

**EXPLANATORY MEMORANDUM TO THE  
CRIME (INTERNATIONAL CO-OPERATION) ACT 2003  
(EXERCISE OF FUNCTIONS) ORDER 2005**

**2005 No. 425**

1. This explanatory memorandum has been prepared by the Commissioners for Customs and Excise on behalf of HM Treasury and is laid before Parliament by Command of Her Majesty.

2. **Description**

This Order enables the Commissioners of Customs and Excise to provide assistance to overseas courts and authorities in connection with criminal proceedings or a criminal investigation taking place abroad in relation to certain types of offences. The Commissioners may nominate courts in England and Wales or Northern Ireland to receive evidence, direct that applications be made for search warrants and forward the resulting evidence to the court or authority in question. Customs officers have power to apply for and execute warrants and forward the evidence seized.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

- 4.1 This Order is made under section 27(1) of the Crime (International Co-operation) Act 2003. The Order is subject to the negative resolution procedure by virtue of section 50(3) of the Act.
- 4.2 The Order enables certain functions conferred on the Secretary of State under sections 13, 14, 15 and 19 of, and paragraph 6 of Schedule 1 to, the Act to be exercised by the Commissioners of Customs and Excise. It also provides for functions conferred on a constable under sections 16, 17 and 19 of the Act to be exercised by a customs officer.
- 4.3 The Order revokes and re-enacts the provisions of the Criminal Justice (International Co-operation) Act 1990 (Exercise of Powers) Order 1991 in relation to England and Wales and Northern Ireland. The Order also makes provision for the Commissioners to receive requests for assistance, nominate Courts to receive evidence and to forward that evidence to the sender of the request.
- 4.4 The Order provides that the functions may be exercised in circumstances where a request for assistance from an overseas court or authority is made in connection with criminal proceedings or a criminal investigation concerning conduct occurring outside the United

Kingdom which, if it occurred in England and Wales or Northern Ireland, would constitute an offence concerning a matter in relation to which the Commissioners are required to perform duties, eg enforcing the prohibition on the import or export of controlled drugs.

**5. Extent**

This Order extends to England and Wales and Northern Ireland.

**6. European Convention on Human Rights**

Not Applicable

**7. Policy Background**

The Crime (International Co-operation) Act 2003 enhances the mutual legal assistance regime whereby countries request and provide assistance in obtaining evidence located in one country for assisting in criminal investigations or proceedings in another. The Instrument facilitates assistance by UK Customs and Excise to help combat crime in other jurisdictions. The exact scale of the likely requests is not known. There was no public consultation or known media interest/attention. Politically and legally it represents an incremental step in mutual legal assistance.

**8. Impact**

No regulatory impact assessment is considered necessary since it is not envisaged that there will be any implications for the private/voluntary sectors nor significant resource cost or implications for the public sector.

**9. Contact**

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HM Customs and Excise  
on behalf of  
Her Majesty’s Treasury