STATUTORY INSTRUMENTS

2014 No. 3141

The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014

PART 2

Proceeds of Crime (Foreign Property and Foreign Orders)

CHAPTER 2

England and Wales

Sending overseas restraint orders to the court

8.—(1) In a case where—

(a) a relevant prosecutor receives an overseas restraint order from the court or authority which made or confirmed the order, and

(b) conditions A to C are met,

the relevant prosecutor must send a copy of the order to the Crown Court.

(2) An overseas restraint order is an order made by an appropriate court or authority in a member State which—

(a) relates to—

(i) criminal proceedings instituted in the member State, or

(ii) a criminal investigation being carried on there; and

(b) prohibits dealing with property which is in England and Wales and which the appropriate court or authority considers to be property that—

(i) has been or is likely to be used for the purposes of criminal conduct, or

(ii) is the proceeds of criminal conduct.

(3) Condition A is that the action which the appropriate court or authority considered would constitute or, as the case may be, constituted the criminal conduct is not action done as an act of terrorism or for the purposes of terrorism (within the meaning of paragraph 11D(3) of Schedule 4 to the Terrorism Act 2000(**1**) (overseas freezing orders)).

(4) Condition B is that the order received by the relevant prosecutor is accompanied by a certificate which—

(a) gives the specified information;

(b) is signed by or on behalf of the court or authority which made or confirmed the order;

(c) includes a statement as to the accuracy of the information given in it; and

(d) if it is not in English, includes a translation of it into English (or, if appropriate, Welsh).

(**1**) 2000 c. 11; paragraph 11D was inserted by section 90 of, and paragraphs 1 and 3 of Schedule 4 to, the Crime (International Co-operation) Act 2003 (c. 32).

(5) For the purposes of Condition B—

(a) the certificate may be treated as giving any specified information which is not given in it if the relevant prosecutor has the information in question;

(b) the signature may be an electronic signature.

(6) Condition C is that—

(a) the order is accompanied by another order made by a court exercising criminal jurisdiction in the member State for the confiscation of the property; or

(b) such an order for the confiscation of the property may be made and the certificate indicates when that order is expected to be sent.

(7) An appropriate court or authority in a member State in relation to an overseas restraint order is—

(a) a court exercising criminal jurisdiction in the country,

(b) a prosecuting authority in the country, or

(c) any other authority in the country which appears to the relevant prosecutor to have the function of making such orders.

(8) References in this Chapter to an overseas restraint order include its accompanying certificate.

(9) In this regulation "criminal conduct" means—

(a) a listed 2003 Framework Decision offence; or

(b) conduct which—

(i) constitutes an offence in any part of the United Kingdom; or

(ii) would constitute an offence in any part of the United Kingdom if it occurred there.