

SCHEDULES

SCHEDULE 1

Section 4(6).

UNITED KINGDOM EVIDENCE FOR USE OVERSEAS: PROCEEDINGS OF NOMINATED COURT

Securing attendance of witnesses

- 1 The court shall have the like powers for securing the attendance of a witness for the purpose of the proceedings as it has for the purpose of other proceedings before the court.
- 2 In Scotland the court shall have power to issue a warrant to officers of law to cite witnesses for the purpose of the proceedings and section 320 of the Criminal Procedure (Scotland) Act 1975 shall apply in relation to such a witness.

Power to administer oaths

- 3 The court may in the proceedings take evidence on oath.

Privilege of witnesses

- 4 (1) A person shall not be compelled to give in the proceedings any evidence which he could not be compelled to give—
 - (a) in criminal proceedings in the part of the United Kingdom in which the nominated court exercises jurisdiction; or
 - (b) subject to sub-paragraph (2) below, in criminal proceedings in the country or territory from which the request for the evidence has come.
- (2) Sub-paragraph (1)(b) above shall not apply unless the claim of the person questioned to be exempt from giving the evidence is conceded by the court, tribunal or authority which made the request.
- (3) Where such a claim made by any person is not conceded as aforesaid he may (subject to the other provisions of this paragraph) be required to give the evidence to which the claim relates but the evidence shall not be transmitted to the court, tribunal or authority which requested it if a court in the country or territory in question, on the matter being referred to it, upholds the claim.
- (4) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence if his doing so would be prejudicial to the security of the United Kingdom; and a certificate signed by or on behalf of the Secretary of State or, where the court is in Scotland, by or on behalf of the Lord Advocate to the effect that it would be so prejudicial for that person to do so shall be conclusive evidence of that fact.
- (5) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence in his capacity as an officer or servant of the Crown.

- (6) In this paragraph references to giving evidence include references to answering any question and to producing any document or other article and the reference in subparagraph (3) above to the transmission of evidence given by a person shall be construed accordingly.

Transmission of evidence

- 5 (1) The evidence received by the court shall be furnished to the Secretary of State or, in Scotland, the Lord Advocate for transmission to the court, tribunal or authority that made the request.
- (2) If in order to comply with the request it is necessary for the evidence to be accompanied by any certificate, affidavit or other verifying document, the court shall also furnish for transmission such document of that nature as may be specified in the notice nominating the court.
- (3) 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.

Supplementary

- 6 For the avoidance of doubt it is hereby declared that the Bankers Books' Evidence Act 1879 applies to the proceedings as it applies to other proceedings before the court.
- 7 No order for costs shall be made in the proceedings.