

SCHEDULES

SCHEDULE 3

Regulation 4

Consequential amendments

PART 1

Amendments to Acts

Amendment of the Criminal Justice Act 1987

1.—(1) In section 2 of the Criminal Justice Act 1987 (powers of the Director of the Serious Fraud Office)(1)—

(a) in subsection (1A), for paragraph (b) substitute—

“(b) the Secretary of State, acting—

(i) under section 15(2) of the Crime (International Co-operation) Act 2003, in response to a request received from a person mentioned in section 13(2) of that Act, or

(ii) under regulation 51 of the Criminal Justice (European Investigation Order) Regulations 2017, on a referral under that regulation of a European investigation order issued by an authority in a participating State (within the meaning of Part 3 of those Regulations).”;

(b) for subsection (18) substitute—

“(18) In this section—

“documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“evidence”, in relation to subsections (1B), (8A) and (8C) above, includes documents and other articles;

“overseas authority” means a person mentioned in subsection (1A)(b)(i) or an authority mentioned in subsection (1A)(b)(ii).”.

Amendment of the Criminal Justice Act 1988

2. In Schedule 13 to the Criminal Justice Act 1988(2), in paragraph 6 (letters of request etc.)(3), in sub-paragraph (1), after “2003” insert “, and no order shall be made or validated under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017.”.

(1) 1987 c. 38; section 2 was amended by section 143 of the Criminal Justice Act 1988 (c. 33), by section 164(2) of the Criminal Justice and Public Order Act 1994 (c. 33) and by paragraph 12 of Schedule 5 to the Crime (International Co-operation) Act 2003.

(2) 1988 c. 33.

(3) Paragraph 6 of Schedule 13 was amended by paragraph 16 of Schedule 5 to the Crime (International Co-operation) Act 2003.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of the Criminal Procedure (Scotland) Act 1995

3.—(1) The Criminal Procedure (Scotland) Act 1995(4) is amended as follows.

(2) In section 210 (consideration of time spent in custody), in paragraph (c) of subsection (1), after “section 47(1) of the Crime (International Co-operation) Act 2003”, insert “ or regulation 20 or 54 of the Criminal Justice (European Investigation Order) Regulations 2017”.

(3) In section 267A (citation of witnesses for precognition), after subsection (1) insert—

“(1A) Subsection (1) extends to citation for precognition by the prosecutor where a European investigation order having effect by virtue of Part 3 of the Criminal Justice (European Investigation Order) Regulations 2017 contains a request for a person in Scotland to be heard under regulations 35 to 37 of those Regulations.”.

(4) In section 272 (evidence by letter of request or on commission)(5), after subsection (13) insert—

“(14) This section does not apply to a witness who or evidence that is the subject of a European investigation order made under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017.”.

(5) In section 273 (television link evidence from abroad)(6), after subsection (4) insert—

“(5) This section does not apply to a witness who or evidence that is the subject of a European investigation order made under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017.”.

Amendment of the Criminal Law (Consolidation) (Scotland) Act 1995

4.—(1) The Criminal Law (Consolidation) Scotland Act 1995(7) is amended as follows.

(2) In subsection (2) of section 27 of the Criminal Law (Consolidation) (Scotland) Act 1995 (Lord Advocate’s direction)(8), for the words from “under this section” to the end, substitute

““under this section—

- (a) by virtue of section 15(4) of the Crime (International Co-operation) Act 2003,
- (b) by virtue of regulation 52 of the Criminal Justice (European Investigation Order) Regulations 2017, or
- (c) on a request made by the Attorney-General of the Isle of Man, Jersey or Guernsey acting under legislation corresponding to this Part of this Act.”.

Amendment of the Regulation of Investigatory Powers Act 2000

5.—(1) The Regulation of Investigatory Powers Act 2000(9) is amended as follows.

(2) In section 1 (unlawful interception)—

- (a) in subsection (4), after “assistance” where it appears after paragraph (c), insert “in connection with, or in the form of, the interception of communications”;
- (b) after subsection (4) (as amended by paragraph (a) above), insert—

“(4A) The Secretary of State must also secure that a request for assistance to which subsection (4B) applies is made only with lawful authority.

(4) 1995 c. 46.

(5) Section 272 was amended by section 35(4) of the Criminal Proceedings etc. (Reform) (Scotland) 2007 asp 6.

(6) Section 273 was amended by section 91(2) of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13.

(7) 1995 c. 39.

(8) Section 27 was amended by paragraph 62 of Schedule 5 to the Crime (International Co-operation) Act 2003.

(9) 2000 c. 23.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4B) This subsection applies to a request for assistance on behalf of a person in the United Kingdom to the competent authorities of a country or territory outside the United Kingdom where—

- (a) the assistance is in connection with, or in form of, the interception of communications, and
- (b) the request is made in accordance with [Directive 2014/41/EU](#) of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.”.

(3) In section 20, at the end of the definition of “international mutual assistance agreement”, insert “or [Directive 2014/41/EU](#) of the European Parliament and of the Council”.

Amendment of the Criminal Justice and Police Act 2001

6. In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (powers of seizure to which the additional powers in section 50 of that Act apply)**(10)**, at the end insert—

“Criminal Justice (European Investigation Order) Regulations 2017”

“73R. The power of seizure conferred by regulation 39 of the Criminal Justice (European Investigation Order) Regulations 2017 (search warrants and production orders for giving effect to a European investigation order).”.

Amendment of the Crime (International Co-operation) Act 2003

7. In subsection (2) of section 51 of the 2003 Act (general interpretation), for paragraph (a) substitute—

- “(a) Denmark or the Republic of Ireland, and”.

Amendment of the Criminal Justice Act 2003

8. In section 117 of the Criminal Justice Act 2003 (hearsay evidence: business and other documents)**(11)**, in subsection (4) for paragraph (b) substitute—

- “(b) was not obtained pursuant to—
 - (i) a request under section 7 of the Crime (International Co-operation) Act 2003,
 - (ii) an order under paragraph 6 of Schedule 13 to the Criminal Justice Act 1988, or
 - (iii) an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017,

(all of which relate to overseas evidence).”.

Amendment of the Investigatory Powers Act 2016

9.—(1) In section 10 of the Investigatory Powers Act 2016—

- (a) in subsection (1), after paragraph (b) (as closing words of the subsection), insert “so far as the assistance is in connection with, or in the form of, the interception of communications.”;

(10) 2001 c. 16.

(11) 2003 c. 44.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) after subsection (2) insert—

“(2A) Subsection (2) does not apply in the case of a request for assistance in connection with, or in the form of, interception of a communication stored in or by a telecommunication system if the request is made—

- (a) in the exercise of a statutory power that is exercised for the purpose of obtaining information or taking possession of any document or other property, or
- (b) in accordance with a court order that is made for that purpose.”.

PART 2

Amendments to subordinate legislation

Amendment of the Criminal Justice (Evidence) (Northern Ireland) Order 2004

10. In article 21 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 (hearsay evidence: business and other documents)(**12**), in paragraph (4) for sub-paragraph (b) substitute—

“(b) was not obtained pursuant to—

- (i) a request under section 7 of the Crime (International Co-operation) Act 2003,
- (ii) an order under paragraph 6 of Schedule 13 to the Criminal Justice Act 1988, or
- (iii) an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017,

(all of which relate to overseas evidence).”.

Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2009

11. In the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2009(**13**)—

- (a) in article 3, for the text after “sections 4”, substitute “and 4B of that Act.”;
- (b) in article 4, for the text after “sections 4”, substitute “and 4B of that Act.”.

Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009

12. In the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009(**14**)—

(a) for article 2 substitute—

“**2.** Bulgaria and Romania are designated as participating countries under section 51(2) (b) of the Crime (International Co-operation) Act 2003 for the purposes of section 6 of that Act.”;

(b) for article 3 substitute—

(12) S.I. 2004/1501 (N.I. 10).

(13) S.I. 2009/613.

(14) S.S.I. 2009/106.

“3. Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia are designated as participating countries under section 51(2)(b) of the 2003 Act for the purposes of section 6 of that Act.”.

Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 3) Order 2009

13. In the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 3) Order 2009⁽¹⁵⁾—

- (a) in article 2, omit “Croatia,”;
- (b) after article 3, insert—

“4. Austria, Belgium, Croatia, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden are designated as participating countries under section 51(2)(b) of the Crime (International Co-operation) Act 2003 for the purposes of section 6 of that Act.”.

Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010

14. In the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010⁽¹⁶⁾—

- (a) in articles 3 and 4, omit “Croatia,”;
- (b) after article 4, insert—

“5. Austria, Belgium, Croatia, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden are designated as participating countries under section 51(2)(b) of the 2003 Act for the purposes of sections 4 and 4B of that Act.”.

⁽¹⁵⁾ S.S.I. 2009/441.

⁽¹⁶⁾ S.I. 2010/36.