

- To be released July 2013

**File No. 906 1 - - Criminal Justice (Mutual Assistance Convention) Bill -
Interception Powers - Schedule of Documents**

Comment [11]: Records 1, 3-14, 16 & 17 - Outside scope of review as pre 2001.

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|-------------------------------|-------------------|
| 1 | International Legal Assistance in Criminal Matters Act (2000:562) Ministry of Sweden. | 07/11/00 | Grant <i>outside scope</i> | |
| 2 | Regulation of Investigatory Powers Act 2000 | No date | Refuse | 46(2) |
| 3 | Minutes of meeting of Working Group on Mutual Assistance - Interception of Telecommunications | 11/04/97 | Refuse | 20(1) 24(2)(e) |
| 4 | Minutes of meeting of Working Group on Mutual Assistance in Criminal Matters | 20/03/97 | Refuse | 20(1) 24(2)(e) |
| 5 | Note from French Delegation to Working party re Interception of Telecommunications | 19/03/97 | Refuse | 24(2)(e) |
| 6 | Note from Italian Delegation to Working party re Interception of Telecommunications | 19/03/97 | Refuse | 24(2)(e) |
| 7 | Outcome of Proceedings from Working party re Interception of Satellite Telecommunications | 25/02/97 | Refuse | 24(2)(e) |
| 8 | Note from the Presidency to Working party re Interception of Telecommunications systems | 19/03/97 | Refuse | 24(2)(e) |
| 9 | Note from German Delegation to Working party re Interception of Telecommunications | 20/12/96 | Refuse | 24(2)(e) |
| 10 | Note from UK Delegation to Working party re Interception of Telecommunications | 18/12/96 | Refuse | 24(2)(e) |
| 11 | Note from the Presidency to Working party re Interception of Telecommunications systems outside national boundaries - Lawful interception of satellite communications | 11/11/96 | Refuse | 24(2)(e) |
| 12 | Note from the UK delegation to Working party re Interception of Telecommunications - Judicial consequences of legal interception of telecommunications systems outside national boundaries | 02/02/96 | Refuse | 24(2)(e) |
| 13 | Note re Memo of Understanding on the lawful interception of telecommunications. | 25/10/96 | Refuse | 24(2)(e) |
| 14 | Note from Italian Delegation to the 'Entreaide Judiciaire en Matiere Penale' re Interception and Telecommunications | No date | Refuse | 20(1) 24(2)(e) |
| 15 | Copy of Explanatory Notes to Regulation of Investigatory Powers Act. | 29/9/05 | Refuse | 46(2) |
| 16 | Copy of Regulation of Investigatory Powers Bill. | 09/05/00 | Refuse | 46(2) |
| 17 | Council Act establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistanes in Criminal Matters between the Member States of the EU. | 22/05/00 | Refuse | 24(2)(e) |

Comment [12]: Agree

Comment [13]: Agree

**File No. 906 - - A Criminal Justice (International Co-operation) Bill Draft
Heads - Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|--------------|--|----------|----------|--|
| ✓ 1 | Head 4G (Rev2) Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | 20(1) |
| ✓ 2 | Head 4G (Rev3) Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | 20(1) |
| 3 | Head 4G (Rev2) Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | Same as doc. 1. |
| 4 | Head 4G (Rev2) Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | Same as doc. 1. |
| ✓ 5 | Head 4G Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | 20(1) |
| ✓ 6 | Head issuing of a request for mutual assistance in connection with interception of communications. | Undated | Refuse | 20(1) |
| 7 | Section 4 -Interception of Postal Packets and Telecommunications Messages (Regulations) Act 1993 | 10/11/03 | Refuse | Included i Comment [14]: S.46(2) also applies |
| 8 | Interception of Postal Packets and Telecommunications Messages (Regulations) Act 1993 | 10/11/03 | Refuse | 46(2) Comment [15]: Agree |
| ✓ 9 | Head 4G – to cover aspects of Sections 17 & 18 of the 2000 MLA Convention not being given the force of law. | Undated | Refuse | 20(1) |

**File No. 906 - - B Criminal Justice (International Cooperation) Bill Draft
Heads / Draft Articles - Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|-------------|------|-----------------|------------------|
| 1 | No docs | | Refuse Grant | Noted. |

x

File No. 906 - - 1 Mutual Assistance Bill Legislative Proposals (Amendments to Criminal Justice Act 94) - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|---------------------------------------|
| 1 | Letter to AG re: Proposed Mutual Assistance Bill and possible legislative provisions arising from the 2000 Convention. | 16/08/01 | Refuse | 22(1)(a) - Comment [16]: Agree |

File No. 906 - - 1.A Criminal Justice (International Co-operation) Bill 2002. Fiche Belge - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|-------------|------|----------|------------------|
| 1 | No docs | | N/A | Noted. |

File No. 906 - - 2.A Criminal Justice (International Co-operation) Bill 2002. Observations Received - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|---------------------------------------|
| 1 | Letter to AG's re: International Agreements | 11/02/02 | Refuse | 22(1)(a) - Comment [17]: Agree |
| ✓ 2 | Note on the possible "gaps" between the 2 nd Protocol and the 1994 legislation. | No Date | Refuse | 20(1)(a) |

File No. 906 - - 2 Criminal Justice (international Cooperation Bill 2003) Part 2 Obs on Draft Scheme - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|---|
| ✓ 1 | Memo from Security and Northern Ireland re International Cooperation Bill 2003 x 2 | 11/09/03 | Refuse | 20(1)(a) |
| 2 | Copy of Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty of European Union the Convention of Mutual Assistance in Criminal Matters between Member States of the European Union. | 17/07/00 | Refuse | 46(2) - Comment [18]: Outside scope - pre 2001 |

File No. 906 -- 3 Criminal Justice (International Cooperation) Bill 2003
Part 3 - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|------------|-------------------------|--|
| 1 | Letter from AG | 30/4/04 | Refuse | 20(1)(a) 46(1)(b) Comment [I9]: Agree 46(1)(b) applies |
| 2 | Head 4G (Rev2) Interception – Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required. | Undated | Refuse | Same as 20(1)(a) in file no. 906—A. |
| 3 | Head 4I – issuing of a request for mutual assistance in connection with interception of communications. | Undated | Refuse | Same as doc. 1 in file no. 906—A. |
| ✓ 4 | Briefing on Criminal Justice (International Cooperation) Bill | Undated | Refuse Grant | |
| 5 | Memo to Government on General Scheme of a Criminal Justice (International Cooperation) Bill | March 2004 | Refuse | 19(1)(a) Comment [I10]: Agree |

File No. 906 -- 4 Criminal Justice (International Cooperation) Bill Part 4 -
Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|------------------|
| ✓ 1 | Letter to Dept of Communications, Marine and Natural Resources re Interception provisions | 27/07/04 | Refuse | 20(1)(a) |

File No. 906 -- 4A Criminal Justice (International Cooperation) Bill Revenue
issues - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|-------------------------|--|
| 1 | Observations on issued raised by the Revenue Commissions | No date | Refuse | 20(1)(a) & poss. 23(1)(a)(i) |
| ✓ 2 | Letter to Dept. of Finance from Revenue re Criminal Justice (Mutual Assistance) Bill 2005 | June 05 | Refuse | 20(1)(a) |
| 3 | Memo from Security and Northern Ireland Division re Criminal Justice (Mutual Assistance) Bill 2005 | 16/06/05 | Refuse | 20(1)(a) & poss. 23(1)(a)(i) |
| 4 | Letter from AG re Criminal Justice (International Cooperation) Bill | 30/04/04 | Refuse | 22(1)(a) & 46(1)(b) Comment [I11]: Agree 46(1)(b) applies |
| ✓ 5 | Note on Optional Provisions re Mutual Assistance in Criminal Matters | No Date | Refuse Grant | |

**File No. 906 -- 5 Criminal Justice (International Cooperation) Bill -
Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|-----------------------------|
| ✓ 1 | Copy of Memo to Security and Northern Ireland Division re Interception provisions | 5/10/04 | Refuse | 20(1)(a) & 23(1)(a)(i) |
| ✓ 2 | Comments from Dept of Communications, Marine and Natural Resources re Criminal Justice (International Cooperation) Bill (marked secret) | 13/08/04 | Refuse | Part of doc. 1. 26(1)(a) |

Comment [WU12]: 26(1)(a) cannot apply as created by staff member of a public body (26(2)) - for release unless other exemption can be justified

**File No. 906 -- 6 Criminal Justice (International Cooperation) Bill -
Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|--------------------------------|
| 1 | Internal Department email re Criminal Justice (International Cooperation) Bill | 16/11/04 | Refuse | 20(1)(a) & 22(1)(a) |
| 2 | Email to AG office re Criminal Justice (International Cooperation) Bill | 16/11/04 | Refuse | 20(1)(a) |
| 3 | Comments from Security and Northern Ireland Division re Criminal Justice (International Cooperation) Bill (marked secret) | 14/10/04 | Refuse | 20(1) & 23(1)(a)(i) & 26(1)(a) |

Comment [WU13]: 22(1)(a) seems appropriate

Comment [WU14]: As above - can't be 26(1)(a)

**File No. 906 -- 7 Criminal Justice (International Cooperation) Bill
Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|---------------------|
| 1 | 1 st Draft of Criminal Justice (Mutual Assistance) Bill 2005 | 28/04/05 | Refuse | 20(1)(a) & 22(1)(a) |
| 2 | Email to AG office re Criminal Justice (International Cooperation) Bill | 14/04/05 | Refuse | 22(1)(a) |
| ✓ 3 | Internal Department email re Criminal Justice (International Cooperation) Bill | 08/03/05 | Refuse | 20(1)(a) |
| ✓ 4 | Email to Communications, Marine and Natural Resources re Criminal Justice (International Cooperation) Bill | 07/03/05 | Refuse | 20(1)(a) |
| ✓ 5 | Internal Divisional emails re Criminal Justice (International Cooperation) Bill | 07/03/05 | Refuse | 20(1)(a) |
| ✓ 6 | Internal Department email re Criminal Justice (International Cooperation) Bill | 07/03/05 | Refuse | 20(1)(a) |
| ✓ 6A | Internal Department email re Criminal Justice (International Cooperation) Bill | 07/03/05 | Refuse | 20(1)(a) |

Comment [I15]: agree

| | | | | |
|---|--|----------|--------|--------------------------------|
| 7 | Internal Department email re Criminal Justice (International Cooperation) Bill | 07/03/05 | Refuse | Same as doc. 6. |
| 8 | 1st draft of Part 1 – Interception of Telecommunications Messages | 24/02/05 | Refuse | 20(1)(a) & 22(1)(a) & 46(1)(b) |
| 9 | Technical drafting obs – 1st draft of Part 1 – Interception of Telecommunications Messages | 24/02/05 | Refuse | 20(1)(a) |

Comment [WU16]: No evidence to support 46(1)(b) on face of record

File No. 906 -- 8 Criminal Justice (Mutual Assistance) Bill 2005 - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|------------------------|
| 1 | Internal Memo re Interception Sections – Criminal Justice (Mutual Assistance) Bill 2005 | 31/05/05 | Refuse | 20(1)(a) & 23(1)(a)(i) |
| 2 | Internal Department email re Criminal Justice (Mutual Assistance) Bill 2005 | 20/05/05 | Refuse | 20(1)(a) & 23(1)(a)(i) |
| 3 | Provisional text of Criminal Justice (Mutual Assistance) Bill 2005 | 17/05/05 | Refuse | 22(1)(a) & 46(1)(b) |
| 4 | Irish Human Rights Commission observations on the Criminal Justice (International Cooperation) Bill | 10/05/05 | Refuse | 46(2) |
| 5 | Obs on 1 st Draft of Criminal Justice (Mutual Assistance) Bill 2005 | No date. | Refuse | 20(1) |
| 6 | Internal Department email seeking obs on Criminal Justice (Mutual Assistance) Bill 2005 | 10/05/05 | Refuse | 20(1)(|
| 7 | 1 st Draft of Criminal Justice (Mutual Assistance) Bill 2005 | 28/04/05 | Refuse | 22(1)(a) & 46(1)(b) |

Comment [I17]: Agree

Comment [WU18]: No evidence to support 46(1)(b). Can't see how 22(1)(a) applies either

Comment [WU19]: Agree
22(1)(a) applies to 2, 4, 7, 16,
17, 18.

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|--------------------------------|
| 1 | Fax from AGS re Criminal Justice (Mutual Assistance) Bill 2005 | 01/07/05 | Refuse | 20(1) & 23(1)(a)(i) |
| 2 | Fax to AG's re Interception provisions in Bill | 13/06/05 | Refuse | 22(1)(a) |
| ✓ 3 | Internal Department email re: D/CMNR obs on Interception provisions in Bill | 30/06/05 | Refuse | 20(1)(a) |
| 4 | Email to AG re D/CMNR obs on Criminal Justice (Mutual Assistance) Bill 2005 | 28/06/05 | Refuse | 22(1)(a) |
| ✓ 5 | Email from Dept Communications, Marine & Natural Resources re Criminal Justice (Mutual Assistance) Bill 2005 | 27/06/05 | Refuse | 20(1) |
| ✓ 6 | Email to Prisons Service re Criminal Justice (Mutual Assistance) Bill 2005 | 27/06/05 | Refuse | 20(1) |
| 7 | Email to AG re Criminal Justice (Mutual Assistance) Bill 2005 | 23/06/05 | Refuse | 22(1)(a) |
| 8 | Copy of Memo from Security and Northern Ireland Division re Interception provisions in Criminal Justice (Mutual Assistance) Bill 2005 | 16/06/05 | Refuse | 20(1) & 23(1)(a)(i) |
| 9 | Letter to AGS re Criminal Justice (Mutual Assistance) Bill 2005 | 20/06/05 | Refuse | 22(1)(a) |
| 10 | Letter to AG re submission form Irish Human Rights Commission | 16/05/05 | Refuse | 22(1)(a) |
| ✓ 11 | Head 4G (Rev2) Interception – Receipt of a request for mutual assistance. | Undated | Refuse | 20(1) |
| ✓ 12 | Email to Prisons Service re Criminal Justice (Mutual Assistance) Bill 2005 | 15/06/05 | Refuse | 20(1) |
| ✓ 13 | Internal Department email re Interception provisions in Bill | 14/06/05 | Refuse | 20(1) |
| ✓ 14 | Email to Dept Communications, Marine & Natural Resources re Criminal Justice (Mutual Assistance) Bill 2005 | 14/06/05 | Refuse | 20(1) |
| ✓ 15 | Internal Department email re Interception provisions in Bill | 13/06/05 | Refuse | 20(1) |
| 16 | Email to AG re Interception provisions in Bill | 13/06/05 | Refuse | 22(1)(a) |
| 17 | Email to AG re Interception comments from D/CMNR | 13/06/05 | Refuse | 22(1)(a) |
| 18 | Copy of Memo from Security and Northern Ireland Division re Interception provisions in Criminal Justice (Mutual Assistance) Bill 2005 | 31/05/08 | Refuse | 20(1) & 23(1)(a)(i) |
| 19 | Letter from AGS re Interception provisions in Bill | 15/04/05 | Refuse | 20(1)(a) & 23(1)(a)(i) |
| 20 | Email from Dept Finance re Revenues obs on the Bill | 10/06/05 | Refuse | Same as doc.2 in file 906---4A |

**File No. 906 -- 10 Mutual Assistance - Human Rights Commission –
Submission - Schedule of Documents**

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|------------------|
| 1 | Briefing on the Criminal Justice (Mutual Assistance) Bill & Irish human Rights Commission Obs | 26/07/05 | Refuse | 20(1) |
| 2 | Criminal Justice(International Cooperation) Bill Draft Scheme – For comments | No date | Refuse | 20(1) & 46 |
| 3 | Letter to Minister from Irish human Rights Commission re Report | 11/05/05 | Refuse | 46(2) |
| 4 | Tab C – Summary of Recommendations made by the IHRC which are incorporated In the text of the Bill | No date | Grant | |

Comment [WU20]: No evidence to support 46(1)(b).

File No. 906 -- 11 Controlled Deliveries (Article 12 – Convention on Mutual Assistance in Criminal Matters) - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|------------------|
| 1 | CRIMORG Doc – Final Report on the Second Round of evaluation – Law enforcement and its role in fighting Drug Trafficking. | 22/09/03 | Refuse | 24(2)(g) |

Comment [I21]: Agree

File No. 906 -- 12.A Criminal Justice (Mutual Assistance) Bill - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|---------------------|
| 1 | Note re Criminal Justice (Mutual Assistance) Bill - Irish human Rights Commission Obs | 19/07/05 | Refuse | 20(1) |
| 2 | Internal Department email re CJ (Mutual Assistance) Bill & IHRC Obs | 27/07/05 | Refuse | 20(1) |
| 3 | Briefing on Criminal Justice (Mutual Assistance) Bill & Irish human Rights Commission Obs | July 05 | Refuse | 20(1) |
| 4 | HRC Obs | | Refuse | 46(2) |
| 5 | HRC Recommendations | | Refuse | 46(2) |
| 6 | Obs raised by Revenue Commissioners | No Date | Refuse | 20(1) |
| 7 | Internal Department email re Criminal Justice (Mutual Assistance) Bill page 61 | 12/07/05 | Refuse | 20(1) |
| 8 | Email to Dept. of Communications, Marine and Natural Resources re comments on Draft Bill. | 06/07/05 | Refuse | 20(1) |
| 9 | Internal Department email re emails 5/6/05 & 5/7/05 | 05/07/05 | Refuse | 20(1) & 23(1)(a)(i) |
| 10 | Letter from AGS re Criminal Justice (Mutual Assistance) Bill | 01/07/05 | Refuse | 20(1) |

File No. 906 - - 12.B Criminal Justice (Mutual Assistance) Bill - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|----------------------------------|
| ✓ 1 | Internal Department email re Criminal Justice (Mutual Assistance) Bill | 30/08/05 | Refuse | 20(1) |
| 2 | Email to AG re Interception | 17/08/05 | Refuse | 22(1)(g) - Comment [WU22]: agree |
| ✓ 3 | Internal Department email re Irish human Rights Commission – Mutual Assistance Bill | 12/08/05 | Refuse | 20(1) |
| ✓ 4 | Note re Criminal Justice (Mutual Assistance) Bill - Irish human Rights Commission Obs | 19/07/05 | Refuse | 20(1) |
| 5 | Email to AG re Interception | 09/08/05 | Refuse | 22(1)(g) - Comment [WU23]: agree |

File No. 906 - - 13 Criminal Justice (Mutual Assistance) Bill Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|---------------------|
| ✓ 1 | Internal Department email re Interception Provisions in Mutual Assistance Bill | 14/09/05 | Refuse | 20(1) |
| ✓ 2 | Internal Department email re Criminal Justice (Mutual Assistance) Bill 2005 | 06/09/05 | Refuse | 20(1) |
| 3 | Letter from AGS re Part 3, Criminal Justice (Mutual Assistance) Bill – Interception of Telecommunications Messages. | 01/09/05 | Refuse | 20(1) & 23(1)(a)(i) |

File No. 906 - - 14 Criminal Justice (Mutual Assistance) Bill Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|--|
| 1 | Email to AG re Interception Issues raised by D/Commissioner Murphy | 27/10/05 | Refuse | 22(1)(a) - Comment [WU24]: agree |
| 2 | Memo for Govt. re Criminal Justice (Mutual Assistance) Bill | 10/11/05 | Refuse | 20(1) - Comment [WU25]: suggest 19(1)(a) applies |
| 2b | Internal Department email re Criminal Justice (Mutual Assistance) Bill 2005 | 21/10/05 | Refuse | 46(1)(b) & 23(1)(a)(i) - Comment [WU26]: not 46(1)(b) |
| 3 | Internal Email re MLA Bill – Meeting next week & other matters | 19/10/05 | Refuse | 20(1) & 22 - Comment [WU27]: can accept 46(1)(b) or 22(1)(a) |
| ✓ 4 | Email to ComReg re Interception transposition | 27/09/05 | Refuse | 22(1)(a) & 46(1)(b) - Comment [WU28]: not 46(1)(b) – not sure can be 22(1)(a) either |
| 5 | AG's advice re Criminal Justice (Mutual Assistance) Bill | 20/09/05 | Refuse | 46(2) - Comment [WU29]: 46(1)(b) applies |
| ✓ 6 | Web definitions of “gateway” | 27/09/05 | Refuse | 20(1) |
| 7 | Email to D/CMNR re Interception provisions | 15/09/05 | Refuse | 20(1) & 23(1)(a)(i) |

File No. 906 -- 15 Criminal Justice (Mutual Assistance) Bill - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act | |
|----------|----------------------------|----------|----------|------------------|---|
| 1 | Email to Council of Europe | 14/11/05 | Refuse | 24(2)(g) | Comment [WU30]: agree |
| 2 | Provisional text of Bill | 05/10/05 | Refuse | 46(1)(b) | Comment [WU31]: no evidence on face of record |
| 3 | Press Release | 25/10/05 | Grant | | |
| 4 | Obs from D/Finance | No date | Refuse | 19(1)(aa) | |

File No. 906 -- 16 Criminal Justice (Mutual Assistance) Bill - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act | |
|----------|---|----------|----------|------------------|-----------------------|
| ✓ 1 | Press Release re McDowell publishes Criminal Justice (Mutual Assistance) Bill 2005 | 05/12/05 | Grant | | |
| ✓ 2 | Publication of Criminal Justice (Mutual Assistance) Bill 2005 – Possible Questions and Answers. | 05/12/05 | Grant | | |
| ✓ 3 | Internal Department email re Mutual Assistance Bill | 24/11/05 | Refuse | 20(1) | |
| 4 | Extract from Irish Star (24/11/05) – “Cops are foiled by foreign phones” | 24/11/05 | Refuse | 46(2) | Comment [WU32]: agree |
| 5 | Email from EC re implementation of instruments | 18/11/05 | Refuse | 24(2)(g) | Comment [WU33]: agree |
| 6 | Email to AG re Section 9 & 27 of Mutual Assistance Bill. | 16/11/05 | Refuse | 22(1)(a) | Comment [WU34]: agree |

File No. 906 -- 17 Criminal Justice (Mutual Assistance) Bill - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|---------------------|
| 1 | Criminal Justice (Mutual Assistance) Bill 2005 – Second Stage Speech | 27/02/06 | Refuse | 46(2) |
| ✓ 2 | Criminal Justice (Mutual Assistance) Bill 2005 – Second Stage Seanad – 2/3/06 – Possible Questions and Answers. | 02/03/06 | Grant | |
| 3 | Letter to AGS re Criminal Justice (Mutual Assistance) Bill 2005 – Interception of telecommunications messages. | 30/01/06 | Refuse | 20(1) & 23(1)(a)(i) |

File No. 906 -- 18 Criminal Justice (Mutual Assistance) Bill 2005 - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|--|
| 1 | Criminal Justice (Mutual Assistance) Bill 2005 – Committee Stage Amendments – Seanad 30 March 2006 - Speaking Note | 30/03/06 | Refuse | 46(2) |
| 2 | Criminal Justice (Mutual Assistance) Bill 2005 – Committee Stage Amendments | 30/03/06 | Refuse | 46(2) |
| 3 | Questionnaire on the implementation of UNTOC | No Date | Grant | |
| 4 | Criminal Justice (Mutual Assistance) Bill 2005 – Briefing Note for an Taoiseach | 07/03/06 | Refuse | 20(1) & 46(1)(db) |
| 5 | Carol Coulter Times Newspaper Article | 07/03/06 | Refuse | 46(2) Comment [WU35]: agree |
| 6 | Internal Department email re Interception Press Issues | 06/03/06 | Refuse | 20(1) |
| 7 | Internal Department email re Section 24 | 06/03/06 | Refuse | 20(1) |
| 8 | Mark Hennessy Times Newspaper Article | 06/03/06 | Refuse | 46(2) Comment [WU36]: agree |
| 9 | Michael Sweeney Irish Start Newspaper Article | 06/03/06 | Refuse | 46(2) Comment [WU37]: agree |
| 10 | Kevin Rafter Sunday Tribune Newspaper Article | 05/03/06 | Refuse | 46(2) Comment [WU38]: agree |

File No. 906 - - 19 Criminal Justice (Mutual Assistance) Bill 2005
Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|---|
| 1 | Briefing for Minister of State re Criminal Justice(Mutual Assistance) Bill 2005 | 09/05/06 | Refuse | 20(1) & 46(1)(db) |
| 2 | Criminal Justice (Mutual Assistance) Bill 2005 – Amendments for Report Stage – Seanad 10 May 2006 | 10/05/06 | Refuse | 46(2) |
| ✓ 3 | Internal Department memo re Official Amendments for Report Stage of Criminal Justice (Mutual Assistance) Bill 2005 | 05/05/06 | Refuse | 20(1) |
| 4 | Parliamentary Debates (Official Report – Unrevised) Seanad Éireann Thursday 30 May | 30/03/06 | Refuse | 46(2) |
| 4a | Email AG's to D/Justice re Report Stage Interception Amdt. | 04/05/06 | Refuse | 46(1)(b) Comment [WU39]: agree |
| 4b | Email D/Justice to AG's re Report Stage Interception Amdt | 04/05/06 | Refuse | 46(1)(b) Comment [WU40]: sb 22(1)(a) |
| ✓ 4c | Internal Department email re CJ (Mutual Assistance) Bill interception amdt. | 04/05/06 | Refuse | 20(1) |
| ✓ 5 | Internal Department email re Interception amendments to Mutual Assistance Bill | 04/05/06 | Refuse | 20(1) |
| ✓ 6 | Internal Department email re Amendments to Interception provisions in the Mutual Assistance Bill | 21/4/06 | Refuse | 20(1) |
| 7 | Internal Department email re CJ (Mutual Assistance) Bill | 19/04/06 | Refuse | 20(1) & 46(2) |
| 8 | Email to OPC re CJ (Mutual Assistance) Bill | 13/04/06 | Refuse | 22(1) Comment [WU41]: agree |
| ✓ 9 | Internal Department email re CJ (Mutual Assistance) Bill | 07/04/06 | Refuse | 20(1) |
| 10 | Letter to OPC re CJ (Mutual Assistance) Bill | 03/04/06 | Refuse | 22(1) Comment [WU42]: agree |
| 11 | Irish Times Article re phone tapping. | 31/03/06 | Refuse | 46(2) Comment [WU43]: agree |
| 12 | Committee Stage debates. | 31/03/06 | Refuse | 46(2) |

File No. 906 - - 20 Criminal Justice (Mutual Assistance) Bill 2005
Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|--|----------|----------|--|
| ✓ 1 | Internal Department email re CJ (Mutual Assistance) Bill – Second Stage Dáil | 08/09/06 | Refuse | 20(1) |
| ✓ 2 | Internal Department email re CJ (Mutual Assistance) Bill – Second Stage Dáil | 08/09/06 | Refuse | 20(1) |
| ✓ 3 | Internal Department email re CJ (Mutual Assistance) Bill | 25/08/06 | Refuse | 20(1) |
| 4 | Email to AG re CJ (Mutual Assistance) Bill | 12/07/06 | Refuse | 22(1) Comment [WU44]: agree |
| 5 | Email to OPC re Amendment to Interception provisions in MLA Bill | 20/06/06 | Refuse | 22(1) & 23(1)(a)(i) Comment [WU45]: agree |
| ✓ 6 | Internal Department memo re Section 29 Amendment – Mutual Assistance Bill | 20/6/06 | Refuse | 20(1) |
| 7 | Memo to OPC re Amendment to Section 29 of the Criminal Justice (Mutual Assistance) Bill 2006 | 09/06/06 | Refuse | 22(1) & 23(1)(a)(i) Comment [WU46]: agree |
| 8 | Internal Department memo re Mutual Assistance Bill 2005 | 08/06/06 | Refuse | 20(1) & 23(1)(a)(i) |
| 9 | Second Stage Speech Dáil Éireann re Criminal Justice (Mutual Assistance) Bill, 2005 | 08/06/06 | Refuse | 46(2) |
| ✓ 10 | Second Stage Speech Dáil Éireann re Criminal Justice (Mutual Assistance) Bill, 2005 | 01/06/06 | Grant | |

File No. 906 - - 21 Criminal Justice (Mutual Assistance) Bill 2005
Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|----------|--|
| ✓ 1 | Internal Department email re Criminal Justice (Mutual Assistance) Bill 2005 | 11/10/06 | Refuse | 20(1) |
| 2 | Note re Criminal Justice (Mutual Assistance) Bill 2006 – Committee Stage Amendments – Outstanding Issues | No Date | Refuse | 22(1) Comment [WU47]: agree |
| 3 | Parliamentary Debates – MA Bill 2005 Seanad Second Stage | 28/09/06 | Refuse | 46(2) |
| 4 | Parliamentary Debates – MA Bill 2005 Seanad Second Stage (Resumed) | 28/09/06 | Refuse | 46(2) |
| 5 | Parliamentary Debates – MA Bill 2005 Seanad Second Stage (Resumed) | 28/09/06 | Refuse | 46(2) |
| ✓ 6 | Criminal Justice (Mutual Assistance) Bill – Reply to Second Stage, Dáil Éireann September 2006 | Sept 06 | Grant | |
| 7 | Criminal Justice (Mutual Assistance) Bill – Second Stage, Dáil Éireann September 2006 – Possible Q&A (Qs: 2, 22 & 24) | Sept 06 | Refuse | 20(1) & 46(1)(db) |

File No. 906 - - 22 Criminal Justice (Mutual Assistance) Bill 2005 - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act | |
|----------|---|----------|----------|------------------|---|
| 1 | Email to OPC re Criminal Justice (Mutual Assistance) Bill 2005 | 14/03/07 | Refuse | 46(1)(b) | Comment [WU48]: agree |
| 2 | Internal Department email re Interception matters | 23/01/07 | Refuse | 22(1) | Comment [WU49]: agree |
| 3 | Committee Stage Amendments | 15/01/07 | Refuse | 46(1)(b) | Comment [WU50]: no evidence to support 46(1)(b) |
| 4 | Minutes from Meeting with AG's office re Criminal Justice (Mutual Assistance) Bill 2005 | 03/01/07 | Refuse | 22(1) | Comment [WU51]: agree |

File No. 906 - - 23 Criminal Justice (Mutual Assistance) Bill 2005 - Schedule of Documents

| Doc. No. | Description | Date | Decision | Provision in Act |
|----------|---|----------|--------------|------------------|
| 1 | Information Note on Criminal Justice (Mutual Assistance) Bill 2005 – Dail Committee Stage Amendments. | No date | <u>Grant</u> | |
| ✓ 2 | Brief re Interception provisions in Criminal Justice (Mutual Assistance) Bill 2005 | 03/05/07 | Refuse | 20(1) |
| ✓ 3 | Internal Department email re MLA Bill | 02/05/07 | Refuse | 20(1) |

Schedule of record

| File No. and Name | Description | Date | Decision | Doc no: |
|-------------------|---|----------|----------|---------|
| 170 196 1 | Council of Europe Cybercrime Convention | 30/08/10 | Refuse | 1 |

Head 4G (Rev 2) Interception

Head 4G Receipt of a request for mutual assistance in connection with interception of communications, including in cases where technical assistance is required.

Provide that

- (1) This section shall have effect where the Minister receives from
- (a) a judicial authority, acting for the purpose of a criminal investigation, in a country or territory outside the State or a prosecuting authority acting for a similar purpose in such a country or territory, or
 - (b) from any other authority in such a country or territory which appears to the Minister to have the function of making requests of the kind to which this section applies and provided that such authority is acting for the purpose of a criminal investigation

a written request for provision of mutual assistance in connection with, or in the form of, the interception or the interception, recording and subsequent transmission of communications where the person the subject of the intercept is located

- (i) in the state which is making the request and the technical assistance of this State is required or
- (ii) in the State and his or her communications are capable of being intercepted here, or
- (iii) in a state other than the one making the request and the technical assistance of this State is required.

- (2) 1. For the purposes of requests under section (1), the Government may by Order designate a country that has adopted the Convention.

2. The Government may amend or revoke an order under this section including an order made under this subsection.
3. An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

- (3) Where the State is party to an international agreement which
 - (a) relates to the provision of mutual assistance in connection with, or in the form of, the interception of communications,
 - (b) requires the issue of a warrant, order or equivalent instrument in which assistance is given,

and a request is received from a country designated under subsection (2) of this Section, it shall be the duty of the Minister to ensure that no request for assistance in accordance with the agreement is made on behalf of a person in the State to the competent authorities of a country outside the State except with lawful authority.

- (4) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the Minister in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in the State in a similar national case.

- (5) All requests under subsection (1) of this section shall include the following:

- (a) details of the authority making the request;
- (b) confirmation that a lawful interception order or warrant has been issued by the requesting state in connection with a criminal investigation;
- (c) details to identify the subject of the interception;
- (d) information on the criminal conduct being investigated;
- (e) the desired duration of the intercept; and
- (f) appropriate technical data to enable the intercept to take place.

(6) In the case of a request under subsection 1(ii) above, a request shall also include a summary of the facts.

(7) When a request is made in accordance with subsections 1(i) or 1(iii) and includes the information set out in subsection (5), the State undertakes to comply with the request.

(8) When a request is made in accordance with subsection 1(ii) and includes the information set out in subsection (5) and (6), the State undertakes to comply with the request in accordance with the provisions of the 1993 Act, where it would be complied with in a similar national case, and subject to such conditions as might be imposed in such a case.

(9) "Service provider" means a postal or telecommunications company or operator that may be in the possession of, or be capable of obtaining any communications data that falls within the meaning of the definition of interception as set out in the 1993 Act.

(10) Where it appears to the Minister that a service provider is or may be in possession of, or be capable of obtaining any communications data, for the purposes of a criminal investigation the Minister may, by notice to the service provider, require the service provider

(a) if the service provider is not already in possession of the data, to obtain the data and

(b) in any case, to disclose all of the data in his possession or subsequently obtained by him/her.

(11) A service provider who obstructs, hinders or fails to comply with requests made under subsection (10) is guilty of an offence and liable

- (i) on summary conviction to a fine not exceeding €3,000 or imprisonment for a period of 12 months or both
- (ii) on conviction on indictment, to a fine not exceeding €(to be specified) or imprisonment for a period of 5 years or both

Notes

Subheads (1) to (8) head give effect to the provisions contained in Article 18 of the 2000 EU Mutual Legal Assistance Convention insofar as as requests are received by the State. An alternative formulation of Heads (1) to (2)(1) could be as follows:-

Provide that

(1) The Government may by Order designate a country that has adopted the Convention for the purpose of receiving requests from a judicial authority, acting for the purpose of a criminal investigation, in that country or a prosecuting authority acting for a similar purpose in connection with, or in the form of, the interception of communications, where the person the subject of the intercept is located

- (i) in the state which is making the request and the technical assistance of this State is required or
- (ii) in the State and his or her communications are capable of being intercepted here, or
- (iii) in a state other than the one making the request and the technical assistance of this State is required

(2) The Government may amend or revoke an order under this section including an order made under this subsection.

Subheads (9) and (10) give effect to the provisions in Article 19 of the Convention. Subhead (11) provides for penalties for obstruction and failure by service providers to provide the communications data that comes within the terms of the Convention.

Subheads (9) to (11) inclusive may require further examination in the light of developments at EU level in relation to data retention.

Head 4H (Rev 2)

Head 4H Receipt of a request for mutual assistance in connection with
interception of communications where no technical assistance is
needed.

Provide that

(1) The Government may by Order designate a country that has adopted the Convention for the purpose of receiving notifications from a judicial authority of such country, acting for the purpose of a criminal investigation which presents the characteristics of being an investigation following the commission of a specific criminal offence, including attempts in so far as they are criminalised under national law, in order to identify arrest, charge, prosecute or deliver judgement on those responsible where the person the subject of the intercept is located in the State and his or her communications are capable of being intercepted here and the technical assistance of this State is not required

(2) The notifications under subsection (1) shall be furnished to the State

(a) (i) prior to the interception where the requesting State knows when ordering the interception that the subject is in the state

(ii) in other cases immediately after it becomes aware than the subject of the interception is in the State.

(3) The Government may amend or revoke an order under this section including an order made under this subsection.

(4) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

(5) Where the State is party to an international agreement which

(a) relates to the provision of mutual assistance in connection with, or in the form of, the interception of communications,

(b) requires the issue of a warrant, order or equivalent instrument in which assistance is given, and

(c) a notification is received from a country designated under subsection (1) of this section,

and the Minister receives a notification under Section (1), it shall be the duty of the Minister to ensure that no request for assistance is made on behalf of a person in the State to the competent authorities of a country outside the State except with lawful authority.

(6) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the Minister in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in the State in a similar national case.

(7) All notifications received by the State shall include the following:-

(a) details of the authority ordering the interception

(b) confirmation that a lawful interception order has been issued in

→ connection with a criminal investigation

(c) information for the purpose of identifying the subject of the interception

(d) information on the criminal conduct being investigated

(e) the expected duration of the interception

(8) Where a notification is received in accordance with subsection (2) and (7) the following shall apply

(a) Upon receipt of the information provided under subsection (7), the State shall, without delay, and at the latest within 96 hours reply to the intercepting Member State with a view to

(i) allowing the interception to be carried out or to be continued. The consent may be subject to any conditions which would have to be observed in a similar national case;

(ii) requiring the interception not to be carried out or to be terminated where the interception would not be permissible

- in accordance with of the provisions of the 1993 Act or for the reasons specified in Article 2 of the European Mutual Assistance Convention. Where the State imposes such a requirement, it shall give reasons for its decision in writing;
- (iii) in cases referred to in point (ii), requiring that any material already intercepted while the subject was on its territory may not be used or may only be used under conditions which it shall specify. The State shall inform the intercepting Member State of the reasons justifying the said conditions.
 - (iv) requiring a short extension of up to a maximum period of eight days, to the original 96-hour deadline to be agreed with the intercepting Member State in order to carry out internal procedures under the law of the State. The State shall communicate, in writing, to the intercepting Member State the conditions which, pursuant to national law, justify the requested extension of the deadline.
- (b) Until a decision has been taken by the State pursuant to points (i) or (ii) of subparagraph (a), the intercepting State:
- (i) may continue the interception: and
 - (ii) may not use the material already intercepted except:
 - if otherwise agreed between the Member States concerned:
 - or
 - for taking urgent measures to prevent an immediate and serious threat to public security. The Member State shall be informed of any such use and the reasons justifying it.
- (c) The State may request a summary of the facts of the case and any further information necessary to enable it to decide whether interception would be authorised in a similar national case. Such a request does not affect the application of subparagraph (b), unless

otherwise agreed between the State and the intercepting Member State.

Notes

This Head gives effect to the provisions contained in Articles 19 and 20 of the 2000 EU Mutual Legal Assistance Convention insofar as requests are received by the State.

Head 4I Issuing of a request for mutual assistance in connection with
interception of communications.

Provide that

(1) The Minister may issue to a judicial or a prosecuting authority acting for the purpose of a criminal investigation, in a country or territory outside the State, a written request for provision of mutual assistance in connection with, or in the form of, the interception recording and transmission of communications where the person the subject of the intercept is located

- (i) in the State to which the request is made (the requested State) and the technical assistance of that State is required, or
- (ii) in the State to which the request is made and his or her communications are capable of being intercepted there, or
- (iii) in a state other than the one making the request and the technical assistance of the requested state is required.

(2) 1. For the purposes of requests under section (1), the Government may by Order designate a country that has adopted the Convention.

2. The Government may amend or revoke an order under this section including an order made under this subsection.

(3) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the judicial or prosecuting authority in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in that State in a similar national case.

(4) All requests under subsection (1) of this section shall include the following:

- (a) details of the authority making the request;
- (b) confirmation that a lawful interception order or warrant has been issued by the requesting state in connection with a criminal investigation;
- (c) details to identify the subject of the interception;
- (d) information on the criminal conduct being investigated;
- (e) the desired duration of the intercept; and
- (f) appropriate technical data to enable the intercept to take place.

(5) In the case of a request under subsection 1(ii) above, a request shall also include a summary of the facts.

(6) "Service provider" shall have the same meaning as in Section 4(G)(9).

(7) Where it appears to the Minister that a service provider is or may be in possession of, or be capable of obtaining any communications data, for the purposes of a criminal investigation the Minister may, by notice to the judicial or prosecuting authority acting for the purpose of a criminal investigation request that the service provider located in the territory of the requested State

- (a) if the service provider is not already in possession of the data, to obtain the data and
- (b) in any case, to disclose all of the data in his possession or subsequently obtained by him/her.

Notes

This Head is intended to deal with the issue of requests by the State in connection with the interception of communications under Articles 17 to 20 of the 2000 EU Mutual Legal Assistance Convention.

**Head 4G Receipt of a request for mutual assistance in connection with
interception of communications, including in cases where
technical assistance is required.**

Provide that

- (1) This section shall have effect where the Minister receives from
- (a) a judicial authority, acting for the purpose of a criminal investigation, in a country or territory outside the State or a prosecuting authority acting for a similar purpose in such a country or territory, or
 - (b) from any other authority in such a country or territory which appears to the Minister to have the function of making requests of the kind to which this section applies and provided that such authority is acting for the purpose of a criminal investigation

a written request for provision of mutual assistance in connection with, or in the form of, the interception or the interception, recording and subsequent transmission of communications where the person the subject of the intercept is located

- (i) in the state which is making the request and the technical assistance of this State is required or
- (ii) in the State and his or her communications are capable of being intercepted here, or
- (iii) in a state other than the one making the request and the technical assistance of this State is required.

- (2) 1. For the purposes of requests under section (1), the Government may by Order designate a country that has adopted the Convention.

2. The Government may amend or revoke an order under this section including an order made under this subsection.
 3. An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.
- (3) Where the State is party to an international agreement which
- (a) relates to the provision of mutual assistance in connection with, or in the form of, the interception of communications,
 - (b) requires the issue of a warrant, order or equivalent instrument in which assistance is given,
- and a request is received from a country designated under subsection (2) of this Section, it shall be the duty of the Minister to ensure that no request for assistance in accordance with the agreement is made on behalf of a person in the State to the competent authorities of a country outside the State except with lawful authority.
- (4) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the Minister in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in the State in a similar national case.
- (5) All requests under subsection (1) of this section shall include the following:
- (a) details of the authority making the request;
 - (b) confirmation that a lawful interception order or warrant has been issued by the requesting state in connection with a criminal investigation;
 - (c) details to identify the subject of the interception;
 - (d) information on the criminal conduct being investigated;
 - (e) the desired duration of the intercept; and

- (f) appropriate technical data to enable the intercept to take place.
- (6) In the case of a request under subsection 1(ii) above, a request shall also include a summary of the facts.
- (7) When a request is made in accordance with subsections 1(i) or 1(iii) and includes the information set out in subsection (5), the State undertakes to comply with the request.
- (8) When a request is made in accordance with subsection 1(ii) and includes the information set out in subsection (5) and (6), the State undertakes to comply with the request in accordance with the provisions of the 1993 Act, where it would be complied with in a similar national case, and subject to such conditions as might be imposed in such a case.
- (9) "Service provider" means a postal or telecommunications company or operator that may be in the possession of, or be capable of obtaining any communications data that falls within the meaning of the definition of interception as set out in the 1993 Act.
- (10) Where it appears to the Minister that a service provider is or may be in possession of, or be capable of obtaining any communications data, for the purposes of a criminal investigation the Minister may, by notice to the service provider, require the service provider
- (a) if the service provider is not already in possession of the data, to obtain the data and
 - (b) in any case, to disclose all of the data in his possession or subsequently obtained by him/her.

(11) A service provider who obstructs, hinders or fails to comply with requests made under subsection (10) is guilty of an offence and liable

- (i) on summary conviction to a fine not exceeding €3,000 or imprisonment for a period of 12 months or both
- (ii) on conviction on indictment, to a fine not exceeding €(to be specified) or imprisonment for a period of 5 years or both

Notes

Subheads (1) to (8) head give effect to the provisions contained in Article 18 of the 2000 EU Mutual Legal Assistance Convention insofar as as requests are received by the State. An alternative formulation of Heads (1) to (2)(1) could be as follows:-

Provide that

(1) The Government may by Order designate a country that has adopted the Convention for the purpose of receiving requests from a judicial authority, acting for the purpose of a criminal investigation, in that country or a prosecuting authority acting for a similar purpose in connection with, or in the form of, the interception of communications, where the person the subject of the intercept is located

- (i) in the state which is making the request and the technical assistance of this State is required or
- (ii) in the State and his or her communications are capable of being intercepted here, or
- (iii) in a state other than the one making the request and the technical assistance of this State is required

(2) The Government may amend or revoke an order under this section including an order made under this subsection.

Subheads (9) and (10) give effect to the provisions in Article 19 of the Convention.
Subhead (11) provides for penalties for obstruction and failure by service providers to provide the communications data that comes within the terms of the Convention.
Subheads (9) to (11) inclusive may require further examination in the light of developments at EU level in relation to data retention.

**Head 4H Receipt of a request for mutual assistance in connection with
interception of communications where no technical
assistance is needed.**

Provide that

(1) The Government may by Order designate a country that has adopted the Convention for the purpose of receiving notifications from a judicial authority of such country, acting for the purpose of a criminal investigation which presents the characteristics of being an investigation following the commission of a specific criminal offence, including attempts in so far as they are criminalised under national law, in order to identify arrest, charge, prosecute or deliver judgement on those responsible where the person the subject of the intercept is located in the State and his or her communications are capable of being intercepted here and the technical assistance of this State is not required

(2) The notifications under subsection (1) shall be furnished to the State

(a) (i) prior to the interception where the requesting State knows when ordering the interception that the subject is in the state

(ii) in other cases immediately after it becomes aware than the subject of the interception is in the State.

(3) The Government may amend or revoke an order under this section including an order made under this subsection.

(4) An order under this section shall, as soon as may be after it is made, be laid before each House of the Oireachtas.

(5) Where the State is party to an international agreement which

(a) relates to the provision of mutual assistance in connection with, or in the form of, the interception of communications,

- (b) requires the issue of a warrant, order or equivalent instrument in which assistance is given, and
- (c) a notification is received from a country designated under subsection of this section,

and the Minister receives a notification under Section (1), it shall be the duty of the Minister to ensure that no request for assistance is made on behalf of a person in the State to the competent authorities of a country outside the State except with lawful authority.

(6) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the Minister in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in the State in a similar national case.

(7) All notifications received by the State shall include the following:-

- (a) details of the authority ordering the interception
- (b) confirmation that a lawful interception order has been issued in connection with a criminal investigation
- (c) information for the purpose of identifying the subject of the interception
- (d) information on the criminal conduct being investigated
- (e) the expected duration of the interception

(8) Where a notification is received in accordance with subsection (2) and (7) the following shall apply

- (a) Upon receipt of the information provided under subsection (7), the State shall, without delay, and at the latest within 96 hours reply to the intercepting Member State with a view to
 - (i) allowing the interception to be carried out or to be continued. The consent may be subject to any conditions

which would have to be observed in a similar national case;

- (ii) requiring the interception not to be carried out or to be terminated where the interception would not be permissible in accordance with the provisions of the 1993 Act or for the reasons specified in Article 2 of the European Mutual Assistance Convention. Where the State imposes such a requirement, it shall give reasons for its decision in writing;
- (iii) in cases referred to in point (ii), requiring that any material already intercepted while the subject was on its territory may not be used or may only be used under conditions which it shall specify. The State shall inform the intercepting Member State of the reasons justifying the said conditions.
- (iv) requiring a short extension of up to a maximum period of eight days, to the original 96-hour deadline to be agreed with the intercepting Member State in order to carry out internal procedures under the law of the State. The State shall communicate, in writing, to the intercepting Member State the conditions which, pursuant to national law, justify the requested extension of the deadline.

(b) Until a decision has been taken by the State pursuant to points (i) or (ii) of subparagraph (a), the intercepting State:

- (i) may continue the interception: and
 - (ii) may not use the material already intercepted except:
 - if otherwise agreed between the Member States concerned:
- or

- for taking urgent measures to prevent an immediate and serious threat to public security. The Member State shall be informed of any such use and the reasons justifying it.

- (c) The State may request a summary of the facts of the case and any further information necessary to enable it to decide whether interception would be authorised in a similar national case. Such a request does not affect the application of subparagraph (b), unless otherwise agreed between the State and the intercepting Member State.

Notes

This Head gives effect to the provisions contained in Articles 19 and 20 of the 2000 EU Mutual Legal Assistance Convention insofar as requests are received by the State.

Head 4I Issuing of a request for mutual assistance in connection with interception of communications.

Provide that

- (1) The Minister may issue to a judicial or a prosecuting authority acting for the purpose of a criminal investigation, in a country or territory outside the State, a written request for provision of mutual assistance in connection with, or in the form of, the interception recording and transmission of communications where the person the subject of the intercept is located
 - (i) in the State to which the request is made (the requested State) and the technical assistance of that State is required, or
 - (ii) in the State to which the request is made and his or her communications are capable of being intercepted there, or
 - (iii) in a state other than the one making the request and the technical assistance of the requested state is required.
- (2)
 1. For the purposes of requests under section (1), the Government may by Order designate a country that has adopted the Convention.
 2. The Government may amend or revoke an order under this section including an order made under this subsection.
- (3) Conduct has lawful authority for the purposes of this section if, and only if, it is authorised by the judicial or prosecuting authority in accordance with the provisions of the 1993 Act, as if it were a measure which would be authorised in that State in a similar national case.
- (4) All requests under subsection (1) of this section shall include the following:
 - (a) details of the authority making the request;