STATUTORY INSTRUMENTS

2021 No. 144

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

CRIMINAL LAW

The Scotland Act 1998 (Agency Arrangements) (Specification) (Overseas Production Orders) Order 2021

Made - - - -	*10th February 2021*
Laid before Parliament	*11th February 2021*
Laid before the Scottish Parliament	*11th February 2021*
Coming into force - -	*24th March 2021*

At the Court at Windsor Castle, the 10th day of February 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 93(3) of the Scotland Act 1998(**a**) is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

1. This Order may be cited as the Scotland Act 1998 (Agency Arrangements) (Specification) (Overseas Production Orders) Order 2021 and comes into force on 24th March 2021.

Interpretation

2. In this Order—

"overseas production order" means an order made by a judge under section 1(1) of the Crime (Overseas Production Orders) Act 2019(**b**),

"service" means service of an overseas production order under section 14 of the Crime (Overseas Production Orders) Act 2019.

(**a**) 1998 c.46; section 93 was amended by section 23 of the Scotland Act 2012 (c.11).
(**b**) 2019 c.5.

Specification of the function

3. The function specified for the purposes of section 93(1) of the Scotland Act 1998 is the service by the Lord Advocate of an overseas production order made in Scotland.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies a function of the Lord Advocate for the purposes of section 93(1) of the Scotland Act 1998. Section 93(1) allows the Scottish Ministers (which includes the Lord Advocate by virtue of section 93(3)) to make arrangements for any of the specified functions to be exercised on their behalf by a Minister of the Crown.

The function specified in this Order is the serving of an overseas production order made under section 1 of the Crime (Overseas Production Orders) Act 2019 ("the 2019 Act") by a judge in Scotland. Overseas production orders may only be used when permitted under an international co-operation arrangement between the UK and the country where the subject of the order is located. Currently the only international cooperation agreement that enables the making of overseas production orders has been made by the United Kingdom with the United States of America ("the Agreement"), and that Agreement requires that orders are served by a single designated authority in each party. It is therefore necessary, because of the restriction in section 9(3) of the 2019 Act, which limits service of orders made in Scotland to the Lord Advocate, for agency arrangements to be made to allow the Secretary of State to serve such orders as agent for the Lord Advocate for the purposes of the Agreement. This Order therefore provides a statutory basis for the UK Government and Scottish Government to enter into agency arrangements, which will require to be agreed by both governments.

The Agreement is available online at: https://www.gov.uk/government/publications/ukusa-agreement-on-access-to-electronic-data-for-the-purpose-of-countering-serious-crime-cs-usa-no62019. A hard copy of the Agreement can be obtained on request by writing to the Office for Security and Counter-Terrorism, Home Office, Peel Building, 2 Marsham Street, London, SW1P 4DF.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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£4.90

UK202102031009 02/2021 19585

http://www.legislation.gov.uk/id/uksi/2021/144

ISBN 978-0-34-822002-5

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