



# Crime (International Co-operation) Act 2003

## 2003 CHAPTER 32

### PART 1

#### MUTUAL ASSISTANCE IN CRIMINAL MATTERS

#### CHAPTER 2

#### MUTUAL PROVISION OF EVIDENCE

#### *Assistance in obtaining evidence abroad*

### **7 Requests for assistance in obtaining evidence abroad**

- (1) If it appears to a judicial authority in the United Kingdom on an application made by a person mentioned in subsection (3)—
  - (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,the judicial authority may request assistance under this section.
- (2) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom any evidence specified in the request for use in the proceedings or investigation.
- (3) The application may be made—
  - (a) in relation to England and Wales and Northern Ireland, by a prosecuting authority,
  - (b) in relation to Scotland, by the Lord Advocate or a procurator fiscal,

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- (c) where proceedings have been instituted, by the person charged in those proceedings.
- (4) The judicial authorities are—
  - (a) in relation to England and Wales, any judge or justice of the peace,
  - (b) in relation to Scotland, any judge of the High Court or sheriff,
  - (c) in relation to Northern Ireland, any judge or resident magistrate.
- (5) In relation to England and Wales or Northern Ireland, a designated prosecuting authority may itself request assistance under this section if—
  - (a) it appears to the authority that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed, and
  - (b) the authority has instituted proceedings in respect of the offence in question or it is being investigated.

“Designated” means designated by an order made by the Secretary of State.
- (6) In relation to Scotland, the Lord Advocate or a procurator fiscal may himself request assistance under this section if it appears to him—
  - (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.
- (7) If a request for assistance under this section is made in reliance on Article 2 of the 2001 Protocol (requests for information on banking transactions) in connection with the investigation of an offence, the request must state the grounds on which the person making the request considers the evidence specified in it to be relevant for the purposes of the investigation.

#### **Commencement Information**

**II** S. 7 in force at 26.4.2004 by S.I. 2004/786, art. 3

## **8 Sending requests for assistance**

- (1) A request for assistance under section 7 may be sent—
  - (a) to a court exercising jurisdiction in the place where the evidence is situated, or
  - (b) to any authority recognised by the government of the country in question as the appropriate authority for receiving requests of that kind.
- (2) Alternatively, if it is a request by a judicial authority or a designated prosecuting authority it may be sent to the Secretary of State (in Scotland, the Lord Advocate) for forwarding to a court or authority mentioned in subsection (1).
- (3) In cases of urgency, a request for assistance may be sent to—
  - (a) the International Criminal Police Organisation, or
  - (b) any body or person competent to receive it under any provisions adopted under the Treaty on European Union,

for forwarding to any court or authority mentioned in subsection (1).

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#### Modifications etc. (not altering text)

- C1** S. 8 applied by 1995 c. 46, s. 194IA(4) (as inserted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 105**, 206(1); S.S.I. 2010/413, art. 2, Sch.)

#### Commencement Information

- I2** S. 8 in force at 26.4.2004 by [S.I. 2004/786](#), **art. 3**

## 9 Use of evidence obtained

- (1) This section applies to evidence obtained pursuant to a request for assistance under section 7.
- (2) The evidence may not without the consent of the appropriate overseas authority be used for any purpose other than that specified in the request.
- (3) When the evidence is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it must be returned to the appropriate overseas authority, unless that authority indicates that it need not be returned.
- (4) In exercising the discretion conferred by <sup>F1</sup>... [<sup>F2</sup>Article 5 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/ 1847 (N.I. 17))] (exclusion of evidence otherwise admissible) in relation to a statement contained in the evidence, the court must 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 obtained.
- (5) In Scotland, the evidence may be received in evidence without being sworn to by witnesses, so far as that may be done without unfairness to either party.
- (6) In this section, the appropriate overseas authority means the authority recognised by the government of the country in question as the appropriate authority for receiving requests of the kind in question.

#### Textual Amendments

- F1** Words in s. 9(4) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 6**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 44(3)** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))
- F2** Words in s. 9(4) repealed (N.I.) (3.4.2006) by [The Criminal Justice \(Evidence\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1501\)](#), art. 1(3), **Sch. 2** (with art. 43); [S.R. 2006/63](#), art. 2

#### Modifications etc. (not altering text)

- C2** S. 9(2) applied by 1995 c. 46, s. 194IA(5) (as inserted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 105**, 206(1); S.S.I. 2010/413, art. 2, Sch.)
- C3** S. 9(3) applied by 1995 c. 46, s. 194IA(5) (as inserted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 105**, 206(1); S.S.I. 2010/413, art. 2, Sch.)

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**C4** S. 9(6) applied by 1995 c. 46, s. 194IA(5) (as inserted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 105, 206\(1\); S.S.I. 2010/413, art. 2, Sch.](#))

**Commencement Information**

**I3** S. 9 in force at 26.4.2004 by [S.I. 2004/786, art. 3](#)

## 10 Domestic freezing orders

- (1) If it appears to a judicial authority in the United Kingdom, on an application made by a person mentioned in subsection (4)—
  - (a) that proceedings in respect of a listed offence have been instituted or such an offence is being investigated,
  - (b) that there are reasonable grounds to believe that there is evidence in a participating country which satisfies the requirements of subsection (3), and
  - (c) that a request has been made, or will be made, under section 7 for the evidence to be sent to the authority making the request,
 the judicial authority may make a domestic freezing order in respect of the evidence.
- (2) A domestic freezing order is an order for protecting evidence which is in the participating country pending its transfer to the United Kingdom.
- (3) The requirements are that the evidence—
  - (a) is on premises specified in the application in the participating country,
  - (b) is likely to be of substantial value (whether by itself or together with other evidence) to the proceedings or investigation,
  - (c) is likely to be admissible in evidence at a trial for the offence, and
  - (d) does not consist of or include items subject to legal privilege.
- (4) The application may be made—
  - (a) in relation to England and Wales and Northern Ireland, by a constable,
  - (b) in relation to Scotland, by the Lord Advocate or a procurator fiscal.
- (5) The judicial authorities are—
  - (a) in relation to England and Wales, any judge or justice of the peace,
  - (b) in relation to Scotland, any judge of the High Court or sheriff,
  - (c) in relation to Northern Ireland, any judge or resident magistrate.
- (6) This section does not prejudice the generality of the power to make a request for assistance under section 7.

**Commencement Information**

**I4** S. 10 in force at 19.10.2009 by [S.I. 2009/2605, art. 2\(a\)](#)

## 11 Sending freezing orders

- (1) A domestic freezing order made in England and Wales or Northern Ireland is to be sent to the Secretary of State for forwarding to—
  - (a) a court exercising jurisdiction in the place where the evidence is situated, or

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- (b) any authority recognised by the government of the country in question as the appropriate authority for receiving orders of that kind.
- (2) A domestic freezing order made in Scotland is to be sent to the Lord Advocate for forwarding to such a court or authority.
- (3) The judicial authority is to send the order to the Secretary of State or the Lord Advocate before the end of the period of 14 days beginning with its being made.
- (4) The order must be accompanied by a certificate giving the specified information and, unless the certificate indicates when the judicial authority expects such a request to be made, by a request under section 7 for the evidence to be sent to the authority making the request.
- (5) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).
- (6) The certificate must be signed by or on behalf of the judicial authority who made the order and must include a statement as to the accuracy of the information given in it.
- The signature may be an electronic signature.

**Commencement Information**

**I5** S. 11 in force at 19.10.2009 by S.I. 2009/2605, art. 2(a)

**12 Variation or revocation of freezing orders**

- (1) The judicial authority that made a domestic freezing order may vary or revoke it on an application by a person mentioned below.
- (2) The persons are—
- (a) the person who applied for the order,
  - (b) in relation to England and Wales and Northern Ireland, a prosecuting authority,
  - (c) in relation to Scotland, the Lord Advocate,
  - (d) any other person affected by the order.

**Commencement Information**

**I6** S. 12 in force at 19.10.2009 by S.I. 2009/2605, art. 2(a)

*Assisting overseas authorities to obtain evidence in the UK*

**13 Requests for assistance from overseas authorities**

- (1) Where a request for assistance in obtaining evidence in a part of the United Kingdom is received by the territorial authority for that part, the authority may—
- (a) if the conditions in section 14 are met, arrange for the evidence to be obtained under section 15, or
  - (b) direct that a search warrant be applied for under or by virtue of section 16 or 17 or, in relation to evidence in Scotland, 18.

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- (2) The request for assistance may be made only by—
- (a) a court exercising criminal jurisdiction, or a prosecuting authority, in a country outside the United Kingdom,
  - (b) any other authority in such a country which appears to the territorial authority to have the function of making such requests for assistance,
  - (c) any international authority mentioned in subsection (3).
- (3) The international authorities are—
- (a) the International Criminal Police Organisation,
  - (b) any other body or person competent to make a request of the kind to which this section applies under any provisions adopted under the Treaty on European Union.

**Modifications etc. (not altering text)**

- C5** S. 13 functions of Secretary of State made exercisable by the Commissioners (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), arts. 1(1), [arts. 3-5](#)

**Commencement Information**

- I7** S. 13 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

**14 Powers to arrange for evidence to be obtained**

- (1) The territorial authority may arrange for evidence to be obtained under section 15 if the request for assistance in obtaining the evidence is made in connection with—
- (a) criminal proceedings or a criminal investigation, being carried on outside the United Kingdom,
  - (b) administrative proceedings, or an investigation into an act punishable in such proceedings, being carried on there,
  - (c) clemency proceedings, or proceedings on an appeal before a court against a decision in administrative proceedings, being carried on, or intended to be carried on, there.
- (2) In a case within subsection (1)(a) or (b), the authority may arrange for the evidence to be so obtained only if the authority is satisfied—
- (a) that an offence under the law of the country in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed, and
  - (b) that proceedings in respect of the offence have been instituted in that country or that an investigation into the offence is being carried on there.
- An offence includes an act punishable in administrative proceedings.
- (3) The territorial authority is to regard as conclusive a certificate as to the matters mentioned in subsection (2)(a) and (b) issued by any authority in the country in question which appears to him to be the appropriate authority to do so.
- (4) If it appears to the territorial authority that the request for assistance relates to a fiscal offence in respect of which proceedings have not yet been instituted, the authority may not arrange for the evidence to be so obtained unless—

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- (a) the request is from a country which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party, or
- (b) the authority is satisfied that if the conduct constituting the offence were to occur in a part of the United Kingdom, it would constitute an offence in that part.

**Modifications etc. (not altering text)**

**C6** S. 14 functions of Secretary of State made exercisable by the Commissioners (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), arts. 1(1), 3

**Commencement Information**

**I8** S. 14 in force at 26.4.2004 by [S.I. 2004/786](#), art. 3

## 15 Nominating a court etc. to receive evidence

- (1) Where the evidence is in England and Wales or Northern Ireland, the Secretary of State may by a notice nominate a court to receive any evidence to which the request relates which appears to the court to be appropriate for the purpose of giving effect to the request.
- (2) But if it appears to the Secretary of State that the request relates to an offence involving serious or complex fraud, he may refer the request (or any part of it) to the Director of the Serious Fraud Office for the Director to obtain any evidence to which the request or part relates which appears to him to be appropriate for the purpose of giving effect to the request or part.
- (3) Where the evidence is in Scotland, the Lord Advocate may by a notice nominate a court to receive any evidence to which the request relates which appears to the court to be appropriate for the purpose of giving effect to the request.
- (4) But if it appears to the Lord Advocate that the request relates to an offence involving serious or complex fraud, he may give a direction under section 27 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (directions applying investigatory provisions).
- (5) Schedule 1 is to have effect in relation to proceedings before a court nominated under this section.

**Modifications etc. (not altering text)**

**C7** S. 15 functions of Secretary of State made exercisable by the Commissioners (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), arts. 1(1), 3, 6

**Commencement Information**

**I9** S. 15 in force at 26.4.2004 by [S.I. 2004/786](#), art. 3

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## 16 Extension of statutory search powers in England and Wales and Northern Ireland

- (1) Part 2 of the Police and Criminal Evidence Act 1984 (c. 60) (powers of entry, search and seizure) is to have effect as if references to [F3 indictable offences ] in section 8 of, and Schedule 1 to, that Act included any conduct which—
- (a) constitutes an offence under the law of a country outside the United Kingdom, and
  - (b) would, if it occurred in England and Wales, constitute [F4 an indictable offence ].
- (2) But an application for a warrant or order by virtue of subsection (1) may be made only—
- (a) in pursuance of a direction given under section 13, or
  - (b) if it is an application for a warrant or order under section 8 of, or Schedule 1 to, that Act by a constable for the purposes of an investigation by an international joint investigation team of which he is a member.
- (3) Part 3 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (powers of entry, search and seizure) is to have effect as if references to [F5 serious arrestable offences ][F5 indictable offences ] in Article 10 of, and Schedule 1 to, that Order included any conduct which—
- (a) constitutes an offence under the law of a country outside the United Kingdom, and
  - (b) would, if it occurred in Northern Ireland, constitute [F6 a serious arrestable offence ][F6 an indictable offence ].
- (4) But an application for a warrant or order by virtue of subsection (3) may be made only—
- (a) in pursuance of a direction given under section 13, or
  - (b) if it is an application for a warrant or order under Article 10 of, or Schedule 1 to, that Order, by a constable for the purposes of an investigation by an international joint investigation team of which he is a member.
- (5) In this section, “international joint investigation team” has the meaning given by section 88(7) of the Police Act 1996 (c. 16).

### Textual Amendments

- F3** Words in s. 16(1) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 7 para. 51\(2\)\(a\)](#); S.I. 2005/3495, art. 2(1)(m)
- F4** Words in s. 16(1)(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 7 para. 51\(2\)\(b\)](#); S.I. 2005/3495, art. 2(1)(m)
- F5** Words in s. 16(3) substituted (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\)](#), art. 1(2), [Sch. 1 para. 37\(1\)\(a\)](#)
- F6** Words in s. 16(3)(b) substituted (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\)](#), art. 1(2), [Sch. 1 para. 37\(1\)\(b\)](#)

### Modifications etc. (not altering text)

- C8** S. 16 functions of a constable made exercisable by a customs officer (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), arts. 1(1), 9, 12



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#### Commencement Information

**I10** S. 16 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

### 17 Warrants in England and Wales or Northern Ireland

- (1) A justice of the peace may issue a warrant under this section if he is satisfied, on an application made by a constable, that the following conditions are met.
- (2) But an application for a warrant under subsection (1) may be made only in pursuance of a direction given under section 13.
- (3) The conditions are that—
  - (a) criminal proceedings have been instituted against a person in a country outside the United Kingdom or a person has been arrested in the course of a criminal investigation carried on there,
  - [<sup>F7</sup>(b)** the conduct constituting the offence which is the subject of the proceedings or investigation would (if it occurred in England and Wales **[<sup>F8</sup> or Northern Ireland ]**) constitute an indictable offence, **[<sup>F8</sup> or (if it occurred in Northern Ireland) constitute an arrestable offence]**, and ]
  - (c) there are reasonable grounds for suspecting that there is on premises in England and Wales or (as the case may be) Northern Ireland occupied or controlled by that person evidence relating to the offence.  
**[<sup>F9</sup> “ Arrestable offence ” has the same meaning as in <sup>F10</sup> ... the Police and Criminal Evidence (Northern Ireland) Order 1989 ( S.I. 1989/ 1341 (N.I.12)). ]**
- (4) A warrant under this section may authorise a constable—
  - (a) to enter the premises in question and search the premises to the extent reasonably required for the purpose of discovering any evidence relating to the offence,
  - (b) to seize and retain any evidence for which he is authorised to search.

#### Textual Amendments

- F7** S. 17(3)(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 7 para. 51\(3\)\(a\)](#); [S.I. 2005/3495](#), art. 2(1)(m)
- F8** Words in s. 17(3)(b) inserted (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\)](#), art. 1(2), [Sch. 1 para. 37\(2\)\(a\)](#)
- F9** Words in s. 17 omitted (N.I.) (1.3.2007) by virtue of [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\)](#), art. 1(2), [Sch. 1 para. 37\(2\)\(b\)](#)
- F10** Words in s. 17(3) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8)(8), [Sch. 7 para. 51\(3\)\(b\)](#), [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(1)(m)(u)

#### Modifications etc. (not altering text)

- C9** S. 17 functions of a constable made exercisable by a customs officer (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), arts. 1(1), [10](#), [12](#)

#### Commencement Information

**I11** S. 17 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

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## 18 Warrants in Scotland

- (1) If, on an application made by the procurator fiscal, it appears to the sheriff—
- (a) that there are reasonable grounds for suspecting that an offence under the law of a country outside the United Kingdom has been committed, and
  - (b) that the conduct constituting the offence would, if it occurred in Scotland, constitute an offence punishable by imprisonment,
- the sheriff has the like power to grant warrant authorising entry, search and seizure by any constable or customs officer as he has under section 134 of the Criminal Procedure (Scotland) Act 1995 (c. 46) in respect of any offence punishable at common law in Scotland.
- (2) But an application for a warrant by virtue of subsection (1) may be made only—
- (a) in pursuance of a direction given under section 13, or
  - (b) if it is an application made at the request of an international joint investigation team for the purposes of their investigation.

“International joint investigation team” has the meaning given by section 39(6) of the Police (Scotland) Act 1967 (c. 77).

### Commencement Information

**I12** S. 18 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

## 19 Seized evidence

- (1) Any evidence seized by a constable under or by virtue of section 16, 17 or 18 is to be sent to the court or authority which made the request for assistance or to the territorial authority for forwarding to that court or authority.
- (2) So far as may be necessary in order to comply with the request for assistance—
- (a) where the evidence consists of a document, the original or a copy is to be sent, and
  - (b) where the evidence consists of any other article, the article itself or a description, photograph or other representation of it is to be sent.
- (3) This section does not apply to evidence seized under or by virtue of section 16(2)(b) or (4)(b) or 18(2)(b).

### Modifications etc. (not altering text)

**C10** S. 19 functions of Secretary of State made exercisable by the Commissioners (E.W.N.I.) (23.3.2005) by [Crime \(International Co-operation\) Act 2003 \(Exercise of Functions\) Order 2005 \(S.I. 2005/425\)](#), [arts. 1\(1\), 3, 7, 11, 12](#)

### Commencement Information

**I13** S. 19 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

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### *Overseas freezing orders*

## **20 Overseas freezing orders**

- (1) Section 21 applies where an overseas freezing order made by a court or authority in a participating country is received from the court or authority which made or confirmed the order by the territorial authority for the part of the United Kingdom in which the evidence to which the order relates is situated.
- (2) An overseas freezing order is an order—
  - (a) for protecting, pending its transfer to the participating country, evidence which is in the United Kingdom and may be used in any proceedings or investigation in the participating country, and
  - (b) in respect of which the following requirements of this section are met.
- (3) The order must have been made by—
  - (a) a court exercising criminal jurisdiction in the country,
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the territorial authority to have the function of making such orders.
- (4) The order must relate to—
  - (a) criminal proceedings instituted in the participating country in respect of a listed offence, or
  - (b) a criminal investigation being carried on there into such an offence.
- (5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the territorial authority has the information in question.
- (6) The certificate must—
  - (a) be signed by or on behalf of the court or authority which made or confirmed the order,
  - (b) include a statement as to the accuracy of the information given in it,
  - (c) if it is not in English, include a translation of it into English (or, if appropriate, Welsh).

The signature may be an electronic signature.
- (7) The order must be accompanied by a request for the evidence to be sent to a court or authority mentioned in section 13(2), unless the certificate indicates when such a request is expected to be made.
- (8) References below in this Chapter to an overseas freezing order include its accompanying certificate.

#### **Commencement Information**

**I14** S. 20 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

*Status: Point in time view as at 13/12/2010.*

*Changes to legislation: Crime (International Co-operation) Act 2003, Chapter 2 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 21 Considering the order

- (1) In relation to England and Wales and Northern Ireland, where this section applies the Secretary of State must—
  - (a) by a notice nominate a court in England and Wales or (as the case may be) Northern Ireland to give effect to the overseas freezing order,
  - (b) send a copy of the overseas freezing order to the nominated court and to the chief officer of police for the area in which the evidence is situated,
  - (c) tell the chief officer which court has been nominated.
- (2) In relation to Scotland, where this section applies the Lord Advocate must—
  - (a) by a notice nominate a sheriff to give effect to the overseas freezing order,
  - (b) send a copy of the overseas freezing order to the sheriff and to the procurator fiscal.

In relation to Scotland, references below in this section and in sections 22 to 25 to the nominated court are to be read as references to the nominated sheriff.
- (3) The nominated court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.
- (4) Before giving effect to the overseas freezing order, the nominated court must give the chief officer of police or (as the case may be) the procurator fiscal an opportunity to be heard.
- (5) The court may decide not to give effect to the overseas freezing order only if, in its opinion, one of the following conditions is met.
- (6) The first condition is that, if the person whose conduct is in question were charged in the participating country with the offence to which the overseas freezing order relates or in the United Kingdom with a corresponding offence, he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (7) The second condition is that giving effect to the overseas freezing order would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).

### Commencement Information

**I15** S. 21 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

## 22 Giving effect to the order

- (1) The nominated court is to give effect to the overseas freezing order by issuing a warrant authorising a constable—
  - (a) to enter the premises to which the overseas freezing order relates and search the premises to the extent reasonably required for the purpose of discovering any evidence to which the order relates, and
  - (b) to seize and retain any evidence for which he is authorised to search.
- (2) But, in relation to England and Wales and Northern Ireland, so far as the overseas freezing order relates to excluded material or special procedure material the court is to give effect to the order by making a production order.

*Status: Point in time view as at 13/12/2010.*

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- (3) A production order is an order for the person who appears to the court to be in possession of the material to produce it to a constable before the end of the period of seven days beginning with the date of the production order or such longer period as the production order may specify.
- (4) The constable may take away any material produced to him under a production order; and the material is to be treated for the purposes of section 21 of the Police and Criminal Evidence Act 1984 (c. 60) or (as the case may be) Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/ 1341 (N.I.12)) (access and copying) as if it had been seized by the constable.
- (5) If a person fails to comply with a production order, the court may (whether or not it deals with the matter as a contempt of court) issue a warrant under subsection (1) in respect of the material to which the production order relates.
- (6) Section 409 of the Proceeds of Crime Act 2002 (c. 29) (jurisdiction of sheriff) has effect for the purposes of subsection (1) as if that subsection were included in Chapter 3 of Part 8 of that Act.

**Commencement Information**

**I16** S. 22 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

**23 Postponed effect**

The nominated court may postpone giving effect to an overseas freezing order in respect of any evidence—

- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
- (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the evidence may not be removed from the United Kingdom.

**Commencement Information**

**I17** S. 23 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

**24 Evidence seized under the order**

- (1) Any evidence seized by or produced to the constable under section 22 is to be retained by him until he is given a notice under subsection (2) or authorised to release it under section 25.
- (2) If—
  - (a) the overseas freezing order was accompanied by a request for the evidence to be sent to a court or authority mentioned in section 13(2), or
  - (b) the territorial authority subsequently receives such a request,the territorial authority may by notice require the constable to send the evidence to the court or authority that made the request.

*Status: Point in time view as at 13/12/2010.*

*Changes to legislation: Crime (International Co-operation) Act 2003, Chapter 2 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I18** S. 24 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

## 25 Release of evidence held under the order

- (1) On an application made by a person mentioned below, the nominated court may authorise the release of any evidence retained by a constable under section 24 if, in its opinion—
  - (a) the condition in section 21(6) or (7) is met, or
  - (b) the overseas freezing order has ceased to have effect in the participating country.
- (2) In relation to England and Wales and Northern Ireland, the persons are—
  - (a) the chief officer of police to whom a copy of the order was sent,
  - (b) the constable,
  - (c) any other person affected by the order.
- (3) In relation to Scotland, the persons are—
  - (a) the procurator fiscal to whom a copy of the order was sent,
  - (b) any other person affected by the order.
- (4) If the territorial authority decides not to give a notice under section 24(2) in respect of any evidence retained by a constable under that section, the authority must give the constable a notice authorising him to release the evidence.

#### Commencement Information

**I19** S. 25 in force at 19.10.2009 by S.I. 2009/2605, art. 2(b)

### General

## 26 Powers under warrants

- (1) A court in England and Wales or Northern Ireland, or a justice of the peace, may not issue a warrant under section 17 or 22 in respect of any evidence unless the court or justice has reasonable grounds for believing that it does not consist of or include items subject to legal privilege, excluded material or special procedure material.
- (2) Subsection (1) does not prevent a warrant being issued by virtue of section 22(5) in respect of excluded material or special procedure material.
- (3) In Schedule 1 to the Criminal Justice and Police Act 2001 (c. 16) (powers of seizure), in Part 1 (powers to which the additional powers in section 50 apply)—
  - (a) paragraph 49 is omitted,
  - (b) after paragraph 73B there is inserted—

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### 73C “Crime (International Co-operation) Act 2003

The power of seizure conferred by sections 17 and 22 of the Crime (International Co-operation) Act 2003 (seizure of evidence relevant to overseas investigation or offence).”

- (4) References in this Chapter to evidence seized by a person by virtue of or under any provision of this Chapter include evidence seized by a person by virtue of section 50 of the Criminal Justice and Police Act 2001 (additional powers of seizure), if it is seized in the course of a search authorised by a warrant issued by virtue of or under the provision in question.
- (5) Subsection (4) does not require any evidence to be sent to the territorial authority or to any court or authority—
  - (a) before it has been found, on the completion of any examination required to be made by arrangements under section 53(2) of the Criminal Justice and Police Act 2001, to be property within subsection (3) of that section (property which may be retained after examination), or
  - (b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force.

#### Commencement Information

**I20** S. 26 in force at 26.4.2004 by S.I. 2004/786, art. 3

## 27 Exercise of powers by others

- (1) The Treasury may by order provide, in relation to England and Wales or Northern Ireland—
  - (a) for any function conferred on the Secretary of State (whether or not in terms) under sections 10, 11 and 13 to 26 to be exercisable instead in prescribed circumstances by the [F11 Commissioners for Revenue and Customs ],
  - (b) for any function conferred on a constable under those sections to be exercisable instead in prescribed circumstances by [F12 an officer of Revenue and Customs ] or a person acting under the direction of such an officer.  
“Prescribed” means prescribed by the order.
- (2) The Secretary of State may by order provide, in relation to England and Wales or Northern Ireland—
  - (a) for any function conferred on him under sections 13 to 26 to be exercisable instead in prescribed circumstances by a prescribed person,
  - (b) for any function conferred on a constable under those sections to be exercisable instead in prescribed circumstances by a prescribed person.  
“Prescribed” means prescribed by the order.
- (3) Subsection (2)(b) does not apply to any powers exercisable by virtue of section 16(2) (b) or (4)(b).

*Status: Point in time view as at 13/12/2010.*

*Changes to legislation: Crime (International Co-operation) Act 2003, Chapter 2 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F11** Words in s. 27(1)(a) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 97\(1\)\(a\), 153\(7\); S.I. 2008/1586, art. 2\(1\), Sch. 1 para. 41](#)
- F12** Words in s. 27(1)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 97\(1\)\(b\), 153\(7\); S.I. 2008/1586, art. 2\(1\), Sch. 1 para. 41](#)

#### Modifications etc. (not altering text)

- C11** S. 27 restricted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 2 para. 14; S.I. 2005/1126, art. 2\(2\)\(d\)](#)

#### Commencement Information

- I21** S. 27 in force at 26.4.2004 by [S.I. 2004/786, art. 3](#)

## 28 Interpretation of Chapter 2

- (1) In this Chapter—
- “domestic freezing order” has the meaning given by section 10(2),
  - “notice” means a notice in writing,
  - “overseas freezing order” has the meaning given by section 20,
  - “premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60), Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (c. 29) or the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (as the case may be),
  - “the relevant Framework Decision” means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.
- (2) The following provisions have effect for the purposes of this Chapter.
- (3) In relation to England and Wales and Northern Ireland, “items subject to legal privilege”, “excluded material” and “special procedure material” have the same meaning as in the Police and Criminal Evidence Act 1984 or (as the case may be) the Police and Criminal Evidence (Northern Ireland) Order 1989.
- (4) In relation to Scotland, “items subject to legal privilege” has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002.
- (5) A listed offence means—
- (a) an offence described in Article 3(2) of the relevant Framework Decision, or
  - (b) an offence prescribed or of a description prescribed by an order made by the Secretary of State.
- (6) An order prescribing an offence or a description of offences under subsection (5) (b) may require, in the case of an overseas freezing order, that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.
- (7) Specified information, in relation to a certificate required by section 11(4) or 20(5), means—
- (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or



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- (b) any information prescribed by an order made by the Secretary of State.
- (8) In relation to Scotland, references above in this section to the Secretary of State are to be read as references to the Scottish Ministers.
- (9) The territorial authority—
  - (a) in relation to evidence in England and Wales or Northern Ireland, is the Secretary of State,
  - (b) in relation to evidence in Scotland, is the Lord Advocate.

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**Commencement Information**

**I22** S. 28 in force at 26.4.2004 by S.I. 2004/786, art. 3

**Status:**

Point in time view as at 13/12/2010.

**Changes to legislation:**

Crime (International Co-operation) Act 2003, Chapter 2 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.