

# Crime (International Co-operation) Bill [HL]

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A

# B I L L

[AS AMENDED IN GRAND COMMITTEE]

TO

Make provision for furthering co-operation with other countries in respect of criminal proceedings and investigations; to extend jurisdiction to deal with terrorist acts or threats outside the United Kingdom; to amend section 5 of the Forgery and Counterfeiting Act 1981 and make corresponding provision in relation to Scotland; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

### MUTUAL ASSISTANCE IN CRIMINAL MATTERS

#### CHAPTER 1

##### MUTUAL SERVICE OF PROCESS ETC.

##### *Service of overseas process in the UK*

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#### **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. 10
- (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 recording a decision of the authority,
  - (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, 5
  - (d) to any document issued or made by an authority in that country for the purposes of clemency proceedings.
- (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. 10
  - (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. 15
- 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. 20
  - (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 25
    - (c) indicating that under that law he may not be accorded the same rights and privileges 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 – 30
    - (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. 35
  - (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** 40
- (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 – 5
- (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 – 10
- (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. 15
- (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. 20
- (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. 25
- (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 – 30
- (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.** 35
- (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. 40
- (3) Where –
- (a) citation or issue is by the prosecutor,

- 
- (b) is to be effected or the document 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. 5
- (4) Where –
- (a) citation or issue is by the court,
- (b) is to be effected or the document to be served outside the United Kingdom, and 10
- (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. 15
- (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. 20
- (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. 25
- (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 30**
- (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. 35
- (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, 40
- (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.

## 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) – 5
- (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, 10
- 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 – 15
- (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,
  - (c) where proceedings have been instituted, by the person charged in those proceedings. 20
- (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 – 25
- (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. 30
- “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 – 35
- (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. 40

## 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. 5
- (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). 10
- (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, 15
- for forwarding to any court or authority mentioned in subsection (1).

## 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. 20
- (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. 25
- (4) In exercising the discretion conferred by section 25 of the Criminal Justice Act 1988 (c. 33) or 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 – 30
- (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. 35
- (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. 40

## 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. 5
- (2) A domestic freezing order is an order for protecting evidence which is in the participating country pending its transfer to the United Kingdom. 10
- (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. 15
- (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. 20
- (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. 25

## 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
  - (b) any authority recognised by the government of the country in question as the appropriate authority for receiving orders of that kind. 30
- (2) A domestic freezing order made in Scotland is to be sent to the Lord Advocate for forwarding to such a court or authority. 35
- (3) 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.
- (4) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English). 40
- (5) 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.

## **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 – 5
- (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. 10

*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 – 15
- (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.
- (2) The request for assistance may be made only by – 20
- (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). 25
- (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. 30

## **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 instituted in a country outside the United Kingdom, 35
  - (b) a criminal investigation being carried on there, or
  - (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. 40

- (2) But in relation to criminal proceedings or a criminal investigation, 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 5
  - (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.
- (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. 10
- (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 – 15
  - (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. 20

## 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. 25
- (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. 30
- (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. 35
- (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. 40

## 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 serious arrestable 45

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 a serious arrestable offence. 5
- (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. 10
- (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 serious arrestable 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 a serious arrestable offence. 15
- (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. 20
- (5) In this section, “international joint investigation team” has the meaning given by section 88(7) of the Police Act 1996 (c. 16). 25
- (5) In this section, “international joint investigation team” has the meaning given by section 88(7) of the Police Act 1996 (c. 16). 30

## 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. 35
- (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,
  - (b) the conduct constituting the offence which is the subject of the proceedings or investigation would, if it occurred in England and Wales or (as the case may be) Northern Ireland, constitute an arrestable offence, and 40
  - (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. 45

“Arrestable offence” has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60) or (as the case may be) 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, 5
  - (b) to seize and retain any evidence for which he is authorised to search.

## 18 Warrants in Scotland

- (1) If, on an application made by the procurator fiscal, it appears to the sheriff – 10
- (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, 15
- the sheriff has the like power to grant warrant authorising entry, search and seizure by any constable 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 – 20
- (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). 25

## 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. 30
- (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. 35
- (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).

### *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 40

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 5
  - (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, 10
  - (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 15
  - (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. 20
- (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). 25
- 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. 30
- (8) References below in this Chapter to an overseas freezing order include its accompanying certificate.

## 21 Considering the order

- (1) In relation to England and Wales and Northern Ireland, where this section applies the Secretary of State must – 35
- (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, 40
  - (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. 5
- (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. 10
- (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, he would be entitled to be discharged under any rule of law in that country relating to previous acquittal or conviction. 15
- (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)).

## 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 – 20
  - (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. 25
- (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.
- (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. 30
- (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. 35
- (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. 40
- (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.

### **23 Postponed effect**

- (1) 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 5
  - (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.

### **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. 10
- (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 15
  - (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.

### **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— 20
- (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. 25
- (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— 30
- (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. 35

### *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 40

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 73A there is inserted –

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*“Crime (International Co-operation) Act 2003*

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73B 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.

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## 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 Commissioners of Customs and Excise,
  - (b) for any function conferred on a constable under those sections to be exercisable instead in prescribed circumstances by a customs officer or a person acting under the direction of such an officer.

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“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.

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“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).

## 28 Interpretation of Chapter 2

- (1) In this Chapter –
- “domestic freezing order” has the meaning given by section 10(2), 5
  - “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), sections 31 and 32 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) or the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/ 1341 (N.I.12)) (as the case may be), 10
  - “the relevant Framework Decision” means any Framework Decision of the Council of the European Union which is identified by the Secretary of State by order and is about the execution of orders freezing property or evidence. 15
- (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. 20
- (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 (c. 29).
- (5) A listed offence means –
- (a) an offence described in a provision, identified by an order made by the Secretary of State, of the relevant Framework Decision, or 25
  - (b) an offence prescribed or of a description prescribed by such an order.
- (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. 30
- (7) Specified information, in relation to a certificate required by section 11(3) or 20(5), means –
- (a) any information required to be given by a document annexed to the relevant Framework Decision and identified by an order made by the Secretary of State, or 35
  - (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 – 40
- (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.

## CHAPTER 3

### HEARING EVIDENCE THROUGH TELEVISION LINKS OR BY TELEPHONE

#### 29 Hearing witnesses abroad through television links

- (1) The Secretary of State may by order provide for section 32(1A) of the Criminal Justice Act 1988 (c. 33) (proceedings in which evidence may be given through television link) to apply to any further description of criminal proceedings, or to all criminal proceedings. 5
- (2) The Scottish Ministers may by order provide for section 273(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (proceedings in which evidence may be given through television link) to apply to any further description of criminal proceedings, or to all criminal proceedings. 10

#### 30 Hearing witnesses in the UK through television links

- (1) This section applies where the Secretary of State receives a request, from an authority mentioned in subsection (2) (“the external authority”), for a person in the United Kingdom to give evidence through a live television link in criminal proceedings before a court in a country outside the United Kingdom. 15  
Criminal proceedings include any proceedings on an appeal before a court against a decision in administrative proceedings.
- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Secretary of State to have the function of making requests of the kind to which this section applies. 20
- (3) Unless he considers it inappropriate to do so, the Secretary of State must by notice in writing nominate a court in the United Kingdom where the witness may be heard in the proceedings in question through a live television link.
- (4) Anything done by the witness in the presence of the nominated court which, if it were done in proceedings before the court, would constitute contempt of court is to be treated for that purpose as done in proceedings before the court. 25
- (5) Any statement made on oath by a witness giving evidence in pursuance of this section is to be treated for the purposes of—
  - (a) section 1 of the Perjury Act 1911 (c. 6), 30
  - (b) Article 3 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/ 1714 (N.I. 19)),
  - (c) sections 44 to 46 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) or, in relation to Scotland, any matter pertaining to the common law crime of perjury, 35as made in proceedings before the nominated court.
- (6) Part 1 of Schedule 2 (evidence given by television link) is to have effect.
- (7) Subject to subsections (4) and (5) and the provisions of that Schedule, evidence given pursuant to this section is not to be treated for any purpose as evidence given in proceedings in the United Kingdom. 40
- (8) In relation to Scotland, references in this section and Part 1 of Schedule 2 to the Secretary of State are to be read as references to the Lord Advocate.

### **31 Hearing witnesses in the UK by telephone**

- (1) This section applies where the Secretary of State receives a request, from an authority mentioned in subsection (2) (“the external authority”) in a participating country, for a person in the United Kingdom to give evidence by telephone in criminal proceedings before a court in that country. 5  
 Criminal proceedings include any proceedings on an appeal before a court against a decision in administrative proceedings.
- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Secretary of State to have the function of making requests of the kind to which this section applies. 10
- (3) A request under subsection (1) must –  
 (a) specify the court in the participating country,  
 (b) give the name and address of the witness,  
 (c) state that the witness is willing to give evidence by telephone in the proceedings before that court. 15
- (4) Unless he considers it inappropriate to do so, the Secretary of State must by notice in writing nominate a court in the United Kingdom where the witness may be heard in the proceedings in question by telephone.
- (5) Anything done by the witness in the presence of the nominated court which, if it were done in proceedings before the court, would constitute contempt of court is to be treated for that purpose as done in proceedings before the court. 20
- (6) Any statement made on oath by a witness giving evidence in pursuance of this section is to be treated for the purposes of –  
 (a) section 1 of the Perjury Act 1911 (c. 6),  
 (b) Article 3 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/ 1714 (N.I. 19)), 25  
 (c) sections 44 to 46 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) or, in relation to Scotland, any matter pertaining to the common law crime of perjury,  
 as made in proceedings before the nominated court. 30
- (7) Part 2 of Schedule 2 (evidence given by telephone link) is to have effect.
- (8) Subject to subsections (5) and (6) and the provisions of that Schedule, evidence given in pursuance of this section is not to be treated for any purpose as evidence given in proceedings in the United Kingdom.
- (9) In relation to Scotland, references in this section to the Secretary of State are to be read as references to the Lord Advocate. 35

## CHAPTER 4

### INFORMATION ABOUT BANKING TRANSACTIONS

#### *Requests for information about banking transactions in England and Wales and Northern Ireland for use abroad*

- 32 Customer information** 5
- (1) This section applies where the Secretary of State receives a request from an authority mentioned in subsection (2) for customer information to be obtained in relation to a person who appears to him to be subject to an investigation in a participating country into serious criminal conduct.
- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Secretary of State to have the function of making requests of the kind to which this section applies. 10
- (3) The Secretary of State may –
- (a) direct a senior police officer to apply, or arrange for a constable to apply, for a customer information order, 15
  - (b) direct a senior customs officer to apply, or arrange for a customs officer to apply, for such an order.
- (4) A customer information order is an order made by a judge that a financial institution specified in the application for the order must, on being required to do so by notice in writing given by the applicant for the order, provide any such customer information as it has relating to the person specified in the application. 20
- (5) A financial institution which is required to provide information under a customer information order must provide the information to the applicant for the order in such manner, and at or by such time, as the applicant requires. 25
- (6) Section 364 of the Proceeds of Crime Act 2002 (c. 29) (meaning of customer information), except subsections (2)(f) and (3)(i), has effect for the purposes of this section as if this section were included in Chapter 2 of Part 8 of that Act.
- (7) A customer information order has effect in spite of any restriction on the disclosure of information (however imposed). 30
- (8) Customer information obtained in pursuance of a customer information order is to be given to the Secretary of State and sent by him to the authority which made the request.
- 33 Making, varying or discharging customer information orders**
- (1) A judge may make a customer information order, on an application made to him pursuant to a direction under section 32(3), if he is satisfied that –
- (a) the person specified in the application is subject to an investigation in the country in question,
  - (b) the investigation concerns conduct which is serious criminal conduct,
  - (c) the conduct constitutes an offence in England and Wales or (as the case may be) Northern Ireland, or would do were it to occur there, and 40
  - (d) the order is sought for the purposes of the investigation.

- (2) The application may be made ex parte to a judge in chambers.
- (3) The application may specify –
- (a) all financial institutions,
  - (b) a particular description, or particular descriptions, of financial institutions, or 5
  - (c) a particular financial institution or particular financial institutions.
- (4) The court may discharge or vary a customer information order on an application made by –
- (a) the person who applied for the order,
  - (b) a senior police officer, 10
  - (c) a constable authorised by a senior police officer to make the application,
  - (d) a senior customs officer,
  - (e) a customs officer authorised by a senior customs officer to make the application. 15

### **34 Offences**

- (1) A financial institution is guilty of an offence if without reasonable excuse it fails to comply with a requirement imposed on it under a customer information order.
- (2) A financial institution guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 20
- (3) A financial institution is guilty of an offence if, in purported compliance with a customer information order, it –
- (a) makes a statement which it knows to be false or misleading in a material particular, or
  - (b) recklessly makes a statement which is false or misleading in a material particular. 25
- (4) A financial institution guilty of an offence under subsection (3) is liable –
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to a fine. 30

### **35 Account information**

- (1) This section applies where the Secretary of State receives a request from an authority mentioned in subsection (2) for account information to be obtained in relation to an investigation in a participating country into criminal conduct. 35
- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Secretary of State to have the function of making requests of the kind to which this section applies.
- (3) The Secretary of State may –
- (a) direct a senior police officer to apply, or arrange for a constable to apply, for an account monitoring order, 40
  - (b) direct a senior customs officer to apply, or arrange for a customs officer to apply, for such an order.

- (4) An account monitoring order is an order made by a judge that a financial institution specified in the application for the order must, for the period stated in the order, provide account information of the description specified in the order to the applicant in the manner, and at or by the time or times, stated in the order. 5
- (5) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified (whether solely or jointly with another).
- (6) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed). 10
- (7) Account information obtained in pursuance of an account monitoring order is to be given to the Secretary of State and sent by him to the authority which made the request.

### **36 Making, varying or discharging account monitoring orders**

- (1) A judge may make an account monitoring order, on an application made to him in pursuance of a direction under section 35(3), if he is satisfied that—
  - (a) there is an investigation in the country in question into criminal conduct, and
  - (b) the order is sought for the purposes of the investigation. 15
- (2) The application may be made ex parte to a judge in chambers. 20
- (3) The application may specify information relating to—
  - (a) all accounts held by the person specified in the application for the order at the financial institution so specified,
  - (b) a particular description, or particular descriptions, of accounts so held, or
  - (c) a particular account, or particular accounts, so held. 25
- (4) The court may discharge or vary an account monitoring order on an application made by—
  - (a) the person who applied for the order,
  - (b) a senior police officer,
  - (c) a constable authorised by a senior police officer to make the application,
  - (d) a senior customs officer,
  - (e) a customs officer authorised by a senior customs officer to make the application. 30
- (5) Account monitoring orders have effect as if they were orders of the court. 35

*Requests for information about banking transactions in Scotland for use abroad*

### **37 Customer information**

- (1) This section applies where the Lord Advocate receives a request from an authority mentioned in subsection (2) for customer information to be obtained in relation to a person who appears to him to be subject to an investigation in a participating country into serious criminal conduct. 40

- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Lord Advocate to have the function of making requests of the kind to which this section applies.
- (3) The Lord Advocate may direct a procurator fiscal to apply for a customer information order. 5
- (4) A customer information order is an order made by a sheriff that a financial institution specified in the application for the order must, on being required to do so by notice in writing given by the applicant for the order, provide any such customer information as it has relating to the person specified in the application. 10
- (5) A financial institution which is required to provide information under a customer information order must provide the information to the applicant for the order in such manner, and at or by such time, as the applicant requires.
- (6) Section 398 of the Proceeds of Crime Act 2002 (c. 29) (meaning of customer information), except subsections (2)(f) and (3)(i), has effect for the purposes of this section as if this section were included in Chapter 3 of Part 8 of that Act. 15
- (7) A customer information order has effect in spite of any restriction on the disclosure of information (however imposed).
- (8) Customer information obtained in pursuance of a customer information order is to be given to the Lord Advocate and sent by him to the authority which made the request. 20

### **38 Making, varying or discharging customer information orders**

- (1) A sheriff may make a customer information order, on an application made to him pursuant to a direction under section 37(3), if he is satisfied that—
- (a) the person specified in the application is subject to an investigation in the country in question, 25
  - (b) the investigation concerns conduct which is serious criminal conduct,
  - (c) the conduct constitutes an offence in Scotland, or would do were it to occur in Scotland, and
  - (d) the order is sought for the purposes of the investigation. 30
- (2) The application may be made ex parte to a sheriff in chambers.
- (3) The application may specify—
- (a) all financial institutions,
  - (b) a particular description, or particular descriptions, of financial institutions, or 35
  - (c) a particular financial institution or particular financial institutions.
- (4) The court may discharge or vary a customer information order on an application made by the procurator fiscal.
- (5) Section 409 of the Proceeds of Crime Act 2002 (jurisdiction of sheriff) has effect for the purposes of this section as if this section were included in Chapter 3 of Part 8 of that Act. 40

### **39 Offences**

- (1) A financial institution is guilty of an offence if without reasonable excuse it fails to comply with a requirement imposed on it under a customer information order.
- (2) A financial institution guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 5
- (3) A financial institution is guilty of an offence if, in purported compliance with a customer information order, it –
  - (a) makes a statement which it knows to be false or misleading in a material particular, or 10
  - (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A financial institution guilty of an offence under subsection (3) is liable –
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or 15
  - (b) on conviction on indictment, to a fine.

### **40 Account information**

- (1) This section applies where the Lord Advocate receives a request from an authority mentioned in subsection (2) for account information to be obtained in relation to an investigation in a participating country into criminal conduct. 20
- (2) The authority referred to in subsection (1) is the authority in that country which appears to the Lord Advocate to have the function of making requests of the kind to which this section applies.
- (3) The Lord Advocate may direct a procurator fiscal to apply for an account monitoring order. 25
- (4) An account monitoring order is an order made by a sheriff that a financial institution specified in the application for the order must, for the period stated in the order, provide account information of the description specified in the order to the applicant in the manner, and at or by the time or times, stated in the order. 30
- (5) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified (whether solely or jointly with another).
- (6) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed). 35
- (7) Account information obtained in pursuance of an account monitoring order is to be given to the Lord Advocate and sent by him to the authority which made the request.

### **41 Making, varying or discharging account monitoring orders**

- (1) A sheriff may make an account monitoring order, on an application made to him in pursuance of a direction under section 40(3), if he is satisfied that –
  - (a) there is an investigation in the country in question into criminal conduct, and 40

- (b) the order is sought for the purposes of the investigation.
- (2) The application may be made ex parte to a sheriff in chambers.
- (3) The application may specify information relating to –
  - (a) all accounts held by the person specified in the application for the order at the financial institution so specified, 5
  - (b) a particular description, or particular descriptions, of accounts so held, or
  - (c) a particular account, or particular accounts, so held.
- (4) The court may discharge or vary an account monitoring order on an application made by the procurator fiscal. 10
- (5) Section 409 of the Proceeds of Crime Act 2002 (c. 29) (jurisdiction of sheriff) has effect for the purposes of this section as if this section were included in Chapter 3 of Part 8 of that Act.

*Disclosure of information*

- 42 Offence of disclosure** 15
- (1) This section applies where –
    - (a) a financial institution is specified in a customer information order or account monitoring order made in any part of the United Kingdom, or
    - (b) the Secretary of State or the Lord Advocate receives a request under section 13 for evidence to be obtained from a financial institution in connection with the investigation of an offence in reliance on Article 2 (requests for information on banking transactions) of the 2001 Protocol. 20
  - (2) If the institution, or an employee of the institution, discloses any of the following information, the institution or (as the case may be) the employee is guilty of an offence. 25
  - (3) That information is –
    - (a) that the request to obtain customer information or account information, or the request mentioned in subsection (1)(b), has been received,
    - (b) that the investigation to which the request relates is being carried out, or 30
    - (c) that, in pursuance of the request, information has been given to the authority which made the request.
  - (4) An institution guilty of an offence under this section is liable –
    - (a) on summary conviction, to a fine not exceeding the statutory maximum, 35
    - (b) on conviction on indictment, to a fine.
  - (5) Any other person guilty of an offence under this section is liable –
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both,
    - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both. 40

*Requests for information about banking transactions for use in UK*

**43 Information about a person’s bank account**

- (1) If it appears to a judicial authority in the United Kingdom, on an application made by a prosecuting authority, that—
  - (a) a person is subject to an investigation in the United Kingdom into serious criminal conduct, 5
  - (b) the person holds, or may hold, an account at a bank which is situated in a participating country, and
  - (c) the information which the applicant seeks to obtain is likely to be of substantial value for the purposes of the investigation, 10the judicial authority may request assistance under this section.
- (2) The judicial authorities are—
  - (a) in relation to England and Wales, any judge or justice of the peace,
  - (b) in relation to Scotland, any sheriff,
  - (c) in relation to Northern Ireland, any judge or resident magistrate. 15
- (3) If it appears to a prosecuting authority mentioned in subsection (4) that paragraphs (a) to (c) of subsection (1) are met, the authority may itself request assistance under this section.
- (4) The prosecuting authorities are—
  - (a) in relation to England and Wales and Northern Ireland, a prosecuting authority designated by an order made by the Secretary of State, 20
  - (b) in relation to Scotland, the Lord Advocate or a procurator fiscal.
- (5) The assistance that may be requested under this section is any assistance in obtaining from a participating country one or more of the following—
  - (a) information as to whether the person in question holds any accounts at any banks situated in the participating country, 25
  - (b) details of any such accounts,
  - (c) details of transactions carried out in any period specified in the request in respect of any such accounts.
- (6) A request for assistance under this section must— 30
  - (a) state the grounds on which the authority making the request thinks that the person in question may hold any account at a bank which is situated in a participating country and (if possible) specify the bank or banks in question,
  - (b) state the grounds on which the authority making the request considers that the information sought to be obtained is likely to be of substantial value for the purposes of the investigation, and 35
  - (c) include any information which may facilitate compliance with the request.
- (7) For the purposes of this section, a person holds an account if— 40
  - (a) the account is in his name or is held for his benefit, or
  - (b) he has a power of attorney in respect of the account.In relation to Scotland, a power of attorney includes a factory and commission.

#### **44 Monitoring banking transactions**

- (1) If it appears to a judicial authority in the United Kingdom, on an application made by a prosecuting authority, that the information which the applicant seeks to obtain is relevant to an investigation in the United Kingdom into criminal conduct, the judicial authority may request assistance under this section. 5
- (2) The judicial authorities are –
- (a) in relation to England and Wales, any judge or justice of the peace,
  - (b) in relation to Scotland, any sheriff,
  - (c) in relation to Northern Ireland, any judge or resident magistrate. 10
- (3) If it appears to a prosecuting authority mentioned in subsection (4) that the information which it seeks to obtain is relevant to an investigation into criminal conduct, the authority may itself request assistance under this section.
- (4) The prosecuting authorities are –
- (a) in relation to England and Wales and Northern Ireland, a prosecuting authority designated by an order made by the Secretary of State,
  - (b) in relation to Scotland, the Lord Advocate or a procurator fiscal. 15
- (5) The assistance that may be requested under this section is any assistance in obtaining from a participating country details of transactions to be carried out in any period specified in the request in respect of any accounts at banks situated in that country. 20

#### **45 Sending requests for assistance**

- (1) A request for assistance under section 43 or 44, other than one to which subsection (3) or (4) applies, is to be sent to the Secretary of State for forwarding – 25
- (a) to a court specified in the request and exercising jurisdiction in the place where the information is to be obtained, or
  - (b) to any authority recognised by the participating country in question as the appropriate authority for receiving requests for assistance of the kind to which this section applies. 30
- (2) But in cases of urgency the request may be sent to a court referred to in subsection (1)(a).
- (3) Such a request for assistance by the Lord Advocate is to be sent to a court or authority mentioned in subsection (1)(a) or (b).
- (4) Such a request for assistance by a sheriff or a procurator fiscal is to be sent to such a court or authority, or to the Lord Advocate for forwarding to such a court or authority. 35

#### *General*

#### **46 Interpretation of Chapter 4**

- (1) In this Chapter – 40
- “the court” means the Crown Court or, in Scotland, the sheriff,

“senior police officer” means a police officer who is not below the rank of superintendent and “senior customs officer” means a customs officer who is not below the grade designated by the Commissioners of Customs and Excise as equivalent to that rank.

- (2) The following provisions apply for the purposes of this Chapter. 5
- (3) Serious criminal conduct means conduct which constitutes –
- (a) an offence to which paragraph 3 of Article 1 (request for information on bank accounts) of the 2001 Protocol applies, or
  - (b) an offence specified in an order made by the Secretary of State or, in relation to Scotland, the Scottish Ministers for the purpose of giving effect to any decision of the Council of the European Union under paragraph 6 of that Article. 10
- (4) A financial institution –
- (a) means a person who is carrying on business in the regulated sector, and
  - (b) in relation to a customer information order or an account monitoring order, includes a person who was carrying on business in the regulated sector at a time which is the time to which any requirement for him to provide information under the order is to relate. 15
- “Business in the regulated sector” is to be interpreted in accordance with Schedule 9 to the Proceeds of Crime Act 2002 (c. 29). 20
- (5) A judge means –
- (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court,
  - (b) in relation to Northern Ireland, a Crown Court judge.

## CHAPTER 5 25

### TRANSFER OF PRISONERS

#### 47 Transfer of UK prisoner to assist investigation abroad

- (1) The Secretary of State may pursuant to an agreement with the competent authority of a participating country issue a warrant providing for any person to whom this section applies (“a prisoner”) to be transferred to that country for the purpose of assisting there in the investigation of an offence. 30  
The offence must be one which was or may have been committed in the United Kingdom.
- (2) This section applies to a person –
- (a) serving a sentence in a prison, 35
  - (b) in custody awaiting trial or sentence, or
  - (c) committed to prison for default in paying a fine.
- (3) But, in relation to transfer from Scotland –
- (a) this section applies to any person detained in custody,
  - (b) references in this section to the Secretary of State are to be read as references to the Scottish Ministers. 40
- (4) A warrant may be issued in respect of a prisoner under subsection (1) only if –
- (a) the prisoner, or

- (b) in the circumstances mentioned in subsection (5), a person appearing to the Secretary of State to be an appropriate person to act on the prisoner's behalf,  
 has made a written statement consenting to his being transferred for the purpose mentioned in subsection (1). 5
- (5) The circumstances are those in which it appears to the Secretary of State to be inappropriate for the prisoner to act for himself, by reason of his physical or mental condition or his youth.
- (6) Such consent cannot be withdrawn after the issue of the warrant.
- (7) A warrant under this section authorises – 10
- (a) the taking of the prisoner to a place in the United Kingdom and his delivery at a place of departure from the United Kingdom into the custody of a person representing the appropriate authority of the participating country to which the prisoner is to be transferred, and
- (b) the bringing of the prisoner back to the United Kingdom and his transfer in custody to the place where he is liable to be detained under the sentence or order to which he is subject. 15
- (8) References to a prison in this section include any other institution to which the Prison Act 1952 (c. 52), the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)) or Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/ 1504 (N.I.9)) applies. 20
- (9) Subsections (4) to (8) of section 5 of the 1990 Act (transfer of UK prisoner to give evidence or assist investigation overseas) have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section. 25

#### **48 Transfer of EU etc. prisoner to assist UK investigation**

- (1) The Secretary of State may pursuant to an agreement with the competent authority of a participating country issue a warrant providing for any person to whom this section applies (“the overseas prisoner”) to be transferred to the United Kingdom for the purpose of assisting in the investigation of an offence. 30  
 The offence must be one which was or may have been committed in the participating country.
- (2) This section applies to a person who is detained in custody in a participating country –
- (a) by virtue of a sentence or order of a court exercising criminal jurisdiction there, or
- (b) in consequence of having been transferred there from the United Kingdom under the Repatriation of Prisoners Act 1984 (c. 47) or under any similar provision or arrangement from any other country. 35
- (3) But, in relation to transfer to Scotland – 40
- (a) this section applies to any person who is detained in custody in a participating country,
- (b) the reference in subsection (1) to the Secretary of State is to be read as a reference to the Scottish Ministers.
- (4) A warrant may be issued in respect of an overseas prisoner under subsection (1) only if the competent authority provides a written statement made by the 45

- prisoner consenting to his being transferred for the purpose mentioned in that subsection.
- (5) Such consent cannot be withdrawn after the issue of the warrant.
- (6) A warrant under this section authorises –
- (a) the bringing of the prisoner to the United Kingdom, 5
  - (b) the taking of the prisoner to, and his detention in custody at, any place or places in the United Kingdom specified in the warrant,
  - (c) the returning of the prisoner to the country from which he has come.
- (7) Subsections (4) to (8) of section 5 of the 1990 Act have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section. 10
- (8) A person is not subject to the Immigration Act 1971 (c. 77) in respect of his entry into or presence in the United Kingdom pursuant to a warrant under this section; but if the warrant ceases to have effect while he is still in the United Kingdom – 15
- (a) he is to be treated for the purposes of that Act as if he has then illegally entered the United Kingdom, and
  - (b) the provisions of Schedule 2 to that Act have effect accordingly except that paragraph 20(1) (liability of carrier for expenses of custody etc. of illegal entrant) does not have effect in relation to directions for his removal given by virtue of this subsection. 20

## CHAPTER 6

### SUPPLEMENTARY

#### 49 Rules of court

- (1) Provision may be made by rules of court as to the practice and procedure to be followed in connection with proceedings under this Part. 25
- (2) Rules of court made under this section by the High Court in Scotland are to be made by Act of Adjournal.
- (3) The power to make rules of court under this section does not prejudice any existing power to make rules. 30

#### 50 Subordinate legislation

- (1) Any power to make an order conferred by this Part on the Secretary of State, the Treasury or the Scottish Ministers is exercisable by statutory instrument.
- (2) Such an order may make different provision for different purposes.
- (3) A statutory instrument (other than an instrument to which subsection (5) applies) containing an order made by the Secretary of State or the Treasury is to be subject to annulment in pursuance of a resolution of either House of Parliament. 35
- (4) A statutory instrument (other than an instrument to which subsection (5) applies) containing an order made by the Scottish Ministers is to be subject to annulment in pursuance of a resolution of the Scottish Parliament. 40

- (5) A statutory instrument containing an order under section 51(2)(b) designating a country other than a member State is not to be made unless –
- (a) in the case of an order to be made by the Secretary of State, a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament, 5
  - (b) in the case of an order to be made by the Scottish Ministers, a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.

## 51 General interpretation

- (1) In this Part – 10
- “the 1990 Act” means the Criminal Justice (International Co-operation) Act 1990 (c. 5),
  - “the 2001 Protocol” means the Protocol to the Mutual Legal Assistance Convention, established by Council Act of 16th October 2001 (2001/C326/01), 15
  - “administrative proceedings” means proceedings outside the United Kingdom to which article 49(a) of the Schengen Convention applies (proceedings brought by administrative authorities in respect of administrative offences where a decision in the proceedings may be the subject of an appeal before a court), 20
  - “chief officer of police” –
    - (a) in relation to any area in Scotland, means the chief constable for the police force maintained for that area,
    - (b) in relation to any area in Northern Ireland, means the Chief Constable of the Police Service of Northern Ireland, 25
  - “clemency proceedings” means proceedings in a country outside the United Kingdom, not being proceedings before a court exercising criminal jurisdiction, for the removal or reduction of a penalty imposed on conviction of an offence,
  - “country” includes territory, 30
  - “court” includes a tribunal,
  - “criminal proceedings” include criminal proceedings outside the United Kingdom in which a civil order may be made,
  - “customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2), 35
  - “evidence” includes information in any form and articles, and giving evidence includes answering a question or producing any information or article,
  - “the Mutual Legal Assistance Convention” means the Convention on Mutual Assistance in Criminal Matters established by Council Act of 29th May 2000 (2000/C197/01), 40
  - “the Schengen Convention” means the Convention implementing the Schengen Agreement of 14th June 1985.
- (2) A participating country, in relation to any provision of this Part, means – 45
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of that provision, and
  - (b) any other country designated by an order made by the Secretary of State or, in relation to Scotland, the Scottish Ministers.

- (3) In this Part, “process”, in relation to England and Wales and Northern Ireland, means any summons or order issued or made by a court and includes –
- (a) any other document issued or made by a court for service on parties or witnesses,
  - (b) any document issued by a prosecuting authority outside the United Kingdom for the purposes of criminal proceedings. 5
- (4) In this Part, “process”, in relation to service in Scotland, means a citation by a court or by a prosecuting authority, or an order made by a court, and includes any other document issued or made as mentioned in subsection (3)(a) or (b).

**PART 2** 10

TERRORIST ACTS AND THREATS: JURISDICTION

**52 Jurisdiction for terrorist offences**

After section 63 of the Terrorism Act 2000 (c. 11) there is inserted –

*“Extra-territorial jurisdiction for other terrorist offences etc.*

**63A Other terrorist offences under this Act: jurisdiction** 15

- (1) If –
- (a) a United Kingdom national or a United Kingdom resident does anything outside the United Kingdom, and
  - (b) his action, if done in any part of the United Kingdom, would have constituted an offence under section 54 or any of sections 56 to 61, 20
- he shall be guilty in that part of the United Kingdom of the offence.
- (2) For the purposes of this section and sections 63B and 63C a “United Kingdom national” means an individual who is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, 25
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (3) For the purposes of this section and sections 63B and 63C a “United Kingdom resident” means an individual who is resident in the United Kingdom. 30

**63B Terrorist attacks abroad by UK nationals or residents: jurisdiction**

- (1) If –
- (a) a United Kingdom national or a United Kingdom resident does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism, and 35
  - (b) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),
- he shall be guilty in that part of the United Kingdom of the offence. 40
- (2) These are the offences –

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>(a) murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment,</li> <li>(b) an offence under section 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences against the Person Act 1861,</li> <li>(c) an offence under any of sections 1 to 5 of the Forgery and Counterfeiting Act 1981,</li> <li>(d) the uttering of a forged document or an offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995,</li> <li>(e) an offence under section 1 or 2 of the Criminal Damage Act 1971,</li> <li>(f) an offence under Article 3 or 4 of the Criminal Damage (Northern Ireland) Order 1977,</li> <li>(g) malicious mischief,</li> <li>(h) wilful fire-raising.</li> </ul>  | <p>5</p> <p>10</p> <p>15</p>                                |
| <b>63C Terrorist attacks abroad on UK nationals, residents and diplomatic staff etc: jurisdiction</b>   |   |
| <ul style="list-style-type: none"> <li>(1) If—           <ul style="list-style-type: none"> <li>(a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,</li> <li>(b) his action is done to, or in relation to, a United Kingdom national, a United Kingdom resident or a protected person, and</li> <li>(c) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),</li> </ul>           he shall be guilty in that part of the United Kingdom of the offence.         </li> <li>(2) These are the offences—           <ul style="list-style-type: none"> <li>(a) murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment,</li> <li>(b) an offence under section 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences against the Person Act 1861,</li> <li>(c) an offence under section 1, 2, 3, 4 or 5(1) or (3) of the Forgery and Counterfeiting Act 1981,</li> <li>(d) the uttering of a forged document or an offence under section 46A(1) of the Criminal Law (Consolidation) (Scotland) Act 1995.</li> </ul> </li> <li>(3) For the purposes of this section and section 63D a person is a protected person if—           <ul style="list-style-type: none"> <li>(a) he is a member of a United Kingdom diplomatic mission within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations signed in 1961 (as that Article has effect in the United Kingdom by virtue of section 2 of and Schedule 1 to the Diplomatic Privileges Act 1964),</li> <li>(b) he is a member of a United Kingdom consular post within the meaning of Article 1(g) of the Vienna Convention on Consular Relations signed in 1963 (as that Article has effect in the United Kingdom by virtue of section 1 of and Schedule 1 to the Consular Relations Act 1968),</li> <li>(c) he carries out any functions for the purposes of the European Agency for the Evaluation of Medicinal Products, or</li> </ul> </li> </ul> | <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> |

- (d) he carries out any functions for the purposes of a body specified in an order made by the Secretary of State.
- (4) The Secretary of State may specify a body under subsection (3)(d) only if—
- (a) it is established by or under the Treaty establishing the European Community or the Treaty on European Union, and
  - (b) the principal place in which its functions are carried out is a place in the United Kingdom.
- (5) If in any proceedings a question arises as to whether a person is or was a protected person, a certificate—
- (a) issued by or under the authority of the Secretary of State, and
  - (b) stating any fact relating to the question,
- is to be conclusive evidence of that fact.
- 63D Terrorist attacks or threats abroad in connection with UK diplomatic premises etc: jurisdiction**
- (1) If—
- (a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,
  - (b) his action is done in connection with an attack on relevant premises or on a vehicle ordinarily used by a protected person,
  - (c) the attack is made when a protected person is on or in the premises or vehicle, and
  - (d) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),
- he shall be guilty in that part of the United Kingdom of the offence.
- (2) These are the offences—
- (a) an offence under section 1 of the Criminal Damage Act 1971,
  - (b) an offence under Article 3 of the Criminal Damage (Northern Ireland) Order 1977,
  - (c) malicious mischief,
  - (d) wilful fire-raising.
- (3) If—
- (a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,
  - (b) his action consists of a threat of an attack on relevant premises or on a vehicle ordinarily used by a protected person,
  - (c) the attack is threatened to be made when a protected person is, or is likely to be, on or in the premises or vehicle, and
  - (d) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (4),
- he shall be guilty in that part of the United Kingdom of the offence.
- (4) These are the offences—
- (a) an offence under section 2 of the Criminal Damage Act 1971,
  - (b) an offence under Article 4 of the Criminal Damage (Northern Ireland) Order 1977,
  - (c) breach of the peace (in relation to Scotland only).

- (5) “Relevant premises” means –
- (a) premises at which a protected person resides or is staying, or
  - (b) premises which a protected person uses for the purpose of carrying out his functions as such a person.

**63E Sections 63B to 63D: supplementary** 5

- (1) Proceedings for an offence which (disregarding the Acts listed in subsection (2)) would not be an offence apart from section 63B, 63C or 63D are not to be started –
- (a) in England and Wales, except by or with the consent of the Attorney General, 10
  - (b) in Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland.
- (2) These are the Acts –
- (a) the Internationally Protected Persons Act 1978,
  - (b) the Suppression of Terrorism Act 1978, 15
  - (c) the Nuclear Material (Offences) Act 1983,
  - (d) the United Nations Personnel Act 1997.
- (3) For the purposes of sections 63C and 63D it is immaterial whether a person knows that another person is a United Kingdom national, a United Kingdom resident or a protected person. 20
- (4) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in subsection (1)(b) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.”

**53 Jurisdiction for offence under section 113 of the Anti-terrorism, Crime and Security Act 2001** 25

After section 113 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (use of noxious substances or things to cause harm and intimidate) there is inserted –

**“113A Application of section 113** 30

- (1) Section 113 applies to conduct done –
- (a) in the United Kingdom; or
  - (b) outside the United Kingdom which satisfies the following two conditions.
- (2) The first condition is that the conduct is done for the purpose of advancing a political, religious or ideological cause. 35
- (3) The second condition is that the conduct is –
- (a) by a United Kingdom national or a United Kingdom resident;
  - (b) by any person done to, or in relation to, a United Kingdom national, a United Kingdom resident or a protected person; or 40
  - (c) by any person done in circumstances which fall within section 63D(1)(b) and (c) or (3)(b) and (c) of the Terrorism Act 2000.

- (4) The following expressions have the same meaning as they have for the purposes of sections 63C and 63D of that Act –
- (a) “United Kingdom national”;
  - (b) “United Kingdom resident”;
  - (c) “protected person”.
- (5) For the purposes of this section it is immaterial whether a person knows that another is a United Kingdom national, a United Kingdom resident or a protected person.

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### **113B Consent to prosecution for offence under section 113**

- (1) Proceedings for an offence committed under section 113 outside the United Kingdom are not to be started –
- (a) in England and Wales, except by or with the consent of the Attorney General;
  - (b) in Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland.
- (2) Proceedings for an offence committed under section 113 outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any part of the United Kingdom.
- (3) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in subsection (1)(b) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.”

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## **PART 3**

### **ROAD TRAFFIC**

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#### **CHAPTER 1**

##### **CONVENTION ON DRIVING DISQUALIFICATIONS**

###### *Road traffic offences in UK*

### **54 Application of section 55**

- (1) Section 55 applies where –
- (a) an individual (“the offender”) who is normally resident in a member State other than the United Kingdom is convicted of an offence mentioned in Schedule 3,
  - (b) no appeal is outstanding in relation to the offence, and
  - (c) the driving disqualification condition is met in relation to the offence.
- (2) The driving disqualification condition is met –
- (a) in relation to an offence mentioned in Part 1 of Schedule 3, if an order of disqualification is made in respect of the offence,
  - (b) in relation to an offence mentioned in Part 2 of that Schedule, if an order of disqualification for a period not less than the minimum period is made in respect of the offence.

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- (3) The minimum period is –
- (a) a period of six months, or
  - (b) where the State in which the offender normally resides is a prescribed State, a shorter period equal to the period prescribed in relation to the State. 5
- (4) Section 55 does not apply in prescribed circumstances.
- (5) For the purposes of this section no appeal is outstanding in relation to an offence if –
- (a) no appeal is brought against an offender’s conviction of the offence, or any order made on his conviction, within the time allowed for making such appeals, or 10
  - (b) such an appeal is brought and the proceedings on appeal are finally concluded.
- 55 Duty to give notice to foreign authorities of driving disqualification of a non-UK resident 15**
- (1) Where this section applies, the appropriate Minister must give the central authority of the State in which the offender is normally resident a notice under this section.
- (2) A notice under this section must –
- (a) give the name, address and date of birth of the offender, 20
  - (b) give particulars of the offence,
  - (c) state that no appeal is outstanding in relation to it,
  - (d) give particulars of the disqualification,
  - (e) state whether or not the offender took part in the proceedings in which the disqualification was imposed, 25
  - (f) state that the offender has been informed that any decision made for the purposes of the convention on driving disqualifications will have no effect on the disqualification.
- (3) A notice under this section may contain such other information as the appropriate Minister considers appropriate. 30
- (4) A notice under this section must be accompanied by the original or a certified copy of the order of disqualification.
- (5) Where the offender did not take part in the proceedings mentioned in subsection (2)(e), a notice under this section must also be accompanied by evidence that the offender was duly notified of those proceedings. 35
- (6) Where the offender is the holder of a Community licence, a notice under this section must also be accompanied by the licence unless it has been returned to the driver –
- (a) under section 91A(7)(b)(ii) of the Road Traffic Offenders Act 1988 (c. 53), or 40
  - (b) under Article 92A(7)(b)(ii) of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/ 1320 (N.I.10)).
- (7) Where the period of disqualification is reduced by virtue of section 34A of that Act or Article 36 of that Order, the appropriate Minister must give the central authority particulars of the reduction. 45

- (8) Where the disqualification is removed by an order under section 42 of that Act or Article 47 of that Order, the appropriate Minister must give the central authority particulars of the removal.
- (9) The appropriate Minister must provide—
  - (a) the central authority, or
  - (b) the competent authority of the State mentioned in subsection (1),with any further information which it requires for the purposes of the convention on driving disqualifications.

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*Disqualification in respect of road traffic offences outside UK*

**56 Application of section 57** 10

- (1) Section 57 applies where—
  - (a) an individual (“the offender”) who is normally resident in the United Kingdom is convicted in another member State of an offence falling within subsection (5),
  - (b) no appeal is outstanding in relation to the offence,
  - (c) the driving disqualification condition is met in relation to the offence, and
  - (d) the offender was duly notified of the proceedings (“the relevant proceedings”) in which the disqualification was imposed and was entitled to take part in them.15
- (2) The driving disqualification condition is met—
  - (a) in relation to an offence falling within subsection (5)(a), if, as a result of the offence, the offender is disqualified in the State in which the conviction is made,
  - (b) in relation to an offence falling within subsection (5)(b), if, as a result of the offence, the offender is disqualified in that State for a period not less than the minimum period.25
- (3) For the purposes of this section an offender is disqualified in a State if he is disqualified in that State for holding or obtaining a licence to drive a motor vehicle granted under the law of that State (however the disqualification is described under that law). 30
- (4) The minimum period is—
  - (a) a period of six months, or
  - (b) where the State in which the conviction is made is a prescribed State, a shorter period equal to the period prescribed in relation to that State.35
- (5) An offence falls within this subsection if it is constituted by—
  - (a) conduct falling within any of paragraphs 1 to 5 of the Annex to the convention on driving disqualifications, or
  - (b) other conduct which constitutes a road traffic offence for the purposes of that convention.40
- (6) Section 57 does not apply if the relevant proceedings were brought later than the time at which summary proceedings for any corresponding offence under the law of the part of the United Kingdom in which the offender is normally resident could have been brought.
- (7) An offence is a corresponding offence if— 45

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- (a) the conduct constituting the offence outside the United Kingdom took place in any part of the United Kingdom, and
- (b) that conduct is, or corresponds to, conduct which would constitute an offence under the law of that part.
- (8) The appropriate Minister may make regulations treating offences under the law of a part of the United Kingdom as corresponding to offences under the law of a member State other than the United Kingdom. 5
- (9) For the purposes of this section no appeal is outstanding in relation to an offence if—
- (a) no appeal is brought against an offender’s conviction of the offence, or any decision made as a result of his conviction, within the time allowed for making such appeals, or 10
- (b) such an appeal is brought and the proceedings on appeal are finally concluded.
- 57 Recognition in United Kingdom of foreign driving disqualification 15**
- (1) Where this section applies, the appropriate Minister—
- (a) must give the offender a notice under this section if the unexpired period of the foreign disqualification is not less than one month, and
- (b) may give him a notice under this section if that period is less than one month. 20
- (2) The unexpired period of the foreign disqualification is—
- (a) the period of the foreign disqualification, less
- (b) any period of that disqualification which is treated by regulations made by the appropriate Minister as having been served in the State in which the offender was convicted. 25
- (3) The provision which may be made by regulations under subsection (2)(b) includes provision for treating any period during which a central authority or competent authority of a State has seized a licence without returning it as a period which has been served in that State.
- (4) If the appropriate Minister gives the offender a notice under this section, the offender is disqualified in each part of the United Kingdom— 30
- (a) for the relevant period, and
- (b) if the foreign disqualification is also effective until a condition is satisfied, until the condition or a corresponding prescribed condition is satisfied. 35
- (5) The relevant period is the period which—
- (a) begins at the end of the period of 21 days beginning with the day on which the notice is given, and
- (b) is equal to the unexpired period of the foreign disqualification.
- (6) But if the foreign disqualification is at any time removed otherwise than in prescribed circumstances, the offender ceases to be disqualified in each part of the United Kingdom from that time. 40
- (7) The appropriate Minister may make regulations substituting a longer period for the period for the time being mentioned in subsection (5)(a).
- (8) Where the foreign disqualification is for life— 45

- (a) the condition in subsection (1)(a) is to be treated as satisfied, and
- (b) the other references in this section and section 58 to the unexpired period of the foreign disqualification are to be read as references to a disqualification for life.

**58 Notice under section 57** 5

- (1) A notice under section 57 must –
  - (a) give particulars of the offence in respect of which the foreign disqualification was imposed and the period of that disqualification,
  - (b) state that the offender is disqualified in each part of the United Kingdom for a period equal to the unexpired period of the foreign disqualification, 10
  - (c) state the date from which, and period for which, he is disqualified,
  - (d) give particulars of any relevant condition mentioned in section 57(4)(b),
  - (e) give details of his right to appeal under section 59.
- (2) A notice under section 57 must be in writing. 15
- (3) A notice under section 57 may contain such other information as the appropriate Minister considers appropriate.

*Appeals*

**59 Appeal against disqualification**

- (1) A person who is disqualified by virtue of section 57 may, after giving notice to the appropriate Minister of his intention to do so, appeal to the appropriate court against the disqualification. 20
- (2) The appropriate court is –
  - (a) in relation to England and Wales, a magistrates' court acting for the petty sessions area in which the applicant resides, 25
  - (b) in relation to Scotland, the sheriff within whose jurisdiction the applicant resides,
  - (c) in relation to Northern Ireland, a court of summary jurisdiction acting for the petty sessions district in which the applicant resides.
- (3) The appeal must be made before the end of the period of 21 days beginning with the day on which the notice under section 57 is given to the applicant. 30
- (4) But the appropriate Minister may make regulations substituting a longer period for the period for the time being mentioned in subsection (3).
- (5) If the appropriate court is satisfied that section 57 does not apply to the applicant's case, it must allow the appeal. 35
- (6) Otherwise it must dismiss the appeal.
- (7) Where on an appeal against the disqualification the appeal is allowed, the court by which the appeal is allowed must send notice of that fact to the appropriate Minister.
- (8) The notice must – 40
  - (a) be sent in such manner and to such address, and

(b) contain such particulars,  
as the appropriate Minister may determine.

## **60 Power of appellate courts in England and Wales to suspend disqualification**

- (1) This section applies where a person is disqualified by virtue of section 57.
- (2) Where the person appeals to a magistrates' court against the disqualification, the court may, if it thinks fit, suspend the disqualification. 5
- (3) Where the person makes an application in respect of the decision of the court under section 111 of the Magistrates' Courts Act 1980 (c. 43) (statement of case), the High Court may, if it thinks fit, suspend the disqualification.
- (4) Where the person has appealed, or applied for leave to appeal, to the House of Lords under section 1 of the Administration of Justice Act 1960 (c. 65) from any decision of the High Court which is material to the disqualification, the High Court may, if it thinks fit, suspend the disqualification. 10
- (5) Any power of a court under this section to suspend the disqualification is a power to do so on such terms as the court thinks fit. 15
- (6) Where, by virtue of this section, a court suspends the disqualification, it must send notice of the suspension to the Secretary of State.
- (7) The notice must –
  - (a) be sent in such manner and to such address, and
  - (b) contain such particulars, 20  
as the Secretary of State may determine.

## **61 Power of appellate courts in Scotland to suspend disqualification**

- (1) This section applies where a person is disqualified by virtue of section 57.
- (2) Where the person appeals to the sheriff against the disqualification, the sheriff may, if he thinks fit, suspend the disqualification on such terms as he thinks fit. 25
- (3) Where the person appeals to the High Court of Justiciary from any decision of the sheriff, the court may, if it thinks fit, suspend the disqualification on such terms as it thinks fit.  
The power conferred by this subsection may be exercised by a single judge of the court. 30
- (4) Where, by virtue of this section, a court suspends the disqualification, it must send notice of the suspension to the Secretary of State.
- (5) The notice must –
  - (a) be sent in such manner and to such address, and
  - (b) contain such particulars, 35  
as the Secretary of State may determine.

## **62 Power of appellate courts in Northern Ireland to suspend disqualification**

- (1) This section applies where a person is disqualified by virtue of section 57.
- (2) Where the person appeals to a court of summary jurisdiction against the disqualification, the court may, if it thinks fit, suspend the disqualification. 40

- (3) Where the person makes an application in respect of the decision of the court under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26)) (statement of case), the Court of Appeal may, if it thinks fit, suspend the disqualification.
- (4) Where the person has appealed, or applied for leave to appeal, to the House of Lords under section 41 of the Judicature (Northern Ireland) Act 1978 (c. 23) from any decision of the Court of Appeal which is material to the disqualification, the Court of Appeal may, if it thinks fit, suspend the disqualification. 5
- (5) Any power of a court under this section to suspend the disqualification is a power to do so on such terms as the court thinks fit. 10
- (6) Where, by virtue of this section, a court suspends the disqualification, it must send notice of the suspension to the Department.
- (7) The notice must—
  - (a) be sent in such manner and to such address, and
  - (b) contain such particulars,as the Department may determine. 15

#### *Production of licence*

### **63 Production of licence: Great Britain**

- (1) A person who—
  - (a) is given a notice under section 57 by the Secretary of State, and
  - (b) is the holder of a licence,must deliver his licence and its counterpart to the Secretary of State before the end of the period of 21 days beginning with the day on which the notice is given. 20  
25
- (2) The Secretary of State may make regulations substituting a longer period for the period for the time being mentioned in subsection (1).
- (3) If—
  - (a) a person delivers a current receipt for his licence and its counterpart to the Secretary of State within the period for the time being mentioned in subsection (1), and
  - (b) on the return of his licence and its counterpart immediately delivers them to the Secretary of State,the duty under subsection (1) is to be taken as satisfied. 30  
“Receipt” means a receipt issued under section 56 of the Road Traffic Offenders Act 1988 (c. 53). 35
- (4) Subsection (1) does not apply if the competent authority of the relevant State—
  - (a) has the licence and its counterpart, or
  - (b) has delivered them to the Secretary of State.
- (5) The relevant State is the State in which the offence in relation to which the notice was given was committed. 40
- (6) If the holder of a licence does not deliver his licence and its counterpart to the Secretary of State as required by subsection (1), he is guilty of an offence.

- (7) A person is not guilty of an offence under subsection (6) if he satisfies the court that he has applied for a new licence and has not received it.  
In relation to the holder of a Northern Ireland licence or Community licence, a new licence includes the counterpart of such a licence.
- (8) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 5
- (9) “Licence” means a Great Britain licence, a Northern Ireland licence or a Community licence.

#### 64 Production of licence: Northern Ireland

- (1) A person who – 10  
 (a) is given a notice under section 57 by the Department, and  
 (b) is the holder of a licence,  
 must deliver his licence and its counterpart to the Department before the end of the period of 21 days beginning with the day on which the notice is given.
- (2) The Department may make regulations substituting a longer period for the period for the time being mentioned in subsection (1). 15
- (3) If –  
 (a) a person delivers a current receipt for his licence and its counterpart to the Department within the period for the time being mentioned in subsection (1), and 20  
 (b) on the return of his licence and its counterpart immediately delivers them to the Department,  
 the duty under subsection (1) is to be taken as satisfied.  
 “Receipt” means a receipt issued under Article 62 of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/ 1320 (N.I.10)). 25
- (4) Subsection (1) does not apply if the competent authority of the relevant State –  
 (a) has the licence and its counterpart, or  
 (b) has delivered them to the Department.
- (5) The relevant State is the State in which the offence in relation to which the notice was given was committed. 30
- (6) If the holder of a licence does not deliver his licence and its counterpart to the Department as required by subsection (1), he is guilty of an offence.
- (7) A person is not guilty of an offence under subsection (6) if he satisfies the court that he has applied for a new licence and has not received it.  
In relation to the holder of a Great Britain licence or Community licence, a new licence includes the counterpart of such a licence. 35
- (8) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) “Licence” means a Northern Ireland licence, a Great Britain licence or a Community licence. 40

#### 65 Production of licence: Community licence holders

- (1) This section applies where –

- (a) the holder of a Community licence is disqualified by virtue of section 57, and
  - (b) the licence is sent to the Secretary of State or the Department under section 63 or 64.
- (2) The Secretary of State or (as the case may be) the Department must send – 5
- (a) the holder’s name and address, and
  - (b) particulars of the disqualification,
- to the licensing authority in the EEA State in respect of which the licence was issued.
- (3) But subsection (2) does not apply if the EEA State is the same as the State in 10  
which the offence in relation to which the holder is disqualified was committed.
- (4) The Secretary of State or (as the case may be) the Department must return the licence to the holder –
- (a) on the expiry of the relevant period of the disqualification (within the 15  
meaning of section 57), or
  - (b) if earlier, on being satisfied that the holder has left Great Britain or (as the case may be) Northern Ireland and is no longer normally resident there.
- (5) But subsection (4) does not apply at any time where – 20
- (a) the Secretary of State or the Department would otherwise be under a duty under paragraph (a) of that subsection to return the licence, and
  - (b) the holder would not at that time be authorised by virtue of section 99A(1) of the Road Traffic Act 1988 (c. 52) or Article 15A(1) of the Road 25  
Traffic (Northern Ireland) Order 1981 (S.I. 1981/ 154 (N.I.1)) to drive in Great Britain or Northern Ireland a motor vehicle of any class.
- (6) In that case the Secretary of State or (as the case may be) the Department must –
- (a) send the licence to the licensing authority in the EEA State in respect of 30  
which it was issued, and
  - (b) explain to that authority the reasons for so doing.
- (7) “EEA State” has the same meaning as in Part 3 of the Road Traffic Act 1988.

### *Disqualification*

#### **66 Effect of disqualification by virtue of section 57**

Where the holder of a Great Britain licence or Northern Ireland licence is 35  
disqualified by virtue of section 57, the licence is to be treated as revoked with effect from the beginning of the period of disqualification.

#### **67 Rule for determining end of period of disqualification**

In determining the expiration of the period for which a person is disqualified 40  
by virtue of section 57, any time during which –

- (a) the disqualification is suspended, or
- (b) he is not disqualified,

is to be disregarded.

*Endorsement*

**68 Endorsement of licence: Great Britain**

- (1) This section applies where a person who is normally resident in Great Britain is disqualified by virtue of section 57.
- (2) The Secretary of State must secure that particulars of the disqualification are endorsed on the counterpart of any Great Britain licence or of any Northern Ireland licence or Community licence which the person –
- (a) may then hold, or
- (b) may subsequently obtain,
- until he becomes entitled under subsection (4) or (5) to have a Great Britain licence and its counterpart, or a counterpart of his Northern Ireland licence or Community licence, issued to him free from those particulars. 5
- (3) On the issue to the person of –
- (a) a new Great Britain licence, or
- (b) a new counterpart of a Northern Ireland licence or Community licence,
- those particulars must be entered on the counterpart of the new licence or the new counterpart unless he has become so entitled. 10
- (4) The person is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective a new Great Britain licence with a counterpart free from the endorsement if he –
- (a) applies for a new licence under section 97(1) of the Road Traffic Act 1988 (c. 52),
- (b) surrenders any subsisting licence and its counterpart,
- (c) pays the fee prescribed by regulations under Part 3 of that Act, and
- (d) satisfies the other requirements of section 97(1). 20
- (5) The person is entitled to have issued to him with effect from the end of that period a new counterpart of any Northern Ireland licence or Community licence then held by him free from the endorsement if he makes an application to the Secretary of State for that purpose in such manner as the Secretary of State may determine. 30
- (6) The endorsement remains effective until four years have elapsed since he was convicted of the offence in relation to which he is disqualified by virtue of section 57.
- (7) Where the person ceases to be disqualified by virtue of section 57(6), the Secretary of State must secure that the relevant particulars are endorsed on the counterpart of the Great Britain licence or of any Northern Ireland licence or Community licence previously held by him. 35

**69 Endorsement of licence: Northern Ireland**

- (1) This section applies where a person who is normally resident in Northern Ireland is disqualified by virtue of section 57. 40
- (2) The Department must secure that particulars of the disqualification are endorsed on the counterpart of any Northern Ireland licence or the counterpart of any Great Britain licence or Community licence which the person –
- (a) may then hold, or

- (b) may subsequently obtain,  
until he becomes entitled under subsection (4) or (5) to have a Northern Ireland licence and its counterpart, or a counterpart of his Great Britain licence or Community licence, issued to him free from those particulars.
- (3) On the issue to the person of – 5  
(a) a new Northern Ireland licence, or  
(b) a new counterpart of a Great Britain licence or Community licence,  
those particulars must be entered on the counterpart of the new licence or the new counterpart unless he has become so entitled.
- (4) The person is entitled to have issued to him with effect from the end of the 10  
period for which the endorsement remains effective a new Northern Ireland licence with a counterpart free from the endorsement if he –  
(a) applies for a new licence under Article 13(1) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/ 154 (N.I.1)),  
(b) surrenders any subsisting licence and its counterpart, 15  
(c) pays the fee prescribed by regulations under Part 2 of that Order, and  
(d) satisfies the other requirements of Article 13(1).
- (5) The person is entitled to have issued to him with effect from the end of that 20  
period a new counterpart of any Great Britain licence or Community licence then held by him free from the endorsement if he makes an application to the Department for that purpose in such manner as it may determine.
- (6) The endorsement remains effective until four years have elapsed since he was convicted of the offence in relation to which he is disqualified by virtue of section 57.
- (7) Where the person ceases to be disqualified by virtue of section 57(6), the 25  
Department must secure that the relevant particulars are endorsed on the counterpart of the Northern Ireland licence or the counterpart of any Great Britain licence or Community licence previously held by him.

*General*

- 70 Duty of appropriate Minister to inform competent authority 30**
- (1) This section applies where a competent authority of any State gives the appropriate Minister a notice under the convention on driving disqualifications in respect of any person.
- (2) If the appropriate Minister gives a notice under section 57 to that person, he must give the competent authority particulars of the disqualification which 35  
arises by virtue of that section.
- (3) If the appropriate Minister does not give such a notice, he must give his reasons to the competent authority.
- 71 Notices**
- (1) A notice authorised or required under this Chapter to be given by the 40  
appropriate Minister to an individual, or a Community licence required to be returned to its holder by section 65, may be given or returned to him by –  
(a) delivering it to him,

- 
- (b) leaving it at his proper address, or  
(c) sending it to him by post.
- (2) For the purposes of—  
(a) subsection (1), and  
(b) section 7 of the Interpretation Act 1978 (c. 30) in its application to that subsection, 5  
the proper address of any individual is his latest address as known to the appropriate Minister.
- 72 Regulations: Great Britain**
- (1) Any power to make regulations conferred by this Chapter on the Secretary of State is exercisable by statutory instrument. 10  
(2) A statutory instrument containing any such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.  
(3) The regulations may make different provision for different purposes.
- 73 Regulations: Northern Ireland** 15
- (1) Any power to make regulations conferred by this Chapter on the Department is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/ 1573 (N.I. 12)).  
(2) Any such regulations are subject to negative resolution (within the meaning of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))). 20  
(3) The regulations may make different provision for different purposes.
- 74 Interpretation**
- (1) In this Chapter –  
“appropriate Minister” means –  
(a) in relation to Great Britain, the Secretary of State, 25  
(b) in relation to Northern Ireland, the Department,  
“central authority”, in relation to a State, means an authority designated by the State as a central authority for the purposes of the convention on driving disqualifications,  
“Community licence” – 30  
(a) in relation to Great Britain, has the same meaning as in Part 3 of the Road Traffic Act 1988 (c. 52),  
(b) in relation to Northern Ireland, has the same meaning as in Part 2 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/ 154 (N.I.1)), 35  
“competent authority”, in relation to a State, means an authority which is a competent authority in relation to the State for the purposes of the convention on driving disqualifications,  
“the convention on driving disqualifications” means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Driving Disqualifications signed on 17th June 1998, 40  
“counterpart” –

- (a) in relation to Great Britain, has the same meaning as in Part 3 of the Road Traffic Act 1988 (c. 52),
- (b) in relation to Northern Ireland, has the same meaning as in Part 2 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I.1)), 5
- “the Department” means the Department of the Environment,
- “disqualified”, except in section 56, means –
- (a) in relation to Great Britain, disqualified for holding or obtaining a Great Britain licence,
- (b) in relation to Northern Ireland, disqualified for holding or obtaining a Northern Ireland licence, 10
- and “disqualification” is to be interpreted accordingly,
- “foreign disqualification” means the disqualification mentioned in section 56,
- “Great Britain licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988, 15
- “motor vehicle” –
- (a) in relation to Great Britain, has the same meaning as in the Road Traffic Act 1988,
- (b) in relation to Northern Ireland, has the same meaning as in the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I.18)), 20
- “Northern Ireland licence” means a licence to drive a motor vehicle granted under Part 2 of the Road Traffic (Northern Ireland) Order 1981,
- “prescribed” means prescribed by regulations made by the appropriate Minister. 25
- (2) In this Chapter a disqualification, or foreign disqualification, for life is to be treated as being for a period of not less than six months.

## 75 Application to Crown

This Chapter applies to vehicles and persons in the public service of the Crown. 30

## CHAPTER 2

### MUTUAL RECOGNITION WITHIN THE UNITED KINGDOM ETC.

## 76 Recognition in Great Britain of disqualifications in Northern Ireland etc.

After section 102 of the Road Traffic Act 1988 there is inserted –

*“Disqualification if disqualified in Northern Ireland etc.* 35

### 102A Disqualification while disqualified in Northern Ireland, Isle of Man, Channel Islands or Gibraltar

- (1) A person is disqualified for holding or obtaining a licence to drive a motor vehicle of any class so long as he is subject to a relevant disqualification imposed outside Great Britain. 40

- (2) For the purposes of this section a person is subject to a relevant disqualification imposed outside Great Britain if, in respect of any offence—
- (a) a court in Northern Ireland disqualifies him for holding or obtaining a Northern Ireland licence, 5
  - (b) a court in the Isle of Man or any of the Channel Islands disqualifies him for holding or obtaining a British external licence, or
  - (c) a court in Gibraltar disqualifies him for holding or obtaining a licence to drive a motor vehicle granted under the law of Gibraltar. 10
- (3) A certificate signed by the Secretary of State which states, in respect of a person, any matter relating to the question whether he is subject to a relevant disqualification imposed outside Great Britain shall be evidence (in Scotland, sufficient evidence) of the matter so stated. 15
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

## 77 Endorsement of counterparts issued to Northern Ireland licence holders

- (1) After section 109 of the Road Traffic Act 1988 (c. 52) there is inserted—

### “109A Counterparts issued to Northern Ireland licence holders 20

- (1) The Secretary of State may issue to any Northern Ireland licence holder who—
- (a) has delivered his Northern Ireland licence to the Secretary of State, and
  - (b) has provided him with the information specified in, or required under, subsection (3) below (whether or not in pursuance of this section), 25
- a document (referred to in this Part of this Act in relation to a Northern Ireland licence as a “counterpart”).
- (2) The counterpart must— 30
- (a) be in such form, and
  - (b) contain such information,
- designed for the endorsement of particulars relating to the Northern Ireland licence as the Secretary of State may determine.
- (3) The information referred to in subsection (1) above is— 35
- (a) the name and address (whether in Great Britain or Northern Ireland) of the Northern Ireland licence holder;
  - (b) his date of birth;
  - (c) the classes of vehicle which he is authorised by his Northern Ireland licence to drive; 40
  - (d) the period of validity of the licence;
  - (e) whether it was granted in exchange for a licence issued by a state other than an EEA State; and
  - (f) such other information as the Secretary of State may require for the purposes of the proper exercise of any of his functions under this Part or Part 4 of this Act. 45

- (4) The Secretary of State –
- (a) may endorse a Northern Ireland licence delivered to him (whether or not in pursuance of this section) in such manner as he may determine –
    - (i) with any part of the information specified in, or required under, subsection (3) above; or
    - (ii) with information providing a means of ascertaining that information or any part of it; and
  - (b) must return the Northern Ireland licence to the holder.
- (5) Subsections (6) to (9), (11) (with the omission of paragraph (a)) and (12) of section 99B of this Act apply for the purposes of this section as if the references to a Community licence were references to a Northern Ireland licence.” 10
- (2) After section 91 of the Road Traffic Offenders Act 1988 (c. 53) there is inserted – 15

**“91ZA Application to Northern Ireland licence holders**

- (1) The references to a licence in the following provisions of this Act include references to a Northern Ireland licence –
- (a) section 7,
  - (b) section 26(7) and (8) and (9)(b), 20
  - (c) section 27,
  - (d) section 29(1),
  - (e) section 30,
  - (f) section 31(1),
  - (g) section 32, 25
  - (h) section 42(5),
  - (i) section 44(1),
  - (j) section 46(2),
  - (k) section 47(2) and (3),
  - (l) section 48(1) and (2). 30
- (2) Accordingly, the reference in section 27(3)(b) of this Act to the suspension of a licence is to be construed in relation to a Northern Ireland licence holder as a reference to his ceasing to be authorised by virtue of section 109(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class. 35
- (3) The references in sections 26(9)(a) and 27(3) of this Act to a new licence include references to a counterpart of a Northern Ireland licence.
- (4) In relation to a Northern Ireland licence holder to whom a counterpart is issued under section 109A of the Road Traffic Act 1988, the references in Part 3 of this Act (except sections 75(12), 76(8) and 77(9)) to a licence include references to a Northern Ireland licence. 40
- (5) Where a court orders the endorsement of the counterpart of any Northern Ireland licence held by a person, it must send notice of the endorsement to the Secretary of State.
- (6) The notice must – 45

- 
- (a) be sent in such manner and to such address, and  
 (b) contain such particulars,  
 as the Secretary of State may determine.
- (7) Where a court orders the holder of a Northern Ireland licence to be disqualified, it must send the Northern Ireland licence and its counterpart (if any), on their being produced to the court, to the Secretary of State. 5
- (8) The licence and its counterpart must be sent to such address as the Secretary of State may determine.
- (9) Where— 10
- (a) a notice is sent to the Secretary of State under subsection (5) above, and
- (b) the particulars contained in the notice include— 15
- (i) particulars of an offence in respect of which the holder of a Northern Ireland licence is disqualified by an order of a court, and
- (ii) particulars of the disqualification,  
 the Secretary of State must send a notice containing the particulars mentioned in paragraph (b)(i) and (ii) to the licensing authority in Northern Ireland. 20
- 91ZB Effect of endorsement on Northern Ireland licence holders**
- Section 91B applies in relation to Northern Ireland licences as it applies in relation to Community licences.”
- 78 Prohibition on holding or obtaining Great Britain and Northern Ireland licences** 25
- (1) The Road Traffic Act 1988 (c. 52) is amended as follows.
- (2) In section 97 (grant of licences)—
- (a) in subsection (1)(c), after sub-paragraph (i) there is inserted— 30
- “(ia) any Northern Ireland licence held by him together with its Northern Ireland counterpart and its counterpart (if any) issued to him under this Part of this Act,”
- (b) after subsection (1A) there is inserted—
- “(1AA) Where a licence under this Part of this Act is granted to a person who surrenders under sub-paragraph (ia) of subsection (1)(c) above his Northern Ireland licence together with the counterparts mentioned in that sub-paragraph to the Secretary of State— 35
- (a) that person ceases to be authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class, and 40
- (b) the Secretary of State must send the Northern Ireland licence and its Northern Ireland counterpart to the licensing authority in Northern Ireland together with

particulars of the class of motor vehicles to which the licence granted under this Part of this Act relates.”

- (3) In section 99 (duration of licences), after subsection (3) there is inserted –

“(3A) Where –

(a) the Secretary of State is sent under a provision of Northern Ireland law corresponding to section 97(1AA) of this Act a licence granted under this Part of this Act to a person to drive a motor vehicle of any class, and 5

(b) the Secretary of State is satisfied that a Northern Ireland licence to drive a motor vehicle of that or a corresponding class has been granted to that person, 10

the Secretary of State must serve notice in writing on that person revoking the licence granted under this Part of this Act.”

- (4) In section 102 (disqualification to prevent duplication of licences), at the end there is inserted – 15

“(2) A person is also disqualified for holding or obtaining a licence authorising him to drive a motor vehicle of any class so long as he is authorised by virtue of section 109(1) of this Act to drive a motor vehicle of that or a corresponding class.”

## **79 Disability and prospective disability** 20

- (1) The Road Traffic Act 1988 (c. 52) is amended as follows.

- (2) After section 109A (as inserted by section 77 of this Act) there is inserted –

### **“109B Revocation of authorisation conferred by Northern Ireland licence because of disability or prospective disability**

- (1) If the Secretary of State is at any time satisfied on inquiry – 25

(a) that a Northern Ireland licence holder is suffering from a relevant disability, and

(b) that he would be required by virtue of section 92(3) of this Act to refuse an application made by the holder at that time for a licence authorising him to drive a vehicle of the class in respect of which his Northern Ireland licence was issued or a class corresponding to that class, 30

he may serve notice in writing requiring the licence holder to deliver immediately to the Secretary of State his Northern Ireland licence together with its Northern Ireland counterpart and its counterpart (if any) issued to him under this Part of this Act (“the relevant counterparts”). 35

- (2) If the Secretary of State is satisfied on inquiry that a Northern Ireland licence holder is suffering from a prospective disability, he may –

(a) serve notice in writing on the Northern Ireland licence holder requiring him to deliver immediately to the Secretary of State his Northern Ireland licence together with the relevant counterparts, and 40

(b) on receipt of the Northern Ireland licence and those counterparts and of an application made for the purposes of this 45

- subsection, grant to the Northern Ireland licence holder, free of charge, a licence for a period determined by the Secretary of State under section 99(1)(b) of this Act.
- (3) The Secretary of State may require a person to provide –
- (a) evidence of his name, address, sex and date and place of birth, and
  - (b) a photograph which is a current likeness of him,
- before granting a licence to him on an application for the purposes of subsection (2) above. 5
- (4) A person who – 10
- (a) is required under, or by virtue of, this section to deliver to the Secretary of State his Northern Ireland licence and the relevant counterparts, but
  - (b) without reasonable excuse, fails to do so,
- is guilty of an offence. 15
- (5) Where a Northern Ireland licence holder to whom a counterpart is issued under section 109A of this Act –
- (a) is required under, or by virtue of, this section to deliver his Northern Ireland licence and that counterpart to the Secretary of State, and 20
  - (b) is not in possession of them in consequence of the fact that he has surrendered them to a constable or authorised person (within the meaning of Part 3 of the Road Traffic Offenders Act 1988) on receiving a fixed penalty notice given to him under section 54 of that Act, 25
- he does not fail to comply with any such requirement if he delivers them to the Secretary of State immediately on their return.
- (6) Where a Northern Ireland licence holder is served with a notice in pursuance of this section, he shall cease to be authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class from such date as may be specified in the notice, not being earlier than the date of service of the notice. 30
- (7) Where a Northern Ireland licence is delivered to the Secretary of State in pursuance of this section, he must –
- (a) send the licence and its Northern Ireland counterpart to the licensing authority in Northern Ireland, and 35
  - (b) explain to them his reasons for so doing.

### 109C Information relating to disabilities etc

- Section 94 of this Act shall apply to a Northern Ireland licence holder who is normally resident in Great Britain as if – 40
- (a) in subsection (1), for the words from the beginning to “aware” there were substituted “If a Northern Ireland licence holder who is authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class, is aware immediately before the relevant date, or becomes aware on or after that date”, 45
  - (b) after that subsection there were inserted –

- “(1A) For the purposes of subsection (1) “relevant date” means –
- (a) in the case where the licence holder first became normally resident in Great Britain on or before the date on which section 79 of the Crime (International Co-operation) Act 2003 comes into force, that date; and 5
  - (b) in any other case, the date on which he first became so resident.”,
  - (c) for subsection (3A) there were substituted –
- “(3A) A person who –
- (a) is authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class, and 10
  - (b) drives on a road a motor vehicle of that class,  
is guilty of an offence if at any earlier time while he was so authorised he was required by subsection (1) above to notify the Secretary of State but has failed without reasonable excuse to do so.” 15
  - (d) in subsection (4), the words “an applicant for, or” (in both places) were omitted,
  - (e) in subsection (5), the words “applicant or” and the words from the beginning of paragraph (c) to “provisional licence” were omitted, 20
  - (f) in subsection (6)(b), the words “applicant or” (in both places) were omitted,
  - (g) in subsection (7), the words “applicant or” were omitted, and
  - (h) in subsection (8) – 25
    - (i) for “93” there were substituted “109B”, and
    - (ii) the words “applicant or” (in both places) were omitted.”
- (3) In section 93 (revocation of licence because of disability or prospective disability) –
- (a) in subsection (2A), at the end there is inserted “or subsection (6) below”, 30
  - (b) at the end there is inserted –
- “(5) Where the Secretary of State –
- (a) is at any time sent by the licensing authority in Northern Ireland a licence under a provision of Northern Ireland law corresponding to section 109B of this Act, and 35
  - (b) by virtue of the reasons given by that authority for sending the licence is at that time satisfied as mentioned in subsection (1)(a) and (b) above or that the licence holder is suffering from a prospective disability,  
the Secretary of State may serve notice in writing on the licence holder revoking the licence with effect from such date as may be specified in the notice, not being earlier than the date of service of the notice. 40
- (6) Where the reasons given by the licensing authority in Northern Ireland for sending the licence relate to a prospective disability of the holder, the Secretary of State may, on an application made for the purposes of this subsection, grant to the holder, free of charge, a new licence for a period determined by the Secretary of State under section 99(1)(b) of this Act.” 45

**PART 4**

## MISCELLANEOUS

*Information***80 Disclosure of information by SFO**

- (1) In section 3 of the Criminal Justice Act 1987 (c. 38) (disclosure of information) – 5
- (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 – 10
- “(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”, 15
- and the “and” preceding paragraph (m) is omitted.

**81 Inspection of overseas information systems**

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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 –
- (a) the Schengen information system,
- (b) the Europol information system, 25
- (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 30
- 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. 35
- (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, 40
- 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, 5
  - “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.” 10

*Cross-border surveillance*

**82 Foreign surveillance operations**

After section 76 of the Regulation of Investigatory Powers Act 2000 (c. 23) there is inserted – 15

**“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; 20
  - (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 corresponding Scottish legislation. 25
- (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 30
  - (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 35
  - (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 a foreign police or customs officer in the United Kingdom during the permitted period is to be lawful for all purposes if conditions specified in an order made by the Secretary of State with the consent of the Scottish Ministers are satisfied in relation to its carrying out. 40

- 
- (5) An 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 permitted period” means the period of five hours beginning with the time when the officer enters the United Kingdom. 5
- (7) 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.
- (8) 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
- (9) 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 15
- (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.
- (10) In this section— 20
- “the corresponding Scottish legislation” means an enactment contained in or made under an Act of the Scottish Parliament which makes provision, corresponding to that made by Part 2, for the authorisation of directed surveillance and intrusive surveillance; 25
- “the Schengen Convention” means the Convention implementing the Schengen Agreement of 14th June 1985.”
- 83 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. 30
- (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. 35
- (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.
- 84 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. 40
- (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*

### **85 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.

### **86 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*

5

**87 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”, 10
  - (b) after paragraph (h) there is inserted –
    - “(ha) bankers’ drafts;
    - (hb) promissory notes;”;
  - (c) after paragraph (j) there is inserted – 15
    - “(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. 20
  - (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.”

**88 False monetary instruments: Scotland**

After section 46 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) there is inserted – 25

*“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. 30
- (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. 35

- (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 – 5
- (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 – 10
- (a) under subsection (1) above is liable on conviction on indictment – 15
    - (i) to a fine;
    - (ii) to imprisonment for a term not exceeding ten years; or
    - (iii) both to a fine and to such imprisonment; 20
  - (b) under subsection (2) above is liable on conviction on indictment – 25
    - (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 30
    - (iii) both to a fine and to imprisonment for a term not exceeding ten years, if it is proved as mentioned in subparagraph (ii) above, or both to a fine and to imprisonment for a term not exceeding two years if it is not so proved. 35
- (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 35
  - (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. 40
- (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. 45
- (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
  - (b) is exercisable by statutory instrument. 5
- (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*

**89 Freezing of terrorist property**

Schedule 4 is to have effect. 10

**PART 5**

FINAL PROVISIONS

**CHAPTER 1**

AMENDMENTS AND REPEALS

**90 Amendments and repeals** 15

- (1) Schedule 5 (minor and consequential amendments) is to have effect.
- (2) The enactments set out in Schedule 6 are repealed to the extent specified.

**CHAPTER 2**

MISCELLANEOUS

**91 Northern Ireland** 20

An Order in Council under paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) (legislation for Northern Ireland during suspension of devolved government) which contains a statement that it is made only for purposes corresponding to those of Chapter 2 of Part 3 of this Act—

- (a) is not to be subject to paragraph 2 of that Schedule (affirmative resolution of both Houses of Parliament), but 25
- (b) is to be subject to annulment in pursuance of a resolution of either House of Parliament.

**92 Supplementary and consequential provision**

- (1) The appropriate Minister may by order made by statutory instrument make— 30
  - (a) any supplementary, incidental or consequential provision,
  - (b) any transitory, transitional or saving provision,
 which he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The appropriate Minister means— 35

- 
- (a) in relation to any provision that would, if included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament, the Scottish Ministers,
- (b) in relation to any other provision, the Secretary of State.
- (3) The provision which may be made under subsection (1) includes provision amending or repealing any enactment or instrument. 5
- (4) An order under this section may make different provision for different purposes.
- (5) A statutory instrument (other than an instrument to which subsection (6) applies) containing an order under this section made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (6) A statutory instrument containing such an order which adds to, replaces or omits any part of the text of an Act is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (7) A statutory instrument (other than an instrument to which subsection (8) applies) containing an order under this section made by the Scottish Ministers is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (8) A statutory instrument containing such an order which adds to, replaces or omits any part of the text of an Act or of an Act of the Scottish Parliament is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament. 20
- 93 Commencement**
- (1) This Act (except this Chapter and the provisions mentioned in subsection (2)) is to come into force on such day as the Secretary of State may by order made by statutory instrument appoint. 25
- (2) The following are to come into force on such day as the Scottish Ministers may by order made by statutory instrument appoint –
- (a) sections 37 to 41, 30
- (b) section 88.
- (3) An order under this section may make different provision for different purposes.
- 94 Extent**
- (1) Sections 32 to 36 extend only to England and Wales and Northern Ireland. 35
- (2) Sections 37 to 41 extend only to Scotland.
- 95 Short title**
- This Act may be cited as the Crime (International Co-operation) Act 2003.

## SCHEDULES

### SCHEDULE 1

Section 15

#### PROCEEDINGS OF A NOMINATED COURT UNDER SECTION 15

##### *Securing attendance of witnesses*

- |   |   |   |
|---|---|---|
| 1 | The court has the like powers for securing the attendance of a witness as it has for the purposes of other proceedings before the court.  | 5 |
| 2 | In Scotland the court has power to issue a warrant to officers of law to cite witnesses, and section 156 of the Criminal Procedure (Scotland) Act 1995 (c. 46) applies in relation to a witness so cited. |   |

##### *Power to administer oaths*

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- |   |                                      |  |
|---|--------------------------------------|--|
| 3 | The court may take evidence on oath. |  |
|---|--------------------------------------|--|

##### *Proceedings*

- |   |  |    |
|---|--|----|
| 4 | Rules of court under section 49 may, in particular, make provision in respect of the persons entitled to appear or take part in the proceedings and for excluding the public from the proceedings. | 15 |
|---|--|----|

##### *Privilege of witnesses*

- |   |  |   |
|---|--|---|
| 5 | <p>(1) A person cannot be compelled to give any evidence which he could not be compelled to give-</p> <p style="margin-left: 20px;">(a) in criminal proceedings in the part of the United Kingdom in which the nominated court exercises jurisdiction, or</p> <p style="margin-left: 20px;">(b) subject to sub-paragraph (2), in criminal proceedings in the country from which the request for the evidence has come.</p> <p>(2) Sub-paragraph (1)(b) does not apply unless the claim of the person questioned to be exempt from giving the evidence is conceded by the court or authority which made the request.</p> <p>(3) Where the person's claim is not conceded, he may be required to give the evidence to which the claim relates (subject to the other provisions of this paragraph); but the evidence may not be forwarded to the court or authority which requested it if a court in the country in question, on the matter being referred to it, upholds the claim.</p> <p>(4) A person cannot be compelled to give any evidence if his doing so would be prejudicial to the security of the United Kingdom.</p> <p>(5) A certificate signed by or on behalf of the Secretary of State or, where the court is in Scotland, the Lord Advocate to the effect that it would be so prejudicial for that person to do so is conclusive evidence of that fact.</p> | <p>20</p> <p>25</p> <p>30</p> <p>35</p> |
|---|--|---|

- (6) A person cannot be compelled to give any evidence in his capacity as an officer or servant of the Crown.
- (7) Sub-paragraphs (4) and (6) are without prejudice to the generality of sub-paragraph (1).
- Forwarding evidence* 5
- 6 (1) The evidence received by the court is to be given to the court or authority that made the request or to the territorial authority for forwarding to the court or authority that made the request.
- (2) So far as may be necessary in order to comply with the request—
- (a) where the evidence consists of a document, the original or a copy is to be provided, 10
- (b) where it consists of any other article, the article itself, or a description, photograph or other representation of it, is to be provided.
- Supplementary* 15
- 7 The Bankers’ Books Evidence Act 1879 (c. 11) applies to the proceedings as it applies to other proceedings before the court.
- 8 No order for costs may be made.

## SCHEDULE 2

Sections 30 and 31

### EVIDENCE GIVEN BY TELEVISION LINK OR TELEPHONE 20

#### PART 1

##### EVIDENCE GIVEN BY TELEVISION LINK

###### *Securing attendance of witnesses*

- 1 The nominated court has the like powers for securing the attendance of the witness to give evidence through the link as it has for the purpose of proceedings before the court. 25
- 2 In Scotland the nominated court has power to issue a warrant to officers of law to cite the witness for the purpose of securing his attendance to give evidence through the link, and section 156 of the Criminal Procedure (Scotland) Act 1995 (c. 46) applies in relation to the witness if so cited. 30

###### *Conduct of hearing*

- 3 The witness is to give evidence in the presence of the nominated court.
- 4 The nominated court is to establish the identity of the witness.
- 5 The nominated court may intervene where it considers it necessary to do so to safeguard the rights of the witness. 35

- |   |   |   |
|---|---|---|
| 6 | The evidence is to be given under the supervision of the court of the country concerned.  |   |
| 7 | The evidence is to be given in accordance with the laws of that country and with any measures for the protection of the witness agreed between the Secretary of State and the authority in that country which appears to him to have the function of entering into agreements of that kind. | 5 |
| 8 | Rules of court under section 49 must make provision for the use of interpreters.  |   |

*Privilege of witness*

- |   |  |    |
|---|--|----|
| 9 | (1) The witness cannot be compelled to give any evidence which he could not be compelled to give in criminal proceedings in the part of the United Kingdom in which the nominated court exercises jurisdiction.                            | 10 |
|   | (2) The witness cannot be compelled to give any evidence if his doing so would be prejudicial to the security of the United Kingdom.   |    |
|   | (3) A certificate signed by or on behalf of the Secretary of State or, where the court is in Scotland, the Lord Advocate to the effect that it would be so prejudicial for that person to do so is to be conclusive evidence of that fact. | 15 |
|   | (4) The witness cannot be compelled to give any evidence in his capacity as an officer or servant of the Crown.  |    |
|   | (5) Sub-paragraphs (2) and (4) are without prejudice to the generality of sub-paragraph (1).   | 20 |

*Record of hearing*

- |    |   |    |
|----|---|----|
| 10 | Rules of court under section 49 must make provision – |    |
|    | (a) for the drawing up of a record of the hearing,    |    |
|    | (b) for sending the record to the external authority. | 25 |

PART 2

EVIDENCE GIVEN BY TELEPHONE

*Notification of witness*

- |    |  |    |
|----|--|----|
| 11 | The nominated court must notify the witness of the time when and the place at which he is to give evidence by telephone. | 30 |
|----|--|----|

*Conduct of hearing*

- |    |   |    |
|----|---|----|
| 12 | The nominated court must be satisfied that the witness is willingly giving evidence by telephone. |    |
| 13 | The witness is to give evidence in the presence of the nominated court.                           |    |
| 14 | The nominated court is to establish the identity of the witness.                                  | 35 |
| 15 | The evidence is to be given under the supervision of the court of the participating country.      |    |
| 16 | The evidence is to be given in accordance with the laws of that country.                          |    |

- 17 Rules of court under section 49 must make provision for the use of interpreters.

SCHEDULE 3

Section 54

OFFENCES FOR THE PURPOSES OF SECTION 54

PART 1

5

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD UNNECESSARY

- 1 (1) Manslaughter or culpable homicide by the driver of a motor vehicle.  
(2) “Driver” –  
(a) in relation to Great Britain, has the same meaning as in the Road Traffic Act 1988 (c. 52), 10  
(b) in relation to Northern Ireland, has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I.18)).
- 2 An offence under section 89(1) of the Road Traffic Regulation Act 1984 (c. 27) or Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/ 276 (N.I.2)) (exceeding speed limit). 15
- 3 An offence under any of the following sections of the Road Traffic Act 1988 or Articles of the Road Traffic (Northern Ireland) Order 1995 –  
(a) section 1 or Article 9 (causing death by dangerous driving),  
(b) section 2 or Article 10 (dangerous driving), 20  
(c) section 3 or Article 12 (careless, and inconsiderate, driving),  
(d) section 3A or Article 14 (causing death by careless driving when under influence of drink or drugs),  
(e) section 4 or Article 15 (driving, or being in charge, when under influence of drink or drugs), 25  
(f) section 5 or Article 16 (driving, or being in charge, of a motor vehicle with alcohol concentration above prescribed limit),  
(g) section 6 or Article 17 (failing to provide a specimen of breath for a breath test),  
(h) section 7 or Article 18 (failing to provide specimen for analysis or laboratory test). 30
- 4 An offence under section 12 of the Road Traffic Act 1988 (motor racing and speed trials on public ways).
- 5 An offence under section 103(1)(b) of the Road Traffic Act 1988 or Article 167(1) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/ 154 (N.I.1)) (driving while disqualified). 35
- 6 An offence under section 170(4) of the Road Traffic Act 1988 or Article 175(2) of the Road Traffic (Northern Ireland) Order 1981 (failing to stop after accident and give particulars or report of accident).

PART 2

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR MINIMUM PERIOD NECESSARY

- 7 An offence which—
- (a) is mentioned in Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) or Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/ 1320 (N.I.10)), but
  - (b) is not an offence mentioned in Part 1 of this Schedule.

SCHEDULE 4

Section 89

TERRORIST PROPERTY: FREEZING ORDERS

- 1 The Terrorism Act 2000 (c. 11) is amended as follows. 10
- 2 In section 123 (orders and regulations), in subsection (2)(i), for “paragraph” there is substituted “paragraphs 11A and”. 10
- 3 In Schedule 4 (forfeiture orders), after paragraph 11 there is inserted—
- “Domestic and overseas freezing orders*
- 11A (1) This paragraph has effect for the purposes of paragraphs 11B to 11G. 15
- (2) The relevant Framework Decision means any Framework Decision of the Council of the European Union which is identified by the Secretary of State by order and is about the execution of orders freezing property or evidence. 20
- (3) A listed offence means—
- (a) an offence described in a prescribed provision of the relevant Framework Decision, or
  - (b) a prescribed offence or an offence of a prescribed description. 25
- (4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 11D(3), prescribes an offence or a description of offences may require 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. 30
- (5) Specified information, in relation to a certificate under paragraph 11B or 11D, means—
- (a) any information required to be given by a prescribed document annexed to the relevant Framework Decision, or
  - (b) any prescribed information. 35
- (6) In this paragraph, “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A participating country means—
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement 40

- of Schedule 4 to the Crime (International Co-operation) Act 2003, and
- (b) any other member State designated by an order made by the Secretary of State.
- (8) “Country” includes territory. 5
- (9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

*Domestic freezing orders: certification*

- 11B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph. 10
- (2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and 15
  - (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.
- (3) A certificate under this paragraph is a certificate which— 20
- (a) is made for the purposes of the relevant Framework Decision, and
  - (b) gives the specified information.
- (4) If the High Court makes a certificate under this paragraph— 25
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  - (b) paragraph 6(2) to (4) applies to the certificate as it applies to the restraint order.

*Sending domestic freezing orders*

- 11C (1) If a certificate is made under paragraph 11B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to— 30
- (a) a court exercising jurisdiction in the place where the property is situated, or
  - (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind. 35
- (2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent. 40
- (3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).

- (4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.  
 The signature may be an electronic signature.
- (5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1). 5

*Overseas freezing orders*

- 11D (1) Paragraph 11E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order. 10
- (2) An overseas freezing order is an order prohibiting dealing with property – 15
- (a) which is in the United Kingdom and is terrorist property, and
- (b) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in that country for the forfeiture of the property on a ground mentioned in sub-paragraph (3), 20
- and in respect of which the following requirements of this paragraph are met.
- (3) The grounds are that –
- (a) the property is likely to be used for the purposes of a listed offence, or 25
- (b) the property is the proceeds of the commission of such an offence.
- (4) The order must relate to –
- (a) criminal proceedings instituted in the participating country, or 30
- (b) a criminal investigation being carried on there.
- (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 Secretary of State has the information in question. 35
- (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, 40
- (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 an order made by a court exercising criminal jurisdiction in that country for the forfeiture of 45

the property, unless the certificate indicates when such an order is expected to be sent.

- (8) An appropriate court or authority in a participating country in relation to an overseas freezing order is –
- (a) a court exercising criminal jurisdiction in the country, 5
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.
- (9) References in paragraphs 11E to 11G to an overseas freezing order include its accompanying certificate. 10

*Enforcement of overseas freezing orders*

- 11E (1) Where this paragraph applies the Secretary of State must –
- (a) by a notice nominate a court in England and Wales to give effect to the overseas freezing order, 15
  - (b) send a copy of the overseas freezing order to the nominated court and to the Director of Public Prosecutions,
  - (c) tell the Director which court has been nominated.
- (2) The nominated court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court. 20
- (3) Before giving effect to the overseas freezing order, the nominated court must give the Director an opportunity to be heard.
- (4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)). 25
- 11F The nominated court may postpone giving effect to an overseas freezing order in respect of any property –
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or 30
  - (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be removed from the United Kingdom.
- 11G (1) Where the High Court decides to give effect to an overseas freezing order, it must – 35
- (a) register the order in that court,
  - (b) provide for notice of the registration to be given to any person affected by it.
- (2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court. 40
- (3) Paragraph 7 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 5.
- (4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the 45

	Director of Public Prosecutions or any other person affected by it, if –	
	(a) the court is of the opinion mentioned in paragraph 11E(4), or	
	(b) the court is of the opinion that the order has ceased to have effect in the participating country.	5
	(5) Her Majesty may by Order in Council make further provision for the enforcement in England and Wales of registered overseas freezing orders.	
	(6) An Order in Council under this paragraph –	10
	(a) may make different provision for different cases,	
	(b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.	
4	In paragraph 14 of that Schedule (enforcement of orders made in designated countries), in sub-paragraph (2), after the second “order” there is inserted “(other than an overseas freezing order within the meaning of paragraph 11D)”.	15
5	In paragraph 45 of that Schedule (Insolvency: general provisions), in paragraph (c) of the definition of “restraint order” –	
	(a) “external restraint” is omitted,	20
	(b) after “of” there is inserted “paragraph 11G or of”.	

## SCHEDULE 5

Section 90

## MINOR AND CONSEQUENTIAL AMENDMENTS

*The Internationally Protected Persons Act 1978 (c. 17)*

1	The Internationally Protected Persons Act 1978 is amended as follows.	25
2	In section 2 (supplementary provisions), in subsections (1) and (2), for “and the United Nations Personnel Act 1997” there is substituted “, the United Nations Personnel Act 1997 and the Terrorism Act 2000”.	

*The Suppression of Terrorism Act 1978 (c. 26)*

3	The Suppression of Terrorism Act 1978 is amended as follows.	30
4	In section 4 (jurisdiction in respect of offences committed outside United Kingdom), in subsections (4) and (5), for “and the United Nations Personnel Act 1997” there is substituted “, the United Nations Personnel Act 1997 and the Terrorism Act 2000”.	

*The Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))*

5	The Road Traffic (Northern Ireland) Order 1981 is amended as follows.	35
6	In Article 4 (exceptions to offence under Article 3), in paragraph (3)(a), after “Road Traffic Orders” there is inserted “or Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003”.	

*The Nuclear Material (Offences) Act 1983 (c. 18)*

- 7 The Nuclear Material (Offences) Act 1983 is amended as follows.
- 8 In section 3 (supplemental), in subsections (1) and (2), for “and the United Nations Personnel Act 1997” there is substituted “, the United Nations Personnel Act 1997 and the Terrorism Act 2000”. 5

*The Child Abduction Act 1984 (c. 37)*

- 9 The Child Abduction Act 1984 is amended as follows.
- 10 In section 11 (consequential amendments and repeals), in subsection (3), after “the Internationally Protected Persons Act 1978” there is inserted “and sections 63B(2) and 63C(2) of the Terrorism Act 2000”. 10

*The Criminal Justice Act 1987 (c. 38)*

- 11 The Criminal Justice Act 1987 is amended as follows.
- 12 In section 2 (investigation powers of Director of Serious Fraud Office) –
- (a) in subsection (1A), for paragraph (b) there is substituted –  
“ (b) the Secretary of State acting under section 15(2) of the Crime (International Co-operation) Act 2003, in response to a request received by him from a person mentioned in section 13(2) of that Act (an “overseas authority”).”, 15
  - (b) in subsection (8A), for the words from “furnished” to the end there is substituted “given to the overseas authority which requested it or given to the Secretary of State for forwarding to that overseas authority”, 20
  - (c) subsection (8B) is omitted,
  - (d) in subsection (8C), for “transmitted” (in both places) there is substituted “forwarded”, 25
  - (e) in subsection (18), “(8B)” is omitted.

*The Road Traffic Act 1988 (c. 52)*

- 13 The Road Traffic Act 1988 is amended as follows.
- 14 In section 88 (exceptions to offence under section 87) – 30
- (a) in subsection (1A)(b)(ii), for “section 4(1) of or paragraph 6(1) or 9(1)” there is substituted “section 4 of or paragraph 6 or 9”,
  - (b) in subsection (1B)(a), after “Road Traffic Acts” there is inserted “or Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003”. 35
- 15 In section 92 (requirements as to physical fitness of drivers), in subsection (7D), after “99D” there is inserted “or 109C”.
- 16 In section 94A (driving after refusal or revocation of licence), in subsection (1) –
- (a) in paragraph (a)(ii), for “section 93(1) or (2)” there is substituted “section 93”, 40

- (b) in paragraph (a)(iii) –  
 (i) after “section 99C(1) or (2)” there is inserted “or 109B”,  
 (ii) after “Community licence” there is inserted “or Northern Ireland licence”,  
 (c) in paragraph (b)(ii), at the end there is inserted “or Northern Ireland licence”. 5
- 17 In section 97 (grant of licences), in subsection (1)(d), for “section 4(1) of or paragraph 6(1) or 9(1)” there is substituted “section 4 of or paragraph 6 or 9”.
- 18 In section 100 (appeals relating to licences), in subsection (1) –  
 (a) in paragraph (c), after “99(3)” there is inserted “or (3A)”, 10  
 (b) for “or 99C” there is substituted “, 99C or 109B”.
- 19 In section 105 (regulations) –  
 (a) in subsection (2) –  
 (i) in paragraph (a), after “this Act,” there is inserted “Northern Ireland licences,” 15  
 (ii) in paragraph (b)(iii), after “this Act” there is inserted “, of Northern Ireland licences”,  
 (iii) in paragraph (ea), after “counterparts” (in the first place) there is inserted “of Northern Ireland licences or” and after “counterparts” (in the second place) there is inserted “of Northern Ireland licences or (as the case may be)”, 20  
 (iv) in paragraph (f), before “Community licences” there is inserted “Northern Ireland licences or”,  
 (b) in subsection (5), for “, 91A and” there is substituted “and 91ZA to”.
- 20 In section 107 (service of notices), for “99B or 99E” there is substituted “99B, 99E or 109A”. 25
- 21 In section 108 (interpretation), in subsection (1) –  
 (a) in the definition of “counterpart”, the “and” at the end of paragraph (a) is omitted and after that paragraph there is inserted –  
 “(aa) in relation to a Northern Ireland licence, has the meaning given by section 109A of this Act (except in the definition of “Northern Ireland counterpart” below), and”, 30  
 (b) in the definition of “Northern Ireland driving licence” and “Northern Ireland licence”, at the end there is inserted “and “Northern Ireland counterpart” means the document issued with the Northern Ireland licence as a counterpart under the law of Northern Ireland”. 35
- 22 In section 109 (provisions as to Northern Ireland drivers’ licences) –  
 (a) in subsection (1), after “Great Britain,” there is inserted “in accordance with that licence,” 40  
 (b) in subsection (2), paragraph (b) and the “and” preceding it are omitted,  
 (c) subsections (3) to (5) are omitted.
- 23 In section 164 (power of constables to require production of driving licence etc.) –  
 (a) in subsection (3) – 45

- 
- (i) in paragraph (a), before “the Secretary of State” there is inserted “a person is required to deliver his licence and its counterpart to the Secretary of State under section 63 of the Crime (International Co-operation) Act 2003 or”,
- (ii) in paragraph (a)(iii), after “99C” there is inserted “, 109B”, 5
- (iii) in paragraph (b), after “99C” there is inserted “, 109B” and after “or 118” there is inserted “or section 63 of the Crime (International Co-operation) Act 2003”,
- (b) in subsection (11) –
- (i) in the definition of “licence”, after “this Act” there is inserted “, a Northern Ireland licence”, 10
- (ii) after ““counterpart”,” there is inserted ““Northern Ireland licence”,”.
- 24 In section 167 (power of arrest for constable in Scotland), before “Community licence” there is inserted “Northern Ireland licence or”. 15
- 25 In section 173 (forgery of documents, etc.) –
- (a) in subsection (2)(aa), after “counterpart of a” there is inserted “Northern Ireland licence or”,
- (b) in subsection (4), for “and “Community licence”” there is substituted “, “Community licence” and “Northern Ireland licence””. 20
- 26 In section 176 (power to seize certain articles) –
- (a) in subsection (1A), before “Community licence” (in both places) there is inserted “Northern Ireland licence or”,
- (b) in subsection (3A), after “such licence or” there is inserted “of a Northern Ireland licence or”, 25
- (c) in subsection (8), for “and “Community licence”” there is substituted “, “Community licence” and “Northern Ireland licence””.
- 27 In section 193A (tramcars and trolley vehicles), in subsection (2)(b), for “91A,” there is substituted “91ZA to”.
- The Road Traffic Offenders Act 1988 (c. 53)* 30
- 28 The Road Traffic Offenders Act 1988 is amended as follows.
- 29 In section 3 (restriction on institution of proceedings for certain offences), in subsection (2A), after “99D” there is inserted “or 109C”.
- 30 In section 26 (interim disqualification), in subsection (10), for the words from “and 91A(5)” to “licences)” there is substituted “, 91ZA(7) and 91A(5) of this Act”. 35
- 31 In section 98 (general interpretation), in subsection (1) –
- (a) in the definition of “the provisions connected with the licensing of drivers”, for “91A,” there is substituted “91ZA to”,
- (b) for “and “EEA State”” there is substituted “, “EEA State” and “Northern Ireland licence””. 40
- 32 In Schedule 1 (offences to which section 1, 6, 11 and 12(1) of the Act apply) –
- (a) in the entry for section 94(3) of the Road Traffic Act 1988, in column 1, at the end there is inserted “or 109C”,

- (b) in the entry for section 94(3A) of that Act, in column 1, at the end there is inserted “or 109C(c)”,
- (c) in the entry for section 94A of that Act, in column 2, at the end there is inserted “or 109B”,
- (d) in the entry for section 99B(11) of that Act – 5
- (i) in column 1, at the end there is inserted “and that subsection as applied by RTA section 109A(5)”,
- (ii) in column 2, at the end there is inserted “or a requirement under section 99B(6) or (7) as applied by section 109A(5)”.
- 33 In Schedule 2 (prosecution and punishment of offences) – 10
- (a) in the entry for section 94(3) of the Road Traffic Act 1988, in column 2, at the end there is inserted “or 109C”,
- (b) in the entry for section 94(3A) of that Act, in column 2, at the end there is inserted “or 109C(c)”,
- (c) in the entry for section 94A of that Act, in column 2, at the end there is inserted “or 109B”, 15
- (d) in the entry for section 99B(11) of that Act –
- (i) in column 1, at the end there is inserted “and that subsection as applied by RTA section 109A(5)”,
- (ii) in column 2, at the end there is inserted “or a requirement under section 99B(6) or (7) as applied by section 109A(5)”, 20
- (e) the entry for section 109 of that Act is omitted,
- (f) before the entry for section 114 of that Act there is inserted –

“RTA section 109B(4)	Failure to deliver Northern Ireland licence to Secretary of State when required by notice under section 109B.	Summarily.	Level 3 on the standard scale.”				25
							30

*The Criminal Justice (International Co-operation) Act 1990 (c. 5)*

- 34 The Criminal Justice (International Co-operation) Act 1990 is amended as follows. 35
- 35 Sections 1 to 4, 7, 8 and 11 (mutual service of process and provision of evidence) are omitted.
- 36 In section 5 (transfer of UK prisoner to give evidence or assist investigation overseas), after subsection (3) there is inserted – 40
- “(3A) A warrant under this section has effect in spite of section 127(1) of the Army Act 1955, section 127(1) of the Air Force Act 1955 or section 82A(1) of the Naval Discipline Act 1957 (restriction on removing persons out of the United Kingdom who are serving military sentences).” 45

37 Schedule 1 (proceedings of nominated court) is omitted.

*The Road Traffic (New Drivers) Act 1995 (c. 13)*

38 The Road Traffic (New Drivers) Act 1995 is amended as follows.

39 In section 2 (surrender of licences), at the end there is inserted –

“(6) In this section and section 3 “licence” includes a Northern Ireland licence.” 5

40 In section 3 (revocation of licences) –

(a) after subsection (1) there is inserted –

“(1A) Where the Secretary of State serves on the holder of a Northern Ireland licence a notice under subsection (1), the Secretary of State must send to the licensing authority in Northern Ireland – 10

(a) particulars of the notice; and

(b) the Northern Ireland licence.

(1B) Where the Secretary of State is sent by that licensing authority particulars of a notice served on the holder of a licence under a provision of Northern Ireland law corresponding to subsection (1), he must by notice served on the holder revoke the licence.” 15

(b) in subsection (2), after “subsection (1)” there is inserted “or (1B)”, 20

(c) at the end, there is inserted –

“(3) In this section references to the revocation of a person’s Northern Ireland licence are references to its revocation as respects Great Britain; and, accordingly, the person ceases to be authorised by virtue of section 109(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class.” 25

41 In section 4 (re-testing) –

(a) in subsection (1) –

(i) for “section 3(1)” there is substituted “section 3”, 30

(ii) after “full licence” (in the second place it occurs) there is inserted “or (as the case may be) full Northern Ireland licence”,

(b) after subsection (1) there is inserted –

“(1A) Subject to subsection (5), the Secretary of State may not under that Part grant a person whose Northern Ireland licence has been revoked under a provision of Northern Ireland law corresponding to section 3(1) a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full Northern Ireland licence unless he satisfies the Secretary of State as mentioned in subsection (1).” 35 40

(c) in subsections (2) and (3), at the end there is inserted “or (as the case may be) full Northern Ireland licence”,

(d) in subsection (5) –

- 5
- (i) for “Subsection (1) does” there is substituted “Subsections (1) and (1A) do”, and
- (ii) for “section 3(1)” there is substituted “section 3 or whose Northern Ireland licence has been revoked under a provision of Northern Ireland law corresponding to section 3(1)”.
- 42 In section 5 (restoration of licence without re-testing in certain cases)—
- (a) in subsections (1), (4) and (6), for “section 3(1)” there is substituted “section 3”,
- (b) in subsections (3)(a) and (4)(c), after “section 2” there is inserted “or (as the case may be) the provision of Northern Ireland law corresponding to that section”,
- (c) at the end there is inserted —
- “(11) Nothing in this section applies in relation to a person whose Northern Ireland licence has been revoked under section 3(1).”
- 10
- 15
- 43 In section 7 (early termination of probationary period)—
- (a) in paragraph (b), for “section 3(1)” there is substituted “section 3”,
- (b) in paragraph (c)—
- (i) for “paragraph 5(1)” there is substituted “paragraph 5”,
- (ii) for “paragraph 8(1)” there is substituted “paragraph 8”.
- 20
- 44 In section 9 (interpretation), after subsection (2) there is inserted —
- “(2A) In this Act —
- “full Northern Ireland licence” means a Northern Ireland licence other than a Northern Ireland provisional licence,
- “Northern Ireland provisional licence” means a Northern Ireland licence which corresponds to a provisional licence.”
- 25
- 45 Schedule 1 (newly qualified drivers holding test certificates) is amended as follows.
- 46 In paragraph 1, at the end there is inserted —
- “(3) In this Schedule “licence” includes a Northern Ireland licence, “full licence” includes a full Northern Ireland licence and “provisional licence” includes a Northern Ireland provisional licence.
- (4) In relation to the holder of a Northern Ireland licence, the following sub-paragraphs have effect for the purposes of this Schedule.
- (5) References to a test certificate are references to a certificate or other document (in this Schedule referred to as a “Northern Ireland test certificate”) which is evidence that he has not more than two years previously passed a Northern Ireland test of competence to drive corresponding to the test mentioned in sub-paragraph (1).
- (6) References to prescribed conditions are references to conditions subject to which the Northern Ireland provisional licence was granted.”
- 30
- 35
- 40
- 47 In paragraph 2, after sub-paragraph (4) there is inserted —

- “(4A) In relation to the holder of a Northern Ireland licence, the reference in sub-paragraph (4)(b) to section 98(2) of the Road Traffic Act 1988 is a reference to the corresponding provision under the law of Northern Ireland.”
- 48 In paragraph 5 – 5
- (a) after sub-paragraph (1) there is inserted –
- “(1A) Where the Secretary of State serves on the holder of a Northern Ireland licence a notice under sub-paragraph (1), the Secretary of State must send to the licensing authority in Northern Ireland particulars of the notice together with the Northern Ireland test certificate. 10
- (1B) Where the Secretary of State is sent by that licensing authority particulars of a notice served on the holder of a licence under a provision of Northern Ireland law corresponding to sub-paragraph (1), he must by notice served on that person revoke his test certificate.”, 15
- (b) in sub-paragraph (2), after “sub-paragraph (1)” there is inserted “or (1B)”,
- (c) at the end there is inserted –
- “(4) In this paragraph and paragraph 8 references to the revocation of a person’s Northern Ireland test certificate are references to its revocation as respects Great Britain. 20
- (5) The effect of the revocation of a person’s Northern Ireland test certificate as respects Great Britain is that any prescribed conditions to which his Northern Ireland provisional licence ceased to be subject when he became a qualified driver shall again apply for the purposes of section 109(1) of the Road Traffic Act 1988.” 25
- 49 In paragraph 6, in sub-paragraph (1), for “paragraph 5(1)” there is substituted “paragraph 5, or whose Northern Ireland test certificate has been revoked under a provision of Northern Ireland law corresponding to paragraph 5(1)”,. 30
- 50 In paragraph 8 –
- (a) after sub-paragraph (1) there is inserted –
- “(1A) Where the Secretary of State serves on the holder of a Northern Ireland licence a notice under sub-paragraph (1), the Secretary of State must send to the licensing authority in Northern Ireland particulars of the notice together with the Northern Ireland licence and the Northern Ireland test certificate. 35 40
- (1B) Where the Secretary of State is sent by that licensing authority particulars of a notice served on the holder of a licence under a provision of Northern Ireland law corresponding to sub-paragraph (1), he must by notice served on that person revoke his licence and test certificate.”, 45
- (b) in sub-paragraph (2), after “sub-paragraph (1)” there is inserted “or (1B)”,
- (c) at the end there is inserted –

	“(3) In this paragraph references to the revocation of a person’s Northern Ireland licence are references to its revocation as respects Great Britain; and, accordingly, the person ceases to be authorised by virtue of section 109(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class.”	5
51	In paragraph 9—	
	(a) in sub-paragraph (1), for “paragraph 8(1)” there is substituted “paragraph 8, or whose Northern Ireland licence and Northern Ireland test certificate have been revoked under a provision of Northern Ireland law corresponding to paragraph 8(1),”	10
	(b) in sub-paragraph (4)(b)(i), after “1988” there is inserted “, or under a provision of Northern Ireland law corresponding to that section,”.	
52	In paragraph 10(a)—	
	(a) for “paragraph 5(1)” there is substituted “paragraph 5 (or a person’s Northern Ireland test certificate has been revoked under a provision of Northern Ireland law corresponding to paragraph 5(1))”,	15
	(b) for “paragraph 8(1)” there is substituted “paragraph 8 (or a person’s Northern Ireland licence and Northern Ireland test certificate have been revoked under a provision of Northern Ireland law corresponding to paragraph 8(1))”.	20
53	In paragraph 11—	
	(a) in sub-paragraphs (1) and (2)(c), for “paragraph 5(1)” and “paragraph 8(1)” there is substituted “paragraph 5” and “paragraph 8” respectively,	25
	(b) in sub-paragraph (1)(d), after “section 2” there is inserted “or (as the case may be) the provision of Northern Ireland law corresponding to that section”.	
	<i>The Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)</i>	
54	The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows.	30
55	In section 28 (powers of investigation)—	
	(a) in subsection (8), for the words from “by the” to the end there is substituted “by virtue of section 27(2) of this Act shall be given to the overseas authority which requested it or to the Lord Advocate for forwarding to that authority”,	35
	(b) subsection (9) is omitted,	
	(c) in subsection (10), for “transmitted” (in both places) there is substituted “forwarded”.	
	<i>The Criminal Procedure (Scotland) Act 1995 (c. 46)</i>	40
56	The Criminal Procedure (Scotland) Act 1995 is amended as follows.	
57	In section 210(1)(c) (consideration, in passing sentence of imprisonment or detention, of time spent in custody), at the end there is inserted “so however that a period of time spent both in custody on remand and, by virtue of section 47(1) of the Crime (International Co-operation) Act 2003, abroad is	45

not for any reason to be discounted in a determination under paragraph (a) above or specification under paragraph (b) above”.

*The United Nations Personnel Act 1997 (c. 13)*

58 The United Nations Personnel Act 1997 is amended as follows.

59 In section 5 (supplementary provisions), in subsections (1) and (2), for “and the Nuclear Material (Offences) Act 1983” there is substituted “, the Nuclear Material (Offences) Act 1983 and the Terrorism Act 2000”. 5

*The Data Protection Act 1998 (c. 29)*

60 The Data Protection Act 1998 is amended as follows.

61 In section 28(1) (national security), for “section” there is substituted “sections 54A and”. 10

62 In section 60(2) and (3) (prosecutions and penalties), before “paragraph 12” there is inserted “section 54A and”.

63 In section 63(5) (application to the Crown), for “section” there is substituted “sections 54A and”. 15

*The Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

64 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

65 In section 146 (driving disqualification for any offence) –  
(a) in subsection (4), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted – 20

“(aa) in the case where he holds a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988), his Northern Ireland licence and its counterpart (if any); or”;

(b) in subsection (5), in the definition of “counterpart”, the “and” at the end of paragraph (a) is omitted and after that paragraph there is inserted – 25

“(aa) in relation to a Northern Ireland licence, has the meaning given by section 109A of that Act; and”.

66 In section 147 (driving disqualification where vehicle used for purposes of crime), in subsection (5), the “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted – 30

“(aa) in the case where he holds a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988), his Northern Ireland licence and its counterpart (if any); or”. 35

*The Terrorism Act 2000 (c. 11)*

67 The Terrorism Act 2000 is amended as follows.

68 In section 121 (interpretation), in the definition of “premises”, before “includes” (in the first place) there is inserted “, except in section 63D,”.

- 69 In section 123 (orders and regulations), in subsection (2), after paragraph (b) there is inserted –  
“(ba) section 63C(3)(d);”.

*The Regulation of Investigatory Powers Act 2000 (c. 23)*

- 70 The Regulation of Investigatory Powers Act 2000 is amended as follows. 5
- 71 In section 65 (investigatory powers tribunal) –
- (a) in subsection (5) –
- (i) after paragraph (c) there is inserted –
- “(ca) the carrying out of surveillance by a foreign police or customs officer (within the meaning of section 76A);” 10
- (ii) in paragraph (d), at the beginning there is inserted “other”,
- (b) after subsection (7), there is inserted –
- “(7A) For the purposes of this section conduct also takes place in challengeable circumstances if it takes place, or purports to take place, under section 76A.” 15
- 72 In section 78 (orders, regulations and rules), in subsection (3)(a), for “or 71(9)” there is substituted “, 71(9) or 76A(8)”.

*Armed Forces Act 2001 (c. 19)*

- 73 In section 31 of the Armed Forces Act 2001 (power to make provision in consequence of enactments relating to criminal justice), in subsection (7) – 20
- (a) after “section” there is inserted “section 5 of the Criminal Justice (International Co-operation) Act 1990 and”,
- (b) for “is” there is substituted “are”.

*The Proceeds of Crime Act 2002 (c. 29)* 25

- 74 The Proceeds of Crime Act 2002 is amended as follows.
- 75 In section 376 (evidence overseas) –
- (a) subsection (5) is omitted,
- (b) in subsection (6), for the words preceding paragraph (a) there is substituted “The person issuing a letter of request may send it”, 30
- (c) for subsection (7) there is substituted –
- “(7) Alternatively, the person issuing the letter of request may send it to the Secretary of State for forwarding to the court, tribunal or authority mentioned in subsection (6).
- (7A) In a case of urgency, the person issuing the letter of request may send it to – 35
- (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, 40
- for forwarding to the court, tribunal or authority mentioned in subsection (6).”

SCHEDULE 6

Section 90

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Criminal Justice Act 1987 (c. 38)	In section 2 – subsection (8B), in subsection (18), the word “(8B)”.	5
	In section 3(6), the “and” preceding paragraph (m).	
Road Traffic Act 1988 (c. 52)	In section 108(1), in the definition of “counterpart”, the “and” at the end of paragraph (a).	10
	In section 109 – in subsection (2), paragraph (b) and the “and” preceding it, subsections (3) to (5).	15
Road Traffic Offenders Act 1988 (c. 53)	In Schedule 2, the entry for section 109 of the Road Traffic Act 1988.	
Criminal Justice (International Co-operation) Act 1990 (c. 5)	Sections 1 to 4, 7, 8 and 11. Schedule 1.	
Criminal Justice and Public Order Act 1994 (c. 33)	Section 164(1).	20
Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	Section 28(9).	
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 146 – in subsection (4), the “or” at the end of paragraph (a), in subsection (5), in the definition of “counterpart”, the “and” at the end of paragraph (a).	25
	In section 147(5), the “or” at the end of paragraph (a).	30
Criminal Justice and Police Act 2001 (c. 16)	In Schedule 1, paragraph 49.	
Proceeds of Crime Act 2002 (c. 29)	Section 376(5).	35



# Crime (International Co-operation) Bill [HL]

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## B I L L

[AS AMENDED IN GRAND COMMITTEE]

To make provision for furthering co-operation with other countries in respect of criminal proceedings and investigations; to extend jurisdiction to deal with terrorist acts or threats outside the United Kingdom; to amend section 5 of the Forgery and Counterfeiting Act 1981 and make corresponding provision in relation to Scotland; and for connected purposes.

*The Lord Filkin*

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*Ordered to be Printed, 3rd February 2003*

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