
EXPLANATORY NOTE

(This note is not part of the Order)

The Proceeds of Crime (Scotland) Act 1995 (“the Act”) which came into force on 1 April 1996 consolidated and re-enacted the provisions of the Criminal Justice (Scotland) Act 1987 (“the 1987 Act”) and the Criminal Justice Act 1995 which related to the confiscation of the proceeds of drug trafficking and the proceeds of all other crimes respectively.

This Order which comes into force on 1st May 1999 revokes the existing Order in Council, the Confiscation of the Proceeds of Drug Trafficking (Designated Countries and Territories) (Scotland) Order 1991 (“the 1991 Order”) which was made under the 1987 Act and dealt with orders made by courts in designated countries for the purpose of recovering payments or other rewards received in connection with drug trafficking.

The Order provides that, subject to certain modifications, Part I and Part III of the Act so far as it relates to realisable property apply to an order made by a court in a designated country or territory for the purpose of recovering payments or other rewards or property or other economic advantage received in connection with offences corresponding with or similar to offences to which Part I of the Act applies or drug trafficking or the value of such payments, property, reward or economic advantage (an external confiscation order), and to proceedings which may result in such an order being made there.

Article 2(2) and Schedule 2 to the Order set out when proceedings are to be regarded as instituted in a designated country.

Article 3(1)(a) of the Order designates the countries and territories listed in Part I of Schedule 1 for the purposes of the enforcement of confiscation orders made in connection with drug trafficking, namely the countries and territories designated under the 1991 Order, together with a number of countries and territories which are designated for the first time. Article 3(1)(b) of the Order designates the countries and territories listed in Part II of Schedule 1 for the purposes of enforcement of confiscation orders made in connection with other criminal offences. Article 4 of and Schedule 3 to the Order applies the provisions of Part I and III of the Act with modifications to confiscation orders of courts in the designated countries and territories and the proceedings which may lead to such orders being made.

Articles 5 and 6 provide for the proof of orders and judgments of courts of designated countries and as to evidence in relation to proceedings and orders in designated countries. Article 7 enables evidence as to the appropriate authority to be given by means of a certificate made by the Secretary of State in a case where no authority is specified for a designated country. Article 8 provides for the representation of the government of a designated country. Article 9 makes provision for the satisfaction of domestic confiscation orders in designated countries. Article 10 provides for currency conversion in relation to property recovered in a designated country under article 9. Article 11 revokes the 1991 Order and the subsequent Orders amending that Order.