
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 20

Proceeds of Crime

Amendment of the Proceeds of Crime Act 2002

- 107.**—(1) The Proceeds of Crime Act 2002⁽¹⁾ is amended as follows.
- (2) In section 67⁽²⁾ (seized money: England and Wales)—
- (a) in subsection (9), omit paragraph (c);
 - (b) in subsection (10), omit “or firm” in both places where those words occur.
- (3) In section 131ZA⁽³⁾ (seized money: Scotland)—
- (a) in subsection (10), omit paragraph (c);
 - (b) in subsection (11), omit “or firm” in both places those words occur.
- (4) In section 282D⁽⁴⁾ (evidence overseas: interim receiver or interim administrator), in subsection (10), omit paragraph (b) and the “or” immediately preceding that paragraph.
- (5) In section 303Z7⁽⁵⁾ (“bank”)—
- (a) in subsection (2), omit paragraph (c);
 - (b) in subsection (3), omit “or firm” in both places those words occur.
- (6) In section 333B⁽⁶⁾ (disclosures within an undertaking or group etc), in subsections (2)(b) and (4)(b), for “an EEA State” substitute “the United Kingdom or an EEA state”.
- (7) In section 333C⁽⁷⁾ (other permitted disclosures between institutions etc), in subsection (2)(c), for “an EEA State” substitute “the United Kingdom or an EEA state”.
- (8) In section 362B⁽⁸⁾ (requirements for making of unexplained wealth order), in subsection (7)(a), for “the United Kingdom or another EEA State,” substitute—
- “—
- (i) the United Kingdom, or
 - (ii) an EEA state.”

(1) [2002 c. 29](#).

(2) Section 67 was amended by section 14(1) to (3) of the Serious Crime Act [2015 \(c. 9\)](#) and section 26 of the Criminal Finances Act [2017 \(c. 22\)](#).

(3) Section 131ZA was inserted by section 28 of the Criminal Finances Act 2017.

(4) Section 282D was inserted by paragraph 6 of Schedule 18 to the Crime and Courts Act [2013 \(c. 22\)](#).

(5) Section 303Z7 was inserted by section 16 of the Criminal Finances Act 2017.

(6) Section 333B was inserted by [S.I. 2007/3398](#).

(7) Section 333C was inserted by [S.I. 2007/3398](#).

(8) Section 362B was inserted by section 1 of the Criminal Finances Act 2017.

(9) In section 375A(9) (evidence overseas), in subsection (9), omit paragraph (b) and the “or” immediately preceding that paragraph.

(10) In section 396B(10) (requirements for making of unexplained wealth order), in subsection (7)(a), for “the United Kingdom or another EEA State,” substitute—

“—

- (i) the United Kingdom, or
- (ii) an EEA state,”

(11) In section 408A(11) (evidence overseas), in subsection (9), omit paragraph (b) and the “or” immediately preceding that paragraph.

(12) In Schedule 3 (administrators: further provision), in paragraph 6—

- (a) omit sub-paragraph (4)(c);
- (b) in sub-paragraph (5), omit “or firm” in both places those words occur.

(13) In Schedule 9 (regulated sector and supervisory authorities), in paragraph 1 (business in the regulated sector)—

(a) for sub-paragraph (1)(c) substitute—

“(c) the carrying on of activities by an authorised person (within the meaning of section 31 of the Financial Services and Markets Act 2000(12)) who has permission under Part 4A of that Act to carry out or effect contracts of insurance, where those activities consist of carrying out or effecting contracts of long-term insurance;”;

(b) in sub-paragraph (1)(d), for “(other than a person falling within Article 2 of the Markets in Financial Instruments Directive)” substitute “(other than a person falling within one of the exclusions to the definition of “investment firm” in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544))”;

(c) in sub-paragraph (1)(g), for “an EEA State” substitute “the United Kingdom”;

(d) in sub-paragraph (2)(b), for “an EEA state” substitute “the United Kingdom”;

(e) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (1)(c), “contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).”

(f) for sub-paragraph (5) substitute—

“(5) For the purposes of sub-paragraph (4)(d) “regulated market” has the meaning given by regulation 3(1) (general interpretation) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692).”;

(g) omit sub-paragraph (6).

Amendment of the Serious Organised Crime and Police Act 2005

108.—(1) The Serious Organised Crime and Police Act 2005(13) is amended as follows.

(2) Omit section 96 (mutual assistance in freezing property or evidence).

(3) In section 172 (orders and regulations), in subsection (5), omit paragraph (h).

(9) Section 375A was inserted by paragraph 26 of Schedule 19 to the Crime and Courts Act 2013.

(10) Section 396B was inserted by section 4 of the Criminal Finances Act 2017.

(11) Section 408A was inserted by paragraph 28 of Schedule 19 to the Crime and Courts Act 2013.

(12) 2000 c.8.

(13) 2005 c. 15.

Amendment of the Criminal Finances Act 2017

109.—(1) The Criminal Finances Act 2017(14) is amended as follows.

(2) In section 1(15) (unexplained wealth orders: England and Wales and Northern Ireland), in the text to be inserted as section 362B(7)(a) of the Proceeds of Crime Act 2002, for “the United Kingdom or another EEA State,” substitute—

“—

- (i) the United Kingdom, or
- (ii) an EEA state,”.

(3) In section 16(16) (forfeiture of money held in bank and building society accounts), in the text to be inserted as section 303Z7 of the Proceeds of Crime Act 2002—

- (a) in subsection (2), omit paragraph (c);
- (b) in subsection (3), omit “or firm” in both places those words occur.

(4) In section 27 (seized money: Northern Ireland)—

- (a) in the text to be inserted as subsection (9) of section 215 of the Proceeds of Crime Act 2002, omit paragraph (c);
- (b) in the text to be inserted as subsection (10) of that section, omit “or firm” in both places those words occur.

Amendment of the CJDP Regulations

110.—(1) Subject to regulation 111 (transitional provisions in relation to the amendment of the CJDP Regulations), the CJDP Regulations are amended as follows.

(2) Part 2 (proceeds of crime (foreign property and foreign orders)) is revoked.

(3) Schedule 1 (proceeds of crime (foreign property and foreign orders): Scotland) is revoked.

(4) Schedule 2 (proceeds of crime (foreign property and foreign orders): Northern Ireland) is revoked.

Transitional provisions in relation to amendment of the CJDP Regulations

111. Regulation 110 does not apply in relation to a case where, before commencement day, any of the following has occurred—

- (a) the Crown Court makes a certificate under regulation 6(2) of the CJDP Regulations (domestic restraint orders: certification);
- (b) a relevant prosecutor receives an overseas restraint order under regulation 8(1) of the CJDP Regulations (sending overseas restraint orders to the court);
- (c) the Crown Court makes a certificate under regulation 11(2) of the CJDP Regulations (domestic confiscation orders: certification);
- (d) a relevant prosecutor receives an overseas confiscation order under regulation 13(1) of the CJDP Regulations (sending overseas confiscation orders to the court);
- (e) the court makes a certificate under paragraph 2(2) of Schedule 1 to the CJDP Regulations (domestic restraint orders: certification);
- (f) the Lord Advocate receives an overseas restraint order under paragraph 4(1) of Schedule 1 to the CJDP Regulations (sending overseas restraint orders to the court);

(14) 2017 c. 22.

(15) Section 1 extends to England and Wales and Northern Ireland and was commenced in England and Wales only by [S.I. 2018/78](#).

(16) Section 16 extends to the United Kingdom and was commenced in England and Wales and Scotland by [S.I. 2018/78](#).

- (g) the court makes a certificate under paragraph 7(2) of Schedule 1 to the CJDP Regulations (domestic confiscation orders: certification);
- (h) the Lord Advocate receives an overseas confiscation order under paragraph 9(1) of Schedule 1 to the CJDP Regulations (sending overseas confiscation orders to the court);
- (i) the court makes a certificate under paragraph 2(2) of Schedule 2 to the CJDP Regulations (domestic restraint orders: certification);
- (j) the relevant prosecutor receives an overseas restraint order under paragraph 4(1) of Schedule 2 to the CJDP Regulations (sending overseas restraint orders to the court);
- (k) the court makes a certificate under paragraph 7(2) of Schedule 2 to the CJDP Regulations (domestic confiscation orders: certification), or
- (l) the relevant prosecutor receives an overseas confiscation order under paragraph 9(1) of Schedule 2 to the CJDP Regulations (sending overseas confiscation orders to the court).

Revocation of Council Decision 2000/642/JHA and Council Decision 2007/845/JHA

112. Subject to regulation 113 (saving provision), the following are revoked—

- (a) Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information;
- (b) Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

Saving provision

113.—(1) Article 5 of Council Decision 2000/642/JHA (use of information or documents) continues to have effect in relation to information or documents obtained under Article 1 of that Council Decision (cooperation of financial intelligence units) before commencement day.

(2) Article 5 of Council Decision 2007/845/JHA (data protection) continues to have effect in relation to information exchanged under Article 3 (exchange of information between Asset Recovery Offices on request) or 4 (Spontaneous exchange of information between Asset Recovery Offices) of that Council Decision before commencement day.