
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 581

The Criminal Justice (International Co
operation) Act 1990 (Enforcement of Overseas
Forfeiture Orders) (Scotland) Order 2005

PART 5

INTERPRETATION

Tainted gifts and their recipients

32.—(1) In this Order, a gift is tainted if it was made by the accused or offender, as the case may be, at any time after—

- (a) the date on which the offence to which the external forfeiture order or request relates was committed, or
- (b) if the accused or offender's criminal conduct consists of two or more such offences and they were committed on different dates, the date of the earliest.

(2) For the purposes of paragraph (1), an offence which is a continuing offence is committed on the first occasion when it is committed.

(3) A gift may be a tainted gift whether it was made before or after the coming into force of this Order.

(4) In this Order, an accused or offender, as the case may be, is to be treated as making a gift if that accused or offender transfers property to another person for a consideration whose value is significantly less than the value of the property at the time of the transfer.

(5) If paragraph (4) applies, the property given is to be treated as such share in the property transferred as is represented by the fraction—

- (a) whose numerator is the difference between the two values mentioned in paragraph (4), and
- (b) whose denominator is the value of the property at the time of the transfer.

(6) In this Order, references to a recipient of a tainted gift are to a person to whom the accused or offender, as the case may be, has (whether directly or indirectly) made the gift.