

**EXPLANATORY MEMORANDUM TO**  
**THE UNITED NATIONS (INTERNATIONAL TRIBUNALS) (FORMER**  
**YUGOSLAVIA AND RWANDA) (AMENDMENT) ORDER 2012**

**2012 No. 2559**

**1.** This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order amends the United Nations (International Tribunal) (Former Yugoslavia) Order 1996 (S.I. 1996/716) and the United Nations (International Tribunal) (Rwanda) Order 1996 (S.I. 1996/1296). These amendments are required to update UK domestic legislation to reflect the changes to the Statutes of the two Tribunals introduced by UN Security Council resolutions (UNSCR) 1824 (2008), 1837 (2008), 1855 (2008), 1877 (2009), 1878 (2009) and 1932 (2010).

2.2 This Order also replaces the definition of “the 1996 Orders” in the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Overseas Territories) Order 1997 to reflect subsequent amendments to those Orders.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Context**

4.1 The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established by UNSCR 827, which was adopted on 25 May 1993. The ICTY’s purpose is to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the Former Yugoslavia since January 1991.

4.2 The International Criminal Tribunal for Rwanda (ICTR) was established by UNSCR 955 adopted on 8 November 1994. The ICTR's purpose is to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed on the territory of neighbouring States between 1 January 1994 and 31 December 1994.

4.3 The United Nations (International Tribunal) (Former Yugoslavia) Order 1996 and the United Nations (International Tribunal) (Rwanda) Order 1996, as amended, implement the Statutes of the two Tribunals in the United Kingdom by providing for UK courts to cooperate with the Tribunals and making other ancillary provisions.

## **5. Territorial Extent and Application**

This Order applies to all of the United Kingdom, except article 4 of the Order which applies to the UK's overseas territories.

## **6. European Convention on Human Rights**

As the instrument is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Order further amends the Schedule to the United Nations (International Tribunal) (Former Yugoslavia) Order 1996 to reflect decisions of the Security Council of the United Nations in resolutions 1837 (2008) and 1877 (2009). These resolutions amend the Statute of the International Tribunal for the Former Yugoslavia established by UNSCR 827 (1993). The Order also further amends the Schedule to the United Nations (International Tribunal) (Rwanda) Order 1996 to reflect decisions of the Security Council of the United Nations in resolutions 1824 (2008), 1855 (2008), 1878 (2009) and 1932 (2010).

7.2 The amendments modify the composition of the Trial and Appeals Chambers of the two Tribunals and provide an alternative procedure for the appointment of *ad litem* judges to the Rwanda Tribunal. The purpose of the amendments is to make provision for a reduction in the number of judges as the Tribunals move towards the completion of their work.

7.3 This Order also amends the definition of “the 1996 Orders” contained in the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Overseas Territories) Order 1997. This is required because the Order has not previously been updated to incorporate amendments made to the United Nations (International Tribunal) (Former Yugoslavia) Order 1996 and the United Nations (International Tribunal) (Rwanda) Order 1996.

**8. Consultation**

No consultation has taken place.

**9. Guidance**

Guidance may be sought from the contact below.

**10. Impact**

10.1 No impact on business, charities or the voluntary sector in the United Kingdom.

10.2 No impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

The legislation does not apply to small business in the United Kingdom.

**12. Monitoring and Review**

No monitoring or review is foreseen.

**13. Contact**

Edward Munn at the Foreign and Commonwealth Office can answer any queries regarding the instrument, Tel: 020 7008 1873 or email: [edward.munn@fco.gov.uk](mailto:edward.munn@fco.gov.uk).

## POLICY NOTE

### THE UNITED NATIONS (INTERNATIONAL TRIBUNALS) (FORMER YUGOSLAVIA AND RWANDA) (AMENDMENT) ORDER 2012

2012 No. 2559

1. This Order is made under powers conferred by section 1 of the United Nations Act 1946<sup>1</sup>. This section permits Her Majesty to make by Order in Council such provision as appears necessary or expedient to give effect to any decision of the Security Council of the United Nations for the apprehension, trial and punishment of persons.

#### Policy objectives

2. The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established by United Nations Security Council (UNSC) resolution 827 of 25 May 1993<sup>2</sup>. The ICTY's purpose is to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the Former Yugoslavia since January 1991.

3. The International Criminal Tribunal for Rwanda (ICTR) was established by UNSC resolution 955 of 8 November 1994<sup>3</sup>. The ICTR's purpose is to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed on the territory of neighbouring States between 1 January 1994 and 31 December 1994.

4. These resolutions were transposed in the UK by United Nations (International Tribunal) (Former Yugoslavia) Order 1996 (S.I. 1996/716)<sup>4</sup> and the United Nations (International Tribunal) (Rwanda) Order 1996 (S.I. 1996/1296)<sup>5</sup>. This Order amends these instruments to update UK domestic legislation to reflect the changes to the Statutes of the two Tribunals introduced by UN Security Council resolutions 1824 (2008), 1837 (2008), 1855 (2008), 1877 (2009), 1878 (2009) and 1932 (2010)<sup>6</sup>.

5. This Order also replaces the definition of "the 1996 Orders" in the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Overseas Territories) Order 1997 to reflect subsequent amendments to those Orders.

6. These amendments are required to keep the legislation applicable in the UK in line with United Nations Security Council Resolutions governing the respective Tribunals. Essentially, UK authorities must work with the tribunals as now constituted. The Foreign & Commonwealth Office (FCO) has therefore drafted the above titled Order in Council. The Scottish and UK Governments agree that, as it affects devolved responsibilities, specifically

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/Geo6/9-10/45>

<sup>2</sup> <http://www.un.org/Docs/scres/1993/scres93.htm>

<sup>3</sup> <http://www.un.org/Docs/scres/1994/scres94.htm>

<sup>4</sup> <http://www.legislation.gov.uk/uksi/1996/716/contents/made>

<sup>5</sup> <http://www.legislation.gov.uk/uksi/1996/1296/contents/made>

<sup>6</sup> <http://www.un.org/Docs/sc/>

“observing and implementing international obligations” (in terms para 7(2)(a) of Part 1 of Schedule 5 to the Scotland Act 1998<sup>7</sup>), the Order has to be laid in the Scottish Parliament as well as at Westminster.

### **Consultation**

7. This Order has been prepared by officials in the FCO. No consultation has taken place.

### **Impact Assessments**

8. No impact on the private, public or voluntary sector is foreseen. An equality assessment is not thought to be necessary: the Order applies to the constitution of Tribunals rather than to individuals. A Regulatory Impact Assessment has therefore not been prepared for this instrument.

### **Financial effects**

9. The Cabinet Secretary for Justice, Kenny MacAskill, confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or business.

Scottish Government  
Justice Directorate

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<sup>7</sup> <http://www.legislation.gov.uk/ukpga/1998/46/contents>