



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

^{F1}1 Service of overseas process in United Kingdom.

.....

Textual Amendments

- F1** Ss. 1-4 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), Sch. 5 para. 42, [Sch. 6](#); S.I. 2004/786, art. 3 (with savings in S.I. 2004/787, arts. 3, 4)

^{F1}2 Service of United Kingdom process overseas.

.....

Status: Point in time view as at 26/04/2004.

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

Textual Amendments

F1 Ss. 1-4 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 42, Sch. 6; S.I. 2004/786, art. 3](#) (with savings in [S.I. 2004/787, arts. 3, 4](#))

Mutual provision of evidence

F13 Overseas evidence for use in United Kingdom.

.....

Textual Amendments

F1 Ss. 1-4 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 42, Sch. 6; S.I. 2004/786, art. 3](#) (with savings in [S.I. 2004/787, arts. 3, 4](#))

F14 United Kingdom evidence for use overseas.

.....

Textual Amendments

F1 Ss. 1-4 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 42, Sch. 6; S.I. 2004/786, art. 3](#) (with savings in [S.I. 2004/787, arts. 3, 4](#))

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 ^{M1}Prison Act 1952 or the ^{M2}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
 - (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—

Status: Point in time view as at 26/04/2004.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (International Co-operation) Act 1990, Part 1. (See end of Document for details)

- (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.
- [^{F2}(3A) A warrant under this section has effect in spite of section 127(1) of the Army Act 1955, section 127(1) of the Air Force Act 1955 or section 82A(1) of the Naval Discipline Act 1957 (restriction on removing persons out of the United Kingdom who are serving military sentences).]
- (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 ^{M3}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 ^{M4}Hovercraft Act 1968 or one of Her Majesty’s hovercraft;
 - “British ship” means a British ship for the purposes of the [^{F3}Merchant Shipping Act 1995] 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 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.

Status: Point in time view as at 26/04/2004.

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

- (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 ^{M5}Prison Act (Northern Ireland) 1953.

Textual Amendments

- F2** S. 5(3A) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 43](#); [S.I. 2004/786, art. 3\(1\)\(2\)](#) (with savings in [S.I. 2004/787, art. 3](#))
- F3** Words in s. 5(7) substituted (1.1.1996) by [1995 c. 21 ss. 314\(2\), 316\(2\), Sch. 13 para.87](#) (with s. 312(1))

Modifications etc. (not altering text)

- C1** S. 5 extended (with modifications) (to Anguilla) (14.7.1994) by [S.I. 1994/1635, art. 2, Sch. 1](#)
- C2** S. 5(3A)-(8) applied (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), ss. 47\(9\), 94\(1\)](#); [S.I. 2004/786, art. 3\(1\)\(2\)](#)
- C3** S. 5(4)-(8) applied (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), ss. 48\(7\), 94\(1\)](#); [S.I. 2004/786, art. 3\(1\)\(2\)](#)

Commencement Information

- I2** 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

- M1** [1952 c. 52.](#)
- M2** [1989 c. 45.](#)
- M3** [1982 c. 16.](#)
- M4** [1968 c. 59.](#)
- M5** [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 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.

Status: Point in time view as at 26/04/2004.

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

- (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 ^{M6}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 ^{M7}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)

C4 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. 6 wholly in force at 10.6.1991 see s. 32(2) and [S.I. 1991/1072](#), [art. 2](#) Schedule Pt. I

Marginal Citations

M6 1971 c. 77.

M7 1984 c. 47.

Additional co-operation powers

F47 Search etc. for material relevant to overseas investigation.

Textual Amendments

F4 S. 7 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), [Sch. 5 para. 42](#), [Sch. 6](#); [S.I. 2004/786](#), [art. 3](#) (with savings in [S.I. 2004/787](#), arts. 3, 4)

Status: Point in time view as at 26/04/2004.

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

F⁵8 Search etc. for material relevant to overseas investigation: Scotland.

.....

Textual Amendments

F5 S. 8 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 42, Sch. 6](#); [S.I. 2004/786, art. 3](#) (with savings in [S.I. 2004/787, arts. 3, 4](#))

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 [^{F6}or intended for use] in connection with the commission of such an offence.

^{F7}[(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.

^{F8}(5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(6) This section applies to any offence which corresponds to or is similar to an offence under the ^{M8}Misuse of Drugs Act 1971, a drug trafficking offence as defined in [^{F9}section 1(3) of the Drug Trafficking Act 1994], [^{F10}an offence to which Part VI of the Criminal Justice Act 1988 applies or an offence to which Part I of the Proceeds of Crime (Scotland) Act 1995 applies or an offence in respect of which a suspended forfeiture order may be made under section 18 of the said Act of 1995].

Textual Amendments

F6 Words in s. 9(1)(b) inserted (1.12.1993) by [1993 c. 36, s. 21\(1\)](#) (with [s. 78\(6\)](#)); [S.I. 1993/2734, art. 2, Sch.](#)

F7 S. 9(1A) inserted (retrospectively) by [1995 c. 11, ss. 14\(3\), 16\(4\)](#)

Status: Point in time view as at 26/04/2004.

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

- F8** S. 9(5) substituted (1.12.1993) by 1993 c. 36, s. 21(2)(3)(h) (with s. 78(6)); S.I. 1993/2734, art. 2, **Sch.**
F9 Words in s. 9(6) substituted (3.2.1995) by 1994 c. 37, ss. 65(1), 69(2), **Sch. 1 para. 25**
F10 Words in s. 9(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 76(2)**.

Modifications etc. (not altering text)

- C5** 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. 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

- M8** 1971 c. 38.

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

- P1** 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)

- 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

- I5** 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**.

^{F11}11 Application to courts-martial etc.

.....

Status: Point in time view as at 26/04/2004.

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

Textual Amendments

- F11** S. 11 repealed (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), Sch. 5 para. 42, [Sch. 6](#); [S.I. 2004/786](#), art. 3 (with savings in [S.I. 2004/787](#), arts. 3, 4)

Status:

Point in time view as at 26/04/2004.

Changes to legislation:

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