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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

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

**PART 18**

**Mutual Legal Assistance in Criminal Matters**

**CHAPTER 4**

**Saving provisions relating to European investigation orders**

**Outgoing European investigation orders (other than relating to the temporary transfer of a prisoner or EU prisoner)**

**83.**—(1) This regulation applies in relation to a European investigation order transmitted under regulation 9 (transmission of a European investigation order) or 10 (variation or revocation of a European investigation order) of the 2017 Regulations before commencement day.

(2) Regulations 77(4) and (5) (amendment of the Criminal Procedure (Scotland) Act 1995), 80 (amendment of the Criminal Justice Act 2003), 81 (amendment of the Criminal Justice (Evidence) (Northern Ireland) Order 2004) and 82 (amendment of the Investigatory Powers Act 2016) of these Regulations do not apply.

(3) The following provisions of the 2017 Regulations continue to have effect—

(a) regulation 10 (variation or revocation of a European investigation order), but modified to read as if—

(i) the words “vary or” where they appear in each of paragraphs (1) and (2) were omitted;

(ii) paragraphs (6) and (7) were omitted;

(b) regulation 12 (use of evidence);

(c) regulations 2 and 5 (interpretation), Part 1 of Schedule 1 (designated public prosecutors) and Schedule 2 (participating States), but only for the purposes of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).

(4) In this regulation, “European investigation order” has the meaning given by regulation 5(1) (a) of the 2017 Regulations.

**Incoming European investigation order (other than relating to a request for the temporary transfer of a prisoner)**

**84.**—(1) This regulation applies in relation to a European investigation order received before commencement day by a central authority in the United Kingdom, to the extent that the order does not relate to a request for the temporary transfer of a prisoner or an EU prisoner.

(2) Regulations 75 (amendment of the Criminal Justice Act 1987), 77(3) (amendment of the Criminal Procedure (Scotland) Act 1995), 78 (amendment of the Criminal Law (Consolidation)

(Scotland) Act 1995) and 79(3) (amendment of the Criminal Justice and Police Act 2001) of these Regulations do not apply.

- (3) The following provisions of the 2017 Regulations continue to have effect—
- (a) Part 3 (recognition and execution of a European investigation order made in a participating State), except Chapter 7 of that Part;
  - (b) regulation 59 (designation for the purposes of the Investigatory Powers Act 2016);
  - (c) Part 4 of Schedule 1 (designated executing authorities);
  - (d) Schedule 4 (general grounds for refusal), Schedule 5 (receiving evidence before a nominated court), and Schedule 6 (hearing a person by video-link or telephone conference);
  - (e) regulation 2 (general interpretation) and Schedule 2 (participating States), but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) to (d).

(4) In this regulation “European investigation order” has the meaning given by regulation 25 of the 2017 Regulations (interpretation).

**European investigation order made in the United Kingdom relating to the temporary transfer of a prisoner or EU prisoner**

**85.**—(1) In relation to a prisoner temporarily transferred to a participating State pursuant to a European investigation order made and transmitted under regulation 22 of the 2017 Regulations (European investigation order for the temporary transfer of a prisoner) before commencement day—

- (a) regulation 77(2) (amendment of the Criminal Procedure (Scotland) Act 1995) of these Regulations does not apply;
- (b) the following provisions of the 2017 Regulations continue to have effect—
  - (i) regulation 20 (temporary transfer of UK prisoner to participating State for the purpose of UK investigation);
  - (ii) regulation 24 (time spent by UK prisoner in custody overseas);
  - (iii) regulations 2 and 5 (interpretation) and Schedule 2 (participating States), but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.

(2) In relation to an EU prisoner temporarily transferred to the United Kingdom pursuant to a European investigation order made and transmitted under regulation 22 of the 2017 Regulations before commencement day, the following provisions of those Regulations continue to have effect—

- (a) regulation 21 (temporary transfer of EU prisoner to the UK for the purposes of UK investigation or proceedings);
- (b) regulation 23 (restrictions on prosecution and detention for other matters);
- (c) regulations 2 and 5 and Schedule 2, but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).

(3) In this regulation, “European investigation order” has the meaning given by regulation 5(1) (a) of the 2017 Regulations.

**European investigation order made in a participating State relating to the temporary transfer of a prisoner or EU prisoner**

**86.**—(1) In relation to a prisoner temporarily transferred to a participating State pursuant to a warrant issued by the Secretary of State or Scottish Ministers under regulation 54 of the 2017

Regulations (temporary transfer of UK prisoner to issuing State for the purpose of issuing State's investigation or proceedings) before commencement day—

- (a) regulation 77(2) (amendment of the Criminal Procedure (Scotland) Act 1995) of these Regulations does not apply;
- (b) the following provisions of the 2017 Regulations continue to have effect—
  - (i) regulation 54;
  - (ii) regulation 57 (time spent by UK prisoner in custody overseas);
  - (iii) regulations 2 and 25 (interpretation) and Schedule 2 (participating States), but only for the purpose of the other provisions which continue to have effect by virtue of this sub-paragraph.

(2) In relation to an EU prisoner temporarily transferred to the United Kingdom pursuant to a warrant issued by the Secretary of State or Scottish Ministers under regulation 55 of the 2017 Regulations (temporary transfer of EU prisoner to the UK for the purpose of issuing State's investigation) before commencement day, the following provisions of those Regulations continue to have effect—

- (a) regulation 55;
- (b) regulation 56 (restrictions on prosecution and detention for other matters);
- (c) regulations 2 and 25 (interpretation) and Schedule 2 (participating States), but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).