



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 2

INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

CHAPTER 5

INTERNATIONAL OBLIGATIONS

95 Enforcement of overseas forfeiture orders

In section 9 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (enforcement of overseas forfeiture orders), for subsection (6) (offences to which section applies) substitute—

- “(6) This section applies to any offence that corresponds to or is similar to—
- (a) an offence under the law of England and Wales;
 - (b) an offence under the law of Scotland; or
 - (c) an offence under the law of Northern Ireland.”

96 Mutual assistance in freezing property or evidence

- (1) The Secretary of State or the Scottish Ministers may by order make provision—
- (a) for the purpose of implementing any obligation of the United Kingdom created or arising by or under the Decision or enabling any such obligation to be implemented,
 - (b) for the purpose of enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Decision to be exercised, or
 - (c) for the purpose of dealing with matters arising out of or related to any such obligation or rights.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (1) “the Decision” means Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.
- (3) The provision that may be made under subsection (1) by the Secretary of State includes, subject to subsections (5) and (7), any provision (of any extent) that might be made by Act of Parliament.
- (4) The provision that may be made under subsection (1) by the Scottish Ministers includes, subject to subsections (6) and (7), any provision that might be made by Act of the Scottish Parliament.
- (5) The power conferred by subsection (1) on the Secretary of State does not include power to make provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (6) The power conferred by subsection (1) on the Scottish Ministers is limited to the making of provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (7) The powers conferred by subsection (1) do not include power—
 - (a) to make any provision imposing or increasing taxation,
 - (b) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision,
 - (c) to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for a court or tribunal, or
 - (d) to create criminal offences.
- (8) Subsection (7)(c) does not preclude—
 - (a) the modification of a power to legislate conferred otherwise than under subsection (1), or
 - (b) the extension of any such power to purposes of the like nature as those for which it was conferred,and a power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (7)(c).