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STATUTORY INSTRUMENTS

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**2014 No. 3141**

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

**PART 7**

**European Supervision Order**

**CHAPTER 1**

**Extent**

**Extent**

**75.**—(1) Chapter 2 (European supervision orders: England and Wales) extends to England and Wales only.

(2) Chapter 3 (European supervision orders: Northern Ireland) extends to Northern Ireland only.

(3) Schedule 6 (European supervision orders: grounds for refusal to monitor supervision measures) extends to England and Wales and Northern Ireland.

**CHAPTER 2**

**European supervision orders: England and Wales**

**Interpretation**

**76.** In this Chapter—

“central authority”, in relation to a member State other than the United Kingdom, means an authority designated by the State as a central authority for the purposes of the Framework Decision;

“the central authority for England and Wales” means the Lord Chancellor;

“certificate requesting monitoring under the Framework Decision” means the certificate required by Article 10 of the Framework Decision;

“competent authority”, in relation to a member State, means an authority designated by the State as a competent authority for the purposes of the Framework Decision;

“court” means a magistrates’ court, the Crown Court, the High Court or the Court of Appeal; and references to a court include a judge of such a court or a justice of the peace and a judge or justice having powers to act in connection with proceedings before such a court;

“the Framework Decision” means Council Framework Decision 2009/829/JHA of 23rd October 2009 on the application, between member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention<sup>(1)</sup>;

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(1) OJ No. L 294, 11.11.2009, p. 20.

“notify” means notify in writing (and “notification” is to be read accordingly).

*Recognition of supervision measures: requests to other member States*

**Requests to other member States for monitoring supervision measures**

77.—(1) A court which makes a decision on supervision measures may request a competent authority of a member State other than the United Kingdom (“the executing State”) to monitor the supervision measures under the Framework Decision where—

- (a) the measures are suitable for monitoring in the executing State, and
  - (b) the executing State is one to which the request may be made.
- (2) To make the request, the court must—
- (a) issue a certificate requesting monitoring under the Framework Decision in respect of the decision on supervision measures, and
  - (b) give the following documents to the competent authority or to the central authority of the executing State.
- (3) The documents are—
- (a) the decision on supervision measures or a certified copy of it,
  - (b) the certificate, and
  - (c) a copy of the certificate translated into the official language, or one of the official languages, of the executing State.
- (4) But paragraph (3)(c) does not apply if—
- (a) English is an official language of the executing State, or
  - (b) the executing State has declared under Article 24 of the Framework Decision that it will accept a certificate translated into English.
- (5) A court makes a “decision on supervision measures” if—
- (a) it grants bail in accordance with the Bail Act 1976(2), as modified by regulation 78, to a person who is charged with an offence, and
  - (b) requirements are imposed on the person in accordance with section 3(6) of that Act(3) (general provisions), as so modified, as a condition of bail.
- (6) “Supervision measures” means the requirements imposed on the person as a condition of bail.
- (7) A supervision measure is “suitable for monitoring in the executing State” if it constitutes—
- (a) a supervision measure of a kind mentioned in Article 8(1) of the Framework Decision (types of supervision measures), or
  - (b) a supervision measure of a kind which the executing State has given notice, under Article 8(2) of that Decision, that it is prepared to monitor.
- (8) The executing State is “one to which the request may be made” if—
- (a) the person is lawfully and ordinarily resident in the executing State and consents to return to that State with a view to the supervision measures being monitored there under the Framework Decision, or
  - (b) the person is not lawfully and ordinarily resident in the executing State but—

(2) 1976 c. 63.

(3) Section 3(6) was amended by the Criminal Justice and Public Order Act 1994 (c.33), sections 27(2) and 168(3) and Schedule 11; the Crime and Disorder Act 1998 (c.37), section 54(2); the Criminal Justice Act 2003 (c.44), section 13(1) and Part 2 of Schedule 37; and the Legal Services Act 2007 (c.29), section 208(1) and Schedule 21, paragraph 34.

- (i) the person asks for the request to be made to a competent authority of the executing State, and
  - (ii) the competent authority consents to the making of the request.
- (9) In regulations 78 to 84—
- “the competent authority of the executing State”, in relation to a request under this regulation, means the competent authority to which the request is made;
- “decision on supervision measures” and “supervision measures” are to be read in accordance with this regulation;
- “the executing State”, in relation to a request under this regulation, means the member State of the competent authority to which the request is made.

### **Requirements that may be imposed in connection with a request**

**78.**—(1) This regulation applies where a court is considering making a request under regulation 77 for a competent authority of a member State other than the United Kingdom to monitor supervision measures under the Framework Decision in relation to the grant of bail to a person who is charged with an offence.

(2) The requirements that may be imposed on the person under section 3(6) of the Bail Act 1976 (general provisions) include requirements which can only be complied with in the other State.

(3) Where the court is considering imposing requirements on the person which would involve electronic monitoring of the person in a particular area in the other State—

- (a) sections 3AA(4)(4) and 3AB(3)(5) of the Bail Act 1976 (conditions for the imposition of electronic monitoring requirements) have effect as if for references to each local justice area which is a relevant area there were substituted references to that area in the other State, and
- (b) section 3AC of that Act(6) (electronic monitoring: general provisions) has effect as if subsection (2) were omitted.

### **Recognition of request**

**79.**—(1) A court which has made a decision on supervision measures ceases to be responsible for monitoring the supervision measures if—

- (a) the court makes a request under regulation 77 for the competent authority of the executing State to monitor those measures under the Framework Decision, and
- (b) the competent authority notifies the court that it has decided to recognise the decision on supervision measures under the Framework Decision.

(2) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect the court’s jurisdiction to take subsequent decisions in relation to the decision on supervision measures, including decisions about—

- (a) renewal, review or withdrawal of the decision on supervision measures,
- (b) modification of the supervision measures, and
- (c) the issue of a warrant for the arrest of the person subject to the decision.

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(4) Section 3AA(4) was inserted by the Criminal Justice and Immigration Act 2008 (c.4), section 51 and Schedule 11 paragraph 3(4).

(5) Section 3AB(3) was inserted by the Criminal Justice and Immigration Act 2008, section 51 and Schedule 11 paragraph (4).

(6) Section 3AC was inserted by the Criminal Justice and Immigration Act 2008, section 51 and Schedule 11 paragraph (4) and amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) Schedule 11 paragraph 7.

(3) Where the person subject to the decision on supervision measures is in the executing State, the court may permit the person to attend through a live link any hearing as to whether or not to take a subsequent decision in relation to the decision.

(4) The person is to be treated as present in court when attending a hearing through a live link by virtue of paragraph (3).

(5) “Live link” means an arrangement by which a person (when not in the place where a hearing is being held) is able—

- (a) to see and hear the court during the hearing, and
- (b) to be seen and heard by the court during the hearing;

(and for this purpose any impairment of eyesight or hearing is to be disregarded).

(6) Where a subsequent decision relating to a person is a decision to withhold bail, the court making the decision must require the person to surrender to custody in England and Wales at a time appointed by the court.

(7) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect any power conferred on a constable by the Bail Act 1976 to arrest without warrant the person subject to the decision on supervision measures.

#### **Power to withdraw certificate**

**80.**—(1) A court which has made a request under regulation 77 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must consider whether to withdraw the certificate requesting monitoring under that Decision if the competent authority informs the court that—

- (a) the competent authority could refuse to monitor the supervision measures on the ground mentioned in Article 15(1)(h) of that Decision (grounds for non-recognition) but is nevertheless willing to monitor them,
- (b) the competent authority has taken a decision, in accordance with Article 13 (adaptation of supervision measures) of that Decision, adapting the supervision measures, or
- (c) there is a maximum period during which, under the law of the executing State, the supervision measures may be monitored.

(2) But a decision to withdraw the certificate under paragraph (1)(b) or (c) may be made only if monitoring of the supervision measures in the executing State has not yet started.

(3) If the court withdraws the certificate under this regulation, it must inform the competent authority.

(4) A decision to withdraw the certificate under this regulation must be taken, and the competent authority must be informed under paragraph (3), no later than 10 days after the day on which the competent authority informs the court as mentioned in paragraph (1).

(5) This regulation applies where a court informs the competent authority of the executing State under regulation 81(2)(b) that it has renewed a decision on supervision measures, or modified supervision measures, as it applies where the court makes a request under regulation 77 in relation to the original decision on supervision measures.

#### **Duties where measures being monitored by executing State**

**81.**—(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—

- (a) has ceased under regulation 79 to be responsible for monitoring the supervision measures, and

- (b) has not yet become responsible under regulation 83 for monitoring them again.
- (2) The court must immediately inform the competent authority of the executing State if—
  - (a) legal proceedings are brought in relation to the decision on supervision measures, or
  - (b) the court takes a subsequent decision in relation to the decision on supervision measures, as mentioned in regulation 79(2) (a “supervening decision”).
- (3) The court must consider whether to take a supervening decision if the competent authority of the executing State notifies the court, using the form set out in Annex II to the Framework Decision, of—
  - (a) a breach of the supervision measures, or
  - (b) any other finding which could result in the court taking a supervening decision.
- (4) Where the decision on supervision measures provides for the measures to have effect for a specified period, the court must, before the expiry of that period, inform the competent authority of the executing State—
  - (a) as to whether the court expects the monitoring of the supervision measures to be necessary for a further period, and
  - (b) if so, of the expected length of that period.
- (5) The court must inform the competent authority under paragraph (4)—
  - (a) following a request from that authority, or
  - (b) if no such request is made, on the initiative of the court.
- (6) If the competent authority of the executing State requests information from the court as to whether monitoring of the supervision measures is still necessary in the circumstances of the case, the court must respond without delay.
- (7) If—
  - (a) the law of the executing State requires periodic confirmation of the need to prolong the monitoring of the supervision measures, and
  - (b) the competent authority of the executing State requests that confirmation from the court and sets a reasonable time limit for the request to be complied with,the court must respond within that time limit.

#### **Request to extend maximum period for which measures may be monitored**

- 82.**—(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—
- (a) has ceased under regulation 79 to be responsible for monitoring the supervision measures, and
  - (b) has not yet become responsible under regulation 83 for monitoring them again.
- (2) The court may make a request under this regulation if—
- (a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored,
  - (b) the period is due to expire, and
  - (c) the court considers that the supervision measures are still needed.
- (3) A request under this regulation is a request to the competent authority of the executing State for the period to be extended.
- (4) The request must specify the period for which an extension is likely to be needed.

**Court becoming responsible again for monitoring measures**

**83.**—(1) A court which—

(a) has made a decision on supervision measures, and

(b) has ceased under regulation 79 to be responsible for monitoring the supervision measures, becomes responsible for monitoring them again in any of the following cases.

(2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State other than the executing State.

(3) The second case is where the competent authority of the executing State notifies the court, in accordance with Article 20(2)(c) of the Framework Decision (information from the executing State), that it is not possible, in practice, to monitor the supervision measures.

(4) The third case is where the competent authority of the executing State informs the court that it has decided, in accordance with Article 23 of the Framework Decision (unanswered notices), to stop monitoring the supervision measures.

(5) The fourth case is where—

(a) the court takes a decision modifying the supervision measures, and

(b) the competent authority of the executing State informs the court that it has decided, in accordance with Article 18(4)(b) of the Framework Decision (competence to take all subsequent decisions and governing law), to refuse to monitor the modified supervision measures.

(6) The fifth case is where the court—

(a) withdraws the certificate requesting monitoring under the Framework Decision (whether in accordance with regulation 80 or otherwise), and

(b) informs the competent authority of the executing State of its withdrawal.

(7) The sixth case is where the court—

(a) withdraws the decision on supervision measures, and

(b) informs the competent authority of the executing State of its withdrawal.

(8) The seventh case is where—

(a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored, and

(b) that period expires.

(9) The court must consult the competent authority of the executing State with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.

**Consultation and exchange of information**

**84.**—(1) A court which is considering making a request under regulation 77 for a competent authority of a member State other than the United Kingdom to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

(a) while preparing the documents mentioned in paragraph (3) of that regulation, or

(b) at the latest, before giving those documents to the competent authority or to the central authority of that State.

(2) A court which has made a request under regulation 77 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
  - (b) if the competent authority notifies it, in accordance with Article 19(3) of the Framework Decision (obligations of the authorities involved), of a serious breach of those measures.
- (3) In consulting under this regulation, the court must co-operate with the competent authority with a view to the exchange of any useful information, including—
- (a) information for verifying the identity and place of residence of the person concerned, and
  - (b) relevant information taken from the person's criminal records in accordance with applicable legislation including Part 6 of these Regulations.
- (4) The court must take due account of any indications communicated by the competent authority as to the risk the person may pose to victims and the general public.

*Recognition of supervision measures: requests from other member States*

**Requests from other member States for monitoring supervision measures**

**85.**—(1) This regulation applies if a competent authority of a member State other than the United Kingdom (“the issuing State”)—

- (a) makes a decision on supervision measures, and
  - (b) makes a request for monitoring of supervision measures under the Framework Decision.
- (2) The competent authority makes a “request for monitoring of supervision measures under the Framework Decision” if it or the central authority of the issuing State gives the central authority for England and Wales—
- (a) the decision on supervision measures or a certified copy of it,
  - (b) a certificate requesting monitoring under the Framework Decision, and
  - (c) if the certificate is not in English, a copy of the certificate translated into English.
- (3) The central authority for England and Wales must give those documents to a magistrates’ court.
- (4) The magistrates’ court must decide whether it is satisfied that any of the grounds for refusal in Schedule 6 apply.
- (5) If the magistrates’ court decides that none of the grounds for refusal applies, it must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.
- (6) If the magistrates’ court decides that the only ground for refusal which applies is that mentioned in paragraph 8 of Schedule 6, it may inform the competent authority that—
- (a) it could refuse to monitor the supervision measures on the ground mentioned in Article 15(1)(h) of the Framework Decision (giving reasons for the possible refusal), but
  - (b) it is nevertheless willing to monitor them.
- (7) If—
- (a) the magistrates’ court informs the competent authority under paragraph (6), and
  - (b) the competent authority does not inform the magistrates’ court that it has withdrawn the certificate requesting monitoring under the Framework Decision in accordance with Article 15(3) of that Decision,

the magistrates' court must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.

(8) If the magistrates' court decides that one or more of the grounds for refusal applies and does not inform the competent authority under paragraph (6), it must notify the competent authority without delay—

- (a) that it has decided not to recognise the decision on supervision measures and, accordingly, not to assume responsibility for monitoring the supervision measures, and
- (b) of the reasons for its decision.

(9) The magistrates' court must notify the competent authority without delay if, at any time after receiving the documents mentioned in paragraph (2) and before making a notification under paragraph (5), (7) or (8), it becomes aware of any change of residence of the person subject to the decision on supervision measures.

(10) In this regulation, regulations 86 to 94 and Schedule 6 (so far as relating to England and Wales), "decision on supervision measures" and "supervision measures" have the meanings given by Article 4 of the Framework Decision (definitions).

(11) In regulations 86 to 94 and Schedule 6 (so far as relating to England and Wales)—

"the competent authority of the issuing State", in relation to a request for monitoring of supervision measures under the Framework Decision, means the competent authority which makes the request;

"the issuing State", in relation to a request for monitoring of supervision measures under the Framework Decision, means the member State of the competent authority which makes the request;

"request for monitoring of supervision measures under the Framework Decision" is to be read in accordance with this regulation.

#### **Procedural requirements relating to decision under regulation 85(4)**

**86.**—(1) A magistrates' court must take a decision under regulation 85(4) as soon as possible and, in any event—

- (a) within 20 working days of the day on which the central authority for England and Wales receives the documents mentioned in regulation 85(2), or
- (b) if legal proceedings in relation to the decision on supervision measures are brought before the end of that period, within 40 working days of that day.

(2) If, in exceptional circumstances, it is not possible to comply with that time limit, the magistrates' court must immediately inform the competent authority of the issuing state of—

- (a) that fact,
- (b) the reasons for the delay, and
- (c) the time by which it expects the decision to be taken.

(3) If the magistrates' court is of the view that one or more of the grounds for refusal mentioned in paragraphs 1 to 4 of Schedule 6 may apply, it must, before taking a decision under regulation 85(4)—

- (a) inform the competent authority,
- (b) request the competent authority to supply without delay any further information required, and
- (c) in the case of the ground for refusal mentioned in paragraph 1 of Schedule 6, specify a reasonable period within which the certificate must be completed or corrected.



(4) Where the magistrates' court specifies under paragraph (3)(c) a period within which the certificate must be completed or corrected, the decision must be taken—

- (a) if a completed or corrected certificate is received by the magistrates' court within the specified period, as soon as reasonably practicable after its receipt;
- (b) otherwise, as soon as reasonably practicable after the specified period ends.

(5) In this regulation “working day” means a day other than—

- (a) a Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.

### **Adaptation of supervision measures**

**87.**—(1) This regulation applies if a magistrates' court, when making a decision under regulation 85(4) in relation to a decision on supervision measures, considers that—

- (a) none of the grounds for refusal apply, but
- (b) one or more of the supervision measures is not compatible with the law of England and Wales.

(2) The magistrates' court must take a decision adapting the supervision measures to bring them into line with the kind of supervision measures that are available under the law of England and Wales in relation to alleged offences corresponding to the alleged offences to which the decision on supervision measures relates.

(3) For this purpose, the adapted measures—

- (a) must correspond as far as possible to the original measures, but
- (b) must not be more severe than the original measures.

(4) The magistrates' court must, in its notification under regulation 85(5) or (7), notify the competent authority of the issuing State of the decision adapting the supervision measures.

(5) Where a decision to adapt supervision measures is taken under this regulation, references in regulations 88 to 94 to monitoring or breach of supervision measures are to be read as references to monitoring or breach of the adapted measures.

### **Recognition of decision on supervision measures**

**88.**—(1) If a magistrates' court notifies the competent authority of the issuing State under regulation 85(5) or (7) that it has decided to recognise the decision on supervision measures—

- (a) it becomes responsible for monitoring the supervision measures, and
- (b) it must without delay take the measures it considers necessary for securing that the supervision measures are monitored.

(2) But the magistrates' court must notify the competent authority without delay if it is not possible, in practice, to monitor the supervision measures because the person subject to the decision on supervision measures cannot be found in England and Wales.

(3) The law of England and Wales which applies in relation to the monitoring of requirements imposed on a person as a condition of bail also applies, with any necessary modifications, in relation to the monitoring of the supervision measures by virtue of paragraph (1).

(4) In particular—

- (a) a magistrates' court may, if it considers it necessary to do so for the purpose of any supervision measure, impose electronic monitoring requirements on a person,
- (b) sections 3AA(7), 3AB(1) and (3)(8) and 3AC(1)(9) of the Bail Act 1976 apply to electronic monitoring requirements relating to supervision measures, and
- (c) section 3AC(2) of that Act, and orders and rules under section 3AC(2) and (3) of that Act, apply to electronic monitoring relating to supervision measures.

### **Duties of court responsible for monitoring supervision measures**

**89.**—(1) This regulation 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 magistrates' court must immediately notify the competent authority of the issuing State, using the form set out in Annex II to the Framework Decision, if it becomes aware of—

- (a) a breach of the supervision measures, or
- (b) any other finding which could result in the competent authority taking a subsequent decision in relation to the decision on supervision measures, as mentioned in Article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

(3) The magistrates' court must notify the competent authority of the issuing State without delay if—

- (a) legal proceedings are brought in relation to the decision to recognise the decision on supervision measures, or
- (b) it becomes aware of any change of residence of the person subject to the decision on supervision measures.

### **Power to stop monitoring where no response to notification of breach**

**90.**—(1) This regulation applies if—

- (a) a magistrates' court makes several notifications to the competent authority of the issuing State under regulation 89(2) in relation to a particular breach or other finding, and
- (b) the competent authority does not take a supervening decision in response to the breach or other finding.

(2) The magistrates' court may—

- (a) make a further notification in relation to the breach or other finding,
- (b) invite the competent authority to take a supervening decision in response to the breach or other finding, and
- (c) give the competent authority a reasonable period in which to do so.

(3) If the competent authority does not take a supervening decision within that period, the magistrates' court may decide to stop monitoring the supervision measures.

(4) If the magistrates' court decides to stop monitoring the supervision measures under this regulation, it must inform the competent authority of its decision.

(7) Section 3AA was inserted by the Criminal Justice and Police Act 2001 (c. 16), section 131(2) and subsequently amended by the Criminal Justice and Immigration Act 2008, Schedule 11 paragraphs 1, 3 and 4.

(8) Section 3AB was inserted by the Criminal Justice and Immigration Act 2008, Schedule 11 paragraphs 1 and 4.

(9) Section 3AC was inserted by the Criminal Justice and Immigration Act 2008, Schedule 11 paragraphs 1 and 4.

(5) In this regulation a “supervening decision” means a subsequent decision in relation to a decision on supervision measures, as mentioned in Article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

### **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<sup>(10)</sup> applies in relation to a magistrates’ court’s power to require a person to be detained under paragraph (4) as if—

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<sup>(10)</sup> 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.

- (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<sup>(11)</sup> (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.

### **Renewal or modification of supervision measures which are being monitored**

**92.**—(1) This regulation 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) If the competent authority of the issuing State informs the magistrates' court that it has taken a decision renewing the decision on supervision measures, or modifying the supervision measures—

- (a) that decision does not (subject as follows) affect the court's responsibility for monitoring the renewed or modified supervision measures, and
- (b) references in regulations 88 to 94 to monitoring or breach of the supervision measures are to be read as references to monitoring or breach of the renewed or modified measures.

(3) If the magistrates' court had adapted the supervision measures under regulation 87 and the decision renews the measures—

- (a) the adaptations apply to the renewed decision as they applied to the original decision, and
- (b) regulation 87(5) applies accordingly.

(4) If the decision modifies the supervision measures and the magistrates' court considers that the modified supervision measures include measures other than those of a kind mentioned in Article 8(1) of the Framework Decision, the magistrates' court must—

- (a) decide to refuse to monitor the modified supervision measures, and
- (b) inform the competent authority of that decision.

(5) If the decision modifies the supervision measures and the magistrates' court—

- (a) does not decide to refuse to monitor the modified supervision measures, but
- (b) considers that one or more of those measures is not compatible with the law of England and Wales,

regulation 87(2) to (5) applies in relation to those measures.

### **Court ceasing to be responsible for monitoring measures**

**93.**—(1) A magistrates' court which—

(11) 2012 c. 10.

- (a) has decided to recognise a decision on supervision measures, and
  - (b) has become responsible under regulation 88 for monitoring the supervision measures,
- ceases to be responsible for monitoring them in any of the following cases.
- (2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State other than the United Kingdom.
- (3) The second case is where the magistrates' court notifies the competent authority of the issuing State under regulation 88(2) that it is not possible, in practice, to monitor the supervision measures.
- (4) The third case is where the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 90, to stop monitoring the supervision measures.
- (5) The fourth case is where—
- (a) the supervision measures have been modified, and
  - (b) the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 92(4), to refuse to monitor the modified supervision measures.
- (6) The fifth case is where the competent authority of the issuing State, within the period of 10 days after the day on which the magistrates' court gives notification to the competent authority under regulation 85(5) or (7) (recognition of supervision measures)—
- (a) withdraws, subject to paragraph (7), the certificate requesting monitoring under the Framework Decision (whether in response to a decision under regulation 87 adapting the supervision measures or otherwise), and
  - (b) informs the magistrates' court of its withdrawal.
- (7) For the fifth case to apply, where the decision to withdraw the certificate referred to in paragraph (6)(a) is because the competent authority of the issuing State has been informed of —
- (a) a decision to adapt under regulation 87, or
  - (b) a maximum period during which the supervision measures may be monitored,
- the decision to withdraw the certificate must also be made before monitoring starts.
- (8) The sixth case is where the competent authority of the issuing State—
- (a) withdraws the decision on supervision measures, and
  - (b) informs the magistrates' court of its withdrawal.
- (9) The magistrates' court must consult the competent authority with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.
- (10) The magistrates' court may at any time ask the competent authority for information as to whether monitoring of the supervision measures is still necessary.

### **Consultation and exchange of information**

- 94.—(1) If a competent authority of a member State other than the United Kingdom consults the central authority for England and Wales about a request for monitoring of supervision measures under the Framework Decision which it is considering making, a magistrates' court specified by the central authority must, unless impracticable, co-operate in that consultation.
- (2) Where a competent authority has made a request for monitoring of supervision measures under the Framework Decision, the magistrates' court to which the documents mentioned in regulation 85(2) were given must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
  - (b) if it notifies the competent authority under regulation 89(2) of a serious breach of those measures.
- (3) In consulting or co-operating in consultation under this regulation, the magistrates' court must co-operate with the competent authority with a view to the exchange of any useful information, including—
- (a) information for verifying the identity and place of residence of the person concerned, and
  - (b) relevant information taken from the person's criminal records in accordance with applicable legislation including Part 6 of these Regulations.

### CHAPTER 3

#### European supervision orders: Northern Ireland

#### Interpretation

**95.** In this Chapter—

“central authority”, in relation to a member State other than the United Kingdom, means an authority designated by the State as a central authority for the purposes of the Framework Decision;

“the central authority for Northern Ireland” means the Department of Justice in Northern Ireland;

“certificate requesting monitoring under the Framework Decision” means the certificate required by Article 10 of the Framework Decision;

“competent authority”, in relation to a member State, means an authority designated by the State as a competent authority for the purposes of the Framework Decision;

“court” means a magistrates' court, a county court, the Crown Court, the High Court or the Court of Appeal; and references to a court include a judge of such a court and a judge having powers to act in connection with proceedings before such a court;

“the Framework Decision” means Council Framework Decision 2009/829/JHA of 23rd October 2009 on the application, between member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention **(12)**;

“notify” means notify in writing (and “notification” is to be read accordingly).

#### *Recognition of supervision measures: requests to other member States*

#### **Requests to other member States for monitoring supervision measures**

**96.—**(1) A court which makes a decision on supervision measures may request a competent authority of a member State other than the United Kingdom (“the executing State”) to monitor the supervision measures under the Framework Decision where—

- (a) the measures are suitable for monitoring in the executing State, and
  - (b) the executing State is one to which the request may be made.
- (2) To make the request, the court must—

**(12)** OJ No. L 294, 11.11.2009, p. 20.

- (a) issue a certificate requesting monitoring under the Framework Decision in respect of the decision on supervision measures, and
  - (b) give the following documents to the competent authority or to the central authority of the executing State.
- (3) The documents are—
  - (a) the decision on supervision measures or a certified copy of it,
  - (b) the certificate, and
  - (c) a copy of the certificate translated into the official language, or one of the official languages, of the executing State.
- (4) But paragraph (3)(c) does not apply if—
  - (a) English is an official language of the executing State, or
  - (b) the executing State has declared under Article 24 of the Framework Decision that it will accept a certificate translated into English.
- (5) A court makes a “decision on supervision measures” if—
  - (a) it grants bail under the law for the time being in force to a person who is charged with an offence, and
  - (b) requirements are imposed on the person as a condition of bail (as to which, see regulation 97).
- (6) “Supervision measures” means the requirements imposed on the person as a condition of bail.
- (7) A supervision measure is “suitable for monitoring in the executing State” if it constitutes—
  - (a) a supervision measure of a kind mentioned in Article 8(1) of the Framework Decision (types of supervision measures), or
  - (b) a supervision measure of a kind which the executing State has given notice, under Article 8(2) of that Decision, that it is prepared to monitor.
- (8) The executing State is “one to which the request may be made” if—
  - (a) the person is lawfully and ordinarily resident in the executing State and consents to return to that State with a view to the supervision measures being monitored there under the Framework Decision, or
  - (b) the person is not lawfully and ordinarily resident in the executing State but—
    - (i) the person asks for the request to be made to a competent authority of the executing State, and
    - (ii) the competent authority consents to the making of the request.
- (9) In regulations 97 to 103—
  - “the competent authority of the executing State”, in relation to a request under this regulation, means the competent authority to which the request is made;
  - “decision on supervision measures” and “supervision measures” are to be read in accordance with this regulation;
  - “the executing State”, in relation to a request under this regulation, means the member State of the competent authority to which the request is made.

### **Requirements that may be imposed in connection with a request**

**97.—(1)** This regulation applies where a court is considering making a request under regulation 96 for a competent authority of a member State other than the United Kingdom to monitor



supervision measures under the Framework Decision in relation to the grant of bail to a person who is charged with an offence.

(2) The requirements that may be imposed on the person as a condition of bail include requirements which can only be complied with in the other State.

(3) Where the court is considering imposing requirements on the person which would involve electronic monitoring of the person in a particular area in the other State, article 40 of the Criminal Justice (Northern Ireland) Order 2008<sup>(13)</sup> (electronic monitoring requirement) has effect as if in paragraph (3), the words from “and a person” to the end were omitted.

### **Recognition of request**

**98.**—(1) A court which has made a decision on supervision measures ceases to be responsible for monitoring the supervision measures if—

- (a) the court makes a request under regulation 96 for the competent authority of the executing State to monitor those measures under the Framework Decision, and
- (b) the competent authority notifies the court that it has decided to recognise the decision on supervision measures under the Framework Decision.

(2) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect the court’s jurisdiction to take subsequent decisions in relation to the decision on supervision measures, including decisions about—

- (a) renewal, review or withdrawal of the decision on supervision measures,
- (b) modification of the supervision measures, and
- (c) the issue of a warrant for the arrest of the person subject to the decision.

(3) Where the person subject to the decision on supervision measures is in the executing State, the court may permit the person to attend through a live link any hearing as to whether or not to take a subsequent decision in relation to the decision.

(4) The person is to be treated as present in court when attending a hearing through a live link by virtue of paragraph (3).

(5) “Live link” means an arrangement by which a person (when not in the place where a hearing is being held) is able—

- (a) to see and hear the court during the hearing, and
- (b) to be seen and heard by the court during the hearing;

(and for this purpose any impairment of eyesight or hearing is to be disregarded).

(6) Where a subsequent decision relating to a person is a decision to withhold bail, the court making the decision must require the person to surrender to custody in Northern Ireland at a time appointed by the court.

(7) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect any power conferred on a constable by the Criminal Justice (Northern Ireland) Order 2003<sup>(14)</sup> or the Prison Act (Northern Ireland) 1953<sup>(15)</sup> to arrest without warrant the person subject to the decision on supervision measures.

(8) Where the court has ceased to be responsible for monitoring the supervision measures, the Extradition Act 2003 has effect in relation to the person subject to the decision on supervision measures as if the provisions listed in section 142(8A) of that Act included article 6 of the Criminal

<sup>(13)</sup> S.I. 2008/1216 (N.I. 1).

<sup>(14)</sup> S.I. 2003/1247 (N.I. 13).

<sup>(15)</sup> 1953 c.18 (N.I.).



Justice (Northern Ireland) Order 2003 (even if the court subsequently becomes responsible for monitoring the supervision measures again).

### **Power to withdraw certificate**

**99.**—(1) A court which has made a request under regulation 96 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must consider whether to withdraw the certificate requesting monitoring under that Decision if the competent authority informs the court that—

- (a) the competent authority could refuse to monitor the supervision measures on the ground mentioned in Article 15(1)(h) of that Decision (grounds for non-recognition) but is nevertheless willing to monitor them,
- (b) the competent authority has taken a decision, in accordance with Article 13 (adaptation of supervision measures) of that Decision, adapting the supervision measures, or
- (c) there is a maximum period during which, under the law of the executing State, the supervision measures may be monitored.

(2) But a decision to withdraw the certificate under paragraph (1)(b) or (c) may be made only if monitoring of the supervision measures in the executing State has not yet started.

(3) If the court withdraws the certificate under this regulation, it must inform the competent authority.

(4) A decision to withdraw the certificate under this regulation must be taken, and the competent authority must be informed under paragraph (3), no later than 10 days after the day on which the competent authority informs the court as mentioned in paragraph (1).

(5) This regulation applies where a court informs the competent authority of the executing State under regulation 100(2)(b) that it has renewed a decision on supervision measures, or modified supervision measures, as it applies where the court makes a request under regulation 96 in relation to the original decision on supervision measures.

### **Duties where measures being monitored by executing State**

**100.**—(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—

- (a) has ceased under regulation 98 to be responsible for monitoring the supervision measures, and
- (b) has not yet become responsible under regulation 102 for monitoring them again.

(2) The court must immediately inform the competent authority of the executing State if—

- (a) legal proceedings are brought in relation to the decision on supervision measures, or
- (b) the court takes a subsequent decision in relation to the decision on supervision measures, as mentioned in regulation 98(2) (a “supervening decision”).

(3) The court must consider whether to take a supervening decision if the competent authority of the executing State notifies the court, using the form set out in Annex II to the Framework Decision, of—

- (a) a breach of the supervision measures, or
- (b) any other finding which could result in the court taking a supervening decision.

(4) Where the decision on supervision measures provides for the measures to have effect for a specified period, the court must, before the expiry of that period, inform the competent authority of the executing State—

- (a) as to whether the court expects the monitoring of the supervision measures to be necessary for a further period, and
- (b) if so, of the expected length of that period.
- (5) The court must inform the competent authority under paragraph (4)—
  - (a) following a request from that authority, or
  - (b) if no such request is made, on the initiative of the court.
- (6) If the competent authority of the executing State requests information from the court as to whether monitoring of the supervision measures is still necessary in the circumstances of the case, the court must respond without delay.
- (7) If—
  - (a) the law of the executing State requires periodic confirmation of the need to prolong the monitoring of the supervision measures, and
  - (b) the competent authority of the executing State requests that confirmation from the court and sets a reasonable time limit for the request to be complied with,
 the court must respond within that time limit.

#### **Request to extend maximum period for which measures may be monitored**

- 101.**—(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—
- (a) has ceased under regulation 98 to be responsible for monitoring the supervision measures, and
  - (b) has not yet become responsible under regulation 102 for monitoring them again.
- (2) The court may make a request under this regulation if—
- (a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored,
  - (b) the period is due to expire, and
  - (c) the court considers that the supervision measures are still needed.
- (3) A request under this regulation is a request to the competent authority of the executing State for the period to be extended.
- (4) The request must specify the period for which an extension is likely to be needed.

#### **Court becoming responsible again for monitoring measures**

- 102.**—(1) A court which—
- (a) has made a decision on supervision measures, and
  - (b) has ceased under regulation 98 to be responsible for monitoring the supervision measures,
- becomes responsible for monitoring them again in any of the following cases.
- (2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State other than the executing State.
- (3) The second case is where the competent authority of the executing State notifies the court, in accordance with Article 20(2)(c) of the Framework Decision (information from the executing State), that it is not possible, in practice, to monitor the supervision measures.

(4) The third case is where the competent authority of the executing State informs the court that it has decided, in accordance with Article 23 of the Framework Decision (unanswered notices), to stop monitoring the supervision measures.

(5) The fourth case is where—

- (a) the court takes a decision modifying the supervision measures, and
- (b) the competent authority of the executing State informs the court that it has decided, in accordance with Article 18(4)(b) of the Framework Decision (competence to take all subsequent decisions and governing law), to refuse to monitor the modified supervision measures.

(6) The fifth case is where the court—

- (a) withdraws the certificate requesting monitoring under the Framework Decision (whether in accordance with regulation 99 or otherwise), and
- (b) informs the competent authority of the executing State of its withdrawal.

(7) The sixth case is where the court—

- (a) has withdrawn the decision on supervision measures, and
- (b) informs the competent authority of the executing State of its withdrawal.

(8) The seventh case is where—

- (a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored, and
- (b) that period expires.

(9) The court must consult the competent authority of the executing State with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.

### **Consultation and exchange of information**

**103.**—(1) A court which is considering making a request under regulation 96 for a competent authority of a member State other than the United Kingdom to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

- (a) while preparing the documents mentioned in paragraph (3) of that regulation, or
- (b) at the latest, before giving those documents to the competent authority or to the central authority of that State.

(2) A court which has made a request under regulation 96 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
- (b) if the competent authority notifies it, in accordance with Article 19(3) of the Framework Decision (obligations of the authorities involved), of a serious breach of those measures.

(3) In consulting under this regulation, the court must co-operate with the competent authority with a view to the exchange of any useful information, including—

- (a) information for verifying the identity and place of residence of the person concerned, and
- (b) relevant information taken from the person's criminal records in accordance with applicable legislation including Part 6 of these Regulations.

(4) The court must take due account of any indications communicated by the competent authority as to the risk the person may pose to victims and the general public.

*Recognition of supervision measures: requests from other member States***Requests from other member States for monitoring supervision measures**

**104.**—(1) This regulation applies if a competent authority of a member State other than the United Kingdom (“the issuing State”)—

- (a) makes a decision on supervision measures, and
- (b) makes a request for monitoring of supervision measures under the Framework Decision.

(2) The competent authority makes a “request for monitoring of supervision measures under the Framework Decision” if it or the central authority of the issuing State gives the central authority for Northern Ireland—

- (a) the decision on supervision measures or a certified copy of it,
- (b) a certificate requesting monitoring under the Framework Decision, and
- (c) if the certificate is not in English, a copy of the certificate translated into English.

(3) The central authority for Northern Ireland must give those documents to a magistrates’ court acting for the petty sessions district in which it appears that the person subject to the supervision measures is normally resident.

(4) The magistrates’ court must decide whether it is satisfied that any of the grounds for refusal in Schedule 6 apply.

(5) If the magistrates’ court decides that none of the grounds for refusal applies, it must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.

(6) If the magistrates’ court decides that the only ground for refusal which applies is that mentioned in paragraph 8 of Schedule 6, it may inform the competent authority that—

- (a) it could refuse to monitor the supervision measures on the ground mentioned in Article 15(1)(h) of the Framework Decision (giving reasons for the possible refusal), but
- (b) it is nevertheless willing to monitor them.

(7) If—

- (a) the magistrates’ court informs the competent authority under paragraph (6), and
- (b) the competent authority does not inform the magistrates’ court that it has withdrawn the certificate requesting monitoring under the Framework Decision in accordance with Article 15(3) of that Decision,

the magistrates’ court must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.

(8) If the magistrates’ court decides that one or more of the grounds for refusal applies and does not inform the competent authority under paragraph (6), it must notify the competent authority without delay—

- (a) that it has decided not to recognise the decision on supervision measures and, accordingly, not to assume responsibility for monitoring the supervision measures, and
- (b) of the reasons for its decision.

(9) The magistrates’ court must notify the competent authority without delay if, at any time after receiving the documents mentioned in paragraph (2) and before making a notification under paragraph (5), (7) or (8), it becomes aware of any change of residence of the person subject to the decision on supervision measures.

(10) In this regulation, regulations 105 to 113 and Schedule 6 “decision on supervision measures” and “supervision measures” have the meanings given by Article 4 of the Framework Decision (definitions).

(11) In regulations 105 to 113 and Schedule 6 (so far as relating to Northern Ireland)—

“the competent authority of the issuing State”, in relation to a request for monitoring of supervision measures under the Framework Decision, means the competent authority which makes the request;

“the issuing State”, in relation to a request for monitoring of supervision measures under the Framework Decision, means the member State of the competent authority which makes the request;

“request for monitoring of supervision measures under the Framework Decision” is to be read in accordance with this regulation.

#### **Procedural requirements relating to decision under regulation 104(4)**

**105.**—(1) A magistrates’ court must take a decision under regulation 104(4) as soon as possible and, in any event—

- (a) within 20 working days of the day on which the central authority for Northern Ireland receives the documents mentioned in regulation 104(2), or
- (b) if legal proceedings in relation to the decision on supervision measures are brought before the end of that period, within 40 working days of that day.

(2) If, in exceptional circumstances, it is not possible to comply with that time limit, the magistrates’ court must immediately inform the competent authority of the issuing state of—

- (a) that fact,
- (b) the reasons for the delay, and
- (c) the time by which it expects the decision to be taken.

(3) If the magistrates’ court is of the view that one or more of the grounds for refusal mentioned in paragraphs 1 to 4 of Schedule 6 may apply, it must, before taking a decision under regulation 104(4) —

- (a) inform the competent authority,
- (b) request the competent authority to supply without delay any further information required, and
- (c) in the case of the ground for refusal mentioned in paragraph 1 of Schedule 6, specify a reasonable period within which the certificate must be completed or corrected.

(4) Where the magistrates’ court specifies under paragraph (3)(c) a period within which the certificate must be completed or corrected, the decision must be taken—

- (a) if a completed or corrected certificate is received by the magistrates’ court within the specified period, as soon as reasonably practicable after its receipt;
- (b) otherwise, as soon as reasonably practicable after the specified period ends.

(5) In this regulation “working day” means a day other than—

- (a) a Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Northern Ireland.

**Adaptation of supervision measures**

**106.**—(1) This regulation applies if a magistrates’ court, when making a decision under regulation 104(4) in relation to a decision on supervision measures, considers that—

- (a) none of the grounds for refusal apply, but
- (b) one or more of the supervision measures is not compatible with the law of Northern Ireland.

(2) The magistrates’ court must take a decision adapting the supervision measures to bring them into line with the kind of supervision measures that are available under the law of Northern Ireland in relation to alleged offences corresponding to the alleged offences to which the decision on supervision measures relates.

(3) For this purpose, the adapted measures—

- (a) must correspond as far as possible to the original measures, but
- (b) must not be more severe than the original measures.

(4) The magistrates’ court must, in its notification under regulation 104(5) or (7), notify the competent authority of the issuing State without delay of the decision adapting the supervision measures.

(5) Where a decision to adapt supervision measures is taken under this regulation, references in regulations 107 to 113 to monitoring or breach of supervision measures are to be read as references to monitoring or breach of the adapted measures.

**Effect of recognition of decision on supervision measures**

**107.**—(1) If a magistrates’ court notifies the competent authority of the issuing State under regulation 104(5) or (7) that it has decided to recognise the decision on supervision measures—

- (a) it becomes responsible for monitoring the supervision measures, and
- (b) it must without delay take the measures it considers necessary for securing that the supervision measures are monitored.

(2) But the magistrates’ court must notify the competent authority without delay if it is not possible, in practice, to monitor the supervision measures because the person subject to the decision on supervision measures cannot be found in Northern Ireland.

(3) The law of Northern Ireland which applies in relation to the monitoring of requirements imposed on a person as a condition of bail also applies, with any necessary modifications, in relation to the monitoring of the supervision measures by virtue of paragraph (1).

(4) In particular—

- (a) a magistrates’ court may, if it considers it necessary to do so for the purpose of any supervision measure, impose electronic monitoring requirements on a person,
- (b) articles 40 to 43 of the 2008 Order apply to electronic monitoring requirements relating to supervision measures, and
- (c) orders under article 40(3) of the 2008 Order, and rules under article 44 of the 2008 Order, apply to electronic monitoring relating to supervision measures.

(5) In this regulation—

- (a) “electronic monitoring requirements” has the same meaning as in Part 2 of the 2008 Order, and
- (b) “the 2008 Order” means the Criminal Justice (Northern Ireland) Order 2008.

### **Duties of court responsible for monitoring supervision measures**

**108.**—(1) This regulation 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 107 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 112 to be responsible for monitoring them.

(2) The magistrates' court must immediately notify the competent authority of the issuing State, using the form set out in Annex II to the Framework Decision, if it becomes aware of—

- (a) a breach of the supervision measures, or
- (b) any other finding which could result in the competent authority taking a subsequent decision in relation to the decision on supervision measures, as mentioned in Article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

(3) The magistrates' court must notify the competent authority of the issuing State without delay if—

- (a) legal proceedings are brought in relation to the decision to recognise the decision on supervision measures, or
- (b) it becomes aware of any change of residence of the person subject to the decision on supervision measures.

### **Power to stop monitoring where no response to notification of breach**

**109.**—(1) This regulation applies if—

- (a) a magistrates' court makes several notifications to the competent authority of the issuing State under regulation 108(2) in relation to a particular breach or other finding, and
- (b) the competent authority does not take a supervening decision in response to the breach or other finding.

(2) The magistrates' court may—

- (a) make a further notification in relation to the breach or other finding,
- (b) invite the competent authority to take a supervening decision in response to the breach or other finding, and
- (c) give the competent authority a reasonable period in which to do so.

(3) If the competent authority does not take a supervening decision within that period, the magistrates' court may decide to stop monitoring the supervision measures.

(4) If the magistrates' court decides to stop monitoring the supervision measures under this regulation, it must inform the competent authority of its decision.

(5) In this regulation a "supervening decision" means a subsequent decision in relation to a decision on supervision measures, as mentioned in Article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

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

**110.**—(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 107 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 112 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 108(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 112 to be responsible for monitoring the supervision measures.
- (8) Article 47 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(16)</sup> applies in relation to a magistrates' court's power to require a person to be detained under paragraph (4) as if—
- (a) in paragraph (1) of that article, the reference to adjourning proceedings for an offence were to adjournment pending a decision by the issuing State referred to in paragraph (7)(a) above;
  - (b) the following provisions of that article were omitted—  
in paragraph (1), paragraph (b) and the words following it;  
paragraph (4).
- (9) Article 49 of that Order (remand in case of illness or accident) applies in relation to a person required to be detained under paragraph (4).
- (10) Articles 79 and 80 of the Criminal Justice (Northern Ireland) Order 2008 (live links) apply in relation to proceedings relating to a person who has been required to be detained under paragraph (4) as in relation to a "preliminary hearing" within the meaning of those articles.
- (11) 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 articles 12 and 13 of the Criminal Justice (Children) (Northern Ireland) Order 1998<sup>(17)</sup>.
- (12) Nothing in this regulation affects any other power of arrest conferred on a constable.

<sup>(16)</sup> S.I. 1981/1675 (N.I. 26).<sup>(17)</sup> S.I. 1998/1504 (N.I. 9).



### **Renewal or modification of supervision measures which are being monitored**

**111.**—(1) This regulation 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 107 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 112 to be responsible for monitoring them.

(2) If the competent authority of the issuing State informs the magistrates' court that it has taken a decision renewing the decision on supervision measures, or modifying the supervision measures—

- (a) that decision does not (subject as follows) affect the court's responsibility for monitoring the renewed or modified supervision measures, and
- (b) references in regulations 107 to 113 to monitoring or breach of the supervision measures are to be read as references to monitoring or breach of the renewed or modified measures.

(3) If the magistrates' court had adapted the supervision measures under regulation 106 and the decision renews the measures—

- (a) the adaptations apply to the renewed decision as they applied to the original decision, and
- (b) regulation 106(5) applies accordingly.

(4) If the decision modifies the supervision measures and the magistrates' court considers that the modified supervision measures include measures other than those of a kind mentioned in Article 8(1) of the Framework Decision, the magistrates' court must—

- (a) decide to refuse to monitor the modified supervision measures, and
- (b) inform the competent authority of that decision.

(5) If the decision modifies the supervision measures and the magistrates' court—

- (a) does not decide to refuse to monitor the modified supervision measures, but
- (b) considers that one or more of those measures is not compatible with the law of Northern Ireland,

regulation 106(2) to (5) applies in relation to those measures.

### **Court ceasing to be responsible for monitoring measures**

**112.**—(1) A magistrates' court which—

- (a) has decided to recognise a decision on supervision measures, and
- (b) has become responsible under regulation 107 for monitoring the supervision measures,

ceases to be responsible for monitoring them in any of the following cases.

(2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State other than the United Kingdom.

(3) The second case is where the magistrates' court notifies the competent authority of the issuing State under regulation 107(2) that it is not possible, in practice, to monitor the supervision measures.

(4) The third case is where the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 109, to stop monitoring the supervision measures.

(5) The fourth case is where—

- (a) the supervision measures have been modified, and
- (b) the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 111(4), to refuse to monitor the modified supervision measures.

(6) The fifth case is where the competent authority of the issuing State, within the period of 10 days after the day on which the magistrates' court gives notification to the competent authority under regulation 104(5) or (7) (recognition of supervision measures)—

- (a) withdraws, subject to paragraph (7), the certificate requesting monitoring under the Framework Decision (whether in response to a decision under regulation 106 adapting the supervision measures or otherwise), and
- (b) informs the magistrates' court of its withdrawal.

(7) For the fifth case to apply, where the decision to withdraw the certificate referred to in paragraph (6)(a) is because the competent authority of the issuing State has been informed of —

- (a) a decision to adapt under regulation 106, or
- (b) a maximum period during which the supervision measures may be monitored,

the decision to withdraw the certificate must also be made before monitoring starts.

(8) The sixth case is where the competent authority of the issuing State—

- (a) withdraws the decision on supervision measures, and
- (b) informs the magistrates' court of its withdrawal.

(9) The magistrates' court must consult the competent authority with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.

(10) The magistrates' court may at any time ask the competent authority for information as to whether monitoring of the supervision measures is still necessary.

### **Consultation and exchange of information**

**113.—**(1) If a competent authority of a member State other than the United Kingdom consults the central authority for Northern Ireland about a request for monitoring of supervision measures under the Framework Decision which it is considering making, a magistrates' court specified by the central authority must, unless impracticable, co-operate in that consultation.

(2) Where a competent authority has made a request for monitoring of supervision measures under the Framework Decision, the magistrates' court to which the documents mentioned in regulation 104(2) were given must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
- (b) if it notifies the competent authority under regulation 108(2) of a serious breach of those measures.

(3) In consulting or co-operating in consultation under this regulation, the magistrates' court must co-operate with the competent authority with a view to the exchange of any useful information, including—

- (a) information for verifying the identity and place of residence of the person concerned, and
- (b) relevant information taken from the person's criminal records in accordance with applicable legislation including Part 6 of these Regulations.