



Crime (International Co-operation) Act 2003

2003 CHAPTER 32

PART 4

MISCELLANEOUS

Cross-border surveillance

83 Foreign surveillance operations

After section 76 of the Regulation of Investigatory Powers Act 2000 (c. 23) there is inserted—

“76A Foreign surveillance operations

- (1) This section applies where—
 - (a) a foreign police or customs officer is carrying out relevant surveillance outside the United Kingdom which is lawful under the law of the country or territory in which it is being carried out;
 - (b) circumstances arise by virtue of which the surveillance can for the time being be carried out only in the United Kingdom; and
 - (c) it is not reasonably practicable in those circumstances for a United Kingdom officer to carry out the surveillance in the United Kingdom in accordance with an authorisation under Part 2 or the Regulation of Investigatory Powers (Scotland) Act 2000.
- (2) “Relevant surveillance” means surveillance which—
 - (a) is carried out in relation to a person who is suspected of having committed a relevant crime; and
 - (b) is, for the purposes of Part 2, directed surveillance or intrusive surveillance.

Changes to legislation: *Crime (International Co-operation) Act 2003, Cross Heading: Cross-border surveillance is up to date with all changes known to be in force on or before 21 April 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) View outstanding changes*

- (3) “Relevant crime” means crime which—
- (a) falls within Article 40(7) of the Schengen Convention; or
 - (b) is crime for the purposes of any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.
- (4) Relevant surveillance carried out by the foreign police or customs officer in the United Kingdom during the permitted period is to be lawful for all purposes if—
- (a) the condition mentioned in subsection (6) is satisfied;
 - (b) the officer carries out the surveillance only in places to which members of the public have or are permitted to have access, whether on payment or otherwise; and
 - (c) conditions specified in any order made by the Secretary of State with the consent of the Scottish Ministers are satisfied in relation to its carrying out;
- but no surveillance is lawful by virtue of this subsection if the officer subsequently seeks to stop and question the person in the United Kingdom in relation to the relevant crime.
- (5) The officer is not to be subject to any civil liability in respect of any conduct of his which is incidental to any surveillance that is lawful by virtue of subsection (4).
- (6) The condition in this subsection is satisfied if, immediately after the officer enters the United Kingdom—
- (a) he notifies a person designated by the Director General of the National Criminal Intelligence Service of that fact; and
 - (b) (if the officer has not done so before) he requests an application to be made for an authorisation under Part 2, or the Regulation of Investigatory Powers (Scotland) Act 2000, for the carrying out of the surveillance.
- (7) “The permitted period” means the period of five hours beginning with the time when the officer enters the United Kingdom.
- (8) But a person designated by an order made by the Secretary of State may notify the officer that the surveillance is to cease being lawful by virtue of subsection (4) when he gives the notification.
- (9) The Secretary of State is not to make an order under subsection (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) In this section references to a foreign police or customs officer are to a police or customs officer who, in relation to a country or territory other than the United Kingdom, is an officer for the purposes of—
- (a) Article 40 of the Schengen Convention; or
 - (b) any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.

Changes to legislation: Crime (International Co-operation) Act 2003, Cross Heading: Cross-border surveillance is up to date with all changes known to be in force on or before 21 April 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) [View outstanding changes](#)

- (11) In this section—
- “the Schengen Convention” means the Convention implementing the Schengen Agreement of 14th June 1985;
- “United Kingdom officer” means—
- (a) a member of a police force;
 - (b) a member of the National Criminal Intelligence Service;
 - (c) a member of the National Crime Squad or of the Scottish Crime Squad (within the meaning of the Regulation of Investigatory Powers (Scotland) Act 2000);
 - (d) a customs officer.”

Commencement Information

- I1** S. 83 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

84 Assaults on foreign officers

- (1) For the purposes of section 89 of the Police Act 1996 (c. 16) (assaults on constables) any person who is carrying out surveillance in England and Wales under section 76A of the Regulation of Investigatory Powers Act 2000 (c. 23) is to be treated as if he were acting as a constable in the execution of his duty.
- (2) For the purposes of [^{F1} section 90 of the Police and Fire Reform (Scotland) Act 2012] (assaults on constables) any person who is carrying out surveillance in Scotland under section 76A of that Act of 2000 is to be [^{F2} treated as if he were acting in the capacity of a constable].
- (3) For the purposes of section 66 of the Police (Northern Ireland) Act 1998 (c. 32) (assaults on constables) any person who is carrying out surveillance in Northern Ireland under section 76A of that Act of 2000 is to be so treated.

Textual Amendments

- F1** Words in s. 84(2) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012](#) ([Consequential Provisions and Modifications](#)) Order 2013 (S.I. 2013/602), art. 1(2), [Sch. 2 para. 42\(4\)](#) [\(a\)](#)
- F2** Words in s. 84(2) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012](#) ([Consequential Provisions and Modifications](#)) Order 2013 (S.I. 2013/602), art. 1(2), [Sch. 2 para. 42\(4\)](#) [\(b\)](#)

Commencement Information

- I2** S. 84 in force at 26.4.2004 by [S.I. 2004/786](#), [art. 3](#)

^{F3}**85 Liability in respect of foreign officers**

.....

Changes to legislation: Crime (International Co-operation) Act 2003, Cross Heading: Cross-border surveillance is up to date with all changes known to be in force on or before 21 April 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) [View outstanding changes](#)

Textual Amendments

- F3** S. 85 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8)(8), [Sch. 4 para. 191](#), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(pp)

Changes to legislation:

Crime (International Co-operation) Act 2003, Cross Heading: Cross-border surveillance is up to date with all changes known to be in force on or before 21 April 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A4B inserted by [2003 c. 44 Sch. 36 para. 16](#)