

## **UK information regarding criminal accountability of UK nationals who are UN officials and experts on mission**

### **UK legislation establishing jurisdiction**

The United Kingdom refers to General Assembly resolution 75/132 of 15 December 2020 and recalls the request for States to provide information on national provisions which establish jurisdiction over their nationals, whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature.

There are three distinct criminal law jurisdictions in the United Kingdom: England and Wales; Northern Ireland; and Scotland. Legislation passed in Westminster on matters reserved to it under the devolution arrangements applies to the whole of the United Kingdom. In addition the devolved administrations can agree that Westminster legislates on devolved matters for the devolved parts of the United Kingdom. The criminal law in the United Kingdom on a particular type of offending can therefore be unified (for the United Kingdom as a whole); dual (for England & Wales and either one of the devolved parts with one of them making their own law) or tripartite (with each part of the United Kingdom legislating separately). Offending overseas on the part of any UK national, be they resident in England and Wales, Northern Ireland or Scotland, will be dealt with by the most appropriate jurisdiction; so for example a Scottish citizen committing an offence that is subject to extra-territorial jurisdiction in both the law of England and Wales and Scotland could be tried in either place, but will be tried in the venue that is most appropriate as determined by the relevant authorities in consultation with each other.

The United Kingdom has not enacted any criminal legislation which applies specifically or only to its nationals when serving in their capacity as United Nations officials or experts on mission. However, the United Kingdom has enacted legislation which provides for extra-territorial jurisdiction over a number of offences committed by its nationals abroad. Such legislation applies to United Kingdom nationals serving as United Nations officials or experts on mission, subject to any relevant immunity they may enjoy as a matter of international law, as reflected in domestic law.

In addition, the United Kingdom has enacted legislation which provides for extra-territorial jurisdiction over specified classes of persons, namely, members of the British armed forces or anyone else who is for the time being subject to service law and Crown Servants acting or purporting to act in the course of their employment.

The United Kingdom has a longstanding policy of applying legislation extra-territorially only to the most serious offences (including those in relation to which we have a treaty obligation to extend jurisdiction extra-territorially). There are challenges in securing convictions in relation to activities conducted abroad which relate to the reliability and admissibility of evidence collected overseas.

The attached Table A provides references to legislation which provides for extra-territorial jurisdiction over its nationals in respect of various serious crimes, including

murder and manslaughter, slavery and sexual offences against children. Significantly in the present context, Table A now reflects the Domestic Abuse Act 2021 which extends extra-territorial jurisdiction over UK nationals and residents in respect of a number of offences including, murder, manslaughter, offences against the person (i.e. various forms of assault), rape and other forms of sexual assault, and also for certain offences of harassment such as “stalking” and putting a person in fear of violence, as well controlling or coercive behaviour in an intimate or family relationship. These provisions were included *inter alia* in order to enable the United Kingdom to become a party to the *Istanbul Convention on preventing and combatting violence against women and domestic violence*, which requires States to extend extra-territorial jurisdiction to relevant offences of physical, sexual and psychological violence.

It should be noted that Table A is not a comprehensive list of extra-territorial crimes over which the United Kingdom has assumed jurisdiction.

The attached Table B provides references to legislation which provides for extra-territorial jurisdiction over British armed forces or anyone else who is for the time being subject to service law and Crown Servants acting or purporting to act in the course of their employment.

It should be noted that the United Kingdom has in some cases extended its extra-territorial jurisdiction to cover persons with a close connection with the United Kingdom other than its own nationals. For example, the International Criminal Court Act 2001 provides for jurisdiction over genocide, war crimes and crimes against humanity committed overseas by persons who are “resident” in the United Kingdom. As noted above extra-territorial jurisdiction for various offences of physical, sexual and psychological violence under the Domestic Abuse Act 2021 is extended to UK residents as well as UK nationals.

UK legislation providing for the immunity of UN officials and experts on mission

The United Kingdom is obliged under international law to accord relevant privileges and immunities to certain categories of official visitors and has duly legislated in order to give effect to its international obligations in domestic law.

The UK has given effect to the 1946 General Convention on the Privileges and Immunities of the UN in our domestic law through Section 10 of the International Organisations Act 1968 and the United Nations and International Court of Justice (Immunities and Privileges) Order 1974/1261 (“the Order”). The Order was made in accordance with Section 10 of the International Organisations Act 1968 and pursuant to powers under sections 1, 5 and 12(6) of the same. It confers privileges and immunities upon the United Nations, its officers and experts, and representatives of its members.

By virtue of Article 16 of the Order, all United Nations officers, except in so far as in any particular case any privilege or immunity is waived, shall enjoy immunity from suit and legal process in respect of things done or omitted to be done by them in their official capacity. By virtue of Article 17 of the same, except in so far as in any particular case any privilege or immunity is waived, United Nations experts on

mission shall enjoy immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their missions.

Should criminal or civil proceedings be brought before courts of the United Kingdom against a person who may be entitled to immunity from process, it is for the courts to decide at the outset of proceedings the extent, if any, of such immunity, having regard to all relevant considerations.

**Table A**

**Serious criminal offences, relevant to the activities of United Kingdom nationals serving as UN officials or experts, over which the United Kingdom has assumed extra-territorial jurisdiction.**

Offence	Legislation	Other comments
Murder/manslaughter	Section 9 of the Offences against the Person Act 1861, as amended (Murder or Manslaughter abroad)	This Act provides the courts of England & Wales and Northern Ireland with extra-territorial jurisdiction over United Kingdom (UK) nationals who commit murder or manslaughter outside the United Kingdom.
Murder/culpable homicide, Scotland	Section 11 of the Criminal Procedure (Scotland) Act 1995	This Act provides the Courts of Scotland with extra territorial jurisdiction over UK nationals who commit murder or culpable homicide outside the United Kingdom.
War crimes amounting to grave breaches of the Geneva Conventions	Section 1 of the Geneva Conventions Act 1957 The Geneva Convention (Amendment) Act 1995	The Geneva Conventions Act (as amended) provides the Courts of England & Wales, Scotland and Northern Ireland with extra-territorial jurisdiction over persons of any nationality, who, whether in or outside the United Kingdom, commit, aid, abet or procure the commission by another person of a grave breach of the Geneva Conventions, the First or Third Protocol.
Genocide, crimes against humanity, war crimes	Sections 51, 52, 58, 59 of the International Criminal Court Act 2001	This Act provides the courts of England & Wales and Northern Ireland with extra territorial jurisdiction over UK nationals, UK residents or persons subject to UK service jurisdiction in respect of genocide etc committed outside the United Kingdom, including aiding and abetting, procuring, inciting or attempting to commit such crimes.

Genocide, crimes against humanity, war crimes, Scotland	International Criminal Court (Scotland) Act 2001 (See Sections 1 and 2, in particular)	This Act provides the courts of Scotland with extra-territorial jurisdiction over UK nationals or UK residents in respect of genocide etc committed outside the United Kingdom, including aiding and abetting, procuring, inciting or attempting to commit such crimes.
Torture by or on behalf of persons acting in an official capacity	Section 134 of the Criminal Justice Act 1988	This Act provides the courts of the United Kingdom with extra-territorial jurisdiction over persons of any nationality who commit the offence of torture in the United Kingdom or outside it.
Offences of physical, sexual and psychological violence, including: Murder, Manslaughter, Assault, Rape, Sexual Assaults, Stalking, putting a person in fear of violence, and coercive or controlling behaviour in an intimate or family relationship	Domestic Abuse Act 2021	This Act makes provision for the extension of extra-territorial jurisdiction over relevant offences by UK nationals and residents, by, respectively, the courts of England and Wales, Scotland and Northern Ireland.
Sexual offences committed against children under 18, Sexual offences committed against children under 18, England and Wales	Section 72 and Schedule 2 of the Sexual Offences Act 2003	This Act provides for extra-territorial jurisdiction in England and Wales in respect of acts done by UK nationals outside the UK, and non-UK nationals resident in the UK if the acts would constitute a sexual offence if done in England and Wales.
Sexual Offences committed against children under 18, Scotland	Sexual Offences (Scotland) Act 2009	This Act provides for extraterritorial jurisdiction over UK nationals in respect of certain sexual offences committed outside the United Kingdom against children, in Scotland.

Sexual Offences committed against children under 18, Northern Ireland	Sexual Offences (Northern Ireland) Order 2008/1769	This Order provides for extra-territorial jurisdiction in Northern Ireland in respect of acts done by UK nationals outside the UK, and by non-UK nationals resident in Northern Ireland if the acts would constitute a sexual offence if done in Northern Ireland.
Trafficking, England and Wales	Section 2 of the Modern Slavery Act 2015	This provides for extra-territorial jurisdiction in England and Wales in respect of acts done by UK nationals outside the UK.
Trafficking, Northern Ireland	Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015	This provides for extra-territorial jurisdiction in Northern Ireland in respect of acts done by UK nationals outside the UK.
Trafficking, Scotland	Human Trafficking and Exploitation (Scotland) Act 2015	This provides for extra-territorial jurisdiction in Scotland in respect of acts done by UK nationals outside the UK.
Bribery and corruption	Sections 1-5, 7 and 12 of the Bribery Act 2010	This provide extra-territorial jurisdiction in throughout the United Kingdom for acts of bribery by UK nationals or others with a nationality connected to the United Kingdom (defined in s12(4)) for acts of bribery and corruption committed overseas, including of foreign officials.
Conspiracy to commit an offence abroad	S1A of the Criminal Law Act 1977	This provides jurisdiction against UK nationals and others who enter into an agreement to commit an act overseas which is a criminal offence in England and Wales and in the country where the act takes place, where any part of the activity or agreement has taken place in England and Wales.

**Table B****United Kingdom legislation which provides extra-territorial jurisdiction over certain categories of United Kingdom nationals for offences committed abroad**

Category of Persons	Legislation	Other Comments
Persons subject to UK service law, or a civilian subject to UK service discipline.	Section 42 of the Armed Forces Act 2006	This Act provides the courts of England & Wales with extra-territorial jurisdiction over persons subject to UK service law (which includes members of the UK armed forces) and civilians subject to UK service discipline in respect of acts done outside the United Kingdom which would constitute an offence under the law of England and Wales if it were done there.
Offences by Crown employees	Section 31 of the Criminal Justice Act 1948	This Act provides for jurisdiction and procedure in respect of most indictable offences committed overseas by British nationals employed by Her Majesty's Government, when acting or purporting to act in the course of their employment.
Offences by Crown employees	Section 11 of the Criminal Procedure (Scotland) Act 1995	This Act contains the same provision in relation to Scotland.