



Criminal Justice (International Co-operation) Act 1990

1990 CHAPTER 5

PART I

CRIMINAL PROCEEDINGS AND INVESTIGATIONS

Additional co-operation powers

7 Search etc. for material relevant to overseas investigation

- (1) Part II of the 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 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.

Status: This is the original version (as it was originally enacted).

- (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 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.
- (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 Police and Criminal Evidence (Northern Ireland) Order 1989, to Part III and Article 10 of and to Schedule 1 to that Order.

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,
- 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 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.

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.
- (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.

Status: This is the original version (as it was originally enacted).

- (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 Misuse of Drugs Act 1971, a drug trafficking offence as defined in section 38(1) of the Drug Trafficking Offences Act 1986, an offence to which section 1 of the Criminal Justice (Scotland) Act 1987 relates or an offence to which Part VI of the Criminal Justice Act 1988 applies.