

EXECUTIVE NOTE

THE CRIME (INTERNATIONAL CO-OPERATION) ACT 2003 (DESIGNATION OF PARTICIPATING COUNTRIES) (SCOTLAND) ORDER 2009 SSI/2009/

1. This Order was made under powers conferred by section 51(2)(b) of the Crime (International Co-operation) Act 2003 (“the 2003 Act”), which provides that the Scottish Ministers may designate certain “participating countries” in relation to any provisions of Part 1 of the 2003 Act. This Order is subject to negative parliamentary procedure.

POLICY OBJECTIVES

2. Mutual Legal Assistance is the formal way in which countries request and provide assistance in criminal investigations or proceedings (for example, in obtaining evidence located in another country). Part 1 of the 2003 Act deals with various forms of Mutual Legal Assistance concerning criminal matters. It provides statutory powers under which the United Kingdom can both seek and provide Mutual Legal Assistance. This includes the provision of banking information relating to criminal investigations into, for example, economic crime and money laundering.

3. Some of those statutory powers can, however, only be exercised where the country in question is a ‘participating country’ as defined in section 51(2) of the 2003 Act. Where a country was a Member State of the European Union on the date on which a provision of the 2003 Act was commenced, that country will be regarded as a ‘participating country’ for the purpose of the commenced provision.

4. This Order designates Member States who have acceded to the EU since 2004 as ‘participating countries’ for the purposes of the 2003 Act. Due to the dates of their accession to the EU the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia need to be designated as participating countries in relation to sections 6, 31, 47 and 48 of, and paragraph 15 of Schedule 2 to the 2003 Act, while Bulgaria and Romania need to be designated as participating countries in relation to sections 6, 31, 37, 40, 43, 44, 45, 47 and 48 of, and paragraph 15 of Schedule 2 to the 2003 Act

CONSULTATION

5. This Order has been prepared in consultation with the Home Office. Lord West made an equivalent Order in respect of the rest of the United Kingdom on 10 March 2009.

FINANCIAL IMPLICATIONS

6. No impact on the private, public or voluntary sector is foreseen.

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