
Changes to legislation: There are currently no known outstanding effects for the Criminal Jurisdiction Act 1975, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 5(1).

EXAMINATION OF WITNESSES OUT OF COURT

PART I

EXAMINATION IN NORTHERN IRELAND TO ASSIST COURT IN REPUBLIC OF IRELAND

- 1 This Part of this Schedule applies where under the law of the Republic of Ireland corresponding to Part II of this Schedule a court issues a letter of request to the Lord Chief Justice of Northern Ireland for the taking of evidence in Northern Ireland from a witness specified in the letter of request for the purposes of the trial in the Republic of Ireland of an extra-territorial offence under the law of the Republic of Ireland, or the hearing of an appeal arising out of the trial of such an offence.
- 2 (1) The evidence shall be taken on oath by a judge of the High Court designated by the Lord Chief Justice of Northern Ireland.
- (2) The judge so designated (hereafter referred to as “the Commissioner”) shall sit in private except at such times and on such occasions as he otherwise directs.
- (3) If the witness—
- (a) on being duly summoned as a witness before the Commissioner makes default in attending, or
 - (b) being in attendance as a witness refuses to take an oath legally required by the Commissioner to be taken, or to produce any document or thing in his power or control legally required by the Commissioner to be produced by him, or to answer any question to which the Commissioner may legally require an answer, or
 - (c) does any other thing which would, if the Commissioner had been a court of law having power to commit for contempt, have been contempt of that court,
- the witness shall be liable on summary conviction to a fine not exceeding £200, or to imprisonment for a term not exceeding six months, or to both.
- (4) The witness shall be entitled to the same immunities and privileges as if he were a witness in a trial on indictment for an offence under the law of Northern Ireland, and questions as to the exclusion of any evidence, or the withholding of any document or thing on the ground of public interest, shall be determined in accordance with the law of Northern Ireland.

Attendance of members of court

- 3 (1) Any judge of the court which issued the letter of request shall be entitled to attend the examination of the witness, and shall have a right to suggest to the Commissioner questions to be put to the witness.

*Changes to legislation: There are currently no known outstanding effects for the
Criminal Jurisdiction Act 1975, SCHEDULE 4. (See end of Document for details)*

- (2) The Commissioner shall arrange his sittings so as to facilitate the attendance of any such judge and, subject to paragraph 2(4) above, shall put to the witness any questions suggested to him under this paragraph.

Attendance of accused

- 4 (1) The accused shall have—
- (a) a right to attend the examination of the witness, and
 - (b) a right to be represented by counsel or a solicitor in the proceedings (whether or not the accused is present), and
 - (c) a right, if not represented by counsel or solicitor, to question the witness, and to make submissions or representations to the Commissioner.
- (2) So long as the accused is in Northern Ireland pursuant to this Part of this Schedule—
- (a) he shall be kept in custody, and
 - (b) while duly kept in custody, he shall be immune from arrest or detention, and from any other proceeding whatsoever, related to any criminal or civil matter which arose prior to his arrival in Northern Ireland in custody pursuant to the provisions of the law of the Republic of Ireland corresponding to paragraph 5(4) below.
- (3) If the accused has exercised his right to attend the examination of the witness, he shall, unless the Commissioner otherwise directs, remain in Northern Ireland until the examination is completed.
- (4) Either the prosecutor or the accused may apply to the Commissioner for a direction under sub-paragraph (3) above.
- (5) At the conclusion of the proceedings, and on any occasion when a direction is given under sub-paragraph (3) above, the Commissioner shall direct that the accused be delivered (at some convenient point of departure from Northern Ireland) into the custody of a member of the police force (Garda Síochána) in the Republic of Ireland.

PART II

EXAMINATION IN REPUBLIC OF IRELAND TO ASSIST COURT IN NORTHERN IRELAND

- 5 (1) For the purposes of—
- (a) the trial in Northern Ireland of an extra-territorial offence, or
 - (b) the hearing of an appeal under the ^{M1}Criminal Appeal (Northern Ireland) [F1Act 1980] concerning an extra-territorial offence,
- the court of trial, or as the case may be the court entertaining the appeal, may issue a letter of request for the taking of evidence by a judge of the High Court in the Republic of Ireland from a witness specified in the letter of request.
- The letter of request shall be addressed to the Chief Justice.
- (2) If the prosecutor or the accused applies to the court of trial for the issue of a letter of request under this paragraph, the court shall comply with the application unless satisfied that it is not in the interests of justice.

Changes to legislation: There are currently no known outstanding effects for the Criminal Jurisdiction Act 1975, SCHEDULE 4. (See end of Document for details)

- (3) Where the court issues a letter of request, the court shall inform the accused that he has, in accordance with the law of the Republic of Ireland corresponding to paragraph 4(1) of this Schedule, a right to attend the examination of the witness in the Republic of Ireland and the other rights specified in the said paragraph 4(1).
- (4) If the accused exercises his right to attend the examination of the witness, the court shall issue an order directing—
 - (a) that the accused be delivered (at some convenient point of departure from Northern Ireland) into the custody of a member of the police force (Garda Síochána in the Republic of Ireland, and
 - (b) that he be kept in custody in Northern Ireland until so delivered.
- (5) If the accused is serving a sentence imposed for any other offence, the order of the court shall be carried out notwithstanding the sentence, and the time spent by the accused as directed by the court shall count towards service of the sentence.
- (6) Where, under an enactment of the law of the Republic of Ireland corresponding to paragraph 4(3) of this Schedule, a Commissioner in the Republic of Ireland authorises the accused to return temporarily to Northern Ireland, the court shall issue any further order required under sub-paragraph (4) above in order to deal with the accused when he is again to go to the Republic of Ireland.

Textual Amendments

F1 Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), [Sch. 4 para. 10](#)

Marginal Citations

M1 [1968 c. 21](#).

Admissibility of statement of evidence

- 6 (1) A statement of evidence of a witness taken in compliance with the letter of request shall, subject to sub-paragraph (2) below, be admissible in the proceedings for which the letter of request was issued as evidence of any fact stated therein of which evidence by the witness would be admissible if given in the course of those proceedings.
- (2) The statement shall be so admissible if—
 - (a) all the members of the court were present throughout the taking of the evidence, and
 - (b) the statement was certified by the judge of the High Court in the Republic of Ireland who took it to be a true and accurate statement of the evidence so taken.
- (3) A document purporting to be such a certificate and to be signed by the said judge shall be deemed to be such a certificate and to be so signed unless the contrary is shown.

*Changes to legislation: There are currently no known outstanding effects for the
Criminal Jurisdiction Act 1975, SCHEDULE 4. (See end of Document for details)*

PART III

SUPPLEMENTAL

Protection of witnesses

- 7 (1) In proceedings under Part I of this Schedule the Commissioner may direct that the name and address of any person specified in the letter of request shall not be disclosed to any person other than—
- (a) the Commissioner and the Commissioner’s officers,
 - (b) the parties to the proceedings and their counsel and solicitors,
 - (c) any judge of the court in the Republic of Ireland issuing the letter of request, and any officers designated by the court, and
 - (d) where the Commissioner considers it to be in the interests of justice, any other person whom the Commissioner specifies in the direction, or any subsequent direction.
- (2) In proceedings under paragraph 5(1) of this Schedule the court may direct that the name and address of any witness as respects whom a letter of request is sought, or of any witness in the proceedings, shall not be disclosed to any person other than—
- (a) the court and the officers of the court,
 - (b) the parties to the proceedings and their counsel and solicitors, and
 - (c) where the court considers it to be in the interests of justice, any other person whom the court specifies in the direction, or any subsequent direction.
- (3) A person contravening a direction under this paragraph shall be liable on summary conviction to a fine not exceeding £200, or to imprisonment for a term not exceeding six months, or to both.

Procedure

- 8 (1) Subject to the preceding provisions of this Schedule, the procedure in Northern Ireland pursuant to, or as respects, letters of request received from, or transmitted to, the Republic of Ireland may be prescribed by rules of court.
- (2) The rules of court may apply, or make provision comparable to, the procedure in civil proceedings for letters of request received from, or transmitted to, the Republic of Ireland or any other country, with or without any modifications or exceptions.
- (3) In the application of this Schedule to letters of request issued, in the Republic of Ireland or in Northern Ireland, in connection with an appeal, references to the accused shall be taken as references to the appellant.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Jurisdiction Act 1975,
SCHEDULE 4.