STATUTORY INSTRUMENTS

2006 No. 1070

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Money Laundering: Exceptions to Overseas Conduct Defence) Order 2006

Made - - - -	*5th April 2006*
Laid before Parliament	*12th April 2006*
Coming into force - -	*15th May 2006*

The Secretary of State, in exercise of the powers conferred upon him by sections 327(2A)(b)(ii), 328(3)(b)(ii) and 329(2A)(b)(ii) of the Proceeds of Crime Act 2002(**a**), makes the following Order:

1. This Order may be cited as the Proceeds of Crime Act 2002 (Money Laundering: Exceptions to Overseas Conduct Defence) Order 2006 and shall come into force on 15th May 2006.

2.—(1) Relevant criminal conduct of a description falling within paragraph (2) is prescribed for the purposes of sections 327(2A)(b)(ii), 328(3)(b)(ii) and 329(2A)(b)(ii) of the Proceeds of Crime Act 2002 (exceptions to defence where overseas conduct is legal under local law).

(2) Such relevant criminal conduct is conduct which would constitute an offence punishable by imprisonment for a maximum term in excess of 12 months in any part of the United Kingdom if it occurred there other than—

(a) an offence under the Gaming Act 1968(**b**);

(b) an offence under the Lotteries and Amusements Act 1976(**c**), or

(c) an offence under section 23 or 25 of the Financial Services and Markets Act 2000(**d**).

Home Office
5th April 2006

Paul Goggins
Parliamentary Under Secretary of State

(**a**) 2002 c.29; sections 327(2A), 328(3) and 329(2A) were inserted by section 102 of the Serious Organised Crime and Police Act 2005 (c.15).
(**b**) 1968 c.65; this Act is prospectively repealed by Schedule 17 to the Gambling Act 2005 (c.19) but the repeal is not yet in force.
(**c**) 1976 c.32; this Act is prospectively repealed by Schedule 17 to the Gambling Act 2005 (c.19) but the repeal is not yet in force.
(**d**) 2000 c.8.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out exceptions to the defences in sections 327(2A), 328(3) and 329(2A) of the Proceeds of Crime Act 2002 ("the 2002 Act"), as inserted by section 102 of the Serious Organised Crime and Police Act 2005.

Sections 327(1), 328(1) and 329(1) of that Act create offences relating to "criminal property". That expression is defined by section 340(3) by reference to benefit from "criminal conduct". The definition of "criminal conduct" includes conduct that would constitute an offence in any part of the United Kingdom if it occurred there (see section 340(2)). Sections 327(2A), 328(3) and 329(2A) create defences in respect of the offences in sections 327(1), 328(1) and 329(1) (respectively) if the person who would otherwise commit such an offence knows, or believes on reasonable grounds, that the "relevant criminal conduct" occurred in a particular country or territory outside the United Kingdom and was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory. "Relevant criminal conduct" is defined in sections 327(2B), 328(4) and 329(2B) (respectively) as the criminal conduct by reference to which the property concerned is criminal property.

By virtue of sections 327(2A)(b)(ii), 328(3)(b)(ii) and 329(2A)(b)(ii), this defence does not apply in respect of relevant criminal conduct of a description prescribed in an order. Article 2(2) of this Order prescribes conduct which would be an offence punishable by imprisonment for a maximum term in excess of 12 months in any part of the United Kingdom (subject to the exceptions set out in article 2(2)).

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