it so represents the property which he received, but disregarding in either case any charging order.

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(7)-(8)

(9) A gift (including a gift made before the commencement* of the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order (Cap. 405 sub. leg. A)) is caught by this Ordinance if—

(a) it was made by the defendant at any time since the beginning of the period of 6 years ending when the proceedings were instituted against him; or

(b) it was made by the defendant at any time and was a gift of property—

(i) received by the defendant in connection with drug trafficking carried on by him or another; or

(ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(10) For the purposes of this Ordinance—

(a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and

(b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the defendant.

(11) For the purposes of subsection (1)—

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- (a) property, or an interest in property, may be subject to the effective control of the defendant whether or not the defendant has—
 - (i) a legal or equitable estate or interest in the property; or
 - (ii) a right, power or privilege in connection with the property;
 - (b) without limiting the generality of any other provision of this Ordinance, in determining—
 - (i) whether or not property, or an interest in property, is subject to the effective control of the defendant; or
 - (ii) whether or not there are reasonable grounds to believe that property, or an interest in property, is subject to the effective control of the defendant, regard may be had to—
 - (A) shareholdings in, debentures over or directorships of a company that has an interest (whether direct or indirect) in the property;
 - (B) a trust that has a relationship to the property; and
 - (C) family, domestic and business relationships between persons having an interest in the property, or in companies of the kind referred to in subparagraph (A) or trusts of the kind referred to in subparagraph (B), and other persons. (*89 of 1995 s. 33*)
- (12) Where a person obtains a pecuniary advantage referred to in section 3(1)(b), he is to be treated for the purposes of this Ordinance as if he had obtained in connection with the drug trafficking to which the advantage relates a sum of money

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equal to the value of the advantage, and the other provisions of this Ordinance shall be construed accordingly. *(87 of 1997 s. 36)*

Editorial Note:

* Commencement date: 18 January 1991.

8.

9. **Cases in which restraint orders and charging orders may be made**

- (1) The powers conferred on the Court of First Instance by sections 10(1) and 11(1) are exercisable where—
 - (a) proceedings have been instituted in a designated country;
 - (b) the proceedings have not been concluded; and
 - (c) either an external confiscation order has been made in the proceedings or it appears to the Court of First Instance that there are reasonable grounds for believing that an external confiscation order may be made in them.
- (2) Those powers are also exercisable where the Court of First Instance is satisfied that proceedings are to be instituted in a designated country or territory and it appears to the court that an external confiscation order may be made in them.
- (3)
- (4) Where the Court of First Instance has made an order under section 10(1) or 11(1) by virtue of subsection (2), it shall discharge the order if the proposed proceedings are not instituted within such time as the Court of First Instance considers reasonable.

(25 of 1998 s. 2)

10. Restraint orders

- (1) The Court of First Instance may by order (in this Ordinance referred to as a *restraint order* (限制令)) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order. (*25 of 1998 s. 2*)
- (2) A restraint order may apply to any realisable property, including property transferred to a person after the making of the order. (*L.N. 247 of 1993*)
- (3) This section shall not have effect in relation to any property for the time being subject to a charge under section 11.
- (4) 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 29 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), by a receiver appointed under section 12 or the Secretary for Justice; (*L.N. 247 of 1993; L.N. 362 of 1997*)
 - (b) may be made on an ex parte application to a judge in chambers; and
 - (c) may, notwithstanding anything in Order 11 of the Rules of the High Court (Cap. 4 sub. leg. A), provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court of First Instance may direct. (*25 of 1998 s. 2*)
- (5) A restraint order—
 - (a) may be discharged or varied in relation to any property; and

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- (b) shall be discharged when the proceedings in relation to which the order was made are concluded.
- (6) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (7) Where the Court of First Instance has made a restraint order, the Court of First Instance may at any time appoint a receiver—
- (a) to take possession of any realisable property; and
- (b) in accordance with the directions of the Court of First Instance, 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 of First Instance; 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. *(25 of 1998 s. 2)*
- (8) *(Repealed 89 of 1995 s. 33)*
- (9) Where the Court of First Instance has made a restraint order, an authorized officer may, for the purpose of preventing any realisable property being removed from Hong Kong, seize the property. *(L.N. 650 of 1994; 25 of 1998 s. 2)*
- (10) Property seized under subsection (9) shall be dealt with in accordance with the directions of the Court of First Instance. *(25 of 1998 s. 2)*
- (11) Where any property specified in a restraint order is immovable property the order shall, for the purposes of the Land Registration Ordinance (Cap. 128)—
- (a) be deemed to be an instrument affecting land; and

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- (b) be registrable as such in the Land Registry under that Ordinance in such manner as the Land Registrar thinks fit. *(8 of 1993 s. 30)*
- (12) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so, documents, or copies of documents, or any other information (in whatever form), in his possession or control which may assist the authorized officer to determine the value of the property. *(26 of 2002 s. 4)*
- (13) A person who receives a notice under subsection (12) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the restraint order concerned. *(26 of 2002 s. 4)*
- (14) A disclosure made in order to comply with a requirement under subsection (12)—
- (a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;
 - (b) shall not render the person who made it liable in damages for any loss arising out of—
 - (i) the disclosure;
 - (ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure. *(26 of 2002 s. 4)*
- (15) Any person who contravenes subsection (13) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year. *(26 of 2002 s. 4)*

- (16) A person who knowingly deals in any realisable property in contravention of a restraint order commits an offence. *(26 of 2002 s. 4)*
- (17) A person who commits an offence under subsection (16) is liable—
- (a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the restraint order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or
 - (b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years. *(26 of 2002 s. 4)*

11. Charging orders in respect of land, securities, etc.

- (1) The Court of First Instance may make a charging order on realisable property for securing the payment to the Government— *(25 of 1998 s. 2)*
- (a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable; and
 - (b) in any other case, of an amount equal to the value from time to time of the property charged.
- (2) For the purposes of this Ordinance, a **charging order** is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Government.
- (3) A charging 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

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- under section 29 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), by a receiver appointed under section 12 or the Secretary for Justice; (*L.N. 247 of 1993; L.N. 362 of 1997*)
- (b) may be made on an ex parte application to a judge in chambers;
 - (c) may, notwithstanding anything in Order 11 of the Rules of the High Court (Cap. 4 sub. leg. A), provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court of First Instance may direct; and
 - (d) may be made subject to such conditions as the Court of First Instance thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective. (*25 of 1998 s. 2*)
- (4) Subject to subsection (6), a charge may be imposed by a charging order only on—
- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance—
 - (i) in any asset of a kind specified in Schedule 2; or
 - (ii) under any trust; or
 - (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) be imposed by a charging order on the whole beneficial interest under the first mentioned trust.

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- (5) In any case where a charge is imposed by a charging order on any interest in an asset of a kind specified in Schedule 2, the Court of First Instance may provide for the charge to extend to any interest, dividend or other distribution payable and any bonus issue in respect of the asset. *(25 of 1998 s. 2)*
- (6) The Court of First Instance may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings in the designated country or territory are concluded or the amount payment of which is secured by the charge is paid into the Court of First Instance. *(25 of 1998 s. 2)*
- (7) An application for the discharge or variation of a charging order may be made by any person affected by it.
- (8) Subject to the provisions of this Ordinance, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustee, by writing under his hand.
- (9) An authorized officer may, by notice in writing served on a person who holds any realisable property the subject of a charging order, require the person to deliver to the authorized officer, to the extent that it is practicable to do so, documents, or copies of documents, or any other information (in whatever form), in his possession or control which may assist the authorized officer to determine the value of the property. *(26 of 2002 s. 4)*
- (10) A person who receives a notice under subsection (9) shall, as soon as is practicable after receipt of the notice, comply with the notice to the extent that it is practicable to do so taking into account the nature of the realisable property the subject of the charging order concerned. *(26 of 2002 s. 4)*

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- (11) A disclosure made in order to comply with a requirement under subsection (9)—
- (a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;
 - (b) shall not render the person who made it liable in damages for any loss arising out of—
 - (i) the disclosure;
 - (ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure. *(26 of 2002 s. 4)*
- (12) Any person who contravenes subsection (10) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year. *(26 of 2002 s. 4)*
- (13) A person who knowingly deals in any realisable property in contravention of a charging order commits an offence. *(26 of 2002 s. 4)*
- (14) A person who commits an offence under subsection (13) is liable—
- (a) on conviction upon indictment to a fine of \$500,000 or to the value of the realisable property the subject of the charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years; or
 - (b) on summary conviction to a fine of \$250,000 and to imprisonment for 2 years. *(26 of 2002 s. 4)*

11A. Applications for restraint and charging orders

- (1) Order 115 of the Rules of the High Court (Cap. 4 sub. leg. A) shall apply to applications made under this Ordinance subject

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to the modifications set out in subsections (1A) to (7). (*89 of 1995 s. 33; 25 of 1998 s. 2*)

(1A) Rule 2A shall be omitted. (*89 of 1995 s. 33*)

(2) For rule 3(2) there shall be substituted—

“(2) An application under section 10(4) or 11(3) shall be supported by an affidavit which shall—

(a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;

(b) to the best of the deponent’s ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;

(c) in a case to which section 9(2) applies, indicate when it is intended that proceedings should be instituted in the designated country concerned.”.

(3) (*Repealed 89 of 1995 s. 33*)

(4) For the rule 5(3) there shall be substituted—

“(3) Upon the Court being notified that proceedings have been concluded any restraint or charging order shall be discharged.”.

(5) In rule 7(3) for everything after “such property” there shall be substituted a full stop.

(6) In rule 8(3) before the words “confiscation order” there shall be added “external”.

(7) Rules 9 to 23 shall be omitted.

(*L.N. 247 of 1993*)

12. Realisation of property

- (1) Where an external confiscation order has been registered in the Court of First Instance under section 29 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), the Court of First Instance may, on an application by the Secretary for Justice, exercise the powers conferred by subsections (2) to (6). (*L.N. 247 of 1993; L.N. 362 of 1997*)
- (2) The Court of First Instance may appoint a receiver in respect of realisable property.
- (3) The Court of First Instance may empower a receiver appointed under subsection (2), under section 10 or in pursuance of a charging order—
 - (a) to enforce any charge imposed under section 11 on realisable property or on any interest, dividend or other distribution payable and any bonus issue in respect of such property; and
 - (b) in relation to any realisable property other than property for the time being subject to a charge under section 11, to take possession of the property subject to such conditions or exceptions as may be specified by the Court of First Instance.
- (4) The Court of First Instance may order any person having possession of realisable property to give possession of it to any such receiver.
- (5) The Court of First Instance may empower any such receiver to realise any realisable property in such manner as the Court of First Instance may direct.
- (6) The Court of First Instance may order any person holding an interest in realisable property to make such payment to

the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance as the Court of First Instance may direct and the Court of First Instance may, on the payment being made, by order transfer, grant or extinguish any interest in the property.

- (7) Subsections (4) to (6) do not apply to property for the time being subject to a charge under section 11.
- (8) The Court of First Instance shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court of First Instance.

(25 of 1998 s. 2)

13. Application of proceeds of realisation and other sums

- (1) Subject to subsection (2), the following sums in the hands of a receiver appointed under section 10 or 12 or in pursuance of a charging order, that is—
 - (a) the proceeds of the enforcement of any charge imposed under section 11;
 - (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 10 or 12; and
 - (c) any other sums, being property held by the defendant,shall first be applied in payment of such expenses incurred by a person acting as an insolvency officer as are payable under section 18(2) and then shall, after such payments (if any) as the Court of First Instance may direct have been made out of those sums be paid to the Registrar and applied for the

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purposes specified in subsections (4) to (6) and in the order so specified. *(25 of 1998 s. 2)*

- (2) Where a fixed amount is payable under the external confiscation order and, after that amount has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums—
 - (a) among such of those who held property which has been realised under this Ordinance; and
 - (b) in such proportions,
as the Court of First Instance may direct after giving a reasonable opportunity for such persons to make representations to the Court of First Instance. *(25 of 1998 s. 2)*
- (3)
- (4) Any sums paid to the Registrar under subsection (1) or otherwise in satisfaction of an external confiscation order shall be first applied to pay any expenses incurred by a person acting as an insolvency officer and payable under section 18(2) but not already paid under subsection (1).
- (5) If the sum was paid to the Registrar by a receiver appointed under section 10 or 12 or in pursuance of a charging order the Registrar shall next pay the receiver's remuneration and expenses.
- (6) After making—
 - (a) any payment required by subsection (4); and
 - (b) in a case to which subsection (5) applies, any payment required by that subsection,
the Registrar shall reimburse any amount paid under section 19(2).
- (7) Subject to subsections (8) and (9)—

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- (a) any balance in the hands of the Registrar after he has made all payments required by the foregoing subsections shall be deposited in an interest-bearing account;
 - (b) upon the expiration of 5 years beginning with the day on which such balance was so deposited, the Registrar shall arrange for such balance, together with any interest earned thereon, to be paid into the general revenue. (*89 of 1995 s. 33*)
- (8) On an application made by or on behalf of the government of a designated country before the expiration of the period referred to in subsection (7)(b) in respect of any balance referred to in that subsection, the Secretary for Justice may direct the Registrar to pay to that government such proportion of that balance as is specified in the direction and the Registrar shall, as soon as is reasonably practicable after the receipt of that direction— (*L.N. 362 of 1997*)
 - (a) comply with the direction; and
 - (b) pay any remainder of that balance, together with any interest earned on that balance, into the general revenue. (*89 of 1995 s. 33*)
- (9) The Registrar shall not comply with subsection (7)(b) in respect of any balance referred to in that subsection (including any interest earned thereon) until any application referred to in subsection (8) made in respect of that balance has been determined, whether by a direction under subsection (8) or otherwise. (*89 of 1995 s. 33*)

14. Exercise of powers by Court of First Instance or receiver

- (1) The following subsections apply to the powers conferred on the Court of First Instance by sections 10 to 13, or on a

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receiver appointed under section 10 or 12 or in pursuance of a charging order. *(25 of 1998 s. 2)*

- (2) Subject to subsections (3), (4), (5) and (6), the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the Court of First Instance under section 29 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made. *(L.N. 247 of 1993; 25 of 1998 s. 2)*
- (3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.
- (4) In the case of realisable property other than realisable property referred to in section 7(1)(a), the powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.
- (5) An order may be made or other action taken in respect of a debt owed by the Government.
- (6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

15.

16. Bankruptcy of defendant, etc.

- (1) Where a person who holds realisable property is adjudged bankrupt—

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt; and
 - (b) any proceeds of property realised by virtue of section 10(7) or 12(5) or (6) for the time being in the hands of a receiver appointed under section 10 or 12,are excluded from the property of the bankrupt for the purposes of the Bankruptcy Ordinance (Cap. 6).
- (2) Where a person has been adjudged bankrupt, the powers conferred on the Court of First Instance by sections 10 to 13 shall not be exercised in relation to— *(25 of 1998 s. 2)*
 - (a) property for the time being comprised in the property of the bankrupt for the purposes of the Bankruptcy Ordinance (Cap. 6); and
 - (b) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 30A(9) of the Bankruptcy Ordinance (Cap. 6). *(87 of 1997 s. 36)*
- (3) Nothing in the Bankruptcy Ordinance (Cap. 6) shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the Court of First Instance by sections 10 to 13. *(25 of 1998 s. 2)*
- (4) Subsection (2) does not affect the enforcement of a charging order—
 - (a) made before the order adjudging the person bankrupt; or
 - (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.
- (5) Where, in the case of a debtor, an interim trustee stands appointed under section 13 of the Bankruptcy Ordinance (Cap. 6) and any property of the debtor is subject to a restraint order, the powers conferred on the interim trustee by

virtue of that Ordinance do not apply to property for the time being subject to the restraint order. (*18 of 2005 s. 48*)

- (6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Ordinance—
- (a) a court shall not make an order under—
- (i) section 49 or 50 of the Bankruptcy Ordinance (Cap. 6); or (*87 of 1997 s. 36*)
- (ii) section 60 of the Conveyancing and Property Ordinance (Cap. 219),
- in respect of the making of the gift at any time when property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under any of those sections after the discharge of the restraint order or charging order shall take into account any realisation under this Ordinance of property held by the person to whom the gift was made.

17. Winding up of company holding realisable property

- (1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—
- (a) property for the time being subject to a restraint order made before the relevant time; and
- (b) any proceeds of property realised by virtue of section 10(7) or 12(5) or (6) for the time being in the hands of a receiver appointed under section 10 or 12.
- (2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers

conferred on the Court of First Instance by sections 10 to 13 shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or
 - (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.
- (3) Nothing in the Companies Ordinance (Cap. 622) or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the Court of First Instance by sections 10 to 13. *(28 of 2012 ss. 912 & 920)*
- (3A) Subsection (3) shall apply to any proceedings relating to an appeal, further appeal or review against any exercise of the powers referred to in that subsection as if the court hearing the appeal, further appeal or review, as the case may be, were the Court of First Instance. *(89 of 1995 s. 33)*
- (4) Subsection (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.
- (5) In this section—

company (公司) means any company which may be wound up under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); *(28 of 2012 ss. 912 & 920)*

the relevant time (有關時間) means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the Court of First Instance, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

(25 of 1998 s. 2; E.R. 2 of 2014)

18. Insolvency officers dealing with property subject to restraint order

(1) Without prejudice to the generality of any provision contained in the Bankruptcy Ordinance (Cap. 6), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) or any other Ordinance, where— *(28 of 2012 ss. 912 & 920)*

- (a) any insolvency officer seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of a court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence; and the insolvency officer shall have a lien on the property, or

the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

- (2) Any insolvency officer who incurs expenses—
- (a) in respect of such property as is mentioned in subsection (1)(a) and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
 - (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 13(1) or (3).

- (3) In this section *insolvency officer* (債務處理人) means—
- (a) the Official Receiver; or
 - (b) any person acting as—
 - (i) a trustee (including provisional trustee), interim trustee or special manager appointed under the Bankruptcy Ordinance (Cap. 6); or (*18 of 2005 s. 48*)
 - (ii) a liquidator, provisional liquidator or special manager appointed under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32). (*28 of 2012 ss. 912 & 920*)

19. Receivers: supplementary provisions

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- (1) Where a receiver appointed under section 10 or 12 or in pursuance of a charging order takes any action—
- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property;
 - (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

- (2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 13(5), be paid by the person on whose application the receiver was appointed.
(L.N. 247 of 1993)

20-28.

29. *(Repealed L.N. 247 of 1993)*

30. Evidence of corresponding law

Section 43 of the Dangerous Drugs Ordinance (Cap. 134) shall apply in relation to proceedings under this Ordinance as it applies in relation to proceedings for an offence under that Ordinance.

31. Amendment of Schedules

The Chief Executive in Council may, by order, amend Schedule 1, 1A or 2.

(89 of 1995 s. 33; 15 of 1999 s. 3)

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Schedule 1

[s. 2]

Drug Trafficking Offences

Item	Offence	Description*
1.	section 4(1), Dangerous Drugs Ordinance (Cap. 134)	trafficking in a dangerous drug
2.	section 4A, Dangerous Drugs Ordinance (Cap. 134)	trafficking in purported dangerous drug
3.	section 5(1), Dangerous Drugs Ordinance (Cap. 134)	supplying or procuring a dangerous drug to or for unauthorized persons
4.	section 6(1), Dangerous Drugs Ordinance (Cap. 134)	m a n u f a c t u r i n g a dangerous drug
5.	section 9(1), (2) and (3), Dangerous Drugs Ordinance (Cap. 134)	cultivating, supplying, procuring, dealing in, importing, exporting, or possessing cannabis plant or opium poppy
6.	section 35, Dangerous Drugs Ordinance (Cap. 134)	keeping or managing a divan for the taking of dangerous drugs

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Item	Offence	Description*
7.	section 37, Dangerous Drugs Ordinance (Cap. 134)	permitting premises to be used for unlawful trafficking, manufacturing or storage of dangerous drugs
7A.	section 40(1)(c), Dangerous Drugs Ordinance (Cap. 134)	aiding, etc. offence under a corresponding law
8.	
9.	conspiracy to commit any of the offences specified in items 1 to 7	—
10.	inciting another to commit any of the offences specified in items 1 to 7	—
11.	attempting to commit any of the offences specified in items 1 to 7	—
12.	aiding, abetting, counselling or procuring the commission of any of the offences specified in items 1 to 7	—

* Note: The short description of offences in this Schedule is for ease of reference only.

(89 of 1995 s. 33)

Schedule 1A

[s. 2(11)]

Institution of Proceedings

Designated country	Point at which proceedings are instituted
Australia	(a) where an information has been laid before a justice of the peace; (b) when a person is charged with the offence after having been taken into custody without a warrant; or (c) when a bill of indictment is preferred.
Canada	When an information has been laid or an indictment is preferred.
England and Wales	(a) when an information has been laid before a justice of the peace; (b) when a person is charged with an offence; or (c) when a bill of indictment is preferred.
Gibraltar	When a person is charged with an offence, whether by the laying of an information or otherwise. (<i>L.N. 446 of 1991</i>)
Guernsey	When a person is charged with an offence.

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Designated country	Point at which proceedings are instituted
Isle of Man	<p>(a) where a justice of the peace issues a summons under section 13 of the Petty Sessions and Summary Jurisdiction Act 1927, when the complaint in relation to the offence is made to him;</p> <p>(b) where a justice of the peace issues a warrant for the arrest of any person under that section, when the complaint in relation to the offence is made to him;</p> <p>(c) where a person is charged with the offence after being taken into custody without a warrant, when he is taken into custody; or</p> <p>(d) where an information is preferred by the Secretary for Justice in a case where there have been no committal proceedings, when the information is lodged in the General Registry in accordance with section 4(1) of the Criminal Code Amendment Act 1917. (<i>L.N. 362 of 1997</i>)</p>
Jersey	<p>(a) when the Bailiff issues a warrant in respect of an offence for the arrest of a person who is out of the island;</p> <p>(b) when a person is arrested and charged with an offence;</p> <p>(c) when a summons in respect of an offence is served on a person at the instance of the Secretary for Justice; or (<i>L.N. 362 of 1997</i>)</p>

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Schedule 2

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Designated country	Point at which proceedings are instituted
	(d) when a summons in respect of the offence is served on a person in accordance with the provisions of Article 8 of the Police Court (Miscellaneous Provisions) (Jersey) Law 1949.
Kingdom of Thailand	When a complaint or a denunciation is lodged with the inquiry official or other competent official, whether or not the suspect has been identified. (<i>L.N. 282 of 1996</i>)
Malaysia	(a) when an action that may lead to the making of an order for the purpose of confiscating the proceeds or instrumentalities of drug trafficking is commenced in a court; or (b) when a person is charged with an offence after having been taken into custody without a warrant. (<i>L.N. 12 of 1993</i>)
Northern Ireland	(a) when a summons or warrant is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981; (b) when a person is charged with an offence after being taken into custody without a warrant; or (c) when an indictment is presented under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.
Scotland	(a) when a petition warrant is granted; or (b) when a person has been charged with an offence after having been arrested without a warrant.
United States of America	When an indictment, information or complaint has been filed against a person in respect of an offence.

Schedule 2

[s. 11]

Assets on which a Charging Order may be Imposed

1. Land in Hong Kong.
 2. Securities of any of the following kinds—
 - (a) Government stock;
 - (b) stock of any body incorporated in Hong Kong;
 - (c) stock of any body incorporated outside Hong Kong or of any state or territory outside Hong Kong, being stock registered in a register kept at any place within Hong Kong;
 - (d) units of any unit trust in respect of which a register of the unit holders is kept at any place within Hong Kong.
 3. In this Schedule—
 - (a) the terms **Government stock** (政府證券) and **land** (土地) have the same meaning as in section 2 of the High Court Ordinance (Cap. 4); (25 of 1998 s. 2)
 - (b) the terms **stock** (股份) and **unit trust** (單位信託基金) have the same meaning as in section 20A of that Ordinance.
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Schedule 3

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Schedule 3

Drug Trafficking (Recovery of Proceeds) Ordinance as Modified

(Schedule 3 was renumbered as Schedule 2 - see 26 of 2002 s. 4 & Sch. 3 (ss. 2 & 3(a)). The content of which has been moved to Schedule 2 from then on.)