SCOTTISH STATUTORY INSTRUMENTS

2024 No. 159

HIGH COURT OF JUSTICIARY

SHERIFF COURT

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Mutual Legal Assistance) 2024

Made - - - -	*30th May 2024*
Laid before the Scottish Parliament	*31st May 2024*
Coming into force - -	*1st July 2024*

The High Court of Justiciary makes this Act of Adjournal under the powers conferred on it by sections 272(6) and 305 of the Criminal Procedure (Scotland) Act 1995(**a**), section 49(2) of the Crime (International Co-operation) Act 2003(**b**) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Mutual Legal Assistance) 2024.

(2) It comes into force on 1st July 2024.

(3) A certified copy is to be inserted in the Books of Adjournal.

Amendment of the Criminal Procedure Rules 1996

2.—(1) The Criminal Procedure Rules 1996(**c**) are amended in accordance with this paragraph.

(2) In Chapter 23 (letters of request)(**d**), in rule 23.1 (applications for letters of request)(**e**)—

(a) in paragraph (2), omit ", and shall be accompanied by a proposed letter of request in Form 23.1-C";

(b) after paragraph (2), insert—

"(2A) A petition referred to in paragraph (1) must be accompanied—

(a) subject to paragraph (b), by a proposed letter of request in Form 23.1-C; or

(b) where the proposed letter of request is to be sent to a member State of the European Union, by a proposed letter of request in Form 23.1-D.".

(**a**) 1995 c. 46. Section 305 was amended by section 111(1) of the Criminal Justice (Scotland) Act 2016 (asp 1) and by S.S.I. 2015/338, and was extended by section 386(3)(a) of the Proceeds of Crime Act 2002 (c. 29), section 36A(4) of the Serious Crime Act 2007 (c. 27) and section 32(5) of the Psychoactive Substances Act 2016 (c. 2).

(**b**) 2003 c. 32.

(**c**) The Criminal Procedure Rules 1996 are in schedule 2 of the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513), last amended by S.S.I. 2023/333.

(**d**) Chapter 23 was last amended by S.I. 2020/942.

(**e**) Rule 23.1 was amended by S.S.I. 2004/195.

(3) In Chapter 23A (television link evidence)(**a**), in rule 23A.1 (application for television link evidence)—

(a) in paragraph (1), omit "and shall be accompanied by a letter of request in Form 23A.1-B";

(b) after paragraph (1), insert—

"(1A) A petition referred to in paragraph (1) must be accompanied—

(a) subject to paragraph (b), by a letter of request in Form 23A.1-B; or

(b) where the letter of request is to be sent to a member State of the European Union, by a letter of request in Form 23A.1-C.".

(4) In Chapter 36 (Crime (International Co-operation) Act 2003)(**b**)—

(a) in the heading, for "Co-operation", substitute "Co-operation)";

(b) in rule 36.4 (applications for requests for assistance), for paragraph (e) substitute—

"(e) include particulars of the assistance requested and—

(i) subject to paragraph (b), a draft request in Form 36.4-B; or

(ii) where the request is to be sent to a member State of the European Union, a draft request in Form 36.4-C.".

(5) In the appendix—

(a) after Form 23.1-C (form of letter of request), insert Form 23.1-D as set out in schedule 1 of this Act of Adjournal;

(b) after Form 23A.1-B (form of letter of request for evidence to be obtained by television link), insert Form 23A.1-C as set out in schedule 2 of this Act of Adjournal;

(c) after Form 36.4-B (request for assistance under section 7 of the Crime (International Co-operation) Act 2003), insert Form 36.4-C as set out in schedule 3 of this Act of Adjournal.

CJM SUTHERLAND
Lord Justice General
I.P.D.

Edinburgh
30th May 2024

(**a**) Chapter 23A was inserted by S.S.I. 2004/195 and last amended by S.S.I. 2013/72.
(**b**) Chapter 36 was substituted by S.S.I. 2004/195 and last amended by S.S.I. 2009/345.

SCHEDULE 1

Paragraph 2(5)(a)

Form 23.1-D

Rule 23(2A)(b)

Form of letter of request to a member State of the European Union

REQUEST FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS

This form shall be used by the competent authorities to which it applies under the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The information provided must be relevant and not go beyond what is necessary to execute this request, in line with relevant data protection requirements.

SECTION A Case Reference: ..... Requesting State: ..... Requesting Authority: ..... Requested State: ..... Requested Authority (if known): .....
SECTION B: Urgency Please indicate if there is any urgency due to: ☐ Evidence being concealed or destroyed ☐ Imminent trial date ☐ A person in custody ☐ Period of statute of limitations expiring ☐ Any other reason Please specify below: ……... Time limits for execution of the request are laid down in the Trade and Cooperation Agreement Article 640. However, if this request is urgent and / or requires action by/on a specific date, please specify and explain the reason for this: …… ……
SECTION C: Confidentiality ☐ This request is confidential Please provide additional information where relevant:..... .....

SECTION D: Relation to an earlier or simultaneous request for assistance

Please identify any actions undertaken in these or related proceedings to seek this evidence via other routes, where applicable. Please indicate whether this request for mutual assistance supplements an earlier or any simultaneous request/requests for assistance to the Requested State and, if relevant, to another State.

☐ Previous engagement with law enforcement authorities, prosecutors or other authorities

Provide details of any prior contact by the requesting State including the name of the State, the authority contacted, relevant contact details and any case reference numbers: ……
……
……

☐ Previous related or simultaneous request for mutual assistance or European Investigation Order

Provide information relevant to identify the other requests including the name of the State, the authority to which it was transmitted, the date of request, and reference numbers given by the requesting and requested authorities: ……
……
……

☐ Other

If relevant, provide information related to this other request for assistance:
……
……
……

SECTION E: Grounds for the request

1. Classification of the offence(s)

To ensure this request is sent to the appropriate body, what is the nature and legal classification of the offence(s) for which the request is made: ……

.....

.....

Please provide the maximum penalty, the statute of limitation and if applicable, the text of the statutory provision/code including the relevant provisions relating to penalties:

……

……

2. Summary of the facts

Description of the conduct giving rise to the offence(s) in respect of which assistance is sought and a summary of underlying facts:.....

.....

.....

For service of procedural documents and judicial decisions, please provide a short summary of the document(s) and/or decision(s) to be served, if it is not available in the language of the requested State:

……

……

For other requests, please describe how the evidence/measure sought can help to investigate and prosecute the offence(s): ……..

……..…….....

Stage of investigation/proceedings:

☐ investigation

☐ prosecution

☐ trial

☐ other, specify: .....

.....

.....

Description of risks associated with obtaining this evidence, if applicable:.....

.....

.....

Any other information which the requesting State considers useful to the executing authority in executing the request for assistance, if applicable: ……. .....

.....

.....

3. Is this offence a Driving Offence referred to in Article 640(6) of the Trade and Cooperation Agreement:

☐ Yes

☐ No

4. Type of proceedings for which the request is issued:

☐ proceedings in respect of offences the punishment of which, at the time of the request for assistance,

falls within the jurisdiction of the judicial authorities of the requesting State

☐ proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested State by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

SECTION F: Identity of the natural or legal persons concerned

Please only provide information that is relevant and does not go beyond what is necessary for this request. If more than one person is concerned, please provide the information for each person.

1. State all information, as far as known, regarding the identity of the person(s) concerned by the measure:

(i) In the case of natural person(s)

Name: .....

First name(s):.....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex:.....

Nationality:.....

Identity number or social security number:.....

Type and number of the identity document(s) (ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address; if address not known, state the last known address:

.....

Workplace (including contact details):.....

Other contact details (email, phone No): .....

Language(s) which the person understands:.....

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): .....

(ii) In the case of legal person(s)

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Registered seat/office: .....

Registration number: .....

Address of the legal person: .....

Other contact details (email, phone No): ……..

Name of the legal person's representative: .....

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): ……..

2. Any other relevant information:

.....

……

SECTION G: Measure required

1. Please specify the measure required:

☐ Search and seizure (If ticked section H1 must be completed)

☐ Provision of documents and/or business records

☐ Provision of banking materials or information from other financial institutions (If ticked section H2 must be completed)

☐ Service of procedural documents and judicial decisions with assistance of requested State

☐ Obtaining information or evidence which is already in the possession of the requested State

☐ Obtaining information contained in databases held by police or judicial authorities

☐ Statements and Hearings (If ticked Section F (Identity of the natural or legal persons concerned) and Section I (Formalities and procedures requested for the execution), must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Hearing by videoconference, telephone conference or other audio-visual transmission. (If ticked section H4 must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Obtaining subscriber / entity data (If ticked section H3 must be completed)

☐ Obtaining traffic / events (including location) data (If ticked section H3 must be completed)

☐ Obtaining content data (If ticked section H3 must be completed)

☐ Investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time:

- ☐ monitoring of banking or other financial operations
- ☐ controlled deliveries
- ☐ other (If so please specify):……....

☐ Provisional measure(s) for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests (If ticked section H5 must be completed)

☐ Temporary transfer of a person held in custody to the requesting State (If ticked section H6 must be completed)

☐ Temporary transfer of a person held in custody to the requested State (If ticked section H6 must be completed)

☐ Covert investigation (If ticked section H7 must be completed)

☐ Other (If so please specify): ……

.....

.....

2. Please describe the assistance required, and, if known, the locations where the evidence is

located/believed to be located and any necessary information needed to carry out this measure. To request any formalities or procedures are observed please see section I: ……
……..……..…
..... ….
..... …

SECTION H: Additional requirements for certain measures

Fill out the sections relevant to the investigative measure(s) requested:

SECTION H1: Search and seizure

Natural or legal person linked to search. If more than one, please provide the details for each:

……

……

Premises to be searched. Please provide details on how the person is linked to the premises. If more than one, please provide the information for each: ……..

……

……

What evidence is being sought? Identify the material for which you want to search in as much detail as practicable: ……..

……..

……..

Why do you believe that the evidence is likely to be found in the place mentioned above and to be relevant and of substantial value to the investigation: .....……

……

……..…

Is there any risk of privileged material being recovered? If so, please provide detail:

……

……..

……..

Will any officials of the requesting State need to be present at the search? (If yes, please provide details in section I):

☐ Yes

☐ No

Any known information relating to investigations in other states which may impact this search and seizure request: ……..……

……

……

Please provide any other relevant information relating to the search and seizure:

……..

SECTION H2: Provision of information on bank or other financial accounts

If more than one account is concerned, please provide the information for each account.

Please specify what information is being sought:

☐ Information on bank accounts that the person holds in respect of which he or she has the power of attorney

☐ Information on other financial accounts that the person holds or in respect of which he or she has the power of attorney

☐ Information on banking operations:

☐ Bank Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

☐ Information on other financial operations:
☐ Account Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

If available, please provide:
Name of Account Holder: ……
Name of bank/financial institution: ……
IBAN or Account Number and Sort Code: ……..
Time Scale for transactions: ……..……

☐ Other (If so, please specify): ……..

Please provide additional justification as to why this evidence is likely to be relevant and of substantial value to the investigation, including the link of the account to the crime committed:
……
……..
……..
If necessary, please provide any additional information likely to be required to execute this request:
……..
……..

SECTION H3: Subscriber, traffic, location and content data
Type of data requested:
☐ Subscriber / entity data (e.g. subscription to phone number or IP address), specify: …….
……..
☐ Traffic / events data, specify: ……..
☐ Location data, specify: ……..
☐ Content data (e.g. web/mailbox dump or message log, snapshot), specify: ……..…..
……..
☐ Other, specify: ……
All requests for subscriber, traffic or location, and content data requires the following information:
☐ Date (DD/MM/YYYY): ……
☐ Timestamp (hh:mm:ss): ……
☐ Time Zone: ……....
Provide further details to help identify the data requested:
☐ IP address (and Port number if applicable): ……..
☐ Telephone number(s): ……..……...
☐ IMEI number(s): ……..……...

☐ Other (Please specify): ……

SECTION H4: Video or telephone conference or other audio-visual transmission

If hearing by videoconference or telephone conference or other audio-visual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (please include name of the person who will conduct the hearing/contact details/language where available): .....

.....

Proposed date(s) (DD/MM/YYYY): ……..

Start time of conference (hh:mm:ss): .....

Time Zone: .....

Approximate length of hearing: .....

Technical details:

Site name: .....

Communication system: .....

Contacts of technician (language): .....

Pre-test date and time: .....

Contact details for pre-test operator if known: .....

Language and interpretation arrangements: .....

Any other requirements (If so please specify): ……

.....

.....

.....

☐ This request concerns an accused person or the suspect and the hearing is, or forms part of, the trial of that person

Reason(s) why it is not desirable or possible for the witness or expert to attend in person:

……..

Please specify if the individual, suspected or accused person has given their consent:

☐ Yes

☐ No

☐ I request that the person's consent is sought before this request proceeds

SECTION H5: Provisional measures

If a provisional measure for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests is requested, please indicate whether:

☐ the item is to be transferred to the requesting State

☐ the item is to remain in the requested State; please indicate an estimated date:

for lifting of provisional measure: .....

for the submission of a subsequent request concerning the item:.....

SECTION H6: Transfer of a person held in custody

(1) If a temporary transfer to the requesting State of a person held in custody for the purpose of the investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No ☐ I request that the person's consent is sought

(2) If a temporary transfer to the requested State of a person held in custody for the purpose of investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No

If necessary, please provide any additional information: ……

SECTION H7: Covert Investigations

Please indicate the reasons why you consider the covert investigative measure relevant for the purpose of the criminal proceedings:

……..……

……..……

……..……

Please provide the following information:

(a) Information for the purpose of identifying the subject of the covert investigation: ……...

(b) The desired start date and duration of the covert measure: ……..……..

(c) Details of vehicles/address of the covert measure: ……..……

(d) If necessary, please provide any additional information relevant for execution of this request:

……..

……..

SECTION I: Formalities and procedures requested for the execution

1. Tick and complete, if applicable

☐ It is requested that the relevant / competent authority of the requested State comply with the following formalities and procedures (including any rights/ cautions/warnings that need to be communicated to the person): .....

.....

2. Tick and complete, if applicable

☐ It is requested that one or several officials of the requesting State is present during the execution of the request in support of the competent authorities of the requested State.

Name, job title and contact details of the officials:

.....

.....

Languages that may be used for communication, if different from language indicated in section J:

.....

.....

Nature of assistance to be provided by official(s) of requesting State, and/or any further relevant details:

.....

.....

3. Secure transmission of information and/or evidence

Please specify a secure electronic transmission route, if electronic transmission is accepted:

.....

.....

If electronic transmission is not accepted or would be inappropriate in this case, please advise the method of transmission requested: .....

.....

SECTION J: Details of the authority which issued the request

1. Name of authority which issued the request: .....

Name of representative/contact point: .....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

2. If different from the above, name of the authority conducting criminal investigation:

.....

Name and title of an official conducting criminal investigation: ……

.....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

3. Languages in which it is possible to communicate with the requesting authority:

.....

4. If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:

Name/Title/Organisation:.....

Address:.....

E-mail: .....

Contact Phone No: .....

SECTION K: Signature

By signing this form, I certify that:

- the content of the request as set out in this form is accurate and correct,
- this request has been issued by a competent authority,
- the issuing of this request is necessary for the purpose of the proceedings, and
- the investigative measures requested could have been ordered under the same conditions in a similar domestic case, and where applicable the necessary authorisation has been obtained.

Signature of the requesting authority and/or its representative:

Name: .....

Post held: .....

Date: .....

Official stamp (if available):

List of enclosures (if applicable):

……

……

SCHEDULE 2

Paragraph 2(5)(b)

Form 23A.1-C

Rule 23A.1(1A)(b)

Form of letter of request to a member State of the European Union for evidence to be obtained by television link

REQUEST FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS

This form shall be used by the competent authorities to which it applies under the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The information provided must be relevant and not go beyond what is necessary to execute this request, in line with relevant data protection requirements.

SECTION A Case Reference: ..... Requesting State: ..... Requesting Authority: ..... Requested State: ..... Requested Authority (if known): .....
SECTION B: Urgency Please indicate if there is any urgency due to: ☐ Evidence being concealed or destroyed ☐ Imminent trial date ☐ A person in custody ☐ Period of statute of limitations expiring ☐ Any other reason Please specify below: ..... Time limits for execution of the request are laid down in the Trade and Cooperation Agreement Article 640. However, if this request is urgent and / or requires action by/on a specific date, please specify and explain the reason for this: ....
SECTION C: Confidentiality ☐ This request is confidential Please provide additional information where relevant:..... .....

SECTION D: Relation to an earlier or simultaneous request for assistance

Please identify any actions undertaken in these or related proceedings to seek this evidence via other routes, where applicable. Please indicate whether this request for mutual assistance supplements an earlier or any simultaneous request/requests for assistance to the Requested State and, if relevant, to another State.

☐ Previous engagement with law enforcement authorities, prosecutors or other authorities

Provide details of any prior contact by the requesting State including the name of the State, the authority contacted, relevant contact details and any case reference numbers: …….....

……...

……...

☐ Previous related or simultaneous request for mutual assistance or European Investigation Order

Provide information relevant to identify the other requests including the name of the State, the authority to which it was transmitted, the date of request, and reference numbers given by the requesting and requested authorities: ……....

……....

……....

☐ Other

If relevant, provide information related to this other request for assistance:

…..……

……....

……....

SECTION E: Grounds for the request

1. Classification of the offence(s)

To ensure this request is sent to the appropriate body, what is the nature and legal classification of the offence(s) for which the request is made: ……

.....

.....

Please provide the maximum penalty, the statute of limitation and if applicable, the text of the statutory provision/code including the relevant provisions relating to penalties:

……

……

2. Summary of the facts

Description of the conduct giving rise to the offence(s) in respect of which assistance is sought and a summary of underlying facts:.....

.....

.....

For service of procedural documents and judicial decisions, please provide a short summary of the document(s) and/or decision(s) to be served, if it is not available in the language of the requested State:

……

……

For other requests, please describe how the evidence/measure sought can help to investigate and prosecute the offence(s): ……..

……..…….....

Stage of investigation/proceedings:

☐ investigation

☐ prosecution

☐ trial

☐ other, specify: .....

.....

.....

Description of risks associated with obtaining this evidence, if applicable:.....

.....

.....

Any other information which the requesting State considers useful to the executing authority in executing the request for assistance, if applicable: ……. .....

.....

.....

3. Is this offence a Driving Offence referred to in Article 640(6) of the Trade and Cooperation Agreement:

☐ Yes

☐ No

4. Type of proceedings for which the request is issued:

☐ proceedings in respect of offences the punishment of which, at the time of the request for assistance,

falls within the jurisdiction of the judicial authorities of the requesting State

□ proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested State by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

SECTION F: Identity of the natural or legal persons concerned

Please only provide information that is relevant and does not go beyond what is necessary for this request. If more than one person is concerned, please provide the information for each person.

1. State all information, as far as known, regarding the identity of the person(s) concerned by the measure:

(i) In the case of natural person(s)

Name: .....

First name(s):.....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex:.....

Nationality:.....

Identity number or social security number:.....

Type and number of the identity document(s) (ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address; if address not known, state the last known address:

.....

Workplace (including contact details):……

Other contact details (email, phone No): ……

Language(s) which the person understands:……

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): ……

(ii) In the case of legal person(s)

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Registered seat/office: .....

Registration number: .....

Address of the legal person: .....

Other contact details (email, phone No): ……..

Name of the legal person's representative: .....

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): ……..

2. Any other relevant information:

.....

……

SECTION G: Measure required

1. Please specify the measure required:

☐ Search and seizure (If ticked section H1 must be completed)

☐ Provision of documents and/or business records

☐ Provision of banking materials or information from other financial institutions (If ticked section H2 must be completed)

☐ Service of procedural documents and judicial decisions with assistance of requested State

☐ Obtaining information or evidence which is already in the possession of the requested State

☐ Obtaining information contained in databases held by police or judicial authorities

☐ Statements and Hearings (If ticked Section F (Identity of the natural or legal persons concerned) and Section I (Formalities and procedures requested for the execution), must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Hearing by videoconference, telephone conference or other audio-visual transmission. (If ticked section H4 must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Obtaining subscriber / entity data (If ticked section H3 must be completed)

☐ Obtaining traffic / events (including location) data (If ticked section H3 must be completed)

☐ Obtaining content data (If ticked section H3 must be completed)

☐ Investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time:

- ☐ monitoring of banking or other financial operations
- ☐ controlled deliveries
- ☐ other (If so please specify):……....

☐ Provisional measure(s) for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests (If ticked section H5 must be completed)

☐ Temporary transfer of a person held in custody to the requesting State (If ticked section H6 must be completed)

☐ Temporary transfer of a person held in custody to the requested State (If ticked section H6 must be completed)

☐ Covert investigation (If ticked section H7 must be completed)

☐ Other (If so please specify): ……

.....

.....

2. Please describe the assistance required, and, if known, the locations where the evidence is

located/believed to be located and any necessary information needed to carry out this measure. To request any formalities or procedures are observed please see section I: ……
……..……..…
..... ….
..... …

SECTION H: Additional requirements for certain measures

Fill out the sections relevant to the investigative measure(s) requested:

SECTION H1: Search and seizure

Natural or legal person linked to search. If more than one, please provide the details for each:

……

……

Premises to be searched. Please provide details on how the person is linked to the premises. If more than one, please provide the information for each: ……..

……

……

What evidence is being sought? Identify the material for which you want to search in as much detail as practicable: ……..

……..

……..

Why do you believe that the evidence is likely to be found in the place mentioned above and to be relevant and of substantial value to the investigation: .....……

……

……..…

Is there any risk of privileged material being recovered? If so, please provide detail:

……

……..

……..

Will any officials of the requesting State need to be present at the search? (If yes, please provide details in section I):

☐ Yes

☐ No

Any known information relating to investigations in other states which may impact this search and seizure request: ……..……

……

……

Please provide any other relevant information relating to the search and seizure:

……..

SECTION H2: Provision of information on bank or other financial accounts

If more than one account is concerned, please provide the information for each account.

Please specify what information is being sought:

☐ Information on bank accounts that the person holds in respect of which he or she has the power of attorney

☐ Information on other financial accounts that the person holds or in respect of which he or she has the power of attorney

☐ Information on banking operations:

☐ Bank Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

☐ Information on other financial operations:
☐ Account Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

If available, please provide:
Name of Account Holder: ……
Name of bank/financial institution: ……
IBAN or Account Number and Sort Code: ……..
Time Scale for transactions: ……..……

☐ Other (If so, please specify): ……..

Please provide additional justification as to why this evidence is likely to be relevant and of substantial value to the investigation, including the link of the account to the crime committed:
……
……..
……..
If necessary, please provide any additional information likely to be required to execute this request:
……..
……..

SECTION H3: Subscriber, traffic, location and content data
Type of data requested:
☐ Subscriber / entity data (e.g. subscription to phone number or IP address), specify: …….
……
☐ Traffic / events data, specify: ……
☐ Location data, specify: ……
☐ Content data (e.g. web/mailbox dump or message log, snapshot), specify: ……..…..
……
☐ Other, specify: ……
All requests for subscriber, traffic or location, and content data requires the following information:
☐ Date (DD/MM/YYYY): ……
☐ Timestamp (hh:mm:ss): ……
☐ Time Zone: ……....
Provide further details to help identify the data requested:
☐ IP address (and Port number if applicable): ……..
☐ Telephone number(s): ……..……...
☐ IMEI number(s): ……..……...

☐ Other (Please specify): ……

SECTION H4: Video or telephone conference or other audio-visual transmission

If hearing by videoconference or telephone conference or other audio-visual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (please include name of the person who will conduct the hearing/contact details/language where available): .....

.....

Proposed date(s) (DD/MM/YYYY): ……..

Start time of conference (hh:mm:ss): .....

Time Zone: .....

Approximate length of hearing: .....

Technical details:

Site name: .....

Communication system: .....

Contacts of technician (language): .....

Pre-test date and time: .....

Contact details for pre-test operator if known: .....

Language and interpretation arrangements: .....

Any other requirements (If so please specify): ……

.....

.....

.....

☐ This request concerns an accused person or the suspect and the hearing is, or forms part of, the trial of that person

Reason(s) why it is not desirable or possible for the witness or expert to attend in person:

……..

Please specify if the individual, suspected or accused person has given their consent:

☐ Yes

☐ No

☐ I request that the person's consent is sought before this request proceeds

SECTION H5: Provisional measures

If a provisional measure for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests is requested, please indicate whether:

☐ the item is to be transferred to the requesting State

☐ the item is to remain in the requested State; please indicate an estimated date:

for lifting of provisional measure: .....

for the submission of a subsequent request concerning the item:.....

SECTION H6: Transfer of a person held in custody

(1) If a temporary transfer to the requesting State of a person held in custody for the purpose of the investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No ☐ I request that the person's consent is sought

(2) If a temporary transfer to the requested State of a person held in custody for the purpose of investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No

If necessary, please provide any additional information: ……

SECTION H7: Covert Investigations

Please indicate the reasons why you consider the covert investigative measure relevant for the purpose of the criminal proceedings:

……..……

……..……

……..……

Please provide the following information:

(a) Information for the purpose of identifying the subject of the covert investigation: ……...

(b) The desired start date and duration of the covert measure: ……..……..

(c) Details of vehicles/address of the covert measure: ……..……

(d) If necessary, please provide any additional information relevant for execution of this request:

……..

……..

SECTION I: Formalities and procedures requested for the execution

1. Tick and complete, if applicable

☐ It is requested that the relevant / competent authority of the requested State comply with the following formalities and procedures (including any rights/ cautions/warnings that need to be communicated to the person): .....

.....

2. Tick and complete, if applicable

☐ It is requested that one or several officials of the requesting State is present during the execution of the request in support of the competent authorities of the requested State.

Name, job title and contact details of the officials:

.....

.....

Languages that may be used for communication, if different from language indicated in section J:

.....

.....

Nature of assistance to be provided by official(s) of requesting State, and/or any further relevant details:

.....

.....

3. Secure transmission of information and/or evidence

Please specify a secure electronic transmission route, if electronic transmission is accepted:

.....

.....

If electronic transmission is not accepted or would be inappropriate in this case, please advise the method of transmission requested: .....

.....

SECTION J: Details of the authority which issued the request

1. Name of authority which issued the request: .....

Name of representative/contact point: .....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

2. If different from the above, name of the authority conducting criminal investigation:

.....

Name and title of an official conducting criminal investigation: ……

.....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

3. Languages in which it is possible to communicate with the requesting authority:

.....

4. If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:

Name/Title/Organisation:.....

Address:.....

E-mail: .....

Contact Phone No: .....

SECTION K: Signature

By signing this form, I certify that:

- the content of the request as set out in this form is accurate and correct,
- this request has been issued by a competent authority,
- the issuing of this request is necessary for the purpose of the proceedings, and
- the investigative measures requested could have been ordered under the same conditions in a similar domestic case, and where applicable the necessary authorisation has been obtained.

Signature of the requesting authority and/or its representative:

Name: .....

Post held: .....

Date: .....

Official stamp (if available):

List of enclosures (if applicable):

……

……

SCHEDULE 3

Paragraph 2(5)(c)

Form 36.4-C

Rule 36.4(e)(ii)

Request for assistance to a member State of the European Union under section 7 of the Crime (International Co-operation) Act 2003

REQUEST FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS

This form shall be used by the competent authorities to which it applies under the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The information provided must be relevant and not go beyond what is necessary to execute this request, in line with relevant data protection requirements.

SECTION A Case Reference: ..... Requesting State: ..... Requesting Authority: ..... Requested State: ..... Requested Authority (if known): .....
SECTION B: Urgency Please indicate if there is any urgency due to: ☐ Evidence being concealed or destroyed ☐ Imminent trial date ☐ A person in custody ☐ Period of statute of limitations expiring ☐ Any other reason Please specify below: ..... Time limits for execution of the request are laid down in the Trade and Cooperation Agreement Article 640. However, if this request is urgent and / or requires action by/on a specific date, please specify and explain the reason for this: ....
SECTION C: Confidentiality ☐ This request is confidential Please provide additional information where relevant:..... .....

SECTION D: Relation to an earlier or simultaneous request for assistance

Please identify any actions undertaken in these or related proceedings to seek this evidence via other routes, where applicable. Please indicate whether this request for mutual assistance supplements an earlier or any simultaneous request/requests for assistance to the Requested State and, if relevant, to another State.

☐ Previous engagement with law enforcement authorities, prosecutors or other authorities

Provide details of any prior contact by the requesting State including the name of the State, the authority contacted, relevant contact details and any case reference numbers: …….....

……...

……...

☐ Previous related or simultaneous request for mutual assistance or European Investigation Order

Provide information relevant to identify the other requests including the name of the State, the authority to which it was transmitted, the date of request, and reference numbers given by the requesting and requested authorities: ……....

……....

……....

☐ Other

If relevant, provide information related to this other request for assistance:

…..……

……....

……....

SECTION E: Grounds for the request

1. Classification of the offence(s)

To ensure this request is sent to the appropriate body, what is the nature and legal classification of the offence(s) for which the request is made: ……

.....

.....

Please provide the maximum penalty, the statute of limitation and if applicable, the text of the statutory provision/code including the relevant provisions relating to penalties:

……

……

2. Summary of the facts

Description of the conduct giving rise to the offence(s) in respect of which assistance is sought and a summary of underlying facts:.....

.....

.....

For service of procedural documents and judicial decisions, please provide a short summary of the document(s) and/or decision(s) to be served, if it is not available in the language of the requested State:

……

……

For other requests, please describe how the evidence/measure sought can help to investigate and prosecute the offence(s): ……..

……..…….....

Stage of investigation/proceedings:

☐ investigation

☐ prosecution

☐ trial

☐ other, specify: .....

.....

.....

Description of risks associated with obtaining this evidence, if applicable:.....

.....

.....

Any other information which the requesting State considers useful to the executing authority in executing the request for assistance, if applicable: ……. .....

.....

.....

3. Is this offence a Driving Offence referred to in Article 640(6) of the Trade and Cooperation Agreement:

☐ Yes

☐ No

4. Type of proceedings for which the request is issued:

☐ proceedings in respect of offences the punishment of which, at the time of the request for assistance,

falls within the jurisdiction of the judicial authorities of the requesting State

□ proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested State by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

SECTION F: Identity of the natural or legal persons concerned

Please only provide information that is relevant and does not go beyond what is necessary for this request. If more than one person is concerned, please provide the information for each person.

1. State all information, as far as known, regarding the identity of the person(s) concerned by the measure:

(i) In the case of natural person(s)

Name: .....

First name(s):.....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex:.....

Nationality:.....

Identity number or social security number:.....

Type and number of the identity document(s) (ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address; if address not known, state the last known address:

.....

Workplace (including contact details):……

Other contact details (email, phone No): ……

Language(s) which the person understands:……

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): ……

(ii) In the case of legal person(s)

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Registered seat/office: .....

Registration number: .....

Address of the legal person: .....

Other contact details (email, phone No): ……..

Name of the legal person's representative: .....

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspected or accused person

☐ Victim

☐ Witness

☐ Expert

☐ Third Party

☐ Other (Please specify): ……..

2. Any other relevant information:

.....

……

SECTION G: Measure required

1. Please specify the measure required:

☐ Search and seizure (If ticked section H1 must be completed)

☐ Provision of documents and/or business records

☐ Provision of banking materials or information from other financial institutions (If ticked section H2 must be completed)

☐ Service of procedural documents and judicial decisions with assistance of requested State

☐ Obtaining information or evidence which is already in the possession of the requested State

☐ Obtaining information contained in databases held by police or judicial authorities

☐ Statements and Hearings (If ticked Section F (Identity of the natural or legal persons concerned) and Section I (Formalities and procedures requested for the execution), must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Hearing by videoconference, telephone conference or other audio-visual transmission. (If ticked section H4 must be completed):

- ☐ witness
- ☐ expert
- ☐ suspected or accused person
- ☐ victim
- ☐ third party

☐ Obtaining subscriber / entity data (If ticked section H3 must be completed)

☐ Obtaining traffic / events (including location) data (If ticked section H3 must be completed)

☐ Obtaining content data (If ticked section H3 must be completed)

☐ Investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time:

- ☐ monitoring of banking or other financial operations
- ☐ controlled deliveries
- ☐ other (If so please specify):……....

☐ Provisional measure(s) for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests (If ticked section H5 must be completed)

☐ Temporary transfer of a person held in custody to the requesting State (If ticked section H6 must be completed)

☐ Temporary transfer of a person held in custody to the requested State (If ticked section H6 must be completed)

☐ Covert investigation (If ticked section H7 must be completed)

☐ Other (If so please specify): ……

.....

.....

2. Please describe the assistance required, and, if known, the locations where the evidence is

located/believed to be located and any necessary information needed to carry out this measure. To request any formalities or procedures are observed please see section I: ……
……..……..…
..... ….
..... …

SECTION H: Additional requirements for certain measures

Fill out the sections relevant to the investigative measure(s) requested:

SECTION H1: Search and seizure

Natural or legal person linked to search. If more than one, please provide the details for each:

……

……

Premises to be searched. Please provide details on how the person is linked to the premises. If more than one, please provide the information for each: ……...

……

……

What evidence is being sought? Identify the material for which you want to search in as much detail as practicable: ……...

……...

……..

Why do you believe that the evidence is likely to be found in the place mentioned above and to be relevant and of substantial value to the investigation: .....……

……

……..…

Is there any risk of privileged material being recovered? If so, please provide detail:

……

……..

……..

Will any officials of the requesting State need to be present at the search? (If yes, please provide details in section I):

☐ Yes

☐ No

Any known information relating to investigations in other states which may impact this search and seizure request: ……..……

……

……

Please provide any other relevant information relating to the search and seizure:

……..

SECTION H2: Provision of information on bank or other financial accounts

If more than one account is concerned, please provide the information for each account.

Please specify what information is being sought:

☐ Information on bank accounts that the person holds in respect of which he or she has the power of attorney

☐ Information on other financial accounts that the person holds or in respect of which he or she has the power of attorney

☐ Information on banking operations:

☐ Bank Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

☐ Information on other financial operations:
☐ Account Statements
☐ Account opening documentation
☐ Power of Attorney or additional name on account
☐ Other (If so please specify): ……....

If available, please provide:
Name of Account Holder: ……
Name of bank/financial institution: ……
IBAN or Account Number and Sort Code: ……..
Time Scale for transactions: ……..……

☐ Other (If so, please specify): ……..

Please provide additional justification as to why this evidence is likely to be relevant and of substantial value to the investigation, including the link of the account to the crime committed:
……
……..
……..
If necessary, please provide any additional information likely to be required to execute this request:
……..
……..

SECTION H3: Subscriber, traffic, location and content data
Type of data requested:
☐ Subscriber / entity data (e.g. subscription to phone number or IP address), specify: …….
……..
☐ Traffic / events data, specify: ……..
☐ Location data, specify: ……..
☐ Content data (e.g. web/mailbox dump or message log, snapshot), specify: ……..…..
……..
☐ Other, specify: ……
All requests for subscriber, traffic or location, and content data requires the following information:
☐ Date (DD/MM/YYYY): ……
☐ Timestamp (hh:mm:ss): ……
☐ Time Zone: ……....
Provide further details to help identify the data requested:
☐ IP address (and Port number if applicable): ……..
☐ Telephone number(s): ……..……...
☐ IMEI number(s): ……..……...

☐ Other (Please specify): ……

SECTION H4: Video or telephone conference or other audio-visual transmission

If hearing by videoconference or telephone conference or other audio-visual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (please include name of the person who will conduct the hearing/contact details/language where available): .....

.....

Proposed date(s) (DD/MM/YYYY): ……..

Start time of conference (hh:mm:ss): .....

Time Zone: .....

Approximate length of hearing: .....

Technical details:

Site name: .....

Communication system: .....

Contacts of technician (language): .....

Pre-test date and time: .....

Contact details for pre-test operator if known: .....

Language and interpretation arrangements: .....

Any other requirements (If so please specify): ……

.....

.....

.....

☐ This request concerns an accused person or the suspect and the hearing is, or forms part of, the trial of that person

Reason(s) why it is not desirable or possible for the witness or expert to attend in person:

……..

Please specify if the individual, suspected or accused person has given their consent:

☐ Yes

☐ No

☐ I request that the person's consent is sought before this request proceeds

SECTION H5: Provisional measures

If a provisional measure for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests is requested, please indicate whether:

☐ the item is to be transferred to the requesting State

☐ the item is to remain in the requested State; please indicate an estimated date:

for lifting of provisional measure: .....

for the submission of a subsequent request concerning the item:.....

SECTION H6: Transfer of a person held in custody

(1) If a temporary transfer to the requesting State of a person held in custody for the purpose of the investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No ☐ I request that the person's consent is sought

(2) If a temporary transfer to the requested State of a person held in custody for the purpose of investigation is requested, please indicate whether the person consented to this measure:

☐ Yes ☐ No

If necessary, please provide any additional information: ……

SECTION H7: Covert Investigations

Please indicate the reasons why you consider the covert investigative measure relevant for the purpose of the criminal proceedings:

……..……

……..……

……..……

Please provide the following information:

(a) Information for the purpose of identifying the subject of the covert investigation: ……...

(b) The desired start date and duration of the covert measure: ……..……..

(c) Details of vehicles/address of the covert measure: ……..……

(d) If necessary, please provide any additional information relevant for execution of this request:

……..

……..

SECTION I: Formalities and procedures requested for the execution

1. Tick and complete, if applicable

☐ It is requested that the relevant / competent authority of the requested State comply with the following formalities and procedures (including any rights/ cautions/warnings that need to be communicated to the person): .....

.....

2. Tick and complete, if applicable

☐ It is requested that one or several officials of the requesting State is present during the execution of the request in support of the competent authorities of the requested State.

Name, job title and contact details of the officials:

.....

.....

Languages that may be used for communication, if different from language indicated in section J:

.....

.....

Nature of assistance to be provided by official(s) of requesting State, and/or any further relevant details:

.....

.....

3. Secure transmission of information and/or evidence

Please specify a secure electronic transmission route, if electronic transmission is accepted:

.....

.....

If electronic transmission is not accepted or would be inappropriate in this case, please advise the method of transmission requested: .....

.....

SECTION J: Details of the authority which issued the request

1. Name of authority which issued the request: .....

Name of representative/contact point: .....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

2. If different from the above, name of the authority conducting criminal investigation:

.....

Name and title of an official conducting criminal investigation: ……

.....

Address:.....

Tel. No: (country code) (area/city code).....

E-mail:.....

3. Languages in which it is possible to communicate with the requesting authority:

.....

4. If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:

Name/Title/Organisation:.....

Address:.....

E-mail: .....

Contact Phone No: .....

SECTION K: Signature

By signing this form, I certify that:

- the content of the request as set out in this form is accurate and correct,
- this request has been issued by a competent authority,
- the issuing of this request is necessary for the purpose of the proceedings, and
- the investigative measures requested could have been ordered under the same conditions in a similar domestic case, and where applicable the necessary authorisation has been obtained.

Signature of the requesting authority and/or its representative:

Name: .....

Post held: .....

Date: .....

Official stamp (if available):

List of enclosures (if applicable):

……

……

EXPLANATORY NOTE

(This note is not part of the Act of Adjournal)

This Act of Adjournal amends the Criminal Procedure Rules 1996 ("the 1996 Rules") in consequence of the adoption of standard forms for certain requests for mutual legal assistance under the Trade and Co-operation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland.

Paragraph 2(2) amends Chapter 23 of the 1996 Rules so that the new standard form is used when an application is made to the court under section 272(1) of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") for the issue of a letter of request and the proposed letter of request is to be sent to a member State of the European Union.

Paragraph 2(3) amends Chapter 23A of the 1996 Rules so that the new standard form is used when an application is made to the court under section 273(2) or section 273A(2) of the 1995 Act for the issue of a letter of request and the proposed letter of request is to be sent to a member State of the European Union.

Paragraph 2(4) amends Chapter 36 of the 1996 Rules so that the new standard form is used when an application for request for assistance under section 7(1) of the Crime (International Co-operation) Act 2003 is made to the court and the draft request is to be sent to a member State of the European Union.

Paragraph 2(5) inserts new Forms 23.1-D, 23A.1-C and Form 36.4-C into the appendix of the 1996 Rules.

© Crown copyright 2024

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the King's Printer for Scotland.