Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

EXITING THE EUROPEAN UNION

CRIMINAL LAW

The Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 88(2) of the Scotland Act 1998(**b**) the Secretary of State has consulted with the Scottish Ministers on the proposal to make Part 2 of these Regulations.

PART 1

INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

(2) Except as provided in paragraphs (3) to (6), these Regulations extend to the United Kingdom.

(3) Subject to paragraph (5), any amendment or revocation made by these Regulations has the same extent within the United Kingdom as the provision to which it relates.

(4) Subject to paragraph (6), any saving or transitional provision in these Regulations has the same extent within the United Kingdom as the provision to which it relates.

(**a**) 2018 c. 16.

(**b**) 1998 c. 46. The Criminal Injuries Compensation Authority and the Criminal Injuries Compensation Appeals Panel have been specified as cross-border public authorities for the purposes of section 88 of the Scotland Act 1998 by the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I. 1999/1319).

(5) Regulation 29 extends to England and Wales and Northern Ireland.

(6) Regulation 31 extends to England and Wales and Northern Ireland as it relates to regulation 29.

PART 2

ARRANGEMENTS FOR COMPENSATION FOR VICTIMS OF VIOLENT INTENTIONAL CRIME

Revocation of the Victims of Violent Intentional Crime (Arrangements for Compensation) (European Communities) Regulations 2005

2. The Victims of Violent Intentional Crime (Arrangements for Compensation) (European Communities) Regulations 2005(**a**) are revoked.

PART 3

EUROPEAN PROTECTION ORDERS

CHAPTER 1

European protection orders: England and Wales

Interpretation

3. In this Chapter—

"the England and Wales EPO Regulations" means the Criminal Justice (European Protection Order) (England and Wales) Regulations 2014(**b**);

"magistrates' court" is to be construed in accordance with regulation 2(2) of the England and Wales EPO Regulations (interpretation) as it has effect on and after exit day by virtue of regulations 5 to 8;

"person causing danger" has the same meaning as in regulation 11(1) of the England and Wales EPO Regulations (interpretation) as it has effect on and after exit day by virtue of regulations 5 to 7 and is to be construed as if the United Kingdom continued on and after exit day to be a member State;

"protected person" has the same meaning as in regulation 11(1) of the England and Wales EPO Regulations as it has effect on and after exit day by virtue of regulations 5 to 7 and is to be construed as if the United Kingdom continued on and after exit day to be a member State;

"the central authority for England and Wales" has the same meaning as in regulation 2(1) of the England and Wales EPO Regulations as it has effect on and after exit day by virtue of regulations 6 and 7.

Revocation of the England and Wales EPO Regulations

4. The England and Wales EPO Regulations are revoked.

(**a**) S.I. 2005/3396, amended by S.I. 2008/2683, 2011/1043.
(**b**) S.I. 2014/3300.

Transitional and saving provision: restraining orders made before exit day

5.—(1) A relevant restraining order that was made before exit day continues to have effect on and after exit day as if the England and Wales EPO Regulations had not been revoked by regulation 4.

(2) Where a relevant restraining order was made before exit day, a magistrates' court may vary or discharge that order on or after exit day—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(3) Where the magistrates' court has exercised the power under paragraph (1), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(4) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (2) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

(5) For the purposes of this regulation, "a relevant restraining order" is a restraining order that was—

(a) made in accordance with regulation 13(2) of the England and Wales EPO Regulations (giving effect in England and Wales to a European protection order), or

(b) varied in accordance with regulation 17(6) of those Regulations (giving effect to a modified order).

(6) For the purposes of this regulation, the following provisions of the England and Wales EPO Regulations continue to have effect on and after exit day as if they had not been revoked by regulation 4—

(a) regulation 2;

(b) regulation 11.

Saving provision: requests for recognition of European protection orders received but not determined before exit day

6.—(1) This regulation applies where, before exit day—

(a) a request referred to in regulation 12(1)(b) of the England and Wales EPO Regulations (requests from other member States to recognise a European protection order) was received by the central authority for England and Wales, and

(b) the decision referred to in regulation 12(4) of the England and Wales EPO Regulations was not made in relation to that request.

(2) Subject to the modifications set out in paragraph (3), the following provisions of the England and Wales EPO Regulations continue to have effect on and after exit day in relation to that request as if they had not been revoked by regulation 4—

(a) regulation 2;

(b) regulation 11;

(c) regulation 12(3) to (8);

(d) regulation 13 (giving effect in England and Wales to a European protection order);

(e) regulation 14(3) and (4) (procedural requirements relating to the making of a restraining order);

(f) the Schedule (grounds for refusal to give effect to a European protection order).

(3) The modifications are—

(a) regulation 12(6) is to be read as if—

(i) it were not subject to regulation 14, and

(ii) in sub-paragraph (a) for the words "the competent authority of the issuing State and the protected person are informed" there were substituted "the protected person is informed";

(b) regulation 14(3) is to be read as if sub-paragraph (b) were omitted;

(c) paragraph 1 of the Schedule is to be read as if—

(i) at the end of sub-paragraph (a), "and" were omitted, and

(ii) sub-paragraph (b) were omitted.

(4) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

(5) Where, by virtue of this regulation, a restraining order is made in accordance with regulation 13(2) of the England and Wales EPO Regulations on or after exit day, a magistrates' court may vary or discharge that order—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(6) Where the magistrates' court has exercised the power under paragraph (5), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(7) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (6) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

Saving provision: European protection order modifications communicated, but not given effect to, before exit day

7.—(1) This regulation applies to a relevant case.

(2) For the purposes of this regulation, a "relevant case" is one in which, before exit day—

(a) a European protection order was modified;

(b) the documents referred to in regulation 17(1)(b) of the England and Wales EPO Regulations were sent to the central authority for England and Wales, and

(c) the magistrates' court did not give effect to the modified European protection order in accordance with regulation 17(3) of the England and Wales EPO Regulations.

(3) The following provisions of the England and Wales EPO Regulations continue to have effect on and after exit day in relation to a relevant case as if they had not been revoked by regulation 4, subject to the modifications set out in paragraph (4)—

(a) regulation 2;

(b) regulation 11;

(c) regulation 17(1), (2), (3), (6), (7) and (8).

(4) The modifications are—

(a) regulation 17(6) is to be read as if "or (5)" were omitted;

(b) regulation 17(8) is to be given effect as though regulation 14(3)(b) were omitted.

(5) The provisions referred to in paragraph (3) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

(6) Where a restraining order is varied in accordance with regulation 17(6) of the England and Wales EPO Regulations (as it applies by virtue of this regulation) on or after exit day, a magistrates' court may vary or discharge that order—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(7) Where the magistrates' court has exercised the power under paragraph (6), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(8) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (7) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

Saving provision: European protection order revocation notifications made, but not given effect to, before exit day

8.—(1) This regulation applies where, before exit day—

(a) a notification referred to in regulation 18(1)(b) of the England and Wales EPO Regulations (revocation of the European protection order) was made, and

(b) the magistrates' court did not discharge the restraining order in accordance with regulation 18(3) of the England and Wales EPO Regulations.

(2) The following provisions of the England and Wales EPO Regulations continue to have effect on and after exit day in relation to the notification as if they had not been revoked by regulation 4—

(a) regulation 2;

(b) regulation 11;

(c) regulation 18(2) and (3).

(3) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

CHAPTER 2

European protection orders: Northern Ireland

Interpretation

9. In this Chapter—

"the Northern Ireland EPO Regulations" means the Criminal Justice (European Protection Order) (Northern Ireland) Regulations 2014(**a**);

"magistrates' court" is to be construed in accordance with regulation 2(2) of the Northern Ireland EPO Regulations (interpretation – general) as it has effect on and after exit day by virtue of regulations 11 to 14;

(**a**) S.R. 2014 No. 320, amended by S.R. 2015 No. 353.

"person causing danger" has the same meaning as in regulation 11(1) of the Northern Ireland EPO Regulations (interpretation) as it has effect on and after exit day by virtue of regulations 11 to 13 and is to be construed as if the United Kingdom continued on and after exit day to be a member State;

"protected person" has the same meaning as in regulation 11(1) of the Northern Ireland EPO Regulations as it has effect on and after exit day by virtue of regulations 11 to 13 and is to be construed as if the United Kingdom continued on and after exit day to be a member State;

"the central authority for Northern Ireland" has the same meaning as in regulation 2(1) of the Northern Ireland EPO Regulations as it has effect on and after exit day by virtue of regulations 12 and 13.

Revocation of the Northern Ireland EPO Regulations

10. The Northern Ireland EPO Regulations are revoked.

Transitional and saving provision: restraining orders made before exit day

11.—(1) A relevant restraining order that was made before exit day continues to have effect on and after exit day as if the Northern Ireland EPO Regulations had not been revoked by regulation 10.

(2) Where a relevant restraining order was made before exit day, a magistrates' court may vary or discharge that order on or after exit day—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(3) Where the magistrates' court has exercised the power under paragraph (1), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(4) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (2) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

(5) For the purposes of this regulation, "a relevant restraining order" is a restraining order that was—

(a) made in accordance with regulation 13(2) of the Northern Ireland EPO Regulations (giving effect in Northern Ireland to a European protection order), or

(b) varied in accordance with regulation 17(6) of those Regulations (giving effect to a modified order).

(6) For the purposes of this regulation, the following provisions of the Northern Ireland EPO Regulations continue to have effect on and after exit day as if they had not been revoked by regulation 10—

(a) regulation 2;

(b) regulation 11.

Saving provision: requests for recognition of European protection orders received but not determined before exit day

12.—(1) This regulation applies where, before exit day—

(a) a request referred to in regulation 12(1)(b) of the Northern Ireland EPO Regulations (requests from other member States to recognise a European protection order) was received by the central authority for Northern Ireland, and

(b) the decision referred to in regulation 12(4) of the Northern Ireland EPO Regulations was not made in relation to that request.

(2) Subject to the modifications set out in paragraph (3), the following provisions of the Northern Ireland EPO Regulations continue to have effect on and after exit day in relation to that request as if they had not been revoked by regulation 10—

(a) regulation 2;

(b) regulation 11;

(c) regulation 12(3) to (8);

(d) regulation 13 (giving effect in Northern Ireland to a European protection order);

(e) regulation 14(3) and (4) (procedural requirements relating to the making of a protection order)(**a**);

(f) the Schedule (grounds for refusal to give effect to a European protection order).

(3) The modifications are—

(a) regulation 12(6) is to be read as if—

(i) it were not subject to regulation 14, and

(ii) in sub-paragraph (a), the words "the competent authority of the issuing State and" were omitted;

(b) regulation 14(3) is to be read as if sub-paragraph (b) were omitted;

(c) paragraph 1 of the Schedule is to be read as if—

(i) at the end of sub-paragraph (a), "and" were omitted, and

(ii) sub-paragraph (b) were omitted.

(4) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

(5) Where, by virtue of this regulation, a restraining order is made in accordance with regulation 13(2) of the Northern Ireland EPO Regulations on or after exit day, a magistrates' court may vary or discharge that order—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(6) Where the magistrates' court has exercised the power under paragraph (5), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(7) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (6) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

Saving provision: European protection order modifications communicated, but not given effect to, before exit day

13.—(1) This regulation applies to a relevant case.

(**a**) Regulation 14 was amended by S.R. 2015 No. 353.

(2) For the purposes of this regulation, a "relevant case" is one in which, before exit day—

(a) a European protection order was modified;

(b) the documents referred to in regulation 17(1)(b) of the Northern Ireland EPO Regulations (modification of the European protection order (and giving effect to a modified order))(**a**) were sent to the central authority for Northern Ireland, and

(c) the magistrates' court did not give effect to the modified European protection order in accordance with regulation 17(3) of the Northern Ireland EPO Regulations.

(3) The following provisions of the Northern Ireland EPO Regulations continue to have effect on and after exit day in relation to a relevant case as if they had not been revoked by regulation 10, subject to the modifications set out in paragraph (4)—

(a) regulation 2;

(b) regulation 11;

(c) regulation 17(1), (2), (3), (6), (7) and (8).

(4) The modifications are—

(a) regulation 17(6) is to be read as if "or (5)" were omitted;

(b) regulation 17(8) is to be given effect as though regulation 14(3)(b) were omitted.

(5) The provisions referred to in paragraph (3) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

(6) Where a restraining order is varied in accordance with regulation 17(6) of the Northern Ireland EPO Regulations (as it applies by virtue of this regulation) on or after exit day, a magistrates' court may vary or discharge that order—

(a) on an application made by the protected person or by a guardian or representative of that person on their behalf;

(b) on an application by the person causing danger, or

(c) of the court's own motion.

(7) Where the magistrates' court has exercised the power under paragraph (6), it must ensure that the following are informed of that decision—

(a) the person causing danger, and

(b) the protected person (or, where appropriate, the guardian or representative of the protected person).

(8) The court must not provide the person causing danger with the address or contact details of the protected person under paragraph (7) unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

Saving provision: European protection order revocation notifications made, but not given effect to, before exit day

14.—(1) This regulation applies where, before exit day—

(a) a notification referred to in regulation 18(1)(b) of the Northern Ireland EPO Regulations (revocation of the European protection order) was made, and

(b) the magistrates' court did not discharge the restraining order in accordance with regulation 18(3) of the Northern Ireland EPO Regulations.

(2) The following provisions of the Northern Ireland EPO Regulations continue to have effect on and after exit day in relation to the notification as if they had not been revoked by regulation 10—

(a) regulation 2;

(**a**) Regulation 17 was amended by S.R. 2015 No. 353.

(b) regulation 11;

(c) regulation 18(2) and (3).

(3) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued on and after exit day to be a member State.

Consequential revocation

15. The Criminal Justice (European Protection Order) (Amendment) Regulations (Northern Ireland) 2015(**a**) are revoked.

PART 4

EUROPEAN SUPERVISION ORDERS

Amendment of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014

16.—(1) The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014(**b**) are amended as follows.

(2) Omit Part 7 (European supervision order)(**c**).

(3) Omit Schedule 6 (grounds for refusal to monitor supervision measures).

PART 5

MUTUAL RECOGNITION OF FINANCIAL PENALTIES

Interpretation

17. In this Part, the "2008 Act" means the Criminal Justice and Immigration Act 2008(**d**).

Amendment of the Courts Act 2003

18. In paragraph 38 of Schedule 5 to the Courts Act 2003 (the range of further steps available against defaulters)(**e**), omit—

(a) sub-paragraph (1)(f);

(b) sub-paragraph (4);

(c) sub-paragraph (5).

Amendment of the 2008 Act

19. In the 2008 Act, omit—

(a) sections 80 to 92 (recognition of financial penalties)(**f**);

(**a**) S.R. 2015 No. 353.
(**b**) S.I. 2014/3141.
(**c**) Amended by S.I. 2014/3191.
(**d**) 2008 c. 4.
(**e**) 2003 c. 39, sub-paragraphs (1)(f), (4) and (5) of paragraph 38 were inserted by section 80(1) of the Criminal Justice and Immigration Act 2008 (c. 4).
(**f**) Section 80 was amended by S.I. 2016/244; section 81 was amended by S.I. 2014/3141; section 82 was amended by paragraph 133 of Schedule 1 and Part 1 of Schedule 9 to the Justice Act (Northern Ireland) 2015 (c. 9 (N.I.)), S.R. & O. (NI) 2010 No. 133 and S.I. 2010/976; sections 83 and 84 were amended by S.I. 2010/976 and 2014/3141; sections 85 and 86 were amended by S.I. 2014/3141; section 87 was amended by paragraph 133 of Schedule 1 and Part 1 of Schedule 9 to the Justice Act (Northern Ireland) 2015 (c. 9 (N.I.)), S.I. 2010/976 and 2014/3141; section 88 was amended by paragraph 133 of Schedule 1 and Part 1 of Schedule 9 to the Justice Act (Northern Ireland) 2015, paragraph 6 of Schedule 2 to the

(b) section 147(5)(d) (orders, rules and regulations)(**a**);

(c) Schedule 18 (penalties suitable for enforcement in England and Wales or Northern Ireland)(**b**);

(d) Schedule 19 (grounds for refusal to enforce financial penalties)(**c**);

(e) paragraph 29 of Schedule 27 (mutual recognition of financial penalties).

Saving provision: requests from member States

20.—(1) The provisions of the 2008 Act set out in paragraph (2) continue to apply with the modifications set out in paragraph (3) where, before exit day, the Lord Chancellor or the Department of Justice in Northern Ireland received a decision or a certified copy of a decision and a certificate mentioned in section 84(1)(a) or (as the case may be) section 87(1)(a) of the 2008 Act.

(2) The provisions of the 2008 Act referred to in paragraph (1) are—

(a) sections 84 to 90A;

(b) sections 91(1) and (2);

(c) section 92;

(d) Schedule 18;

(e) Schedule 19;

(f) sub-paragraphs (3) and (4) of paragraph 29 of Schedule 27.

(3) For the purposes of this regulation, the provisions of the 2008 Act referred to in paragraph (2) are to be read as if —

(a) the term "member State" included the United Kingdom;

(b) section 85(4A) were omitted;

(c) section 85(7C) were omitted;

(d) for section 85(8)(c) there were substituted—

"(c) the magistrates' court is satisfied, having regard to evidence provided by the person required to pay the financial penalty to which the certificate relates, that all or part of the penalty has been paid in any State,";

(e) section 88(4A) were omitted;

(f) section 88(6C) were omitted;

(g) for section 88(7)(c) there were substituted—

"(c) the magistrates' court is satisfied, having regard to evidence provided by the person required to pay the financial penalty to which the certificate relates, that all or part of the penalty has been paid in any State,".

PART 6

TAKING ACCOUNT OF CONVICTIONS

Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)), S.I. 2010/976 and 2014/3141; sections 89 to 92 were amended by S.I. 2010/976 and 2014/3141.

(**a**) Amended by S.I. 2014/3141.

(**b**) Amended by S.I. 2010/976.

(**c**) Amended by S.I. 2010/976, 2011/1043, 2012/1809, 2014/3141.

CHAPTER 1

Amendments: legislation that extends to England and Wales only

Amendment of the Prevention of Crime Act 1953

21.—(1) Section 1ZA of the Prevention of Crime Act 1953 (offence under section 1: previous relevant convictions)(**a**) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), for "Scotland, Northern Ireland or a member State other than the United Kingdom" substitute "Scotland or Northern Ireland";

(b) at the end of paragraph (c), insert "and";

(c) omit paragraph (e) and the "and" preceding it.

(3) In subsection (2)—

(a) in the definition of "civilian offence", omit paragraph (b) and the "or" preceding it;

(b) in paragraph (b) of the definition of "conviction", omit "and a member State service offence";

(c) omit the definition of "member State service offence".

Amendment of the Magistrates' Courts Act 1980

22.—(1) Section 19 of the Magistrates' Courts Act 1980 (decision as to allocation)(**b**) is amended as follows.

(2) In subsection (5)—

(a) at the end of paragraph (a), insert "or";

(b) omit paragraph (aa).

(3) Omit subsection (5A).

Amendment of the Criminal Justice and Public Order Act 1994

23.—(1) Section 25 of the Criminal Justice and Public Order Act 1994 (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences)(**c**) is amended as follows.

(2) In subsection (2), in the opening words, for "subsection (3)" substitute "subsection (3A)".

(3) Omit subsection (3).

(4) Omit subsection (3B).

(5) In subsection (5), omit the definition of "relevant foreign offence".

(6) Omit subsection (5A).

(**a**) 1953 c. 14 (1 & 2 Eliz, 2 c. 14); section 1ZA was inserted by section 28(3) of the Criminal Justice and Courts Act 2015 (c. 2).

(**b**) 1980 c. 43; section 19 was amended by paragraph 5 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), and paragraph 4 of Schedule 17, paragraph 80 of Schedule 21, and Part 5 of Schedule 23 to the Coroners and Justice Act 2009 (c. 25).

(**c**) 1994 c. 33; section 25(3), (3A) and (3B) were inserted by paragraph 3(2) of Schedule 17 to the Coroners and Justice Act 2009 (c.25); section 25(5) was amended by paragraph 93(2) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), paragraph 160 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 67(b) of Schedule 32 and Part 7 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), and paragraph 3(3) of Schedule 17 and Part 5 of Schedule 23 to the Coroners and Justice Act 2009; section 25(5A) was inserted by paragraph 3(4) of Schedule 17 to the Coroners and Justice Act 2009.

Amendment of the Crime and Disorder Act 1998

24.—(1) Paragraph 9 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent for trial under section 51 of the Crime and Disorder Act 1998)(**a**) is amended as follows.

(2) In sub-paragraph (5)—

(a) at the end of paragraph (a), insert "or";

(b) omit paragraph (aa).

(3) Omit sub-paragraph (5A).

Amendment of the Powers of Criminal Courts (Sentencing) Act 2000

25.—(1) The Powers of Criminal Courts (Sentencing) Act 2000(**b**) is amended as follows.

(2) In section 17(1)(b) (referral conditions for young offenders)(**c**), omit sub-paragraph (ii) and the "or" preceding it.

(3) In section 110 (minimum of seven years for third class A drug trafficking offence)(**d**)—

(a) in subsection (1)(b), for "2 relevant drug convictions; and" substitute "been convicted in any part of the United Kingdom of two other class A drug trafficking offences; and";

(b) omit subsection (2A).

(4) In section 111(2A) (minimum of three years for third domestic burglary)(**e**)—

(a) in paragraph (a)(ii), omit "or any other member State";

(b) in paragraph (b)(ii), for "any other case" substitute "respect of a conviction in any other part of the United Kingdom".

(5) In section 113 (certificates of convictions for purposes of Chapter III)(**f**)—

(a) for subsection (1A) substitute—

"(1A) Where—

(a) a person is convicted in any part of the United Kingdom other than England and Wales of—

(i) a class A drug trafficking offence, or

(ii) a corresponding domestic burglary offence,

(b) the court by or before which the person is convicted states in open court that the person has been convicted of such an offence on that date, and

(c) that court certifies, by way of a certificates signed by the proper officer of the court, the fact that the person has been convicted of such an offence on that date,

the certificate is evidence, for the purposes of the relevant section of this Chapter, that the person was convicted of such an offence on that date.";

(b) for subsection (2A) substitute—

"(2A) Where—

(a) a person is convicted in any part of the United Kingdom other than England and Wales of—

(**a**) 1998 c. 37; paragraph 9(5) of Schedule 3 was amended by paragraph 20(9)(b) of Schedule 3 to the Criminal Justice Act 2003 (c. 44), paragraph 155 of Schedule 16 to the Armed Forces Act 2006 (c. 52, paragraph 5(2) of Schedule 17 and Part 5 of Schedule 23 to the Coroners and Justice Act 2009 (c. 25); paragraph 9(5A) was inserted by paragraph 5(3) of Schedule 17 to the Coroners and Justice Act 2009.

(**b**) 2000 c. 6.

(**c**) Amended by paragraph 12(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(**d**) Section 110(1)(b) was amended by paragraph 10(2)(a) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) and section 110(2A) was inserted by paragraph 10(2)(b) of Schedule 17 to that Act.

(**e**) Section 111(2A) was inserted by paragraph 10(3)(b) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(**f**) Section 113(1A), (2A) and (3) was amended by paragraph 10(4) of Schedule 17 to the Coroners and Justice Act 2009 (c.25). Section 113(3) was also amended by Part 5 of Schedule 23 to that Act.

(i) a class A drug trafficking offence, or

(ii) a corresponding domestic burglary offence,

(b) the court by or before which the person is convicted states in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and

(c) that court certifies, by way of a certificate signed by the proper officer of the court, that the offence was committed on a particular day or over, or at some time during, a particular period,

the certificate is evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on a particular day or over, or at some time during, that period.";

(c) in subsection (3), omit the definition of "corresponding drug trafficking offence".

(6) In section 114 (offences under service law)(**a**)—

(a) omit subsection (1A);

(b) omit subsection (1B);

(c) omit subsection (4).

Amendment of the Criminal Justice Act 2003

26.—(1) The Criminal Justice Act 2003(**b**) is amended as follows.

(2) In section 143 (determining the seriousness of an offence)(**c**)—

(a) in subsection (4)—

(i) at the end of paragraph (a), insert "or";

(ii) omit paragraph (aa);

(iii) omit paragraph (c) and the "or" preceding it;

(b) in subsection (5)—

(i) in paragraph (a), for the words from "both" to "State" substitute "the United Kingdom";

(ii) omit paragraph (b) and the "or" preceding it;

(c) omit subsection (6).

(3) In section 224A(10) (life sentence for second listed offence)(**d**)—

(a) in paragraph (b) of the definition of "extended sentence"—

(i) for "Scotland," substitute "Scotland or", and

(ii) omit "or a member State (other than the United Kingdom)";

(b) in paragraph (b) of the definition of "life sentence"—

(i) for "Scotland," substitute "Scotland or", and

(ii) omit "or a member State (other than the United Kingdom)".

(4) In Part 4 of Schedule 15B (offences under the law of Scotland, Northern Ireland or a member State other than the United Kingdom listed for the purposes of sections 224A(4) and 226(A))(**e**)—

(a) in the heading—

(**a**) Section 114(1A), (1B) and (4) were amended by paragraph 10(5) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(**b**) 2003 c. 44.

(**c**) Section 143(4) was amended by paragraph 216 of Schedule 16 to the Armed Forces Act 2006 (c. 52) and paragraph 6(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25); section 143(5) was amended by paragraph 6(3) of Schedule 17 to that Act; section 143(6) was inserted by paragraph 6(3) of Schedule 17 to that Act.

(**d**) Section 224A was inserted by section 122(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(**e**) Schedule 15B was inserted by Schedule 18 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(i) for "SCOTLAND," substitute "SCOTLAND OR", and

(ii) omit "OR A MEMBER STATE OTHER THAN THE UNITED KINGDOM";

(b) in paragraph 49(**a**)—

(i) for "A civilian offence" substitute "An offence";

(ii) for "Scotland, Northern Ireland or a member State other than the United Kingdom" substitute "Scotland or Northern Ireland";

(c) omit paragraph 49A(**b**);

(d) omit paragraph 49B(**c**).

Amendment of the Coroners and Justice Act 2009

27. In Schedule 17 to the Coroners and Justice Act 2009 (treatment of convictions in other member States etc)(**d**), omit paragraph 8 (availability of community orders).

CHAPTER 2

Amendments: legislation that extends to Northern Ireland only

Amendment of the Police and Criminal Evidence (Northern Ireland) Order 1989

28.—(1) The Police and Criminal Evidence (Northern Ireland) Order 1989(**e**) is amended as follows.

(2) In Article 71 (proof of convictions and acquittals)(**f**)—

(a) omit paragraph (1A);

(b) omit paragraph (2)(c) and the "and" preceding it.

(3) In Article 72 (conviction as evidence of commission of offence)(**g**)—

(a) in paragraph (1), omit "or any other member State";

(b) in paragraph (2), omit "or any other member State";

(c) in paragraph (3)(a), omit "or any other member State".

(4) In Article 73(1) (provisions supplementary to Article 72)(**h**), for sub-paragraph (b) substitute—

"(b) the contents of the complaint, indictment or charge-sheet on which the person in question was convicted,".

CHAPTER 3

Amendments: legislation that extends to England and Wales and Northern Ireland

Amendment of the Police and Criminal Evidence Act 1984

29.—(1) The Police and Criminal Evidence Act 1984(**i**) is amended as follows.

(**a**) Amended by section 3(7) of the Criminal Justice and Courts Act 2015 (c. 2).
(**b**) Paragraph 49A was inserted by section 3(8) of the Criminal Justice and Courts Act 2015 (c. 2).
(**c**) Paragraph 49B was inserted by section 3(8) of the Criminal Justice and Courts Act 2015 (c. 2).
(**d**) 2009 c. 25.
(**e**) S.I. 1989/1341 (N.I. 12).
(**f**) Article 71(1A) and (2)(c) were inserted by paragraph 16 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).
(**g**) Article 72(1) was amended by paragraph 17 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) and S.I. 2004/1501 (N.I. 10), and Article 72(2) and (3)(a) was amended by paragraph 17 of Schedule 17 to the Coroners and Justice Act 2009.
(**h**) Amended by paragraph 18 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).
(**i**) 1984 c. 60.

(2) In section 73(**a**) (proof of convictions and acquittals)—

(a) in subsection (1), omit "or any other member State";

(b) omit subsection (2)(c) and the "and" preceding it;

(c) in subsection (3)—

(i) in paragraph (b), omit "in the United Kingdom";

(ii) omit paragraph (c) and the "and" preceding it.

(3) In section 74 (conviction as evidence of commission of offence)(**b**)—

(a) in subsection (1), omit "or any other member State";

(b) in subsection (2), omit "or any other member State";

(c) in subsection (3)(a), omit "or any other member State".

(4) In section 75(1) (provisions supplementary to section 74)(**c**), for paragraph (b) substitute—

"(b) the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted,".

Amendment of the Criminal Justice Act 1988

30.—(1) Section 139AZA of the Criminal Justice Act 1988 (offences under sections 139 and 139A: previous relevant convictions)(**d**) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), for "Scotland, Northern Ireland or a member State other than the United Kingdom" substitute "Scotland or Northern Ireland";

(b) at the end of paragraph (c), insert "and";

(c) omit paragraph (e) and the "and" preceding it.

(3) In subsection (2)—

(a) for the definition of "civilian offence" substitute—

""civilian offence" means an offence other than an offence under an enactment mentioned in subsection (1)(c) or (d);";

(b) in paragraph (b) of the definition of "conviction", omit "and a member State service offence";

(c) omit the definition of "member State service offence".

CHAPTER 4

Transitional provision

Transitional provision

31.—(1) This Part does not apply in relation to proceedings instituted before exit day.

(2) For the purposes of paragraph (1) as it extends to England and Wales—

(**a**) Section 73(1) was amended by paragraph 13(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) ("the 2009 Act"); section 73(2) was amended by paragraph 128(2) of Schedule 13 to the Access to Justice Act 1999 (c. 22) and paragraph 13(3) of Schedule 17 to the 2009 Act; section 73(3) was amended by paragraph 285 of Schedule 8 to the Courts Act 2003 (c. 39) and paragraph 13(4) of Schedule 17 to the 2009 Act.

(**b**) Section 74(1) was amended by paragraph 85(2) of Schedule 36 to the Criminal Justice Act 2003 (c. 44) and paragraph 14(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) ("the 2009 Act"); section 74(2) and 74(3)(a) was amended by paragraph 14 of Schedule 17 to the 2009 Act.

(**c**) Amended by paragraph 15 of Schedule 17 to the Coroners and Justice Act 2009 (c.25).

(**d**) 1988 c. 33. Section 139AZA was inserted by section 28(7) of the Criminal Justice and Courts Act 2015 (c. 2).

(a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985(**a**), in accordance with section 15(2) of that Act, and

(b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 9 or 11 of the Criminal Appeal Act 1995(**b**) is made.

(3) For the purposes of paragraph (1) as it extends to Northern Ireland—

(a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 2 of the Justice (Northern Ireland) Act 2002(**c**), in accordance with section 44(1) of that Act, and

(b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 10 or 12 of the Criminal Appeal Act 1995(**d**) is made.

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations are made under powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(c)) arising from the withdrawal of the UK from the European Union ("the EU").

Part 2 revokes the retained EU law which was originally enacted to implement Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. The purpose of this Directive was to set up a system of co-operation to facilitate access to compensation to victims of violent intentional crimes in cases where the crime was committed in a member State of the EU other than where the victim was habitually resident. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on exit day these reciprocal arrangements will cease to exist in so far as the UK is concerned.

Part 3 revokes the retained EU law which was originally enacted in England and Wales (Chapter 1) and Northern Ireland (Chapter 2) to implement Directive 2011/99/EU of the European Parliament and Council of 13 December 2011 on the European protection order. This Directive enables a measure made in criminal proceedings in one member State for the purpose of protecting a person to be recognised and enforced in another member State. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on exit day these reciprocal arrangements will cease to exist in so far as the UK is concerned.

Regulations 5 to 8 and regulations 11 to 14 of Part 3 make transitional and saving provision in relation to England and Wales and Northern Ireland respectively. These regulations provide: for restraining orders that were made before exit day to give effect to a European protection order to

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(**a**) 1985 c. 23. Section 15(2) was amended by paragraph 10(3) of Schedule 36 to the Criminal Justice Act 2003 (c. 44), paragraph 35 of Schedule 17 to the Crime and Courts Act 2013 (c. 22) and paragraph 7(3) of Schedule 11 to the Criminal Justice and Courts Act 2015 (c. 2).

(**b**) 1995 c. 35. Section 9 was amended by paragraph 31 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(**c**) 2002 c. 26.

(**d**) Section 10 was amended by paragraph 32 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2003 (c. 28).

be varied or discharged on or after exit day; and for requests for recognition, modification or revocation of a European protection order received, but not processed, before exit day to be processed after exit, with modifications to reflect the fact that there will be no further cooperation with the issuing member State after exit.

Part 4 revokes the retained EU law which was originally enacted in England and Wales and Northern Ireland to implement Council Framework Decision 2009/829/JHA of 23 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 ('European supervision orders'). This Framework Decision enables a supervision measure (for example, bail granted subject to conditions) issued in criminal proceedings in one member State to be recognised and monitored in another member State. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on exit day these reciprocal arrangements will cease to exist as far as the UK is concerned.

Part 5 revokes the retained EU law which was originally enacted in England and Wales and Northern Ireland to implement Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties. Part 5 also makes saving provision in relation to requests for enforcement of financial penalties received by the Lord Chancellor or the Department of Justice in Northern Ireland before exit day.

Part 6 amends retained EU law which was originally enacted to implement Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings. This requires known convictions in other EU states to be taken into account (for example, when passing sentence) to the extent national law requires national convictions to be taken into account. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on exit day these reciprocal arrangements will cease to exist in so far as the UK is concerned. Chapter 1 therefore amends England and Wales implementing legislation, and Chapter 2 Northern Ireland implementing legislation, to provide for EU convictions to be treated in the same way as other non-UK convictions. Chapter 3 makes consequential amendments. Chapter 4 makes transitional provision for criminal proceedings instituted before exit day.

An impact assessment has not been published for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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