



Crime (International Co- operation) Act 2003

2003 CHAPTER 32

PART 4

MISCELLANEOUS

Information

80 Disclosure of information by SFO

In section 3 of the Criminal Justice Act 1987 (c. 38) (disclosure of information)—

- (a) in subsection (5), for paragraph (c) there is substituted—
 - “(c) for the purposes of any criminal investigation or criminal proceedings, whether in the United Kingdom or elsewhere”,
- (b) at the end of subsection (6) there is inserted—
 - “(n) any person or body having, under the Treaty on European Union or any other treaty to which the United Kingdom is a party, the function of receiving information of the kind in question,
 - (o) any person or body having, under the law of any country or territory outside the United Kingdom, the function of receiving information relating to the proceeds of crime”,

and the “and” preceding paragraph (m) is omitted.

81 Inspection of overseas information systems

After section 54 of the Data Protection Act 1998 (c. 29) there is inserted—

“54A Inspection of overseas information systems

- (1) The Commissioner may inspect any personal data recorded in—

Status: This is the original version (as it was originally enacted).

- (a) the Schengen information system,
 - (b) the Europol information system,
 - (c) the Customs information system.
- (2) The power conferred by subsection (1) is exercisable only for the purpose of assessing whether or not any processing of the data has been or is being carried out in compliance with this Act.
- (3) The power includes power to inspect, operate and test equipment which is used for the processing of personal data.
- (4) Before exercising the power, the Commissioner must give notice in writing of his intention to do so to the data controller.
- (5) But subsection (4) does not apply if the Commissioner considers that the case is one of urgency.
- (6) Any person who—
- (a) intentionally obstructs a person exercising the power conferred by subsection (1), or
 - (b) fails without reasonable excuse to give any person exercising the power any assistance he may reasonably require,
- is guilty of an offence.
- (7) In this section—
- “the Customs information system” means the information system established under Chapter II of the Convention on the Use of Information Technology for Customs Purposes,
 - “the Europol information system” means the information system established under Title II of the Convention on the Establishment of a European Police Office,
 - “the Schengen information system” means the information system established under Title IV of the Convention implementing the Schengen Agreement of 14th June 1985, or any system established in its place in pursuance of any Community obligation.”

82 Driver licensing information

Information held in any form—

- (a) by the Secretary of State under Part 3 of the Road Traffic Act 1988 (c. 52), or
- (b) by the Department of the Environment under Part 2 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/ 154 (N.I.1)),

(licensing of drivers of vehicles) may be disclosed for the purposes of the Schengen information system (within the meaning of section 81).

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.
- (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.
- (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.”

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 section 41 of the Police (Scotland) Act 1967 (c. 77) (assaults on constables) any person who is carrying out surveillance in Scotland under section 76A of that Act of 2000 is to be so treated.
- (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.

85 Liability in respect of foreign officers

- (1) Section 42 of the Police Act 1997 (liability of Director General of NCIS for wrongful acts of constables etc.) is amended as follows.
- (2) After subsection (5A) there is inserted—

“(5AA) This section shall have effect where a person is carrying out surveillance under section 76A of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations) as if—

- (a) any unlawful conduct by that person in the course of carrying out the surveillance were unlawful conduct of a constable in the performance of his functions under the direction and control of the Director General of NCIS; and
- (b) subsection (4) applied to the person carrying out the surveillance.”

(3) Where—

- (a) a sum is paid by virtue of this section out of the NCIS service fund, and
 - (b) the Secretary of State receives under any international agreement a sum by way of reimbursement (in whole or in part) of the sum paid out of that fund,
- he must pay into that fund the sum received by him by way of reimbursement.

Extradition

86 Schengen-building provisions of the 1996 Extradition Convention

- (1) This section applies where a state is a party to the 1996 Extradition Convention, but only in respect of particular provisions (“the relevant provisions”).
- (2) The 1996 Extradition Convention is the Convention drawn up on the basis of Article K.3 of the Treaty on European Union relating to Extradition between the Member States of the European Union and opened for signature on 27th September 1996.
- (3) Her Majesty may by Order in Council provide that the Extradition Act 1989 (c. 33) is to apply, subject to specified modifications, between—
 - (a) the United Kingdom, and
 - (b) the state,as if the relevant provisions were general extradition arrangements (within the meaning of that Act) made between the United Kingdom and the state.
- (4) “Specified” means specified in the Order in Council.
- (5) A statutory instrument containing the Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The Order in Council may include supplementary, incidental, saving or transitional provisions.

87 States in relation to which 1995 and 1996 Extradition Conventions not in force

- (1) Her Majesty may by Order in Council provide that Schedule 1A to the Extradition Act 1989 is to apply in relation to a specified state as if—
 - (a) the state were a party to the 1995 Convention and a party to the 1996 Convention (within the meaning of that Act), and
 - (b) the state had made a declaration under a specified provision of either Convention.
- (2) “Specified” means specified in the Order in Council.

- (3) A statutory instrument containing the Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The Order in Council may include supplementary, incidental, saving or transitional provisions.

False monetary instruments

88 False monetary instruments: England and Wales and Northern Ireland

- (1) Section 5 of the Forgery and Counterfeiting Act 1981 (c. 45) (offences relating to money orders, share certificates, passports, etc.) is amended as follows.
- (2) In subsection (5)—
 - (a) in paragraph (g), at the end there is inserted “and other bills of exchange”,
 - (b) after paragraph (h) there is inserted—
 - “(ha) bankers' drafts;
 - (hb) promissory notes;”,
 - (c) after paragraph (j) there is inserted—
 - “(ja) debit cards;”.
- (3) After subsection (6) there is inserted—
 - “(7) An instrument is also an instrument to which this section applies if it is a monetary instrument specified for the purposes of this section by an order made by the Secretary of State.
 - (8) The power under subsection (7) above is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

89 False monetary instruments: Scotland

After section 46 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) there is inserted—

“False monetary instruments

46A False monetary instruments

- (1) A person who counterfeits or falsifies a specified monetary instrument with the intention that it be uttered as genuine is guilty of an offence.
- (2) A person who has in his custody or under his control, without lawful authority or excuse—
 - (a) anything which is, and which he knows or believes to be, a counterfeited or falsified specified monetary instrument; or
 - (b) any machine, implement or computer programme, or any paper or other material, which to his knowledge is specially designed or adapted for the making of a specified monetary instrument,
 is guilty of an offence.

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- (3) For the purposes of subsections (1) and (2)(a) above, it is immaterial that the specified monetary instrument (or purported specified monetary instrument) is not in a fit state to be uttered or that the counterfeiting or falsifying of it has not been finished or perfected.
- (4) A person guilty of an offence under this section is liable on summary conviction—
- (a) to a fine not exceeding the statutory maximum;
 - (b) to imprisonment for a term not exceeding six months; or
 - (c) both to a fine and to such imprisonment.
- (5) A person guilty of an offence—
- (a) under subsection (1) above is liable on conviction on indictment—
 - (i) to a fine;
 - (ii) to imprisonment for a term not exceeding ten years; or
 - (iii) both to a fine and to such imprisonment;
 - (b) under subsection (2) above is liable on conviction on indictment—
 - (i) to a fine;
 - (ii) if it is proved that the offence was committed with the intention that the specified monetary instrument in question be uttered (or as the case may be that a specified monetary instrument be uttered), to imprisonment for a term not exceeding ten years and if it is not so proved, to imprisonment for a term not exceeding two years; or
 - (iii) both to a fine and to imprisonment for a term not exceeding ten years, if it is proved as mentioned in sub-paragraph (ii) above, or both to a fine and to imprisonment for a term not exceeding two years if it is not so proved.
- (6) Where an offence under this section which has been committed—
- (a) by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body; or
 - (b) by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a member of that partnership,
- or by any person who was purporting to act in any such capacity, he as well as the body corporate, or as the case may be the partnership, is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (7) Where the affairs of a body corporate are managed by its members, subsection (6) above applies in relation to the actings and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (8) In subsections (1) to (5) above, “specified” means for the time being specified for the purposes of this section, by order made by the Scottish Ministers.
- (9) The power to make an order under subsection (8) above—
- (a) includes power to make such incidental, supplemental, transitional or transitory provision as the Scottish Ministers think necessary or expedient; and

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(b) is exercisable by statutory instrument.

(10) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.”

Freezing of terrorist property

90 Freezing of terrorist property

Schedule 4 is to have effect.