

SCOTTISH STATUTORY INSTRUMENTS

2009 No. 106

CRIMINAL LAW

The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009

<i>Made</i>	- - - -	<i>12th March 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>13th March 2009</i>
<i>Coming into force</i>	- -	<i>4th April 2009</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 51(2) (b) of the Crime (International Co operation) Act 2003⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Crime (International Co operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009 and comes into force on 4th April 2009.

Commencement Information

II Art. 1 in force at 4.4.2009, see [art. 1](#)

Designation of participating countries

[^{F12} Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden are designated as participating countries under section 51(2)(b) of the 2003 Act.]

F1 Art. 2 substituted (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **90(2)** (with reg. 98) (as amended by S.I. 2020/1408, regs. 1, 22, 24 and 2020 c. 29, s. 40(6)(c), [Sch. 3 para. 2\(5\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Changes to legislation: There are currently no known outstanding effects for the *The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009*. (See end of Document for details)

^{F2}**3.**

F2 Art. 3 omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **90(3)** (with reg. 98) (as amended by [S.I. 2020/1408](#), regs. 1, 22); 2020 c. 1, Sch. 5 para. 1(1)

St Andrew's House,
Edinburgh

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

Part 1 of the Crime (International Co-operation) Act 2003 (“the 2003 Act”) provides statutory powers pursuant to which the United Kingdom can both seek and provide various forms of mutual legal assistance concerning criminal matters. Some of those statutory powers can, however, only be exercised where the country in question is a “participating country” as defined in section 51(2) of the 2003 Act. Where a country was a Member State of the European Union on the date on which a provision in Part 1 of the 2003 Act is commenced, that country will, by virtue of 51(2)(a), fall to be regarded as a participating country for the purpose of the commenced provision. Where, however, a country was not a Member State on the date on which a provision is commenced, that country must be designated as a participating country, for the purposes of that commenced provision, by an order made under section 51(2)(b).

Those powers which can only be exercised in relation to participating countries include the power for the Lord Advocate to facilitate a witness in the UK giving evidence in overseas proceedings by telephone (section 31 and paragraph 15 of Schedule 2), the power for the Lord Advocate to direct that an application seeking information about banking transactions in Scotland for use abroad must be made (sections 37 and 40), the power for requests to be made to other countries for information about banking transactions for use in the UK (sections 43 to 45), the power for the Scottish Ministers to facilitate the transfer of a UK prisoner to assist in an overseas investigation (section 47), and the power for the Scottish Ministers to enable an overseas prisoner to be transferred to the UK in order to assist with an investigation in this country (section 48). Further, section 6 limits the circumstances in which the Lord Advocate can arrange for criminal process to be served overseas otherwise than by post where the country in question is a participating country.

Article 2 of the Order designates Bulgaria and Romania as participating countries in relation to sections 6, 31, 37, 40, 43, 44, 45, 47 and 48 of, and paragraph 15 of Schedule 2 to the 2003 Act.

Article 3 of the Order designates Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia as participating countries for the purposes of sections 6, 31, 47 and 48 of, and paragraph 15 of Schedule 2 to 2003 Act.

Changes to legislation:

There are currently no known outstanding effects for the The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009.