
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Law Enforcement and Security
(Amendment) (EU Exit) Regulations 2019**

PART 18

Mutual Legal Assistance in Criminal Matters

CHAPTER 3

Amendment of primary legislation consequential upon amendments made by this Part

Amendment of the Criminal Justice Act 1987

- 75.**—(1) The Criminal Justice Act 1987(1) is amended as follows.
- (2) In section 2 (Director’s investigation powers)(2)—
- (a) in subsection (1A), for paragraph (b) substitute—
- “(b) the Secretary of State acting under section 15(2) of the Crime (International Co-operation) Act 2003, in response to a request received from a person mentioned in section 13(2) of that Act (an “overseas authority”).”;
- (b) in subsection (18), omit the definition of “overseas authority”.
- (3) In section 3(6) (disclosure of information)(3), in paragraph (n), for “the Treaty on European Union or any other” substitute “a”.

Amendment of the Criminal Justice Act 1988

76. In Schedule 13 to the Criminal Justice Act 1988 (evidence before service courts)(4), in paragraph 6 (letters of request etc.), in sub-paragraph (1), omit “, and no order shall be made or validated under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017”.

Amendment of the Criminal Procedure (Scotland) Act 1995

- 77.**—(1) The Criminal Procedure (Scotland) Act 1995(5) is amended as follows.
- (2) In section 210(1) (consideration of time spent in custody)(6), in paragraph (c), omit “or regulation 20 or 54 of the Criminal Justice (European Investigation Order) Regulations 2017”.

(1) 1987 c. 38.

(2) Section 2(1A) was inserted by section 164(2)(c) of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by S.I. 2017/730. Section 2(18) was amended by S.I. 2017/730. There are other amendments not relevant to this instrument.

(3) Section 3(6) was amended by section 80(b) of the Crime (International Co-operation) Act 2003 (c. 32). There are other amendments not relevant to this instrument.

(4) 1988 c. 33. Paragraph 6 of Schedule 13 was amended by paragraph 6 of Schedule 4 to the Criminal Justice (International Co-operation) Act 1990 (c. 5), by paragraph 16 of Schedule 5 to the Crime (International Co-operation) Act 2003, and by S.I. 2017/730.

(5) 1995 c. 46.

(6) Section 210 was amended by section 12 of the Crime and Punishment (Scotland) Act 1997 (c. 48), by paragraph 8(14) of Schedule 4 and Part 1 of Schedule 5 to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), by paragraph

- (3) In section 267A (citation of witnesses for precognition)(7), omit subsection (1A).
- (4) In section 272 (evidence by letter of request or on commission)(8), omit subsection (14).
- (5) In section 273 (television link evidence from abroad)(9), omit subsection (5).

Amendment of the Criminal Law (Consolidation) (Scotland) Act 1995

78. In section 27 of the Criminal Law (Consolidation) Scotland Act 1995 (Lord Advocate’s direction)(10), for subsection (2) substitute—

“(2) The Lord Advocate may also give a direction under this section by virtue of section 15(4) of the Crime (International Co-operation) Act 2003 or on a request made by the Attorney-General of the Isle of Man, Jersey or Guernsey acting under legislation corresponding to this Part of this Act.”

Amendment of the Criminal Justice and Police Act 2001

79.—(1) Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (powers of seizure to which the additional powers in section 50 of that Act apply)(11) is amended as follows.

- (2) In paragraph 73C(12), for “sections 17 and 22” substitute “section 17”.
- (3) Omit paragraph 73R(13).

Amendment of the Criminal Justice Act 2003

80. In section 117 of the Criminal Justice Act 2003 (hearsay evidence: business and other documents)(14), in subsection (4)(b)(iii) omit “an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017”.

Amendment of the Criminal Justice (Evidence) (Northern Ireland) Order 2004

81. In article 21 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 (hearsay evidence: business and other documents)(15), in paragraph (4)(b)(iii) omit “an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017”.

Amendment of the Investigatory Powers Act 2016

82.—(1) The Investigatory Powers Act 2016(16) is amended as follows.

(2) In section 10 (restriction on requesting assistance under mutual assistance agreements etc.)(17)—

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- 65 of Schedule 5 to the Crime (International Co-operation) Act 2003, by section 172 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and by S.I. 2017/730.
 - (7) Section 267A was inserted by section 22 of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) and by S.I. 2017/730.
 - (8) Section 272 was amended by section 35(4) of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 (asp 6) and by S.I. 2017/730.
 - (9) Section 273 was amended by section 91(2) of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13 and by S.I. 2017/730.
 - (10) 1995 c. 39. Section 27 was amended by paragraph 62 of Schedule 5 to the Crime (International Co-operation) Act 2003 and by S.I. 2017/730.
 - (11) 2001 c. 16.
 - (12) Paragraph 73C was inserted by section 26(3)(b) of the Crime (International Co-operation) Act 2003.
 - (13) Paragraph 73R was inserted by S.I. 2017/730.
 - (14) 2003 c.44. Section 117 was amended by S.I. 2017/730.
 - (15) S.I. 2004/1501 (N.I. 10) was amended by S.I. 2017/730.
 - (16) 2016 c. 25.
 - (17) Section 10 was amended by S.I. 2017/730.

- (a) in subsection (1), omit paragraph (a) and the “and” at the end of that paragraph;
 - (b) in subsection (3), omit the definition of “EU mutual assistance instrument”.
- (3) In section 15(4) (warrants that may be issued under Chapter 1 of Part 2)—
- (a) in paragraph (a), omit “an EU mutual assistance instrument or”;
 - (b) in paragraph (b), omit “instrument or”.
- (4) In section 18(1)(h) (persons who may apply for issue of a warrant), omit “an EU mutual assistance instrument or”.
- (5) In section 20(3)(a) (grounds on which warrants may be issued by Secretary of State), omit “an EU mutual assistance instrument or”.
- (6) In section 21(4)(b)(i) (power of Scottish Ministers to issue warrants), omit “an EU mutual assistance instrument or”.
- (7) In section 40 (special rules for certain mutual assistance warrants)—
- (a) in subsection (1)(a), omit “an EU mutual assistance instrument or”;
 - (b) in subsections (3)(a) and (5)(a), omit “an EU mutual assistance instrument or” and “(as the case may be)”.
- (8) In section 60(1) (Part 2: interpretation), omit the definition of “EU mutual assistance instrument”.