



Criminal Justice (International Co-operation) Act 1990

1990 CHAPTER 5

PART I

CRIMINAL PROCEEDINGS AND INVESTIGATIONS

Commencement Information

- II** Part I partly in force for certain purposes at 23.4.1991 and wholly in force at 10.6.1991 see s. 32(2) and S.I. 1991/1072, arts. 2(a), 3, Schedule Pt. I

Mutual service of process

1 Service of overseas process in United Kingdom.

- (1) This section has effect where the Secretary of State receives from the government of, or other authority in, a country or territory outside the United Kingdom—
- (a) a summons or other process requiring a person to appear as defendant or attend as a witness in criminal proceedings in that country or territory; or
 - (b) a document issued by a court exercising criminal jurisdiction in that country or territory and recording a decision of the court made in the exercise of that jurisdiction,
- together with a request for it to be served on a person in the United Kingdom.
- (2) The Secretary of State or, where the person to be served is in Scotland, the Lord Advocate may cause the process or document to be served by post or, if the request is for personal service, direct the chief officer of police for the area in which that person appears to be to cause it to be personally served on him.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (3) Service by virtue of this section of any such process as is mentioned in subsection (1) (a) above shall not impose any obligation under the law of any part of the United Kingdom to comply with it.
- (4) Any such process served by virtue of this section shall be accompanied by a notice—
- (a) stating the effect of subsection (3) above;
 - (b) indicating that the person on whom it is served may wish to seek advice as to the possible consequences of his failing to comply with the process under the law of the country or territory where it was issued; and
 - (c) indicating that under that law he may not, as a witness, be accorded the same rights and privileges as would be accorded to him in criminal proceedings in the United Kingdom.
- (5) Where a chief officer of police is directed under this section to cause any process or document to be served he shall after it has been served forthwith inform the Secretary of State or, as the case may be, the Lord Advocate when and how it was served and (if possible) furnish him with a receipt signed by the person on whom it was served; and if the chief officer has been unable to cause the process or document to be served he shall forthwith inform the Secretary of State or, as the case may be, the Lord Advocate of that fact and of the reason.
- (6) In the application of this section to Northern Ireland for references to a chief officer of police there shall be substituted references to the Chief Constable of the Royal Ulster Constabulary.

Modifications etc. (not altering text)

C1 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art.2, Sch. 1

Commencement Information

I2 S. 1 wholly in force at 10.6.1991 see s. 32(2) and S.I. 1991/1072, art. 2 Schedule Pt. I

2 Service of United Kingdom process overseas.

- (1) Process of the following descriptions, that is to say—
- (a) a summons requiring a person charged with an offence to appear before a court in the United Kingdom; and
 - (b) a summons or order requiring a person to attend before a court in the United Kingdom for the purpose of giving evidence in criminal proceedings,
- may be issued or made notwithstanding that the person in question is outside the United Kingdom and may be served outside the United Kingdom in accordance with arrangements made by the Secretary of State.
- (2) In relation to Scotland subsection (1) above applies to any document which may competently be served on any accused person or on any person who may give evidence in criminal proceedings.
- (3) Service of any process outside the United Kingdom by virtue of this section shall not impose any obligation under the law of any part of the United Kingdom to comply with it and accordingly failure to do so shall not constitute contempt of any court or

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be a ground for issuing a warrant to secure the attendance of the person in question or, in Scotland, for imposing any penalty.

- (4) Subsection (3) above is without prejudice to the service of any process (with the usual consequences for non-compliance) on the person in question if subsequently effected in the United Kingdom.

Modifications etc. (not altering text)

C2 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), [art.2](#), [Sch. 1](#)

Commencement Information

I3 [S. 2](#) wholly in force at 10.6.1991 see [s. 32\(2\)](#) and [S.I. 1991/1072](#), [art. 2](#) **Schedule Pt. 1**

Mutual provision of evidence

3 Overseas evidence for use in United Kingdom.

- (1) Where on an application made in accordance with subsection (2) below it appears to a justice of the peace or a judge or, in Scotland, to a sheriff or a judge—
- (a) that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed; and
 - (b) that proceedings in respect of the offence have been instituted or that the offence is being investigated,
- he may issue a letter (“a letter of request”) requesting assistance in obtaining outside the United Kingdom such evidence as is specified in the letter for use in the proceedings or investigation.
- (2) An application under subsection (1) above may be made by a prosecuting authority or, if proceedings have been instituted, by the person charged in those proceedings.
- (3) A prosecuting authority which is for the time being designated for the purposes of this section by an order made by the Secretary of State by statutory instrument may itself issue a letter of request if—
- (a) it is satisfied as to the matters mentioned in subsection (1)(a) above; and
 - (b) the offence in question is being investigated or the authority has instituted proceedings in respect of it.
- (4) Subject to subsection (5) below, a letter of request shall be sent to the Secretary of State for transmission either—
- (a) to a court or tribunal specified in the letter and exercising jurisdiction in the place where the evidence is to be obtained; or
 - (b) to any authority recognised by the government of the country or territory in question as the appropriate authority for receiving requests for assistance of the kind to which this section applies.
- (5) In cases of urgency a letter of request may be sent direct to such a court or tribunal as is mentioned in subsection (4)(a) above.
- (6) In this section “evidence” includes documents and other articles.

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- (7) Evidence obtained by virtue of a letter of request shall not without the consent of such an authority as is mentioned in subsection (4)(b) above be used for any purpose other than that specified in the letter; and when any document or other article obtained pursuant to a letter of request is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it shall be returned to such an authority unless that authority indicates that the document or article need not be returned.
- (8) In exercising the discretion conferred by section 25 of the ^{M1}Criminal Justice Act 1988 (exclusion of evidence otherwise admissible) in relation to a statement contained in evidence taken pursuant to a letter of request the court shall have regard—
- (a) to whether it was possible to challenge the statement by questioning the person who made it; and
 - (b) if proceedings have been instituted, to whether the local law allowed the parties to the proceedings to be legally represented when the evidence was being taken.
- (9) In Scotland evidence obtained by virtue of a letter of request shall, without being sworn to by witnesses, be received in evidence in so far as that can be done without unfairness to either party.
- (10) In the application of this section to Northern Ireland for the reference in subsection (1) to a justice of the peace there shall be substituted a reference to a resident magistrate and for the reference in subsection (8) to section 25 of the ^{M2}Criminal Justice Act 1988 there shall be substituted a reference to Article 5 of the Criminal Justice (Evidence, Etc.)(Northern Ireland) Order 1988.

Subordinate Legislation Made

P1 [S. 3\(3\)](#) power exercised by [S.I.1991/1224](#)

Modifications etc. (not altering text)

C3 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), [art.2](#), [Sch. 1](#)

Commencement Information

I4 [S. 3](#) wholly in force; [s. 3\(3\)](#) in force for certain purposes at 23.4.1991, [s. 3](#) wholly in force at 10.6.1991, See [s. 32\(2\)](#) and [S.I. 1991/1072](#), [arts. 2\(a\)](#), [3](#) Schedule Pt. I

Marginal Citations

M1 [1988 c. 33](#).

M2 [S.I. 1988/1847 \(N.I.17\)](#).

4 United Kingdom evidence for use overseas.

- (1) This section has effect where the Secretary of State receives—
- (a) from a court or tribunal exercising criminal jurisdiction in a country or territory outside the United Kingdom or a prosecuting authority in such a country or territory; or
 - (b) from any other authority in such a country or territory which appears to him to have the function of making requests of the kind to which this section applies,

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- a request for assistance in obtaining evidence in the United Kingdom in connection with criminal proceedings that have been instituted, or a criminal investigation that is being carried on, in that country or territory.
- (2) If the Secretary of State or, if the evidence is to be obtained in Scotland, the Lord Advocate is satisfied—
- (a) that an offence under the law of the country or territory in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed; and
 - (b) that proceedings in respect of that offence have been instituted in that country or territory or that an investigation into that offence is being carried on there,
- he may, if he thinks fit, by a notice in writing nominate a court in England, Wales or Northern Ireland or, as the case may be, Scotland to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request.
- (3) Where it appears to the Secretary of State or, as the case may be, the Lord Advocate that the request relates to a fiscal offence in respect of which proceedings have not yet been instituted he shall not exercise his powers under subsection (2) above unless—
- (a) the request is from a country or territory which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party; or
 - (b) he is satisfied that the conduct constituting the offence would constitute an offence of the same or a similar nature if it had occurred in the United Kingdom.
- (4) For the purpose of satisfying himself as to the matters mentioned in subsection (2)(a) and (b) above the Secretary of State or, as the case may be, the Lord Advocate shall regard as conclusive a certificate issued by such authority in the country or territory in question as appears to him to be appropriate.
- (5) In this section “evidence” includes documents and other articles.
- (6) Schedule 1 to this Act shall have effect with respect to the proceedings before a nominated court in pursuance of a notice under subsection (2) above.

Modifications etc. (not altering text)

C4 S. 4 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art.2, Sch. 1.

Commencement Information

I5 S. 4 wholly in force at 10.6.1991 see s. 32(2) and S.I. 1991/1072, art. 2 Schedule Pt. I

5 Transfer of United Kingdom prisoner to give evidence or assist investigation overseas.

- (1) The Secretary of State may, if he thinks fit, issue a warrant providing for any person (“a prisoner”) serving a sentence in a prison or other institution to which the ^{M3}Prison Act 1952 or the ^{M4}Prisons (Scotland) Act 1989 applies to be transferred to a country or territory outside the United Kingdom for the purpose—
- (a) of giving evidence in criminal proceedings there; or

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- (b) of being identified in, or otherwise by his presence assisting, such proceedings or the investigation of an offence.
- (2) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being transferred as mentioned in subsection (1) above and that consent may be given either—
- (a) by the prisoner himself; or
 - (b) in circumstances in which it appears to the Secretary of State inappropriate, by reason of the prisoner’s physical or mental condition or his youth, for him to act for himself, by a person appearing to the Secretary of State to be an appropriate person to act on his behalf;
- but a consent once given shall not be capable of being withdrawn after the issue of the warrant.
- (3) The effect of a warrant under this section shall be to authorise—
- (a) the taking of the prisoner to a place in the United Kingdom and his delivery at a place of departure from the United Kingdom into the custody of a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred; and
 - (b) the bringing of the prisoner back to the United Kingdom and his transfer in custody to the place where he is liable to be detained under the sentence to which he is subject.
- (4) Where a warrant has been issued in respect of a prisoner under this section he shall be deemed to be in legal custody at any time when, being in the United Kingdom or on board a British ship, British aircraft or British hovercraft, he is being taken under the warrant to or from any place or being kept in custody under the warrant.
- (5) A person authorised by or for the purposes of the warrant to take the prisoner to or from any place or to keep him in custody shall have all the powers, authority, protection and privileges—
- (a) of a constable in the part of the United Kingdom in which that person is for the time being; or
 - (b) if he is outside the United Kingdom, of a constable in the part of the United Kingdom to or from which the prisoner is to be taken under the warrant.
- (6) If the prisoner escapes or is unlawfully at large, he may be arrested without warrant by a constable and taken to any place to which he may be taken under the warrant issued under this section.
- (7) In subsection (4) above—
- “British aircraft” means a British-controlled aircraft within the meaning of section 92 of the ^{M5}Civil Aviation Act 1982 (application of criminal law to aircraft) or one of Her Majesty’s aircraft;
- “British hovercraft” means a British-controlled hovercraft within the meaning of that section as applied in relation to hovercraft by virtue of provisions made under the ^{M6}Hovercraft Act 1968 or one of Her Majesty’s hovercraft;
- “British ship” means a British ship for the purposes of the Merchant Shipping Acts 1894 to 1988 or one of Her Majesty’s ships;
- and in this subsection references to Her Majesty’s aircraft, hovercraft or ships are references to aircraft, hovercraft or, as the case may be, ships belonging to or

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exclusively employed in the service of Her Majesty in right of the Government of the United Kingdom.

- (8) In subsection (6) above “constable”, in relation to any part of the United Kingdom, means any person who is a constable in that or any other part of the United Kingdom or any person who, at the place in question has, under any enactment including subsection (5) above, the powers of a constable in that or any other part of the United Kingdom.
- (9) This section applies to a person in custody awaiting trial or sentence and a person committed to prison for default in paying a fine as it applies to a prisoner and the reference in subsection (3)(b) above to a sentence shall be construed accordingly.
- (10) In the application of this section to Northern Ireland for the reference in subsection (1) to the Prison Act 1952 there shall be substituted a reference to the ^{M7}Prison Act (Northern Ireland) 1953.

Modifications etc. (not altering text)

C5 S. 5 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art.2, Sch. 1.

Commencement Information

I6 S. 5 wholly in force at 10.6.1991 see s. 32(2) and S.I. 1991/1072, art. 2 Schedule Pt. I

Marginal Citations

M3 1952 c. 52.

M4 1989 c. 45.

M5 1982 c. 16.

M6 1968 c. 59.

M7 1953 c. 18 (N.I.).

6 Transfer of overseas prisoner to give evidence or assist investigation in the United Kingdom.

- (1) This section has effect where—
- (a) a witness order has been made or a witness summons or citation issued in criminal proceedings in the United Kingdom in respect of a person (“a prisoner”) who is detained in custody in a country or territory outside the United Kingdom by virtue of a sentence or order of a court or tribunal exercising criminal jurisdiction in that country or territory; or
- (b) it appears to the Secretary of State that it is desirable for a prisoner to be identified in, or otherwise by his presence to assist, such proceedings or the investigation in the United Kingdom of an offence.
- (2) If the Secretary of State is satisfied that the appropriate authority in the country or territory where the prisoner is detained will make arrangements for him to come to the United Kingdom to give evidence pursuant to the witness order, witness summons or citation or, as the case may be, for the purpose mentioned in subsection (1)(b) above, he may issue a warrant under this section.
- (3) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being brought to the United Kingdom to give evidence as aforesaid or, as

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the case may be, for the purpose mentioned in subsection (1)(b) above but a consent once given shall not be capable of being withdrawn after the issue of the warrant.

- (4) The effect of the warrant shall be to authorise—
- (a) the bringing of the prisoner to the United Kingdom;
 - (b) the taking of the prisoner to, and his detention in custody at, such place or places in the United Kingdom as are specified in the warrant; and
 - (c) the returning of the prisoner to the country or territory from which he has come.
- (5) Subsections (4) to (8) of section 5 above shall have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section.
- (6) A person shall not be subject to the ^{M8}Immigration Act 1971 in respect of his entry into or presence in the United Kingdom in pursuance of a warrant under this section but if the warrant ceases to have effect while he is still in the United Kingdom—
- (a) he shall be treated for the purposes of that Act as if he has then illegally entered the United Kingdom; and
 - (b) the provisions of Schedule 2 to that Act shall have effect accordingly except that paragraph 20(1) (liability of carrier for expenses of custody etc. of illegal entrant) shall not have effect in relation to directions for his removal given by virtue of this subsection.
- (7) This section applies to a person detained in custody in a country or territory outside the United Kingdom in consequence of having been transferred there—
- (a) from the United Kingdom under the ^{M9}Repatriation of Prisoners Act 1984; or
 - (b) under any similar provision or arrangement from any other country or territory,
- as it applies to a person detained as mentioned in subsection (1) above.

Modifications etc. (not altering text)

C6 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), [art. 2](#), [Sch. 1](#)

Commencement Information

I7 S. 6 wholly in force at 10.6.1991 see s. 32(2) and [S.I. 1991/1072](#), [art. 2](#) Schedule Pt. I

Marginal Citations

M8 1971 c. 77.

M9 1984 c. 47.

Additional co-operation powers

VALID FROM 01/04/2003

7 Search etc. for material relevant to overseas investigation.

- (1) Part II of the ^{M10}Police and Criminal Evidence Act 1984 (powers of entry, search and seizure) shall have effect as if references to serious arrestable offences in section 8 of

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and Schedule 1 to that Act included any conduct which is an offence under the law of a country or territory outside the United Kingdom and would constitute a serious arrestable offence if it had occurred in any part of the United Kingdom.

- (2) If, on an application made by a constable, a justice of the peace is satisfied—
- (a) that criminal proceedings have been instituted against a person in a country or territory outside the United Kingdom or that a person has been arrested in the course of a criminal investigation carried on there;
 - (b) that the conduct constituting the offence which is the subject of the proceedings or investigation would constitute an arrestable offence within the meaning of the said Act of 1984 if it had occurred in any part of the United Kingdom; and
 - (c) that there are reasonable grounds for suspecting that there is on premises in the United Kingdom occupied or controlled by that person evidence relating to the offence other than items subject to legal privilege within the meaning of that Act,

he may issue a warrant authorising a constable to enter and search those premises and to seize any such evidence found there.

- (3) The power to search conferred by subsection (2) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence as is there mentioned.
- (4) No application for a warrant or order shall be made by virtue of subsection (1) or (2) above except in pursuance of a direction given by the Secretary of State in response to a request received—
- (a) from a court or tribunal exercising criminal jurisdiction in the overseas country or territory in question or a prosecuting authority in that country or territory; or
 - (b) from any other authority in that country or territory which appears to him to have the function of making requests for the purposes of this section;
- and any evidence seized by a constable by virtue of this section shall be furnished by him to the Secretary of State for transmission to that court, tribunal or authority.
- (5) If in order to comply with the request it is necessary for any such evidence to be accompanied by any certificate, affidavit or other verifying document the constable shall also furnish for transmission such document of that nature as may be specified in the direction given by the Secretary of State.
- (6) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.
- (7) The Treasury may by order direct that any powers which by virtue of this section are exercisable by a constable shall also be exercisable by, or by any person acting under the direction of, an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the ^{M11}Customs and Excise Management Act 1979; and the Secretary of State may by order direct that any of those powers shall also be exercisable by a person of any other description specified in the order.
- (8) An order under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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[^{F1}(8A) Subject to subsection (8B) below, the reference in subsection (4) above to evidence seized by a constable by virtue of this section shall be taken to include a reference to evidence seized by a constable by virtue of the exercise, in the course of a search authorised by a warrant issued by virtue of this section, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.

^{F1}(8B) Nothing in subsection (8A) above requires any evidence to be furnished to the Secretary of State—

- (a) before it has been found, on the completion of any examination required to be made by arrangements under subsection (2) of section 53 of the Criminal Justice and Police Act 2001, to be property which falls within subsection (3) of that section (property which may be retained after examination); or
- (b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force.]

(9) In the application of this section to Northern Ireland for references to the Police and Criminal Evidence Act 1984, to Part II and section 8 of and to Schedule 1 to that Act there shall be substituted references to the ^{M12}Police and Criminal Evidence (Northern Ireland) Order 1989, to Part III and Article 10 of and to Schedule 1 to that Order.

Subordinate Legislation Made

P2 [S. 7\(7\)](#): s. 7(7) (with s. 8(5)) power exercised by [S.I. 1991/1297](#)

Textual Amendments

F1 [S. 7\(8A\)\(8B\)](#) inserted (*prosp.*) by 2001 c. 16, ss. 70, 138(2), [Sch. 2 Pt. 2 para. 24](#)

Modifications etc. (not altering text)

C7 [S. 7\(2\)](#) extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2), [Sch. 1 Pt. 1 para. 49](#)

Commencement Information

I8 [S. 7](#) wholly in force; [s. 7\(7\)](#) in force for certain purposes at 23.4.1991, [s. 7](#) wholly in force at 10.6.1991. See [s. 32\(2\)](#) and [S.I. 1991/1072](#), arts. 2(a), 3, [Schedule Pt. I](#)

Marginal Citations

M10 [1984 c. 60](#).

M11 [1979 c. 2](#).

M12 [S.I. 1989/484 \(N.I. 12\)](#).

8 Search etc. for material relevant to overseas investigation: Scotland.

- (1) If, on an application made by the procurator fiscal, it appears to the sheriff—
- (a) that there are reasonable grounds for believing that an offence under the law of a country or territory outside the United Kingdom has been committed; and
 - (b) that the conduct constituting that offence would constitute an offence punishable by imprisonment if it had occurred in Scotland,

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the sheriff shall have the like power to grant warrant authorising entry, search and seizure by any constable as he would have at common law in respect of any offence punishable at common law in Scotland.

- (2) No application for a warrant shall be made by virtue of subsection (1) above except in pursuance of a direction given by the Lord Advocate in response to a request received by the Secretary of State—
- (a) from a court or tribunal exercising criminal jurisdiction in the overseas country or territory in question or a prosecuting authority in that country or territory; or
 - (b) from any other authority in that country or territory which appears to him to have the function of making requests for the purpose of this section,
- and any evidence seized by the constable by virtue of this section shall be furnished by him to the Lord Advocate for transmission to that court, tribunal or authority.
- (3) If in order to comply with the request it is necessary for any such evidence to be accompanied by any certificate, affidavit or other verifying document the constable shall also furnish for transmission such document of that nature as may be specified in the direction given by the Lord Advocate.
- (4) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.
- (5) The Treasury may by order direct that any powers to enter, search or seize granted by virtue of subsection (1) above which may be exercised by a constable shall also be exercisable by, or by any person acting under the direction of, an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the ^{M13}Customs and Excise Management Act 1979; and the Secretary of State may by order direct that any of those powers shall also be exercisable by a person of any other description specified in the order.
- (6) An order under subsection (5) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Subordinate Legislation Made

P3 S. 8(5): s. 7(7) (with s. 8(5) power exercised by [S.I.1991/1297](#))

Modifications etc. (not altering text)

C8 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), [art.2](#), [Sch. 1](#)

C9 S. 8(1) extended (*prosp.*) by [2001 c. 16](#), [ss. 50, 52-54, 68, 138\(2\)](#), [Sch. 1 Pt. 1 para. 49](#)

Commencement Information

I9 S. 8 wholly in force; s. 8(5) in force for certain purposes at 23.4.1991, s. 8 wholly in force at 10.6.1991. See s. 32(2) and [S.I. 1991/1072](#), [arts. 2\(a\), 3](#), [Schedule Pt. I](#)

Marginal Citations

M13 [1979 c. 2](#).

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9 Enforcement of overseas forfeiture orders.

- (1) Her Majesty may by Order in Council provide for the enforcement in the United Kingdom of any order which—
- (a) is made by a court in a country or territory outside the United Kingdom designated for the purposes of this section by the Order in Council; and
 - (b) is for the forfeiture and destruction, or the forfeiture and other disposal, of anything in respect of which an offence to which this section applies has been committed or which was used in connection with the commission of such an offence.

[^{F2}(1A) Without prejudice to the generality of subsection (1) above the provision that may be made by virtue of that subsection includes provision which, for the purpose of facilitating the enforcement of any order that may be made, has effect at times before there is an order to be enforced.]

- (2) Without prejudice to the generality of subsection (1) above an Order in Council under this section may provide for the registration by a court in the United Kingdom of any order as a condition of its enforcement and prescribe requirements to be satisfied before an order can be registered.
- (3) An Order in Council under this section may include such supplementary and incidental provisions as appear to Her Majesty to be necessary or expedient and may apply for the purposes of the Order (with such modifications as appear to Her Majesty to be appropriate) any provisions relating to confiscation or forfeiture orders under any other enactment.
- (4) An Order in Council under this section may make different provision for different cases.
- (5) No Order in Council shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (6) This section applies to any offence which corresponds to or is similar to an offence under the ^{M14}Misuse of Drugs Act 1971, a drug trafficking offence as defined in section 38(1) of the ^{M15}Drug Trafficking Offences Act 1986, an offence to which section 1 of the ^{M16}Criminal Justice (Scotland) Act 1987 relates or an offence to which Part VI of the ^{M17}Criminal Justice Act 1988 applies.

Textual Amendments

F2 S. 9(1A) inserted (retrospectively) by 1995 c. 11, ss. 14(3), 16(4)

Commencement Information

I10 S. 9 wholly in force; s. 9 in force for certain purposes at 23.4.1991, s. 9 wholly in force at 10.6.1991.
See s. 32(2) and S.I. 1991/1072, arts. 2(a), 3, Schedule Pt. I

Marginal Citations

M14 1971 c. 38.

M15 1986 c. 32.

M16 1987 c. 41.

M17 1988 c. 33.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Supplementary

10 Rules of court.

- (1) Provision may be made by rules of court for any purpose for which it appears to the authority having power to make the rules that it is necessary or expedient that provision should be made in connection with any of the provisions of this Part of this Act.
- (2) Rules made for the purposes of Schedule 1 to this Act may, in particular, make provision with respect to the persons entitled to appear or take part in the proceedings to which that Schedule applies and for excluding the public from any such proceedings.
- (3) An Order in Council under section 9 above may authorise the making of rules of court for any purpose specified in the Order.
- (4) Rules of court made under this section by the High Court in Scotland shall be made by Act of Adjournal.
- (5) This section is without prejudice to the generality of any existing power to make rules.

Subordinate Legislation Made

- P4** S. 10: S. 10 power exercised by [S.I.1991/1074](#)
S. 10: S. 10 power exercised by [S.I. 1991/1288](#)

Modifications etc. (not altering text)

- C10** Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), [art. 2](#), [Sch. 1](#)

Commencement Information

- I11** S. 10 wholly in force; s. 10 in force for certain purposes at 23.3.1991, s. 10 wholly in force at 10.6.1991. See s. 32(2) and [S.I. 1991/1072](#), [arts. 2\(a\)](#), [3](#), Schedule I.

11 Application to courts-martial etc.

- (1) Section 2 above applies also to a summons requiring a person charged with a civil offence to appear before a service court (whether or not in the United Kingdom) or to attend before such a court for the purpose of giving evidence in proceedings for such an offence; and a warrant may be issued under section 6 above where—
 - (a) such a summons has been issued in respect of a prisoner within the meaning of that section; or
 - (b) it appears to the Secretary of State that it is desirable for such a prisoner to be identified in, or otherwise by his presence to assist, such proceedings or the investigation of such an offence.
- (2) Section 5 above applies also to a person serving a sentence of detention imposed by a service court or detained in custody awaiting trial by such a court.
- (3) In this section “a civil offence” has the same meaning as in the ^{M18}Army Act ^{M19}1955, the Air Force Act 1955 and the ^{M20}Naval Discipline Act 1957 and “service court” means a court-martial constituted under any of those Acts or a Standing Civilian Court.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Commencement Information

I12 S. 11 wholly in force at 10.6.1991 see s. 32(2) and S.I. 1991/1072, art. 2 Schedule Pt. I

Marginal Citations

M18 1955 c. 18.

M19 1955 c. 19.

M20 1957 c. 53.

PART II

THE VIENNA CONVENTION

Commencement Information

I13 Part II partly in force for certain purposes at 23.4.1991 and wholly in force at 1.7.1991. See s. 32(2) and S.I. 1991/1072, arts. 2(b), 3, Schedule Pt. II

Substances useful for manufacture of controlled drugs

12 Manufacture and supply of scheduled substances.

- (1) It is an offence for a person—
 - (a) to manufacture a scheduled substance; or
 - (b) to supply such a substance to another person,
 knowing or suspecting that the substance is to be used in or for the unlawful production of a controlled drug.
- (2) A person guilty of an offence under subsection (1) above is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both.
- (3) In this section “a controlled drug” has the same meaning as in the ^{M21}Misuse of Drugs Act 1971 and “unlawful production of a controlled drug” means the production of such a drug which is unlawful by virtue of section 4(1)(a) of that Act.
- (4) In this section and elsewhere in this Part of this Act “a scheduled substance” means a substance for the time being specified in Schedule 2 to this Act.
- (5) Her Majesty may by Order in Council amend that Schedule (whether by addition, deletion or transfer from one Table to the other) but—
 - (a) no such Order shall add any substance to the Schedule unless—
 - (i) it appears to Her Majesty to be frequently used in or for the unlawful production of a controlled drug; or
 - (ii) it has been added to the Annex to the Vienna Convention under Article 12 of that Convention; and

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (b) no such Order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

C11 Ss. 1-6, 8-10, 12-16, 18-21, 24-30, 32, Schs. 1-3 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art.2, Sch. 1

Commencement Information

I14 S. 12 wholly in force; s. 12(5) in force for certain purposes at 23.4.1991, s. 12 wholly in force 1.7.1991. See s. 32(2) and S.I. 1991/1072, arts. 2(b), 3, Schedule Pt. II

Marginal Citations

M21 1971 c. 38.

13 Regulations about scheduled substances.

- (1) The Secretary of State may by regulations make provision—
- (a) imposing requirements as to the documentation of transactions involving scheduled substances;
 - (b) requiring the keeping of records and the furnishing of information with respect to such substances;
 - (c) for the inspection of records kept pursuant to the regulations;
 - (d) for the labelling of consignments of scheduled substances.
- (2) Regulations made by virtue of subsection (1)(b) may, in particular, require—
- (a) the notification of the proposed exportation of substances specified in Table I in Schedule 2 to this Act to such countries as may be specified in the regulations; and
 - (b) the production, in such circumstances as may be so specified, of evidence that the required notification has been given;
- and for the purposes of section 68 of the ^{M22}Customs and Excise Management Act 1979 (offences relating to exportation of prohibited or restricted goods) any such substance shall be deemed to be exported contrary to a restriction for the time being in force with respect to it under this Act if it is exported without the requisite notification having been given.
- (3) Regulations under this section may make different provision in relation to the substances specified in Table I and Table II in Schedule 2 to this Act respectively and in relation to different cases or circumstances.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any person who fails to comply with any requirement imposed by the regulations or, in purported compliance with any such requirement, furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) No information obtained pursuant to the regulations shall be disclosed except for the purposes of criminal proceedings or of proceedings under the provisions of the ^{M23}Drug Trafficking Offences Act 1986 or the ^{M24}Criminal Justice (Scotland) Act 1987 relating to the confiscation of the proceeds of drug trafficking or corresponding provisions in force in Northern Ireland.

Commencement Information

I15 S. 13 wholly in force; s. 13 in force for certain purposes at 23.4.1991 and wholly in force at 1.7.1991.
See s. 32(2) and S.I. 1991/1702, arts. 2(b) 3, Schedule Pt. II

Marginal Citations

M22 1979 c. 2.
M23 1986 c. 32.
M24 1987 c. 41.

Proceeds of drug trafficking

14 **Concealing or transferring proceeds of drug trafficking.** **U.K.**

- (1) A person is guilty of an offence if he—
 - (a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking; or
 - (b) converts or transfers that property or removes it from the jurisdiction, for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order.
- (2) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he—
 - (a) conceals or disguises that property; or
 - (b) converts or transfers that property or removes it from the jurisdiction, for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order.
- (3) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires that property for no, or for inadequate, consideration.
- (4) In subsections (1)(a) and (2)(a) above the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
- (5) For the purposes of subsection (3) above consideration given for any property is inadequate if its value is significantly less than the value of that property, and there shall not be treated as consideration the provision for any person of services or goods which are of assistance to him in drug trafficking.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both.

15 Interest on sums unpaid under confiscation orders.

- (1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid (whether forthwith on the making of the order or at a time specified under section 31(1) of the ^{M25}Powers of Criminal Courts Act 1973 or under section 396(1) of the ^{M26}Criminal Procedure (Scotland) Act 1975) that person shall be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.
- (2) The Crown Court or, in Scotland, the sheriff may, on the application of the prosecutor, increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the said Act of 1973 (imprisonment in default of payment) or under subsection (2) of section 396 of the said Act of 1975 (which makes similar provision for Scotland) if the effect of subsection (1) above is to increase the maximum period applicable in relation to the order under subsection (3A) of the said section 31 or under section 407(1A) of the said Act of 1975.
- (3) The rate of interest under subsection (1) above shall be that for the time being applying to a civil judgment debt under section 17 of the ^{M27}Judgments Act 1838 and in Scotland shall be the rate applicable to an award of damages in the Court of Session.

Marginal Citations

M25 1973 c. 62.

M26 1975 c. 21.

M27 1838 c. 110.

16 Increase in realisable property.

- (1) This section has effect where by virtue of section 4(3) of the ^{M28}Drug Trafficking Offences Act 1986 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.
- (2) If, on an application made in accordance with subsection (3) below, the High Court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.
- (3) An application under subsection (2) above may be made either by the prosecutor or by a receiver appointed under the said Act of 1986 in relation to the realisable property of the person in question.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (4) Where a certificate has been issued under subsection (2) above the prosecutor may apply to the Crown Court for an increase in the amount to be recovered under the confiscation order; and on that application the court may—
- (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
 - (b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 31 of the ^{M29}Powers of Criminal Courts Act 1973 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (3A) of that section.

Marginal Citations

M28 1986 c. 32.

M29 1973 c. 62.

17 Increase in realisable property: Scotland.

- (1) This section has effect where by virtue of section 1(1)(b) of the ^{M30}Criminal Justice (Scotland) Act 1987 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.
- (2) If, on an application made in accordance with subsection (3) below, the Court of Session is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.
- (3) An application under subsection (2) above may be made either by the prosecutor or by an administrator appointed under section 13(1) of the said Act of 1987 in relation to the realisable property of the person in question.
- (4) Where a certificate has been issued under subsection (2) above the prosecutor may apply to the High Court of Justiciary for an increase in the amount to be recovered under the confiscation order; and on that application the court may—
 - (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
 - (b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 396 of the ^{M31}Criminal Procedure (Scotland) Act 1975 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (1A) of section 407 of that Act.

Marginal Citations

M30 1987 c. 41.

M31 1975 c. 21.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Offences at sea

18 Offences on British ships.

Anything which would constitute a drug trafficking offence if done on land in any part of the United Kingdom shall constitute that offence if done on a British ship.

19 Ships used for illicit traffic.

- (1) This section applies to a British ship, a ship registered in a state other than the United Kingdom which is a party to the Vienna Convention (a “Convention state”) and a ship not registered in any country or territory.
- (2) A person is guilty of an offence if on a ship to which this section applies, wherever it may be, he—
 - (a) has a controlled drug in his possession; or
 - (b) is in any way knowingly concerned in the carrying or concealing of a controlled drug on the ship,
knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 3(1) of the ^{M32}Misuse of Drugs Act 1971 or the law of any state other than the United Kingdom.
- (3) A certificate purporting to be issued by or on behalf of the government of any state to the effect that the importation or export of a controlled drug is prohibited by the law of that state shall be evidence, and in Scotland sufficient evidence, of the matters stated.
- (4) A person guilty of an offence under this section is liable—
 - (a) in a case where the controlled drug is a Class A drug—
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for life or a fine or both;
 - (b) in a case where the controlled drug is a Class B drug—
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both;
 - (c) in a case where the controlled drug is a Class C drug—
 - (i) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.
- (5) In this section “a controlled drug” and the references to controlled drugs of a specified Class have the same meaning as in the said Act of 1971; and an offence under this section shall be included in the offences to which section 28 of that Act (defences) applies.

Marginal Citations

M32 1971 c. 38.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

20 Enforcement powers.

- (1) The powers conferred on an enforcement officer by Schedule 3 to this Act shall be exercisable in relation to any ship to which section 18 or 19 above applies for the purpose of detecting and the taking of appropriate action in respect of the offences mentioned in those sections.
- (2) Those powers shall not be exercised outside the landward limits of the territorial sea of the United Kingdom in relation to a ship registered in a Convention state except with the authority of the Secretary of State; and he shall not give his authority unless that state has in relation to that ship—
 - (a) requested the assistance of the United Kingdom for the purpose mentioned in subsection (1) above; or
 - (b) authorised the United Kingdom to act for that purpose.
- (3) In giving his authority pursuant to a request or authorisation from a Convention state the Secretary of State shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.
- (4) The Secretary of State may, either of his own motion or in response to a request from a Convention state, authorise a Convention state to exercise, in relation to a British ship, powers corresponding to those conferred on enforcement officers by Schedule 3 to this Act but subject to such conditions or limitations, if any, as he may impose.
- (5) Subsection (4) above is without prejudice to any agreement made, or which may be made, on behalf of the United Kingdom whereby the United Kingdom undertakes not to object to the exercise by any other state in relation to a British ship of powers corresponding to those conferred by that Schedule.
- (6) The powers conferred by that Schedule shall not be exercised in the territorial sea of any state other than the United Kingdom without the authority of the Secretary of State and he shall not give his authority unless that state has consented to the exercise of those powers.

21 Jurisdiction and prosecutions.

- (1) Proceedings under this Part of this Act or Schedule 3 in respect of an offence on a ship may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (2) No such proceedings shall be instituted—
 - (a) in England or Wales except by or with the consent of the Director of Public Prosecutions or the Commissioners of Customs and Excise;
 - (b) in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland or those Commissioners.
- (3) Without prejudice to subsection (2) above no proceedings for an offence under section 19 above alleged to have been committed outside the landward limits of the territorial sea of the United Kingdom on a ship registered in a Convention state shall be instituted except in pursuance of the exercise with the authority of the Secretary of State of the powers conferred by Schedule 3 to this Act; and section 3 of the ^{M33}Territorial Waters Jurisdiction Act 1878 (consent of Secretary of State for certain prosecutions) shall not apply to those proceedings.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Marginal Citations

M33 1878 c. 73.

Supplementary

22 Extradition.

- (1) The offences to which an Order in Council under section 2 of the ^{M34}Extradition Act 1870 can apply shall include drug trafficking offences.
- (2) In paragraph 15 of Schedule 1 to the ^{M35}Extradition Act 1989 (extradition offences treated as within jurisdiction of foreign states) after paragraph (i) there shall be inserted—
 - “(j) a drug trafficking offence within the meaning of the Drug Trafficking Offences Act 1986; or
 - (k) an offence to which section 1 of the Criminal Justice (Scotland) Act 1987 relates;”.
- (3) At the end of subsection (2) of section 22 of the said Act of 1989 (extradition offences under Conventions) there shall be inserted—
 - “(h) the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was signed in Vienna on 20th December 1988 (“the Vienna Convention”).”

and at the end of subsection (4) of that section there shall be inserted “and

- (h) in relation to the Vienna Convention—
 - (i) any drug trafficking offence within the meaning of the Drug Trafficking Offences Act 1986; and
 - (ii) an offence to which section 1 of the Criminal Justice (Scotland) Act 1987 relates;”.

Marginal Citations

M34 1870 c. 52.

M35 1989 c. 33.

23 Application of ancillary provisions of Misuse of Drugs Act 1971.

- (1) The ^{M36}Misuse of Drugs Act 1971 shall be amended as follows.
- (2) In section 12(1) (prohibition direction on practitioner etc. in consequence of conviction) after paragraph (b) there shall be inserted—
 - “(c) of an offence under section 12 or 13 of the Criminal Justice (International Co-operation) Act 1990;”.
- (3) In section 21 (offences by bodies corporate) after the words “any offence under this Act” there shall be inserted the words “or Part II of the Criminal Justice (International Co-operation) Act 1990”.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (4) In section 23 (power to search and obtain evidence) after subsection (3) there shall be inserted—

“(3A) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part II of the Criminal Justice (International Co-operation) Act 1990 and subsection (3) above (excluding paragraph (a)) shall apply also to offences under section 12 or 13 of that Act, taking references in those provisions to controlled drugs as references to scheduled substances within the meaning of that Part.”

Marginal Citations

M36 1971 c. 38.

VALID FROM 01/04/1994

[^{F3}23A Extension of certain offences to Crown servants and exemptions for regulators etc.

- (1) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, section 14(2) above shall apply to such persons in the public service of the Crown, or such categories of person in that service, as may be prescribed.
- (5) In this section—
“the Crown” includes the Crown in right of Her Majesty’s Government in Northern Ireland; and
“prescribed” means prescribed by regulations made by the Secretary of State.
- (6) The power to make regulations under this section shall be exercisable by statutory instrument.
- (7) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F3 S. 23A inserted (1.4.1994) by virtue of 1993 c. 36, s. 77, Sch. 4 paras. 1,5; S.I. 1994/700, arts. 2, 3(1),Sch. (s. 23A being the same section as inserted in 1986 c. 32 as s. 36B but with the substitution of certain words in subsection (1) and the omission of subsections (2) to (4)).

24 Interpretation of Part II.

- (1) In this Part of this Act—
“British ship” means a ship registered in the United Kingdom or a colony;
“Convention state” has the meaning given in section 19(1) above;
“scheduled substance” has the meaning given in section 12(4) above;
“ship” includes any vessel used in navigation;

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

“the territorial sea of the United Kingdom” includes the territorial sea adjacent to any of the Channel Islands, the Isle of Man or any colony;

“the Vienna Convention” means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was signed in Vienna on 20th December 1988.

- (2) Any expression used in this Part of this Act which is also used in the ^{M37}Drug Trafficking Offences Act 1986 has the same meaning as in that Act [^{F4}and, in section 22(1), “drug trafficking offences” includes drug trafficking offences within the meaning of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990].
- (3) In relation to Scotland, any expression used in this Part of this Act which is also used in the ^{M38}Criminal Justice (Scotland) Act 1987 has the same meaning as in that Act and “drug trafficking offence” means an offence to which section 1 of that Act relates.
- (4) If in any proceedings under this Part of this Act any question arises whether any country or territory is a state or is a party to the Vienna Convention, a certificate issued by or under the authority of the Secretary of State shall be conclusive evidence on that question.

Textual Amendments

F4 Words inserted (N.I.) (prosp.) by S.I. 1990/2588 (N.I. 17), arts. 1(2), 38(1), **Sch. 2 para. 8**

Marginal Citations

M37 1986 c. 32.

M38 1987 c. 41.

PART III

DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

Commencement Information

I16 Pt. III partly in force at 23.4.1991 see s. 32(2) and S.I. 1991/1072, **art. 3**
Part III wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, **art. 2**.

VALID FROM 23/09/1991

25 Seizure and detention.

- (1) A customs officer or constable may seize and, in accordance with this section, detain any cash which is being imported into or exported from the United Kingdom if its amount is not less than the prescribed sum and he has reasonable grounds for suspecting that it directly or indirectly represents any person’s proceeds of, or is intended by any person for use in, drug trafficking.
- (2) Cash seized by virtue of this section shall not be detained for more than forty-eight hours unless its continued detention is authorised by an order made by a justice of the

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

peace or in Scotland the sheriff; and no such order shall be made unless the justice or, as the case may be, the sheriff is satisfied—

- (a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and
 - (b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the United Kingdom or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.
- (3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order; and a magistrates' court or in Scotland the sheriff, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that—
- (a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and
 - (b) the total period of detention shall not exceed two years from the date of the order under subsection (2) above.
- (4) Any application for an order under subsection (2) or (3) above shall be made by the Commissioners of Customs and Excise or a constable if made to a justice or magistrates' court and by a procurator fiscal if made to the sheriff.
- (5) At any time while cash is detained by virtue of the foregoing provisions of this section—
- (a) a magistrates' court or in Scotland the sheriff may direct its release if satisfied—
 - (i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2) above; or
 - (ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and
 - (b) a customs officer or constable, or in Scotland a procurator fiscal, may release the cash if satisfied that its detention is no longer justified but shall first notify the justice, magistrates' court or sheriff under whose order it is being detained.
- (6) If at a time when any cash is being detained by virtue of the foregoing provisions of this section—
- (a) an application for its forfeiture is made under section 26 below; or
 - (b) proceedings are instituted (whether in the United Kingdom or elsewhere) against any person for an offence with which the cash is connected,
- the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

Modifications etc. (not altering text)

C12 S. 25 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Commencement Information

I17 S. 25 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

26 Forfeiture.

- (1) A magistrates' court or in Scotland the sheriff may order the forfeiture of any cash which has been seized under section 25 above if satisfied, on an application made while the cash is detained under that section, that the cash directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.
- (2) Any application under this section to a magistrates' court shall be made by the Commissioners of Customs and Excise or a constable and to the sheriff by a procurator fiscal.
- (3) The standard of proof in proceedings on an application under this section shall be that applicable to civil proceedings; and an order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

[^{F5}(4) Proceedings on an application under this section to the sheriff shall be civil proceedings.]

Textual Amendments

F5 S. 26(4) inserted (*prosp.*) by 1993 c. 36, ss. 25(3), 78(3) (with s. 25(6) and 78(6)) (which *prosp* insertion falls by reason of the repeal of 1993 c. 36 s. 25 by 1994 c. 37, ss. 67(1), 69(2), Sch. 3).

Modifications etc. (not altering text)

C13 S. 26 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1

Commencement Information

I18 S. 26 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2

[^{F6}26A Appeal against section 26 order.

- (1) This section applies where an order for the forfeiture of cash ("the forfeiture order") is made under section 26 above by a magistrates' court.
- (2) Any party to the proceedings in which the forfeiture order is made (other than the applicant for the order) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Crown Court or, in Northern Ireland, to a county court.
- (3) An appeal under this section shall be by way of a rehearing.
- (4) On an application made by the appellant to a magistrates' court at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.
- (5) The court hearing an appeal under this section may make such order as it considers appropriate.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (6) If it upholds the appeal, the court may order the release of the cash, or (as the case may be) the remaining cash, together with any accrued interest.
- (7) Section 26(3) applies in relation to a rehearing on an appeal under this section as it applies to proceedings under section 26.]

Textual Amendments

- F6** Ss. 26A and 26B inserted (*prosp.*) by 1993 c. 36, ss. 25(1), 78(3) (with ss. 25(6) and 78(6)) (which *prosp.* insertion falls by reason of the repeal of 1993 c. 36, s. 25 by 1994 c. 37ss. 67(1), 69(2), **Sch. 3**).

^{F7}26B Appeal against section 26 order: Scotland.

Any party to proceedings in which an order for the forfeiture of cash is made by the sheriff under section 26 above may appeal against the order to the Court of Session.

Textual Amendments

- F7** Ss. 26A and 26B inserted (*prosp.*) by 1993 c. 36, ss. 25(1), 78(3) (with ss. 25(6) and 78(6)) (which *prosp.* insertion falls by reason of the repeal of 1993 c. 36, s. 25 by 1994 c. 37ss. 67(1), 69(2), **Sch. 3**).

VALID FROM 23/09/1991

27 Interest.

Cash seized under this Part of this Act and detained for more than forty-eight hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

Modifications etc. (not altering text)

- C14** S. 27 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, **Sch. 1**.

Commencement Information

- I19** S. 27 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

28 Procedure.

- (1) An order under section 25(2) above shall provide for notice to be given to persons affected by the order.
- (2) Provision may be made by rules of court with respect to applications to any court under this Part of this Act, for the giving of notice of such applications to persons affected, for the joinder, or in Scotland sisting, of such persons as parties and generally with respect to the procedure under this Part of this Act before any court.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

- (3) Subsection (2) above is without prejudice to the generality of any existing power to make rules.

Modifications etc. (not altering text)

C15 S. 28 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, Sch. 1.

Commencement Information

I20 S. 28 partly in force; s. 28(2) in force for certain purposes at 23.4.1991. See s. 32(2) and S.I. 1991/1072, art. 3

S. 28 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, art. 2.

VALID FROM 23/09/1991

29 Interpretation of Part III.

- (1) In this Part of this Act—

“cash” includes coins and notes in any currency;

“customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the ^{M39}Customs and Excise Management Act 1979;

“drug trafficking” has the same meaning as in the ^{M40}Drug Trafficking Offences Act 1986 or, as respects Scotland, in Part I of the ^{M41}Criminal Justice (Scotland) Act 1987 [^{F8}or, as respects Northern Ireland, in the Criminal Justice (Confiscation) (Northern Ireland) Order 1990];

“exported”, in relation to any cash, includes its being brought to any place in the United Kingdom for the purpose of being exported;

“the proceeds of drug trafficking” has the same meaning as in the said Acts of 1986 and 1987 [^{F9}or in the said Order of 1990]respectively and includes proceeds received by any person before as well as after the coming into force of this Part of this Act.

- (2) In section 25 above “the prescribed sum” means such sum in sterling as may for the time being be prescribed for the purposes of that section by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and in determining under that section whether an amount of currency other than sterling is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.
- (3) For the avoidance of doubt it is hereby declared that notwithstanding sections 8 and 9 of the ^{M42}Isle of Man Act 1979 references in this Part of this Act to importation into or export from the United Kingdom include references to importation into the United Kingdom from the Isle of Man and exportation from the United Kingdom to the Isle of Man.

Subordinate Legislation Made

P5 S. 29(2): power exercised (05.08.1991) by S.I. 1991/1816.

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

Textual Amendments

- F8** Words added (N.I.) (1.7.1991) by S.I. 1990/2588 (N.I. 17), art. 38(1), **Sch. 2 para. 9(a)**; S.R. 1991/220 (N.I.), art. 2
- F9** Words inserted (N.I.) (1.7.1991) by S.I. 1990/2588 (N.I. 17), art. 38(1), **Sch. 2 para. 9(b)**; S.R. 1991/220 (N.I.), art. 2

Modifications etc. (not altering text)

- C16** S. 29 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, **Sch. 1**.

Commencement Information

- I21** S. 29 partly in force; s. 29(2) in force for certain purposes at 23.4.1991. See s. 32(2) and S.I. 1991/1072, **art. 3**
- S. 29 wholly in force at 23.09.1991 see s. 32(2) and S.I. 1991/2108, **art. 2**.

Marginal Citations

- M39** 1979 c. 2.
- M40** 1986 c. 32.
- M41** 1987 c. 41.
- M42** 1979 c. 58.

PART IV

GENERAL

Commencement Information

- I22** Pt. IV partly in force at 23.4.1991, 10.6.1991 and 1.7.1991 see s. 32(2) and S.I. 1991/1072, arts. 2, 3, **Schedule** Pts. I, II; Pt. IV wholly in force at 23.9.1991 see s.32(2) and S.I. 1991/2108, **art. 2**

30 Expenses and receipts.

- (1) Any expenses incurred by the Secretary of State under this Act shall be defrayed out of money provided by Parliament.
- (2) Any money representing cash forfeited under Part III of this Act or accrued interest thereon shall be paid into the Consolidated Fund.

Modifications etc. (not altering text)

- C17** S. 30 extended (with modifications) (to Anguilla) (14.7.1994) by S.I. 1994/1635, art. 2, **Sch. 1**.

Commencement Information

- I23** S. 30 wholly in force; s. 30(1) wholly in force at 10.6.1991. see s. 32(2) and S.I. 1991/1072, art. 2(a), **Schedule** Pt. I; s. 30(2) wholly in force at 23.9.1991. see s. 32(2) and S.I. 1991/2108, **art. 2**

Status: Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990. (See end of Document for details)

31 Consequential and other amendments, repeals and revocation.

- (1) The enactments and instruments mentioned in Schedule 4 to this Act shall have effect with the amendments there specified, being amendments consequential on or otherwise relating to the provisions of this Act.
- (2) For the avoidance of doubt it is hereby declared that the amendment by that Schedule of the definition of “drug trafficking offence” in section 38(1) of the ^{M43}Drug Trafficking Offences Act 1986 applies to that definition as applied by any other enactment, including this Act.
- (3) The enactments mentioned in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Article 9 of the ^{M44}Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 is hereby revoked.

Commencement Information

I24 [S. 31](#) wholly in force; [s. 31](#) in force for certain purposes at 10.6.1991 and wholly in force at 1.7.1991.
See [s. 32\(2\)](#) and [1991/1072](#), art. 2, Schedule Pts. I, II

Marginal Citations

M43 [1986 c. 32](#).

M44 [S.I. 1988/1847 \(N.I. 17\)](#).

32 Short title, commencement and extent.

- (1) This Act may be cited as the Criminal Justice (International Co-operation) Act 1990.
- (2) This Act shall come into force on such day as may be appointed by the Secretary of State by an order made by statutory instrument and different days may be appointed for different provisions and different purposes and for different parts of the United Kingdom.
- (3) This Act extends to Northern Ireland.
- (4) Her Majesty may by Order in Council direct that the provisions of this Act shall extend, with such exceptions and modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands, the Isle of Man or any colony.

Subordinate Legislation Made

P6 [s. 32](#): [S. 32\(2\)](#) power exercised by [S.I. 1991/1072](#)
[S. 32\(2\)](#): [s. 32\(2\)](#) power exercised (19.09.1991) by [S.I. 1991/2108](#).

Modifications etc. (not altering text)

C18 [S. 32](#) extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635](#), art. 2, [Sch. 1](#).

Commencement Information

I25 [S. 32](#) wholly in force; [s. 32\(4\)](#) in force for certain purposes at 23.4.1991, [s. 32](#) wholly in force at 10.6.1991. See [s. 32\(2\)](#) and [S.I. 1991/1072](#), arts. 2(a), 3, [Schedule Pt. I](#)

Status:

Point in time view as at 10/06/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990.