



Criminal Justice (International Co-operation) Act 1990

1990 CHAPTER 5

PART I

CRIMINAL PROCEEDINGS AND INVESTIGATIONS

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—

Status: This is the original version (as it was originally enacted).

- (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.
- (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 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 Criminal Justice Act 1988 there shall be substituted a reference to Article 5 of the Criminal Justice (Evidence, Etc.)(Northern Ireland) Order 1988.