
EXPLANATORY NOTE

(This note is not part of the Order)

The Proceeds of Crime (Scotland) Act 1995 (“the Act”) which came into force on 1st April 1996 consolidated and re-enacted the provisions of the Criminal Justice (Scotland) Act 1987 and the Criminal Justice Act 1995 which related to the forfeiture of property used in crime.

This Order which comes into force on 1st May 1999 revokes the existing Order in Council, the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 1991 (“the 1991 Order”) which was made under the Criminal Justice (International Co-operation) Act 1990 and dealt with orders made by courts in designated countries for the forfeiture and destruction or other disposal of property used in connection with the commission of a drug trafficking offence.

The Order provides that subject to certain modifications, the Act applies to an order made by a court in a designated country or territory for the forfeiture and destruction or other disposal of property used in connection with the commission of a drug trafficking offence or another criminal offence and to proceedings which may result in such an order being made there.

Article 2(2) of 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 forfeiture orders made in connection with drug trafficking offences, 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 the enforcement of forfeiture orders made in connection with other criminal offences. Article 4 of and Schedule 3 to the Order apply certain provisions of the Act with modifications to forfeiture orders of courts in the designated countries and territories and the proceedings which may lead to such orders being made.

Articles 5 provides for the registration of external forfeiture orders as a condition for their enforcement. Articles 6 and 7 provide for the proof of orders and judgments of courts in the designated countries and as to evidence in relation to proceedings and orders in designated countries. Article 8 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 9 provides for the representation of the government of a designated country. Article 10 makes provision for the satisfaction of domestic forfeiture orders in designated countries. Article 11 revokes the 1991 Order and subsequent Orders amending that Order.