

## SCHEDULES

### SCHEDULE 5

Regulation 35

#### Receiving evidence before a nominated court

1. In this Schedule, “nominated court” means a court nominated under regulation 35.
2. The nominated court has the same powers for securing the attendance of a person as it has for the purposes of securing the attendance of a witness in other proceedings.
3. In Scotland the nominated court has the power to issue a warrant to officers of law to cite a witness, and section 156 of the Criminal Procedure (Scotland) Act 1995 (apprehension of witness)<sup>(1)</sup> applies in relation to such a witness.
4. The nominated court may take evidence on oath.
5. Rules of court may, in particular, make provision in respect of persons entitled to appear to take part in proceedings and for excluding the public from the proceedings.
- 6.—(1) A person cannot be compelled to give any evidence—
  - (a) which that person could not be compelled to give in criminal proceedings in the part of the United Kingdom in which the nominated court exercises jurisdiction;
  - (b) subject to sub-paragraph (2), which that person could not be compelled to give in proceedings in the issuing State;
  - (c) if doing so would be prejudicial to the security of the United Kingdom; or
  - (d) in that person’s capacity as an officer or servant of the Crown.

(2) Sub-paragraph (1)(b) does not apply unless the issuing authority concedes the claim of the person questioned to be exempt from giving the evidence.

(3) Where the person’s claim for exemption under sub-paragraph (1)(b) is not conceded, that person 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 issuing authority if a court in the issuing State upholds the claim.

(4) A certificate signed by or on behalf of the Secretary of State or, where the nominated court is in Scotland, the Lord Advocate to the effect that sub-paragraph (1)(c) applies is conclusive evidence of that fact.
7. The evidence received by the nominated court is to be transferred to the central authority for forwarding to the issuing authority.
8. So far as may be necessary to give effect to the European investigation order—
  - (a) where the evidence received consists of a document, the original or copy is to be provided,
  - (b) where it consists of any other article, the article itself, or a description, photograph or other representation of it, is to be provided.

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(1) 1995 c. 46; section 156 was substituted by section 16 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**9.** The Bankers' Books Evidence Act 1879(2) applies to proceedings under this Schedule as it applies to other proceedings before the court.

**10.** No order for costs (or in Scotland, expenses) may be made.