
STATUTORY INSTRUMENTS

2017 No. 730

The Criminal Justice (European Investigation Order) Regulations 2017

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Criminal Justice (European Investigation Order) Regulations 2017 and come into force on 31st July 2017.

(2) Each amendment made by Schedule 3 has the same extent as the provision to which it relates.

(3) Regulation 32 does not extend to Scotland.

General Interpretation

2.—(1) In these Regulations—

“the 1990 Act” means the Criminal Justice (International Co-operation) Act 1990⁽¹⁾;

“the 2003 Act” means the Crime (International Co-operation) Act 2003⁽²⁾;

“business in the regulated sector” is to be interpreted in accordance with Schedule 9 to the Proceeds of Crime Act 2002 (regulated sector and supervisory activities)⁽³⁾;

“designated investigating authority” means an authority listed in Part 3 of Schedule 1 (investigating authorities);

“designated public prosecutor” means—

(a) in relation to England and Wales and Northern Ireland, a prosecutor listed in Part 1 of Schedule 1 (public prosecutors);

(b) in relation to Scotland, the Lord Advocate and any procurator fiscal;

“the Directive” means [Directive 2014/41/EU](#) of the European Parliament and of the Council regarding the European Investigation Order in criminal matters⁽⁴⁾;

“EU prisoner” means a person who is detained in a participating State—

(a) by virtue of a sentence or order of a court exercising criminal jurisdiction there, or

(b) in consequence of—

(1) 1990 c. 5.

(2) 2003 c. 32.

(3) 2002 c. 29; Parts 1 and 2 of Schedule 9 were substituted by [S.I. 2007/3287](#) and then amended by [S.I. 2011/99](#), [2011/2701](#), [2012/1534](#), [2012/2299](#), [2013/3155](#), [2015/575](#) and [2016/680](#).

(4) OJ No L 130, 1.5.2014, p1.

- (i) having been transferred there, or responsibility for that person's detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984⁽⁵⁾, or
- (ii) having been transferred there, or responsibility for that person's detention and release having been transferred there, under any similar provision or arrangement from any other country or territory;

“evidence” includes information in any form and articles;

“financial institution” means a person who is carrying on business in the regulated sector;

“notify” means notify in writing (and “notice” and “notification” are to be read accordingly);

“participating State” means a State listed in Schedule 2;

“prison” includes an institution to which any of the following applies—

- (a) the Prison Act 1952⁽⁶⁾;
- (b) the Prison Act (Northern Ireland) 1953⁽⁷⁾, or
- (c) article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998⁽⁸⁾;

“prisoner”—

- (a) in relation to England and Wales or Northern Ireland, means a person—
 - (i) serving a sentence in a prison;
 - (ii) in custody awaiting trial or sentence, or
 - (iii) committed to prison for default in paying a fine;
- (b) in relation to Scotland, means a person detained in custody;

“prosecuting authority” includes any prosecutor listed in Part 1 or Part 2 of Schedule 1.

(2) For the purposes of these Regulations, the central authority—

- (a) in relation to England and Wales and Northern Ireland, is the Secretary of State (but see regulation 32);
- (b) in relation to Scotland, is the Lord Advocate;
- (c) in relation to a participating State, is an authority designated by that State for the purposes of Article 7(3) of the Directive.

Transitional provisions

3.—(1) These Regulations do not apply in relation to a case where, before the date on which these Regulations come into force, any of the following has occurred—

- (a) a domestic freezing order made under section 10 of the 2003 Act (domestic freezing orders) is forwarded by the Secretary of State or the Lord Advocate under section 11 of that Act (sending freezing orders);
- (b) an overseas freezing order (within the meaning of section 20 of the 2003 Act (overseas freezing orders)) is received by the Secretary of State or the Lord Advocate;
- (c) the Secretary of State receives a request to which any of the following provisions applies—
 - (i) section 31 of the 2003 Act (hearing witnesses in the UK by telephone);

(5) 1984 c. 47.

(6) 1952 c. 52.

(7) 1953 c. 18 (N.I.).

(8) S.I. 1998/1504 (N.I. 9).

- (ii) section 32 of the 2003 Act (information about banking transactions: customer information);
- (iii) section 35 of the 2003 Act (information about banking transactions: account information);
- (d) the Lord Advocate receives a request to which any of the following provisions applies—
 - (i) section 31 of the 2003 Act;
 - (ii) section 37 of the 2003 Act (information about banking transactions: customer information);
 - (iii) section 40 of the 2003 Act (information about banking transactions: account information);
- (e) a request for assistance under section 43 (information about a person’s bank account) or section 44 (monitoring banking transactions) of the 2003 Act is forwarded by the Secretary of State or the Lord Advocate or, in an urgent case, sent direct under section 45 of that Act (sending requests for assistance);
- (f) a warrant is issued by the Secretary of State or the Scottish Ministers under section 47(1) of the 2003 Act (transfer of UK prisoner to assist investigation abroad); or
- (g) a warrant is issued by the Secretary of State or the Scottish Ministers under section 48(1) of the 2003 Act (transfer of EU etc. prisoner to assist UK investigation).

Consequential amendments

4. Schedule 3 contains consequential amendments.