
STATUTORY INSTRUMENTS

2014 No. 3141

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

PART 7

European Supervision Order

CHAPTER 2

European supervision orders: England and Wales

Recognition of supervision measures: requests from other member States

Power of arrest where magistrates' court responsible for monitoring supervision measures

91.—(1) Paragraph (2) applies in relation to any time when a magistrates' court which has decided to recognise a decision on supervision measures—

- (a) has become responsible under regulation 88 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 93 to be responsible for monitoring them.

(2) The person subject to the decision on supervision measures may be arrested without warrant by a constable if—

- (a) the constable has reasonable grounds for believing that the person is likely to breach any of the supervision measures or has reasonable grounds for suspecting that the person has breached any of those measures, and
- (b) the constable considers the arrest necessary for the protection of victims or the general public or for the safeguarding of internal security.

(3) A person arrested under paragraph (2) must be brought before a magistrates' court—

- (a) as soon as possible, and
- (b) in any event, within 24 hours after the person's arrest (not counting Sundays, Christmas Day, or Good Friday).

(4) The magistrates' court may require the person to be detained if it is of the opinion that—

- (a) the person has breached or is likely to breach any of the supervision measures, and
- (b) the detention is necessary for the protection of victims or the general public or for the safeguarding of internal security.

(5) A magistrates' court must give its reasons for requiring a person to be detained under paragraph (4).

(6) If the magistrates' court does not require the person to be detained, the person must be released.

(7) A person's detention under paragraph (4) must be brought to an end if—

- (a) having been notified under regulation 89(2) of the matter that resulted in the person's detention, the competent authority of the issuing State informs the magistrates' court that it has taken a subsequent decision in relation to the decision on supervision measures, as mentioned in Article 18(1) of the Framework Decision, or
- (b) the magistrates' court ceases under regulation 93 to be responsible for monitoring the supervision measures.

(8) A person may not be detained under paragraph (4) for more than 28 days or, in the case of a person under the age of 18, 21 days beginning with the day of the person's first appearance before the court under paragraph (3).

(9) Section 128 of the Magistrates' Courts Act 1980(1) applies in relation to a magistrates' court's power to require a person to be detained under paragraph (4) as if—

- (a) in subsections (1A), (3A), (3C) and (3E) references to adjournment of a case under section 10(1), 17C, 18(4) or 24C of that Act were to adjournment pending a decision by the issuing State referred to in paragraph (7)(a) above;
- (b) the following provisions were omitted—
 - in subsection (1), paragraphs (b) and (c) and the words following paragraph (c);
 - subsection (2);
 - subsections (4) and (5).

(10) In the case of a person under the age of 18, the court's power to require the person to be detained under paragraph (4) is subject to section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(2) (and that section and the remainder of Chapter 3 of Part 3 of that Act, so far as relating to that section, are to apply as if the person had been remanded in connection with extradition proceedings).

(11) Nothing in this regulation affects any other power of arrest conferred on a constable.

(1) 1980 c. 43. Section 128 was amended by the Criminal Justice Act 1982 (c. 48), Schedule 9 paragraphs 2, 3 and 4; the Police and Criminal Evidence Act 1984 (c. 60), section 48; the Criminal Justice Act 1988 (c. 33), Schedule 15 paragraph 69; the Courts and Legal Services Act 1990 (c. 41), Schedule 18 paragraph 25; the Criminal Procedure and Investigations Act 1996 (c. 25), sections 49 and 52 and Schedule 5; the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 168; the Criminal Justice Act 2003 (c. 44), Schedule 3 paragraph 51(7) and Schedule 37 Part 4.

(2) 2012 c. 10.