

CRIME (INTERNATIONAL CO-OPERATION) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Mutual Assistance in Criminal Matters

Chapter 2: Mutual Provision of Evidence

Section 16: Extension of statutory search powers

61. Subsection (1) replicates section 7(1) of the 1990 Act, which it replaces. Subsection (3) applies the provision to Northern Ireland. As with the provision in the 1990 Act, the section enables the appropriate authorities in England, Wales and Northern Ireland to apply for and execute a search warrant or a production order in response to an overseas request, in the same circumstances as would be possible in relation to a domestic case – (that is when the conduct in question would be a serious arrestable offence if committed here).
62. Subsection (2)(b) provides that such a search warrant or production order may also be applied for and executed without an overseas request if the constable who makes the application is a member of an international joint investigation team (as defined in subsection (5)). Subsection (4)(b) provides similarly for Northern Ireland. These provisions implement Article 13(7) of the MLAC which contemplates investigative measures being undertaken without such a request by seconded members of a joint investigation team in relation to the team's investigations overseas. The constable making the application for the warrant or order would have personal knowledge of the joint investigation as he would in making such an application in a domestic investigation.