

These notes refer to the Crime (International Co-operation) Act 2003 (c.32) which received Royal Assent on 30 October 2003

CRIME (INTERNATIONAL CO-OPERATION) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Mutual Assistance in Criminal Matters

Chapter 1: Mutual Service of Process etc.

Section 1: Service of overseas process in the UK

24. This section replaces and expands upon sections 1(1) and (2) of the Criminal Justice (International Co-operation) Act 1990 (the “1990 Act”), which established the procedure for service of overseas procedural legal documents in the UK. The Schengen Convention and the MLAC introduce different procedures, enabling most procedural documents to be sent directly by post from the issuing authority to persons in the UK. Other countries may also send documents directly to recipients in the UK, if so enabled by their domestic law.
25. This section regulates those cases where direct service is not used.
26. The Schengen Convention and the MLAC extend the scope of mutual legal assistance to a much broader range of proceedings, and the process to be served under section 1 will encompass documents relating to the extended categories of proceedings specified in section 1(2). Neither instrument defines the term “procedural documents”, so the section is broadly drafted. The types of administrative and criminal proceedings to which this section applies are defined in section 51(1).
27. Subsection (3) replaces section 1(2) of the 1990 Act, giving the Secretary of State, (or, in Scotland, the Lord Advocate), discretion as to how to serve the document – it may be served by post, or the chief officer of police in the relevant area may be directed to serve it personally where this is required.