



Crime (International Co- operation) Act 2003

2003 CHAPTER 32

PART 1

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

CHAPTER 1

MUTUAL SERVICE OF PROCESS ETC.

Service of overseas process in the UK

1 Service of overseas process

- (1) The power conferred by subsection (3) is exercisable where the Secretary of State receives any process or other document to which this section applies from the government of, or other authority in, a country outside the United Kingdom, together with a request for the process or document to be served on a person in the United Kingdom.
- (2) This section applies—
 - (a) to any process issued or made in that country for the purposes of criminal proceedings,
 - (b) to any document issued or made by an administrative authority in that country in administrative proceedings,
 - (c) to any process issued or made for the purposes of any proceedings on an appeal before a court in that country against a decision in administrative proceedings,
 - (d) to any document issued or made by an authority in that country for the purposes of clemency proceedings.

Status: This is the original version (as it was originally enacted).

- (3) The Secretary of State may cause the process or document to be served by post or, if the request is for personal service, direct the chief officer of police for the area in which that person appears to be to cause it to be personally served on him.
- (4) In relation to any process or document to be served in Scotland, references in this section to the Secretary of State are to be read as references to the Lord Advocate.

2 Service of overseas process: supplementary

- (1) Subsections (2) and (3) apply to any process served in a part of the United Kingdom by virtue of section 1 requiring a person to appear as a party or attend as a witness.
- (2) No obligation under the law of that part to comply with the process is imposed by virtue of its service.
- (3) The process must be accompanied by a notice—
 - (a) stating the effect of subsection (2),
 - (b) indicating that the person on whom it is served may wish to seek advice as to the possible consequences of his failing to comply with the process under the law of the country where it was issued or made, and
 - (c) indicating that under that law he may not be accorded the same rights and privileges as a party or as a witness as would be accorded to him in proceedings in the part of the United Kingdom in which the process is served.
- (4) Where a chief officer of police causes any process or document to be served under section 1, he must at once—
 - (a) tell the Secretary of State (or, as the case may be, the Lord Advocate) when and how it was served, and
 - (b) (if possible) provide him with a receipt signed by the person on whom it was served.
- (5) Where the chief officer of police is unable to cause any process or document to be served as directed, he must at once inform the Secretary of State (or, as the case may be, the Lord Advocate) of that fact and of the reason.

Service of UK process abroad

3 General requirements for service of process

- (1) This section applies to any process issued or made for the purposes of criminal proceedings by a court in England and Wales or Northern Ireland.
- (2) The process may be issued or made in spite of the fact that the person on whom it is to be served is outside the United Kingdom.
- (3) Where the process is to be served outside the United Kingdom and the person at whose request it is issued or made believes that the person on whom it is to be served does not understand English, he must—
 - (a) inform the court of that fact, and
 - (b) provide the court with a copy of the process, or of so much of it as is material, translated into an appropriate language.

- (4) Process served outside the United Kingdom requiring a person to appear as a party or attend as a witness—
 - (a) must not include notice of a penalty,
 - (b) must be accompanied by a notice giving any information required to be given by rules of court.
- (5) If process requiring a person to appear as a party or attend as a witness is served outside the United Kingdom, no obligation to comply with the process under the law of the part of the United Kingdom in which the process is issued or made is imposed by virtue of the service.
- (6) Accordingly, failure to comply with the process does not constitute contempt of court and is not a ground for issuing a warrant to secure the attendance of the person in question.
- (7) But the process may subsequently be served on the person in question in the United Kingdom (with the usual consequences for non-compliance).

4 Service of process otherwise than by post

- (1) Process to which section 3 applies may, instead of being served by post, be served on a person outside the United Kingdom in accordance with arrangements made by the Secretary of State.
- (2) But where the person is in a participating country, the process may be served in accordance with those arrangements only if one of the following conditions is met.
- (3) The conditions are—
 - (a) that the correct address of the person is unknown,
 - (b) that it has not been possible to serve the process by post,
 - (c) that there are good reasons for thinking that service by post will not be effective or is inappropriate.

5 General requirements for effecting Scottish citation etc.

- (1) This section applies to any citation for the purposes of criminal proceedings in Scotland and to any document issued there for such purposes by the prosecutor or by the court.
- (2) The citation may proceed or document be issued in spite of the fact that the person against whom it is to be effected or on whom it is to be served is outside the United Kingdom.
- (3) Where—
 - (a) citation or issue is by the prosecutor,
 - (b) the citation is to be effected or the document issued is to be served outside the United Kingdom, and
 - (c) the prosecutor believes that the person against whom it is to be effected or on whom it is to be served does not understand English,the citation or document must be accompanied by a translation of it (or, in the case of a document, by a translation of so much of it as is material) in an appropriate language.
- (4) Where—

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- (a) citation or issue is by the court,
- (b) the citation is to be effected or the document issued is to be served outside the United Kingdom, and
- (c) the person at whose request that is to happen believes that the person against whom it is to be effected or on whom it is to be served does not understand English,

he must inform the court of that fact, and provide the court with a copy of the citation or document (or, in the case of a document, so much of it as is material) translated into an appropriate language.

- (5) A citation effected outside the United Kingdom—
 - (a) must not include notice of a penalty,
 - (b) must be accompanied by a notice giving any information required to be given by rules of court.
- (6) If a citation is effected outside the United Kingdom, no obligation under the law of Scotland to comply with the citation is imposed by virtue of its being so effected.
- (7) Accordingly, failure to comply with the citation does not constitute contempt of court and is not a ground for issuing a warrant to secure the attendance of the person in question or for imposing any penalty.
- (8) But the citation may subsequently be effected against the person in question in the United Kingdom (with the usual consequences for non-compliance).

6 Effecting Scottish citation etc. otherwise than by post

- (1) A citation or document to which section 5 applies may, instead of being effected or served by post, be effected against or served on a person outside the United Kingdom in accordance with arrangements made by the Lord Advocate.
- (2) But where the person is in a participating country, the citation may be effected or document served in accordance with those arrangements only if one of the following conditions is met.
- (3) The conditions are—
 - (a) that the correct address of the person is unknown,
 - (b) that it has not been possible to effect the citation or serve the document by post,
 - (c) that there are good reasons for thinking that citation or (as the case may be) service by post will not be effective or is inappropriate.