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*Number 18 of 2003*

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**CRIMINAL JUSTICE (ILLICIT TRAFFIC BY SEA) ACT 2003**

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SCHEDULE

Text of Council of Europe Agreement on Illicit Traffic by Sea implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Strasbourg on 31 January 1995

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Acts Referred to

|   |              |
|---|--------------|
| Criminal Justice Act 1960               | 1960, No. 27 |
| Criminal Justice Act 1994               | 1994, No. 15 |
| Maritime Jurisdiction Acts 1959 to 1988 |              |



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*Number 18 of 2003*  
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**CRIMINAL JUSTICE (ILLICIT TRAFFIC BY SEA) ACT 2003**  
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AN ACT TO GIVE EFFECT TO THE COUNCIL OF EUROPE AGREEMENT ON ILLICIT TRAFFIC BY SEA IMPLEMENTING ARTICLE 17 OF THE UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, TO AMEND THE CRIMINAL JUSTICE ACT 1994 AND TO PROVIDE FOR RELATED MATTERS.

[23rd June, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—(1)** In this Act except when the context otherwise requires— Interpretation.

“Act of 1994” means the Criminal Justice Act 1994;

“Agreement” means the Council of Europe Agreement on Illicit Traffic by Sea implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Strasbourg on 31 January 1995;

“Convention state” has the meaning given to it in the Act of 1994;

“drug trafficking offence” has the meaning given to it in the Act of 1994;

“enforcement officer” has the meaning given to it in the Act of 1994;

“Minister” means the Minister for Justice, Equality and Law Reform;

“outer limit of the territorial seas” has the meaning given to that expression by the Maritime Jurisdiction Acts 1959 to 1988;

“territory of the State” includes a vessel registered in the State;

“vessel” means a ship or other floating craft of any description and includes a hovercraft or submersible craft.

(2) In this Act, unless the contrary intention appears, a reference to—

(a) a section, Part or Schedule is a reference to a section or Part of, or Schedule to, this Act,

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- (b) a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, and
  - (c) an enactment includes a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.
- (3) For convenience of reference, the text of the Agreement in the English language is set out in the *Schedule*.

Exercise of powers by enforcement officers.

**2.**—For the purposes of this Act, the powers conferred on an enforcement officer by the Act of 1994 shall not be exercised outside the outer limit of the territorial seas of the State except with the authority of the Minister for Foreign Affairs as provided in section 35(2) of the Act of 1994.

Convention states party to the Agreement.

**3.**—(1) The Minister for Foreign Affairs may by order declare that any state specified in the order is a Convention state which is a party to the Agreement.

(2) An order that is in force under *subsection (1)* shall be evidence that any state specified in the order is a Convention state which is a party to the Agreement.

(3) The Minister for Foreign Affairs may by order amend or revoke an order under this section including an order 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.

Communication by master of vessel.

**4.**—(1) Subject to *subsection (2)*, the master of a vessel which—

(a) is registered in a Convention state which is a party to the Agreement, and

(b) is boarded by an enforcement officer outside the outer limit of the territorial seas of the State,

shall be entitled to communicate with the authorities of the Convention state concerned and the owner or operator of the vessel for the purpose of notifying them that the vessel has been boarded.

(2) An enforcement officer may prevent or delay communication under *subsection (1)* if he or she is satisfied that such communication would obstruct the investigation of an offence.

Arrested person to be brought before High Court.

**5.**—Where—

(a) a vessel registered in a Convention state which is a party to the Agreement—

(i) is arrested outside the outer limit of the territorial seas of the State, and

(ii) is taken by an enforcement officer to a port in the State,

and

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- (b) a person on board the vessel is arrested by the enforcement officer by virtue of his or her powers under the First Schedule to the Act of 1994,

the person shall be brought before the High Court as soon as possible, unless there are no longer reasonable grounds for suspecting that the person has committed the offence for which he or she was arrested, in which case the person shall be released forthwith.

**6.**—Where a person is brought before the High Court under *section 5*, and the Court is satisfied that the person was lawfully arrested by an enforcement officer in the exercise of his or her powers under the Act of 1994, the Court shall make an order remanding the person pending the production of a certificate referred to in *section 8* or the release of the person in accordance with an order under *section 21*.

Remand of arrested person.

**7.**—(1) A Convention state which is a party to the Agreement may make a request to the Minister in accordance with Article 15 of the Agreement for the surrender of—

Request for surrender.

- (a) a person who has been arrested,
- (b) a vessel which has been detained, or
- (c) anything which has been seized from a vessel and retained,

by an enforcement officer in the exercise of his or her powers under the Act of 1994.

(2) A request may be transmitted by facsimile transmission or other electronic means.

**8.**—On receiving a request made in accordance with *section 7* for the surrender of a person, the Minister shall certify that the request has been duly made.

Certification of surrender request.

**9.**—(1) Where a person who has been remanded under *section 6* is before the High Court and the Court is satisfied that—

Committal or release of arrested person.

- (a) a request under the Agreement for the surrender of the person has been duly made, and
- (b) the original or a certified copy of a warrant for the arrest of the person, or other order having the same effect, issued by a judicial authority of the requesting Convention state has been produced,

the Court shall make an order committing the person to prison (or, if he or she is not more than 21 years of age, to a remand institution) there to await the order of the Minister for his or her surrender.