

SCHEDULE 2

MODIFICATIONS OF PART I OF THE CRIMINAL JUSTICE (SCOTLAND) ACT 1987 IN ITS APPLICATION TO EXTERNAL CONFISCATION ORDERS

25. In section 47–

(a) in subsection (1)–

- (i) the definitions of “authorised government department” and “designated country” shall be omitted;
- (ii) the word “external” shall be inserted immediately before the word “confiscation”;
- (iii) the following shall be inserted after the definition of “restraint order”:
“the 1975 Act means the Criminal Procedure (Scotland) Act 1975;”.

(b) in subsection (4)–

- (i) paragraph (a) shall be omitted;
- (ii) at the end of paragraph (b) there shall be added the words “, and whether received before or after the commencement of the Confiscation of the Proceeds of Drug Trafficking (Designated Countries and Territories) (Scotland) Order 1991 and whether received in connection with drug trafficking carried on by the recipient or some other person;”;

(c) for subsection (5) there shall be substituted the following subsection:–

“(5) For the purposes of this Part of this Act–

(a) proceedings are instituted in a designated country when–

- (i) under the law of the designated country concerned one of the steps specified in relation to that country in column 2 of the Appendix hereto has been taken there in respect of alleged drug trafficking by a person which may result in an external confiscation order being made; or
- (ii) an application has been made to court in a designated country for an external confiscation order,

and where the application of this paragraph of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times; and

(b) proceedings are concluded as regards an offence–

- (i) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an external confiscation order being made in the proceedings; or
- (ii) on the satisfaction of an external confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).”.