
STATUTORY INSTRUMENTS

1996 No. 2877

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice Act 1988 (Designated Countries and Territories) (Amendment) (No. 2) Order 1996

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| <i>Made</i> | - - - - | <i>19th November 1996</i> |
| <i>Laid before Parliament</i> | | <i>29th November 1996</i> |
| <i>Coming into force</i> | - - | <i>1st January 1997</i> |

At the Court at Buckingham Palace, the 19th day of November 1996

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 96 of the Criminal Justice Act 1988(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Designated Countries and Territories) (Amendment) (No. 2) Order 1996 and shall come into force on 1st January 1997.

(2) This Order extends to England and Wales only.

(3) In this Order “the Act” means the Criminal Justice Act 1988 and “the principal Order” means the Criminal Justice Act 1988 (Designated Countries and Territories) Order 1991(2).

2. For article 5(1)(e) of the principal Order there shall be substituted the following—

“(e) that an order (however described) made or to be made by a court of the designated country has the purpose or, as the case may be, will have the purpose—

(i) of recovering property obtained as a result of or in connection with conduct to which Part VI of the Act applies or the value of property so obtained; or

(ii) of depriving a person of a pecuniary advantage so obtained.”.

3. There shall be inserted in Schedule 1 to the principal Order, after the entry for Thailand, the entry for Ukraine (including the appropriate authority) specified in Schedule 1 to this Order.

(1) 1988 c. 33; sections 71, 96 and 102 were amended by the Criminal Justice Act 1993 (c. 36) and sections 72A, 93A, 93B, 93C, 93D, 93E, 93F and 93G were inserted by that Act. Sections 71, 72, 72A, 73, 75, 76, 77, 80, 83, 84 and 102 were amended by the Proceeds of Crime Act 1995 (c. 11), and sections 72AA, 73A, 74A, 74B, 74C, 75A, 93H, 93I and 93J were inserted by that Act.

(2) S.I. 1991/2873, as amended by S.I. 1993/1790, 1993/3147, 1994/1639 and 1996/278.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4. Schedule 2 to the principal Order (modifications of Part VI of the Criminal Justice Act 1988) shall be amended as described in Schedule 2 to this Order and like amendments shall be made to the Act as set out in Schedule 3 to the principal Order (Part VI of the Criminal Justice Act 1988 as modified).

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Article 3

DESIGNATED COUNTRIES

| <i>Designated country</i> | <i>Appropriate authority</i> |
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| Ukraine | The Office of the General Prosecutor and the Ministry of Justice |

SCHEDULE 2

Article 4

AMENDMENTS TO SCHEDULE 2 TO THE PRINCIPAL ORDER

- For paragraph 2 there shall be substituted the following paragraph:

“2. Sections 72, 72AA, 72A, 73, 73A shall be omitted.”.
- For paragraph 4 there shall be substituted the following paragraph:

“4. Sections 74A, 74B, 74C, 75 and 75A shall be omitted.”.
- In paragraph 5—
 - after sub-paragraph (a) there shall be inserted:

“(aa) for subsection (1)(b) there shall be substituted:
“(b) the proceedings have not been concluded;”,
 - after sub-paragraph (b) there shall be inserted:

“(bb) subsection (1A) shall be omitted;”,
 - for sub-paragraph (e) there shall be substituted:

“(e) in subsection (4), for the words from “proceedings” to the end there shall be substituted the following—
“the proposed proceedings are not instituted within such time as the court considers reasonable.””
- In paragraph 7, for sub-paragraph (c) there shall be substituted:

“(c) in subsection (7)(b)(i), for the words “or application in question” there shall be substituted the words “against the defendant in the designated country””.
- In paragraph 14—
 - for sub-paragraph (b) there shall be substituted:

“(b) in subsection (6)(a), sub-paragraphs (i) and (ii) shall be omitted;”,
 - for subsection (c) there shall be substituted:

“(c) in subsection (6)(b), for the words “conclusion of the proceedings or application” there shall be substituted the words “discharge of the restraint or charging order””.
- For paragraph 20 there shall be substituted the following paragraph—

“20. Sections 99 to 101 shall be omitted.”.
- In paragraph 21—

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- (a) before sub-paragraph (a) there shall be inserted:
 - “(Za) in subsection (1), the definition of “proceeds of criminal conduct” shall be omitted;”;
 - (b) in sub-paragraph (a) the definitions of “criminal conduct”, “offence of a relevant description” and “relevant criminal conduct” shall be omitted;
 - (c) after sub-paragraph (e) there shall be inserted:
 - “(f) subsection (12A) shall be omitted;
 - (g) for subsection (12B) there shall be substituted the following—
 - “(12B) For the purposes of this Part of this Act, an external confiscation order is satisfied when no property remains liable to be recovered under it, or no amount is due under it or otherwise;”;
 - (h) subsection (12C) shall be omitted;”;
 - (d) as a consequence of the amendments in sub-paragraph (c) above, for “(f)” there shall be substituted “(i)”.
8. There shall be inserted in the Appendix set out at the end of paragraph 21(i) (institution of proceedings), after the entry for Thailand, the following entry—

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| “Ukraine | when a criminal case is brought”. |
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9. For paragraph 23 there shall be substituted the following paragraph—

“23. In Schedule 4—

- (a) in Part I the entries relating to the Local Government Act 1963⁽³⁾, the Local Government (Miscellaneous Provisions) Act 1982⁽⁴⁾, the Copyright Designs and Patents Act 1988⁽⁵⁾, the Social Security Administration Act 1992⁽⁶⁾ and the Trade Marks Act 1994⁽⁷⁾ shall be omitted; and
- (b) Part II shall be omitted.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st January 1997, amends the Criminal Justice Act 1988 (Designated Countries and Territories) Order 1991 (“the 1991 Order”).

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- (3) 1963 c. 33; the entry relating to this Act was inserted by section 71 of and paragraph 1 of Part II of Schedule 4 to the Criminal Justice Act 1988 and the Criminal Justice Act 1988 (Confiscation Orders) Order 1990 (S.I. 1990/1570).
 - (4) 1982 c. 30.
 - (5) 1988 c. 48; the entry relating to this Act was inserted by section 71 of and paragraph 1 of Part II of Schedule 4 to the Criminal Justice Act 1988 and the Criminal Justice Act 1988 (Confiscation Orders) Order 1995 (S.I. 1995/3145).
 - (6) 1992 c. 5; the entry relating to this Act was inserted by section 71 of and paragraph 1 of Part II of Schedule 4 to the Criminal Justice Act 1988 and the Criminal Justice Act 1988 (Confiscation Orders) Order 1996 (S.I. 1996/1716).
 - (7) 1994 c. 26; the entry relating to this Act was inserted by section 71 of and paragraph 1 of Part II of Schedule 4 to the Criminal Justice Act 1988 and the Criminal Justice Act 1988 (Confiscation Orders) Order 1995 (S.I. 1995/3145).

Article 2 of the Order amends article 5(1)(e) of the 1991 Order. The effect of this amendment is that a certificate issued by or on behalf of an appropriate authority of a designated country, which states that an order to be made by a court in that country will be for the purposes stated in article 5(1)(e) (i) or (ii), shall, in proceedings in the High Court, be admissible as evidence of the facts stated.

Article 3 adds Ukraine to the list of countries and territories to which the 1991 Order applies.

Article 4 provides that Schedule 2 to the 1991 Order shall be amended as provided for in Schedule 2 to this Order. These amendments are necessary as a consequence of amendments made to Part VI of the Criminal Justice Act 1988 by the Proceeds of Crime Act 1995 (c. 11). Article 5 further provides that like amendments shall be made to Part VI of the Criminal Justice Act 1988 as modified which is set out in Schedule 3 to the principal Order.