

CRIME (INTERNATIONAL CO-OPERATION) ACT 2003

EXPLANATORY NOTES

BACKGROUND

Part 1: Mutual Assistance in Criminal Matters

16. [Part 1](#) of the Act deals with mutual legal assistance and the evidence aspects of the 2003 Framework Decision. It implements both the mutual legal assistance provisions of the Schengen Convention that are not repealed and replaced by the MLAC and those of the MLAC itself. The primary aim of the MLAC is to improve judicial co-operation by developing and modernising the existing provisions governing mutual assistance, mainly by extending the range of circumstances in which mutual assistance may be requested, and by facilitating assistance so that it is quicker, more flexible, and therefore more effective. Part 1 re-enacts and updates the provisions in Part 1 of the Criminal Justice (International Co-operation) Act 1990 to widen the scope of cases in which the UK is able to request and offer assistance, and to introduce the direct transmission of legal process and requests for assistance where possible. Part 1 also implements the 2001 Protocol which extends mutual legal assistance to enable provision of a wider range of banking information than at present, including tracing any bank accounts and monitoring identified accounts held by an individual or company.
17. [Part 1](#) of the Act also introduces the mutual recognition of freezing orders on evidence as introduced by the 2003 Framework Decision. The Tampere Council held in October 1999 - a special meeting of the European Council focusing specifically on Justice and Home Affairs matters - agreed that the mutual recognition of judicial decisions should be the “cornerstone” of the future development of judicial co-operation within the EU, rather than harmonisation of legal systems. The Justice and Home Affairs Ministerial Council held in December 2000 adopted a programme of work to implement the principle of mutual recognition. The 2003 Framework Decision, and the Framework Decision of 13th June 2002 on the European Arrest Warrant to be implemented through the Extradition Bill, are the first results of that work programme.
18. The mutual legal assistance provisions in Part 1 apply to all other countries, in line with existing legislation, except for certain new provisions which are specifically restricted to “participating countries”. For the purposes of those provisions, all EU Member States will be “participating countries” (subject to their participation in the relevant instruments). Some arrangements may also be extended to other countries by order if appropriate. In such cases, countries will be designated by an order that will be laid before and approved by both Houses of Parliament, or, in relation to Scotland, the Scottish Parliament.