Draft Order laid before Parliament under section 50(5)(a) of the Crime (International Co-operation) Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CRIMINAL LAW, ENGLAND AND WALES

CRIMINAL LAW, NORTHERN IRELAND

The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2009

Made - - - -

Coming into force in accordance with article 1

A draft of this Order has been approved by each House of Parliament in accordance with section 50(5)(a) of the Crime (International Co-operation) Act 2003(**a**).

The Secretary of State, in exercise of the powers conferred by section 51(2)(b) of the Crime (International Co-operation) Act 2003 ('the 2003 Act'), makes the following Order:

1. This Order may be cited as the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2009 and shall come into force on the expiry of one week beginning with the day on which it is made.

2. This Order extends to England and Wales and Northern Ireland.

3. Iceland and Norway are designated as participating countries under section 51(2)(b) of the 2003 Act for the purposes of sections 31, 32, 35, 43, 44, 45, 47 and 48 of, and paragraph 15 of Schedule 2 to, the 2003 Act.

4. Switzerland is designated as a participating country under section 51(2)(b) of the 2003 Act for the purposes of sections 4, 4B(**b**), 32, 35, 43, 44 and 45 of the 2003 Act.

Home Office
Date

Name
Parliamentary Under Secretary of State

(**a**) 2003 c.32.
(**b**) Section 4B was inserted into the 2003 Act by section 331 of, and paragraph 16 of Schedule 36 to, the Criminal Justice Act 2003 (c.44).

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 is a Member State of the European Union on the date on which a provision 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 is not a Member State on the date on which a provision is commenced, that country must be designated as a participating country in an order made under section 51(2)(b) in order to be regarded as a participating country for the purpose of the commenced provision.

Those powers which can only be exercised in relation to participating countries include the power for the Secretary of State to facilitate a witness in the UK giving evidence in overseas proceedings by telephone (section 31 of, and paragraph 15 of Schedule 2, to the 2003 Act), the power for the Secretary of State to direct that an application seeking information about banking transactions in England and Wales and Northern for use abroad be made (sections 32 and 35 of the 2003 Act), the power for requests to be made to other countries for information about banking transactions for use in the UK (sections 43 to 45 of the 2003 Act), the power for the Secretary of State to facilitate the transfer of a UK prisoner to a participating country to assist in an investigation (section 47), and the power for the Secretary of State to enable an overseas prisoner to be transferred to the UK in order to assist with an investigation (section 48). Sections 4 and 4B (which was inserted into the 2003 Act by section 331 of, and paragraph 16 of Schedule 36 to, the Criminal Justice Act 2003) of the 2003 Act also place limits on the circumstances in which the Secretary of State can arrange for criminal process to be served overseas otherwise than by post where the country in question is a participating country.

Article 3 of this Order designates Iceland and Norway as participating countries for the purposes of sections 31, 32, 35, 43, 44, 45, 47 and 48 of, and paragraph 15 of Schedule 2 to, the 2003 Act.

Article 4 of this Order designates Switzerland as a participating country for the purposes of sections 4, 4B, 32, 35, 43, 44 and 45 of the 2003 Act.

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

E4239 5/2009 194239T 19585