

SCHEDULES

SCHEDULE 4

EXAMINATION OF WITNESSES OUT OF COURT

PART I

EXAMINATION IN NORTHERN IRELAND TO ASSIST COURT IN REPUBLIC OF IRELAND

- 1 This Part of this Schedule applies where under the law of the Republic of Ireland corresponding to Part II of this Schedule a court issues a letter of request to the Lord Chief Justice of Northern Ireland for the taking of evidence in Northern Ireland from a witness specified in the letter of request for the purposes of the trial in the Republic of Ireland of an extra-territorial offence under the law of the Republic of Ireland, or the hearing of an appeal arising out of the trial of such an offence.
- 2 (1) The evidence shall be taken on oath by a judge of the High Court designated by the Lord Chief Justice of Northern Ireland.
- (2) The judge so designated (hereafter referred to as " the Commissioner ") shall sit in private except at such times and on such occasions as he otherwise directs.
- (3) If the witness—
- (a) on being duly summoned as a witness before the Commissioner makes default in attending, or
 - (b) being in attendance as a witness refuses to take an oath legally required by the Commissioner to be taken, or to produce any document or thing in his power or control legally required by the Commissioner to be produced by him, or to answer any question to which the Commissioner may legally require an answer, or
 - (c) does any other thing which would, if the Commissioner had been a court of law having power to commit for contempt, have been contempt of that court,
- the witness shall be liable on summary conviction to a fine not exceeding £200, or to imprisonment for a term not exceeding six months, or to both.
- (4) The witness shall be entitled to the same immunities and privileges as if he were a witness in a trial on indictment for an offence under the law of Northern Ireland, and questions as to the exclusion of any evidence, or the withholding of any document or thing on the ground of public interest, shall be determined in accordance with the law of Northern Ireland.

Attendance of members of court

- 3 (1) Any judge of the court which issued the letter of request shall be entitled to attend the examination of the witness, and shall have a right to suggest to the Commissioner questions to be put to the witness.

Status: This is the original version (as it was originally enacted).

- (2) The Commissioner shall arrange his sittings so as to facilitate the attendance of any such judge and, subject to paragraph 2(4) above, shall put to the witness any questions suggested to him under this paragraph.

Attendance of accused

- 4 (1) The accused shall have—
- (a) a right to attend the examination of the witness, and
 - (b) a right to be represented by counsel or a solicitor in the proceedings (whether or not the accused is present), and
 - (c) a right, if not represented by counsel or solicitor, to question the witness, and to make submissions or representations to the Commissioner.
- (2) So long as the accused is in Northern Ireland pursuant to this Part of this Schedule—
- (a) he shall be kept in custody, and
 - (b) while duly kept in custody, he shall be immune from arrest or detention, and from any other proceeding whatsoever, related to any criminal or civil matter which arose prior to his arrival in Northern Ireland in custody pursuant to the provisions of the law of the Republic of Ireland corresponding to paragraph 5(4) below.
- (3) If the accused has exercised his right to attend the examination of the witness, he shall, unless the Commissioner otherwise directs, remain in Northern Ireland until the examination is completed.
- (4) Either the prosecutor or the accused may apply to the Commissioner for a direction under sub-paragraph (3) above.
- (5) At the conclusion of the proceedings, and on any occasion when a direction is given under sub-paragraph (3) above, the Commissioner shall direct that the accused be delivered (at some convenient point of departure from Northern Ireland) into the custody of a member of the police force (Garda Síochána) in the Republic of Ireland.