

Title: Crime (Overseas Production Order) Bill IA No: HO0315 RPC Reference No: N/A Lead department or agency: The Home Office Other departments or agencies: MoJ and the Devolved Administrations	Impact Assessment (IA)			
	Date: 11/05/2018			
	Stage: Development/Options			
	Source of intervention: International			
	Type of measure: Primary legislation			
Contact for enquiries: Reema Subhan <Reema.Subhan@homeoffice.gsi.gov.uk>				
Summary: Intervention and Options			RPC Opinion: Not Applicable	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£35,000	£0m	£0m	Not in scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Currently, Mutual Legal Assistance (MLA) allows law enforcement to retrieve stored electronic content evidence from overseas communication service providers for the purposes of criminal investigation/prosecutions. This process can be slow, which can lead to negative consequences on UK investigations and prosecutions. Many e-service providers offering services are now located outside the UK. A more direct route to retrieve this electronic data can help speed up investigation and prosecution into serious crime. Current domestic powers lack extra-territorial scope and cannot be used to require overseas providers to provide timely information.

What are the policy objectives and the intended effects?

The provisions of this bill would allow UK law enforcement officers to apply to a judge for an order requiring the production of electronic evidence, with extra-territorial scope, for the purposes of investigating or prosecuting serious crime. The effect will be to require an overseas provider to disclose electronic information which is held by or is made accessible by them. A UK court order will then have extra-territorial effect overseas, provided this is supported by an international co-operation agreement with that country.

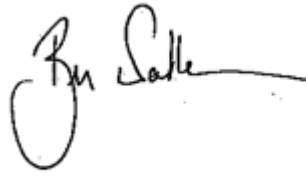
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing - continue to use existing MLA procedures.
2. Legislate to create new production orders which are extra-territorial so they can be served directly on an overseas provider in the territory of a third country, in accordance with the terms of an international agreement with the country concerned. **This is the Government's preferred option.**

Will the policy be reviewed? As with any new legislation or process, the Government will review its impact to ensure it is achieving the stated objectives **If applicable, set review date:** Ongoing

Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope?			Micro No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

A handwritten signature in black ink, appearing to read "Jim Sale". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Signed by the responsible Minister:

Date:

18 June 2018

Summary: Analysis & Evidence

Policy Option 2

Description: Legislate to create a new production order with extra territorial scope OPTION 2

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years 10	Net Benefit (Present Value (PV)) (-£35,000)		
			Low: -£44,000	High: -£26,000	Best Estimate: -£35,000

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	3,000	26,000
High	N/A	5,000	44,000
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

HMCTS is not generally involved in the making of an MLA request, but would be involved in preparing/processing a production order under Option 2. HMCTS is estimated to prepare/process between 30 to 50 overseas production orders per year to the US under Option 2. The additional costs to HMCTS are estimated to be between £3,000 and £5,000 per year and over 10 years, £26,000 to £44,000 (present value).

Other key non-monetised costs by 'main affected groups'

A number of law enforcement bodies may have higher unit costs relative to Option 1 (for example, staffing, postal, database/IT) for processing/preparing a production order. These costs were not estimated due to insufficient data. These costs are assessed to be marginal considering the small number of MLA requests to, mainly, the US for electronic data (between 30 and 50).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

The legislation may enable wider data sharing agreements with other foreign countries leading to an improvement of international relations and information sharing to combat serious crime. Improvements in data and intelligence sharing capabilities between countries may increase the efficiency of data gathering and provide more timely access to data. This may have wide ranging benefits from improving prosecution services to improving the capabilities of law enforcement.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

- 1) Complete displacement of volumes.
- 2) No additional production orders (relative to number of MLA requests in Option 1).
- 3) No change in cost per case for customers (law enforcement bodies.).
- 4) The court time (HMCTS) for a Proceeds of Crime Act 2002, Police And Criminal Evidence Act 1984 or Terrorism Act 2000 and the new production order is the same.
- 5) The Crown Prosecution Service/Crown Office are involved in all MLA requests from England, Wales, Northern Ireland and Scotland to the US.

Sensitivities conducted on assumptions 2 and 3 which have mixed or little evidence.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:				Score for Business Impact Target (qualifying provisions only) £m:
Costs:	0.0	Benefits:	0.0	Net: 0.0
				N/A

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The increasing use of software applications over public networks to facilitate criminal activities makes the data generated by their use a vital source of evidence. This evidence is crucial for investigations into serious crimes, including terrorism offences. However, the companies providing these applications, or processing the data generated from using the applications, are increasingly located outside the UK - predominantly in the US, due to the increasingly global nature of technology. This puts them beyond the current reach of existing domestic production orders which can only be used to gain access to information or evidence if the entity is based in the UK.

For data that is beyond the reach of domestic orders, Mutual Legal Assistance (MLA) is available. This is a form of judicial cooperation in which a requesting country formally requests assistance from an executing authority / country. The executing authority is then responsible for collating the evidence – and where this requires a coercive measure, judicial authority (usually by way of a court order) will be sought.

A drawback of the MLA process is that it can be slow and requires significant government-to-government liaison. Additionally, the evidence obtained may not be timely enough to support swift prosecution action in some cases.

Therefore, new legislation which will create the power to apply and grant a UK court-sanctioned production order to be sent to an overseas provider, will provide a more effective means of obtaining electronic data for the investigation and prosecution of serious criminal offences.

Although the information that would be sought under such an order is currently capable of being obtained via MLA channels, the proposed legislation would provide a more effective means for obtaining the information. This means UK domestic courts would be able to issue an order, rather than requiring foreign courts to do so following an MLA request, as is currently the case.

It is worth noting that, under the proposed legislation, the UK will not lose its existing ability to seek to obtain electronic data via the MLA process.

A.2 Groups Affected

1. Law Enforcement Agencies across England, Wales, Northern Ireland and Scotland.
2. Ministry of Justice – Judiciary (in making these orders) and HMCTS (supplying court time) (and equivalent court systems in NI and Scotland).
3. The general public, whose safety and security are affected by the capabilities of the police and other agencies to prevent and detect crime, and whose personal data will be obtainable under an overseas production order.

B. Rationale

The issues with access to electronic data held by overseas providers and the use of MLA has been recognised for a while with discussions taking place between the UK and other countries to explore options to address the issues with the MLA process. This has included the UK and the US recognising that through legislative changes in both countries, a bilateral Data Access Agreement could enable this data to be provided, subject to appropriate safeguards, in a more efficient and timely manner. Such an agreement is still being finalised but in anticipation and preparation for it, the US passed its Clarifying Lawful Overseas Use of Data (CLOUD) Act in March 2018, enabling the US legislative change required to give effect to this agreement. Creating an ability for UK courts

to issue overseas production orders is the final element of legislative change required to enable UK law enforcement to take advantage of the proposed agreement when investigating and prosecuting crime.

C. Objectives

The objective is to enable access to electronic data held by providers based outside the UK in a timely and efficient manner. This is with the aim of obtaining evidence of criminal activity through the data generated as a result of subjects of interest using software applications making use of the public network infrastructure. A positive result would be to gain access to information and evidence at a quicker rate than is currently the case.

D. Options

Option 1 is to make no changes (do nothing).

This option would mean that law enforcement would continue to be only able to use the MLA process to access electronic data held by providers based outside the UK.

The UK will not be able to make use of a vital element of the proposed US/UK bilateral Data Access Agreement which allows for direct access to this information.

Option 2 Legislate to create new production orders which are extra-territorial so they can be served outside the UK territorial jurisdiction, under the terms of an international agreement with the country in whose territory the order is to be served.

This option is for the creation of a new order-making power for UK judges with extra-territorial application. When applying for such an order, UK law enforcement will have to identify the relevant international agreement under which the production order, if made by the court, will be served. Currently the only such agreement being negotiated is between the UK and the US, though the UK envisages wider application of this legislation to other countries in the long term through similar arrangements. Only certain law enforcement officers named in the proposed legislation, or subsequently specified by Ministers using a power to be included in the proposed legislation, will be able to apply for the overseas production order and it must relate to the investigation or prosecution for a crime which is an indictable offence. A judge (in England, Wales and Northern Ireland of the Crown Court) or sheriff (in Scotland) may only grant an overseas production order where they are satisfied there are reasonable grounds for believing an indictable offence has been or is being committed and that the offence its being investigated or proceedings in respect of it have been commenced. A judge must also be satisfied there are reasonable grounds to believe both that the data sought is likely to be of substantial value to the investigation of the indicatable offence and that it is in the public interest for this data to be produced. These requirements mirror existing arrangements for domestic production orders, for example those made pursuant to an application under Schedule 1 of the Police and Criminal Evidence Act 1984.

A judge must be satisfied that there are reasonable grounds for believing that the person against whom the order is sought creates, processes, communicates or stores, or has created, processed, communicated or stored, data by electronic means, or has offered to do these things, on behalf of one or more persons in the UK. The effect of this provision is to limit the range of persons against whom an order is to be made. Further, an order can only be made against a person operating or based outside the United Kingdom in a country or territory which is party to the designated international agreement. This must be specified by the applicant when applying for an order.

Option 2 is the Government's preferred option.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

Information is collected from the following organisations:

- National Crime Agency (NCA).
- Financial Conduct Authority (FCA).
- Serious Fraud Office (SFO).
- Crown Prosecution Service (CPS) and in Scotland, the Crown Office and Procurator Fiscal Service (COPFS).
- UK Central Authority (UKCA).
- HM Courts and Tribunals Service (HMCTS).

The Metropolitan Police Service (MPS), and HMRC do not routinely collect relevant MLA information during the normal course of business and it was not possible to obtain a meaningful response in the time available.

Where Option 1 is chosen, between 30 and 50 MLA requests are estimated for electronic data from the UK, mainly to the US. A mid-point of 40 MLA requests is considered to be the best point-estimate. These figures are an approximation and rounded. This estimate is based on the following UKCA, CPS and COPFS data:

- The number of cases UKCA received that ask for either production order (communications content) or communications data between 2015 and 2017 is: 2015 (31), 2016 (35), 2017 (33). This is 33 cases per year on average (rounded to 30).
- The CPS estimate there were 28 MLA requests for communications data from England, Wales and Northern Ireland to the US in 2017 (with a margin of error of 2 to 3). Scotland (COPFS) estimate 20 MLA requests per year for electronic data from Scotland to the US (this figure is an approximation). On aggregation, there are 50 MLA requests (rounded up from 48) from the UK to the US per year. The similarity of the COPFS and CPS figures may appear inconsistent. This may be due to a number of reasons including the differences between Scotland and English, Welsh and Northern Irish prosecution systems.

The other law enforcement agencies that provided volume information were the FCA (approximately 5 MLA requests) and SFO (1 MLA request). Customers (including NCA, HMRC, FCA, SFO) ordinarily involve the CPS/COPFS and UKCA in almost all MLA requests, hence, the volume of MLA requests provided by the CPS, COPFS and UKCA is expected to provide the most reliable total volume data.

Where Option 2 is chosen, the following assumptions are made:

Complete displacement of volumes (that is, using the new production order process to obtain electronic data from the US instead of using the MLA process). The evidence for this is mixed:

- The FCA expect to obtain information from overseas using the new production order method instead of the MLA process (that is, complete displacement).
- The CPS expect at least some displacement of volumes.
- The SFO expect to utilise the new production order process (that is, some displacement).
- COPFS do not expect there to be displacement of volumes (that is, no displacement).

To provide an upper bound estimate of costs, complete displacement is assumed.

No additional production orders (relative to MLA requests in Option 1) arising from the relatively more streamlined process. There is some evidence to suggest a potential increase in production orders, but this evidence is mixed:

- The FCA expect a non-substantial increase (1-2 cases per year) in volumes arising from Option 2 (relative to requests in Option 1). The FCA may not have attempted to obtain data overseas via the MLAT method due to time concerns.
- The SFO estimate an increase of up to 10 per year under Option 2 due to adoption of UK statutory criteria.
- The CPS anticipate that more communications data will be obtained from the US through the quicker and more streamlined production order process (than the current MLA process).
- COPFS do not expect a substantial difference between the numbers of MLA requests (in Option 1) and the numbers of production orders (in Option 2).
- The NCA expect the volume of production orders to be relatively higher than the volume of MLA requests in Option 1, but cannot estimate the extent of this difference.

As shown above, production orders (for Option 2) may differ from MLA requests (for Option 1). However, no additional production orders are assumed, and sensitivity analysis is conducted to demonstrate this assumption does not substantially affect the magnitude of the overall costs relative to the potential benefits.

No change in unit cost for affected groups (HMRC, NCA, FCA, SFO, CPS, COPFS, UKCA). As the costs of processing/preparing a production order may be relatively higher than an MLA request, sensitivity analysis is conducted to demonstrate that this assumption does not substantially effect the magnitude of the overall costs relative to the potential benefits.

The proposed legislation additionally enables new production orders to be sent from the UK to those with whom there are designated international co-operation agreements. For the purposes of this IA, it is assumed that production orders are sent from the UK only to US providers. This approach is considered reasonable by policy officials who have experience of MLA cooperation approaches for obtaining this type of evidence.

The CPS is involved in all MLA requests from England, Wales and Northern Ireland to the US (this is considered reasonable as the CPS has confirmed their involvement in almost all MLA requests sent from England, Wales and Northern Ireland to the US). According to the COPFS, they are involved in all MLA requests sent from Scotland to the US.

POCA, PACE or TACT production orders require the same court time for HMCTS to process as the new production order. This is assessed to be a reasonable proxy by Policy experts.

The number and unit cost of MLA requests and production orders do not change over a 10 year period. It was not possible to collect sufficient information in the time available to forecast how the number and unit cost of MLA requests and production orders might change over a 10 year period.

OPTION 2 – Legislate to make Production Orders extraterritorial so they can be served under an International Co-operation Agreement

COSTS

Unit cost to law enforcement organisations including HMRC, NCA, FCA, SFO, COPFS, CPS, and UKCA

There is insufficient information available to accurately estimate the additional and on-going unit costs to the main affected groups across England, Wales, Northern Ireland and Scotland including (but not limited to) HMRC, NCA, FCA, SFO, COPFS, CPS, and UKCA. It is assumed that unit costs and volumes for new production orders in Option 2 are the same as MLA requests for Option 1

(with the exception of HMCTS). As there is evidence to suggest that the unit cost and volume of production orders may be greater for Option 2 than MLA requests for Option 1, sensitivity analysis was conducted in **Section F** demonstrating that the magnitude of the overall costs do not substantially differ relative to the qualitative benefits.

Additional costs to HMCTS for the supply of court time.

HMCTS is not involved in Option 1. The additional cost to HMCTS is estimated by multiplying the following:

- The number of MLA requests is 30 to 50 per year (used as a proxy for number of new production orders that HMCTS is expected to process). This is on the basis of information provided in the **General Assumption and Data** section.
- The approximate HMCTS court room time required by the NCA for a POCA, TACT or PACE production order is 0.25 hours (data provided by the NCA, and used as a proxy for the time required for a new production order).
- The cost to HMCTS per courtroom hour is £408. This is on the basis that the cost to HMCTS per courtroom day is £2,041 divided by 5 hours per courtroom day (data provided by HMCTS). The cost per courtroom day is the unweighted average of Crown and Magistrates Court in 2017/18 (including staff, judicial, estate and other costs). HMCTS do not expect the Crown and Magistrates cost per courtroom day to vary by type of proceeding.

The additional cost to HMCTS is estimated to be between £3,000 and £5,000 per year. The additional cost to HMCTS over a 10 year period is estimated to be between £26,000 and £44,000 (PV) (using a discount rate of 3.5% per year). Where HMCTS must also facilitate civil penalties for a small number of cases, this cost may be higher, however, it was not possible to estimate this cost due to insufficient information.

BENEFITS

The benefits arising cannot be quantified. The following qualitative benefits are expected to arise as a result of the legislation:

- In the longer-term, the legislation may enable wider data sharing agreements with other foreign countries. This may lead to an improvement of international relations and information sharing to combat serious crime.
- Improvements in data and intelligence sharing capabilities between countries may increase the efficiency of data gathering and provide more timely access to critical data. This could have wide ranging benefits, for example:
 - Prosecution and defence services may gather a wider array of available evidence leading to a more effective justice system.
 - Where general safety and security rely upon timely access to critical information, law enforcement may improve the capabilities were information to be received more quickly (for example, law enforcement agencies working on prevention/detection of crime, counter-terrorism etc.).

The time-efficiency savings arising from the new production order process could not be estimated meaningfully due to insufficient data. However, according to policy experts, less time is expected for gathering information, because law enforcement will be able to better manage case times if proceedings take place in domestic courts.

Total Cost, Total Benefit, Net Present Value (NPV), BNPV and EANDCB

The total cost of the Bill to the UK over a 10 year period is estimated to be between £26,000 and £44,000 (PV). Whilst the total benefits of the Bill are expected to be positive, as these are non-monetary, it is assumed the total benefit is £0. The net present value is estimated to be between -

£26,000 and -£44,000. The mid-point net present value is estimated to be -£35,000. There are no direct costs to UK businesses resulting from the Bill.

F. Risks

OPTION 2 – Legislate to make Production Orders extraterritorial so they can be served under an International Cooperation Agreement

There is a potential risk that higher unit costs and volumes of the new production order process (relative to Option 1) may lead to a greater impact. Sensitivity analysis is conducted to estimate the magnitude of this risk. The overall baseline cost for Option 1 is estimated by aggregating the estimates for cost per MLA request for the law enforcement agencies (for example, HMRC, NCA, FCA, SFO), the prosecutors (that is, COPFS and CPS), and the UKCA - and then multiplying by the number of MLA requests. Where Option 2 is chosen, the Option 2 baseline costs are estimated by aggregating Option 1 baseline costs with overall HMCTS costs. Two sensitivities are then conducted:

- Sensitivity 1: Assume baseline unit costs for law enforcement agencies and prosecutors to double.
- Sensitivity 2: Assume baseline volumes for law enforcement agencies, prosecutors, and HMCTS to increase by 25 percent to 50 percent.

The baseline costs for Option 1, Option 2 and the Option 2 sensitivities are presented below.

Option 1 (baseline)

In the **General Assumptions and Data** section, the volume of MLA requests for electronic data from the UK to US are estimated to be between 30 and 50.

The unit cost for law enforcement agencies is £2,804 (estimated using data provided by the SFO). This is estimated on the basis that preparing/processing an MLA request requires 24 hours of time from a Grade 7/Band B lawyer and 1.5 hours of time from a HEO investigator/Band D investigator. The SFO usually emails MLA requests to the US so there are no postal costs. It is implicitly assumed that all law enforcement agencies have the same unit costs as the SFO.

The CPA's unit cost for processing/preparing an MLA letter of request is approximately less than £200. The CPS note this figure is only indicative and is not based on a systematic and thorough review of all the evidence. Also, the CPS note that the unit cost for processing/preparing an MLA letter of request to the US is likely to be higher than average. As this is the best indication of unit costs for prosecutorial services available, it is assumed the unit cost of processing/preparing an MLA request for the CPS and the COPFS is £200.

There may be additional unit costs for the UKCA arising from additional resource requirements (for example, potential changes to IT, additional staff, training etc.). As sufficient data was not available to meaningfully estimate the change to UKCA's unit costs arising from the legislation, it is assumed there is no change to UKCA's unit costs between Option 1 and Option 2. Sensitivity analysis is conducted in **Section F** to demonstrate that this assumption is unlikely to substantially effect the magnitude of the overall costs.

Using the above data, the baseline overall cost for Option 1 is estimated to be between £90,000 (30 x £3,004) and £150,000 (50 x £3,004) per year. Over a 10 year period, the baseline cost for Option 1 is estimated to be between £0.8 million and £1.3 million (PV).

Option 2 (baseline)

Where Option 2 is chosen, the baseline cost is the sum of the overall cost for Option 1, plus the cost to HMCTS. For Option 2 the baseline cost is estimated to be between £93,000 and £155,000 per year. Over a 10 year period, the baseline cost for Option 2 is estimated to be between £0.8 million and £1.3 million (PV).

Option 2 (Sensitivity 1) – increase in unit cost sensitivity

Where Option 2 (Sensitivity 1) is chosen and unit costs to the agencies and prosecutors were to double (relative to Option 1), the cost (excluding the cost to HMCTS) is estimated to be between £180,000 and £300,000 per year. Including the cost to HMCTS, the overall cost is estimated to be between £183,000 and £306,000 per year. The estimated overall cost over a 10 year period is between £1.6 million and £2.6 million (PV).

Option 2 (Sensitivity 2) – increase in baseline volumes sensitivity

Where Option 2 (Sensitivity 2) is chosen, and volumes for law enforcement agencies, prosecutors, and HMCTS is 25 to 50 per cent higher (relative to requests in Option 1) due to a more streamlined procedure, the overall cost (excluding the cost to HMCTS) is estimated to be between £113,000 and £225,000. Including the cost to HMCTS, the overall cost is estimated to be between £116,000 and £233,000 per year. The estimated total cost over a 10 year period is between £1.0 million and £2.0 million (PV).

Where Option 2 is chosen (relative to Option 1), over a 10 year period in present value terms, there is a risk that:

- Sensitivity 1: increases overall costs by between £0.8 million and £1.3 million.
- Sensitivity 2: increases overall costs by between £0.2 million and £0.7 million.

Considering the qualitative benefits of the legislation, the net value of Option 2 is expected to be positive.

G. Enforcement

An overseas production order will be an order of the court and as such, non-compliance may attract punishment for contempt of court. However, in practice it is expected that instances of non-compliance will be mitigated. Current practice usually requires law enforcement to identify where the data is currently stored and to ensure requests are targeted appropriately. This practice is expected to continue as it may not always be obvious where the data is stored, controlled and processed.

Furthermore, there has been engagement with overseas communication service providers on this new provision and the UK will continue to work with them on enforcement mechanisms. The legislation contains provisions that should mitigate any action being taken through this route. In particular it allows for an order to be varied or revoked by an appropriate officer, Secretary of State / Lord Advocate for Scotland or by a person on whom the order is served or an affected person. This would allow, for example, a CSP on whom an order is served to ask the Court to vary or revoke an order if for example the order contains the wrong name or incorrect details on the application which would make it impossible or difficult for the CSP to comply.

H. Summary and Recommendations

Table H.1 presents the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	£26,000 to £44,000 (PV over 10 years)	N/A
	Cost to MPS, FCA, SFO, NCA, HMRC, CPS, COPFS, and UKCA may have higher unit costs (for example, staffing, postal, database/IT, training) for processing/preparing a production order relative to a MLA request (not quantified)	The legislation may enable wider data sharing agreements with other foreign countries leading to an improvement of international relations and information sharing to combat serious crime, including terrorism. Improvements in data and intelligence sharing capabilities between countries may increase the efficiency of data gathering and provide more timely access to data. This may have wide ranging benefits from improving prosecution services to improving the capabilities of law enforcement. (not quantified)
Source:		

Option 2 is the Government's preferred option. Option 2 is primary legislation to provide UK law enforcement agencies with the power to apply to UK courts for overseas production orders. These production orders will be capable of being served in a foreign jurisdiction where a designated international cooperation agreement exists between that country and the UK. **Section E** estimates the net present value of Option 2 to be -£35,000 (mid-point). **Section F** indicates it is plausible that the annual volume and/or unit costs of production orders may increase, however, the sensitivity analysis shows that in such a case, costs will still be relatively low.

I. Implementation

The timeframe for the implementation of the changes will need to be aligned to the first International Co-operation Agreement coming into force. This will provide the basis for outgoing requests. However, the implementation will also be incumbent on finalising targeting, minimisation and audit protocols.

J. Monitoring and Evaluation

The designated authority will continue to monitor outgoing requests. For example, if the designated authority is the UKCA, it will monitor and gather data on the number of overseas production orders sent to the US under the case management process. The data will be collated and analysed by UKCA to indicate the impact of the Bill on volume of cases.

K. Feedback

The Government is seeking feedback in the course of finalising the bill provisions. It has sought views from law enforcement bodies as well as the devolved administrations. The Home Office will seek feedback regularly through the Evidential Working Group which is comprised of law enforcement agencies and policy officials throughout the UK and co-ordinated through the Home Office. The department will continue to seek feedback through the Working Group, including once the proposed measure has been implemented.

Impact Assessment Checklist

The impact assessment checklist provides a comprehensive list of specific impact tests and policy considerations (as of October 2015). Where an element of the checklist is relevant to the policy, the appropriate advice or guidance should be followed. Where an element of the checklist is not applied, consider whether the reasons for this decision should be recorded as part of the Impact Assessment and reference the relevant page number or annex in the checklist below.

The checklist should be used in addition to [HM Treasury's Green Book guidance](#) on appraisal and evaluation in central government.

Social Impact Tests

<p>Justice Impact Test (JIT) The justice impact test is a mandatory specific impact test, as part of the impact assessment process that considers the impact of government policy and legislative proposals on the justice system. [Justice Impact Test Guidance]</p> <p>The JIT provides an assessment of the downstream cost in seeking stored content evidence from service providers overseas. The JIT explains downstream costs to MOJ (in this case, HMCTS). These costs arise because, unlike the current system of Mutual Legal Assistance, the process will be undertaken in our UK courts, rather than in the courts of the requested country. This increases the burden on police time (who apply for the order) and on court time (to hear and grant orders).</p>	Yes
<p>Statutory Equalities Duties The public sector equality duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. [Equality Duty Toolkit]</p> <p>A Public Equality Statement (PES) has been drafted which outlines how, in developing the policy intent to inform the Crime (Overseas Production Order) Bill, due regard has been made to the required three arms of the General Duty (Section 149 of the Equality Act 2010). This process has been supported by regular input and comment from a wide range of stakeholders (policy, operational and legal).</p>	Yes
<p>Privacy Impacts (PIA) A Privacy Impact Assessment supports an assessment of the privacy risks to individuals in the collection, use and disclosure of information. [Privacy Impact Assessment Guidance] or</p> <p>The PIA for the Crime (Overseas Production Order) Bill identifies the risks to privacy arising from the powers that will be available under the new legislation. It sets out the safeguards intended to address these risks. In line with the purpose of the Bill, the PIA is focused on the impact on privacy of acquisition of electronic stored content evidence (from overseas providers pursuant to an overseas production order) and outlines the safeguards and tests to limit and mitigate associated risks.</p>	Yes

The above social impact tests are prepared in parallel.