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

2022 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) Order 2022

Made - - - - ***

Coming into force in accordance with article 1(2)

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

In accordance with section 50(5)(a)(**b**) of that Act, a draft of the instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2022.

(2) This Order comes into force on the day after the day on which it is made.

(3) This Order extends to England and Wales and Northern Ireland.

Designation of participating countries

2.—(1) The following countries are designated as participating countries under section 51(2)(b) of the Crime (International Co-operation) Act 2003(**c**) for the purposes of the provisions of that Act specified in paragraph (2)—

(a) Georgia;

(b) Liechtenstein;

(c) Luxembourg;

(**a**) 2003 c. 32. Section 51(2)(b) was amended by S.I. 2019/742; there are other amending instruments but none is relevant.

(**b**) Section 50(5) was amended by S.I. 2019/742; there are other amending instruments but none is relevant.

(**c**) Chapter 4 of Part 1 of the Crime (International Co-operation) Act 2003, which includes sections 32, 35, 43, 44 and 45 was omitted by regulation 87(11) of the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742). The provisions were reinstated by virtue of paragraph 2(2)(a) of Schedule 3 to, the European Union (Future Relationship) Act 2020 (c. 29).

(d) Republic of Moldova;

(e) Switzerland; and

(f) Türkiye.

(2) The provisions are—

(a) section 31 (hearing witnesses in the UK by telephone);

(b) section 32 (customer information)(**a**);

(c) section 35 (account information);

(d) section 43 (information about a person's bank account);

(e) section 44 (monitoring banking transactions);

(f) section 45 (sending requests for assistance);

(g) section 47 (transfer of UK prisoner to assist investigation abroad)(**b**);

(h) section 48 (transfer of EU etc. prisoner to assist UK investigation)(**c**); and

(i) paragraph 15 of Schedule 2 (evidence given by telephone).

Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010

3.—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010(**d**) is amended as follows.

(2) In article 3, for ", Serbia and Switzerland" substitute "and Serbia".

Name
Minister of State
Home Office

Date

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 powers can only be exercised where the country in question is a "participating country" as defined in section 51(2) of the 2003 Act. A country must be designated as a participating country for the purpose of the relevant provision.

Those powers 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);

— for the Secretary of State to direct that an application seeking information about banking transactions in England, Wales and Northern Ireland for use abroad be made (sections 32 and 35);

— for requests to be made to other countries for information about banking transactions for use in the UK (sections 43 to 45);

— 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

— for an overseas prisoner to be transferred to the UK in order to assist with an investigation (section 48).

(**a**) Section 32 was amended by paragraphs 3(1) and (2) of Schedule 3 to, the European Union (Future Relationship) Act 2020 (c. 29).
(**b**) Section 47 was amended by paragraph 237 of Schedule 16 to, the Armed Forces Act 2006 (c. 52).
(**c**) Section 48 was amended by paragraph 52 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4).
(**d**) S.I. 2010/36, amended by S.I. 2017/730, 2019/742.

Article 2 of this Order designates Georgia, Liechtenstein, Luxembourg, Republic of Moldova, Switzerland and Türkiye as participating countries for the purposes of the provisions mentioned above. The countries designated by article 2 of the Order have ratified the Second Additional Protocol to the 1959 European Convention on Mutual Legal Assistance in Criminal Matters (Cm 5603 of 2002) ("the Protocol"). Their designations enable the UK to comply with our international obligations under the Protocol.

Article 2 includes designation of Switzerland. Switzerland was previously designated for more limited purposes. Accordingly, article 3 makes a consequential amendment to the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010, to remove Switzerland from that designation.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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