

CHAPTER 93

PROCEEDS OF CRIME

PART I

Subsidiary Legislation under the Tracing and Forfeiture of Proceeds of Drug Trafficking Act, 1986

TRACING AND FORFEITURE OF PROCEEDS OF DRUG TRAFFICKING ACT (DESIGNATED COUNTRIES AND TERRITORIES) ORDER, 1990

SI 55/1990

(SECTION 21)

1. This Order may be cited as the Tracing and Forfeiture of Proceeds of Drug Trafficking Act (Designated Countries and Territories) Order, 1990.

Citation and commencement

2. In this Order —

Interpretation

“the Act” means the Tracing and Forfeiture of Proceeds of Drug Trafficking Act;

“designated country” means a country or territory designated under article 3(1);

“appropriate authority of a designated country” means an authority specified opposite that country in Schedule 1;

“a court of a designated country” includes a court of any state or territory of a designated country.

3. (1) Each of the countries and territories specified in Schedule 1 is hereby designated for the purposes of section 21 of the Act.

Designation of and application of the Act to countries and territories

(2) In relation to a designated country, the Act shall apply, subject to the modifications specified in Schedule 2, to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there.

Proof of orders
and judgment of
article 3(2)

4. (1) For the purposes of section 21 of the Act, and of the other provisions of the Act as applied under article 3(2) —

- (a) any order made or judgment given by a court in a designated country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person; and
- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court in a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court in a designated country is duly authenticated for the purpose of paragraph (1)(b) if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by or on behalf of the appropriate authority of the designated country.

Evidence in
relation to
proceedings and
orders in a
designated
country

5. (1) For the purposes of section 21 of the Act, and of the other provisions of the Act as applied under article 3(2), a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating —

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there;
- (b) that an external confiscation order is in force and is not subject to appeal;
- (c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the designated country, or that other property recoverable under an external confiscation order remains unrecovered there;
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country; or
- (e) that an order (however described) made by a court of the designated country has the purpose of recovering payments or other rewards received in connection with drug trafficking or their value,

shall, in any proceedings in the Court, be admissible as evidence of the facts so stated.

(2) In any such proceedings a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court in a designated country, shall be admissible as evidence of any fact stated therein.

(3) A document is duly authenticated for the purposes of paragraph (2) if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in the designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

(4) Nothing in this article shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this article.

6. A request for assistance sent to the Attorney-General by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Attorney-General to act on its behalf in any proceedings in the Court under section 21 of the Act or any other provision of the Act as applied by article 3(2).

Representation of government of a designated country

7. (1) Where —

- (a) a confiscation order has been made under section 4 of the Act; and
- (b) a request has been sent by the Attorney-General to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request property is recovered in that country,

Satisfaction of confiscation order in a designated country

the amount payable under the confiscation order shall be treated as reduced by the value of the property so recovered.

(2) For the purposes of this article, and without prejudice to the admissibility of any evidence which may be admissible apart from this paragraph, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that property has been recovered there in execution of a request by the Attorney-General stating the value of the property so recovered and the date on which it was recovered shall, in any proceedings in a court in The Bahamas be admissible as evidence of the facts so stated.

Currency
conversion

8. (1) Where the value of property recovered as described in article 7(1) is expressed in a currency other than that of The Bahamas, the extent to which the amount payable under the confiscation order is to be reduced under that paragraph shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.

(2) Where an amount of money payable or remaining to be paid under and external confiscation order registered in the Court under section 21 of the Act is expressed in a currency other than that of The Bahamas, for the purpose of any action taken in relation to that order under the Act as applied under article 3(2) the amount shall be converted into the currency of The Bahamas on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this article a written certificate purporting to be signed by any person acting in his capacity as an officer of the Central Bank of The Bahamas and stating the exchange rate prevailing on a specified date shall be admissible as evidence of the facts so stated.

SCHEDULE (Article 3(1))

Designated country	Appropriate authority
United Kingdom of Great Britain and Northern Ireland.	Secretary of State for Home Affairs