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STATUTORY INSTRUMENTS

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**2014 No. 3141**

**CRIMINAL LAW  
DATA PROTECTION**

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

*Made - - - - 2nd December 2014*

*Coming into force in accordance with regulation 1*

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 <sup>M1</sup> in relation to criminal justice <sup>M2</sup> and data protection <sup>M3</sup>, in exercise of the powers conferred by that section, makes the following Regulations.

A draft of the Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 2(2) of, and paragraph 2(2) of Schedule 2 to, that Act.

**Marginal Citations**

- M1** 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), and by section 3(3) of, and Part 1 of the Schedule to, the [European Union \(Amendment\) Act 2008 \(c. 7\)](#).
- M2** S.I. 2012/2752.
- M3** S.I. 1998/2793.

**PART 1**

General

**Citation and commencement**

1. These Regulations—
  - (a) may be cited as the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014; and
  - (b) come into force on the day after the day on which they are made.

## <sup>F1</sup>PART 2

### Proceeds of Crime (Foreign Property and Foreign Orders)

**F1** Pt. 2 revoked (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **110(2)** (with reg. 111) (as amended by [S.I. 2020/1408](#), regs. 1, 5); 2020 c. 1, Sch. 5 para. 1(1)

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25. Any amendment or repeal made by Schedule 3 (mutual recognition of financial penalties: amendments of Criminal Justice and Immigration Act 2008) has the same extent as the enactment to which it relates, except that the amendment made by paragraph 9(2) of that Schedule extends to England and Wales and Northern Ireland.

**Mutual recognition of financial penalties**

26. Schedule 3 amends provisions of the Criminal Justice and Immigration Act 2008<sup>M4</sup> relating to mutual recognition of financial penalties.

**Marginal Citations**

M4 2008 c. 4.

**<sup>F2</sup>PART 4**

**Data Protection in relation to Police and Judicial Cooperation in Criminal Matters**

F2 Pt. 4 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 380 (with ss. 117, 209, 210, Sch. 20 paras. 2, 6, 15, 43); S.I. 2018/625, reg. 2(1)(g)

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**F3** Pt. 5 revoked (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, 43 (with regs. 42(2), 44-47) (as amended by S.I. 2020/1408, regs. 1, 15-18); 2020 c. 1, Sch. 5 para. 1(1)

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## <sup>F4</sup>PART 6

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**F4** Pt. 6 revoked (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, 26 (with regs. 27, 28) (as amended by S.I. 2020/1408, regs. 1, 12, 13); 2020 c. 1, Sch. 5 para. 1(1)

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<sup>F5</sup>**PART 7**

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**F5** Pt. 7 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **16(2)** (with regs. 16A, 16B) (as amended by [S.I. 2020/1408](#), regs. 1, 48); 2020 c. 1, Sch. 5 para. 1(1)

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**Prisoner Transfer**

**Transfer of prisoners**

114.—(1) The Repatriation of Prisoners Act 1984 <sup>M5</sup> is amended as follows.

(2) In section 3A <sup>M6</sup> (prosecution of other offences), in subsections (1)(a) and (3)(d) (in both places), for “Great Britain” substitute “ the United Kingdom ”.

(3) In section 6A <sup>M7</sup> (transit)—

- (a) in subsections (1)(b) and (3)(b), for “Great Britain” substitute “ the United Kingdom ”;
- (b) in subsection (6), for “Great Britain” substitute “ the United Kingdom ”;
- (c) in subsection (7), for “Great Britain” substitute “ the United Kingdom ”;
- (d) in subsection (9)—
  - (i) in paragraph (a)(ii), for “Great Britain” substitute “ the United Kingdom ”;
  - (ii) after paragraph (a) insert—

“(aa) the Department of Justice in Northern Ireland, in a case where it is proposed that the person who is the subject of a request under subsection (1)(b) or (3)(b) will, whilst in transit—

- (i) be present only in Northern Ireland, or
- (ii) arrive in Northern Ireland before being taken to another part of the United Kingdom;”;

(e) in subsection (10) for “Great Britain”, in both places, substitute “ the United Kingdom ”.

(4) In section 6B (transit: supplementary), in subsections (4) and (11)(a) (in both places), for “Great Britain” substitute “ the United Kingdom ”.

(5) For section 6C substitute—

**“6C Transit through different parts of the United Kingdom**

(1) Where—

- (a) a transit order is issued by the Minister for one part of the United Kingdom (“jurisdiction A”), and
- (b) it is proposed that the person who is the subject of the order will whilst in transit be taken to another part of the United Kingdom (“jurisdiction B”),

the Minister for jurisdiction A must notify the Minister for jurisdiction B.

(2) Notification need not be given where the Minister for jurisdiction B has agreed in writing to the transit order.

(3) Unless the Minister for jurisdiction B agrees in writing to the transit order, the order authorises the detention of the person subject to it in jurisdiction A only.

(4) But where the person escapes or is unlawfully at large, the order also authorises—

- (a) the arrest of the person under section 6B(5) in a part of the United Kingdom other than jurisdiction A, and
- (b) the detention of the person in that part by a constable (within the meaning of that section) for the purpose of taking the person to jurisdiction A.

(5) For the purposes of this section—

- (a) the Minister for England and Wales, is the Secretary of State,
- (b) the Minister for Scotland is the Scottish Ministers, and
- (c) the Minister for Northern Ireland is the Department of Justice in Northern Ireland.”

(6) In section 6D (transit: unscheduled arrivals), in subsections (1)(c), (2), (3) (in both places) and (4), for “Great Britain” substitute “ the United Kingdom ”.

(7) In section 8 (interpretation and certificates) <sup>M8</sup>—

- (a) in subsection (1), omit the definition of “international arrangements”, and
- (b) after subsection (2) insert—

“(2A) In this Act—

- (a) “international arrangements” includes any arrangements between the United Kingdom and a British overseas territory, and
- (b) references to a country or territory being a party to international arrangements include references to the country or territory being required to comply with provisions of a Framework Decision of the Council of the European Union (and references to international arrangements are to be construed accordingly).”.

- (8) In section 9<sup>M9</sup> (short title, commencement and extent)—
- (a) in subsection (3), omit “Subject to subsection (3A)”;
  - (b) omit subsection (3A).

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**Marginal Citations**

- M5** 1984 c. 47.
- M6** Section 3A was inserted by the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [section 130](#).
- M7** Sections 6A to 6D were inserted by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, section 131(1).
- M8** Section 8 was amended by section 96 of, and Schedule 26 and Schedule 28 to, the Criminal Justice and Immigration Act 2008; [S.I. 1999/1820](#); and [S.I. 2010/976](#).
- M9** Section 9 was amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, section 131(2).

Home Office

*Karen Bradley*  
Parliamentary Under Secretary of State

F<sup>6</sup>SCHEDULE 1

Regulation 16

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**F6** Sch. 1 revoked (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **110(3)** (with reg. 111) (as amended by [S.I. 2020/1408](#), regs. 1, 5); 2020 c. 1, Sch. 5 para. 1(1)

F<sup>7</sup>SCHEDULE 2

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**F7** Sch. 2 revoked (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **110(4)** (with reg. 111) (as amended by [S.I. 2020/1408](#), regs. 1, 5); 2020 c. 1, Sch. 5 para. 1(1)

SCHEDULE 3

Regulation 26

Mutual recognition of financial penalties: amendments  
of Criminal Justice and Immigration Act 2008

1. The Criminal Justice and Immigration Act 2008 is amended as follows.
- 2.—(1) Section 81 (procedure on issue of certificate: England and Wales) is amended as follows.
  - (2) In subsection (2), for the words from “fines” to “other case” substitute “the relevant officer”.
  - (3) After subsection (2) insert—
    - “(2A) The “relevant officer” means—
      - (a) the fines officer (in the case of a certificate issued by the officer), or
      - (b) the designated officer for the magistrates' court (in any other case).”.
  - (4) For subsection (4) substitute—
    - “(4) Subsections (4A) to (4C) apply where a certified copy of the decision is given to the central authority or competent authority of a member State in accordance with subsection (3).
      - (4A) No further steps to enforce the decision may be taken in England and Wales unless—
        - (a) an event mentioned in Article 15(2)(a) of the Framework Decision on financial penalties occurs in relation to the decision, or
        - (b) the relevant officer or the Lord Chancellor informs the central authority or competent authority as mentioned in subsection (4C)(b).
      - (4B) The relevant officer or the Lord Chancellor must inform the central authority or competent authority without delay if the officer receives any sum of money which the person concerned has paid voluntarily in respect of the decision requiring payment of the financial penalty.

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014. (See end of Document for details)*

(4C) The relevant officer or the Lord Chancellor must inform the central authority or competent authority forthwith of any decision or measure as a result of which the decision requiring payment of the financial penalty—

- (a) ceases to be enforceable, or
- (b) is withdrawn from the competent authority for any other reason.”.

3.—(1) Section 83 (procedure on issue of certificate: Northern Ireland) <sup>M10</sup> is amended as follows.

(2) For subsection (4) substitute—

“(4) Subsections (4A) to (4C) apply where a certified copy of the decision is given to the central authority or competent authority of a member State in accordance with subsection (3).

(4A) No further steps to enforce the decision may be taken in Northern Ireland unless—

- (a) an event mentioned in Article 15(2)(a) of the Framework Decision on financial penalties occurs in relation to the decision, or
- (b) the designated officer or the Department of Justice informs the central authority or competent authority as mentioned in subsection (4C)(b).

(4B) The designated officer or the Department of Justice must inform the central authority or competent authority without delay if the officer receives any sum of money which the person concerned has paid voluntarily in respect of the decision requiring payment of the financial penalty.

(4C) The designated officer or the Department of Justice must inform the central authority or competent authority forthwith of any decision or measure as a result of which the decision requiring payment of the financial penalty—

- (a) ceases to be enforceable, or
- (b) is withdrawn from the competent authority for any other reason.”.

**Marginal Citations**

**M10** Section 83 was amended by [S.I. 2010/976](#).

4. In section 84 (requests from other member States: England and Wales) <sup>M11</sup>, in subsection (1) (a), for sub-paragraphs (i) and (ii) substitute—

- “(i) a decision, or a certified copy of a decision, requiring payment of a financial penalty, and
- (ii) a certificate requesting enforcement under the Framework Decision on financial penalties, and”.

**Marginal Citations**

**M11** Section 84 was amended by [S.I. 2010/976](#).

5.—(1) Section 85 (procedure on receipt of certificate by designated officer) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

- “(a) a decision, or a certified copy of a decision, requiring payment of a financial penalty,
- (b) a certificate requesting enforcement under the Framework Decision on financial penalties, and”.



(3) After subsection (4) insert—

“(4A) If the magistrates' court is of the view that one or more of the grounds for refusal mentioned in paragraphs A1, 2A and 6 of Schedule 19 may apply, the designated officer for the magistrates' court or the Lord Chancellor must, before the magistrates' court takes a decision under subsection (3)—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(4) After subsection (7) insert—

“(7A) But any power of a magistrates' court to impose a relevant alternative sanction in connection with a default in paying the financial penalty—

- (a) may be exercised only if its exercise is authorised by the certificate, and
- (b) is subject to any provision of the certificate specifying the maximum level of sanction that may be imposed.

(7B) “Any power of a magistrates' court to impose a relevant alternative sanction” means any of the following powers conferred on a magistrates' court by virtue of subsection (6)—

- (a) the power under section 76 of the Magistrates' Courts Act 1980 to issue a warrant committing a person to prison;
- (b) the power under Schedule 6 to the Courts Act 2003 to make an order requiring a person to perform unpaid work;
- (c) the power under section 300 of the Criminal Justice Act 2003 to order a person to comply with an unpaid work requirement, a curfew requirement or an attendance centre requirement;
- (d) the power under section 301 of that Act to order a person to be disqualified for holding or obtaining a driving licence;
- (e) the power under section 39 of this Act to order a person aged under 18 to comply with an unpaid work requirement, a curfew requirement or an attendance centre requirement.”.

(5) After subsection (7B) (as inserted by sub-paragraph (4) above) insert—

“(7C) If the person required to pay the financial penalty to which the certificate relates provides evidence that all or part of the penalty has been paid in any State, the designated officer for the magistrates' court or the Lord Chancellor must—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(6) For subsection (8) substitute—

“(8) If—

- (a) the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid,
- (b) the Lord Chancellor is informed, in accordance with Article 15(3) of that Decision, that all or part of the financial penalty has been paid, or
- (c) the magistrates' court is satisfied, having regard to evidence provided as mentioned in subsection (7C) and following consultation under that subsection, that all or part of the financial penalty has been paid in any State,

the references in subsections (6) and (7A) to the financial penalty are to be read as references to so much of the penalty as remains unpaid (and, accordingly, if none of the penalty remains unpaid, subsection (6) ceases to have effect in relation to the penalty).”.

(7) In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution), section 85(7B) of the Criminal Justice and Immigration Act 2008 applies as if after paragraph (a) there were inserted—

“(aa) the power under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 to commit a person to detention;”.

(8) In relation to any time before the coming into force of section 303(b)(iii) of the Criminal Justice Act 2003 (repeal of sections 35 and 40 of the Crime (Sentences) Act 1997), section 85(7B) of the Criminal Justice and Immigration Act 2008 applies as if after paragraph (aa), as treated as inserted by sub-paragraph (7) above, there were inserted—

“(ab) the power under section 35 of the Crime (Sentences) Act 1997 to make a community service order or a curfew order;

(ac) the power under section 40 of that Act to order a person to be disqualified for holding or obtaining a driving licence;”.

(9) In relation to any time before the coming into force of section 6(1) of the Criminal Justice and Immigration Act 2008 (abolition of certain youth orders) as respects the abolition of attendance centre orders, section 85(7B) of that Act applies as if after paragraph (ac), as treated as inserted by sub-paragraph (8) above, there were inserted—

“(ad) the power under section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 to order a person to attend an attendance centre;”.

6.—(1) Section 86 (modification of Magistrates' Courts Act 1980) is amended as follows.

(2) After subsection (2) insert—

“(3) Where a transfer of fine order is made under section 90 of the Magistrates' Courts Act 1980 as applied by section 85(6) of this Act—

(a) subsections (6A) to (7) of section 88 of this Act apply in relation to the powers conferred by Article 96 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (transfer of fines to Northern Ireland) as a result of the order as they apply in relation to the powers conferred on a magistrates' court by virtue of section 88(6) of this Act, and

(b) for this purpose—

(i) references in those subsections to the financial penalty are to be treated as references to the financial penalty to which the order relates, and

(ii) references in those subsections to the certificate are to be treated as references to the certificate by virtue of which the order is made.”.

(3) In the heading, at the end insert “ etc ”.

7. In section 87 (requests from other member States: Northern Ireland)<sup>M12</sup>, in subsection (1)(a), for sub-paragraphs (i) and (ii) substitute—

“(i) a decision, or a certified copy of a decision, requiring payment of a financial penalty, and

(ii) a certificate requesting enforcement under the Framework Decision on financial penalties, and”.

#### Marginal Citations

**M12** Section 87 was amended by [S.I. 2010/976](#).

8.—(1) Section 88 (procedure on receipt of certificate by clerk of petty sessions)<sup>M13</sup> is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

- “(a) a decision, or a certified copy of a decision, requiring payment of a financial penalty,
- (b) a certificate requesting enforcement under the Framework Decision on financial penalties, and”.

(3) After subsection (4) insert—

“(4A) If the magistrates' court is of the view that one or more of the grounds for refusal mentioned in paragraphs A1, 2A and 6 of Schedule 19 may apply, the designated officer for the magistrates' court or the Department of Justice must, before the magistrates' court takes a decision under subsection (3)—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(4) After subsection (6) insert—

“(6A) But any power of a magistrates' court to impose a relevant alternative sanction in connection with a default in paying the financial penalty—

- (a) may be exercised only if its exercise is authorised by the certificate, and
- (b) is subject to any provision of the certificate specifying the maximum level of sanction that may be imposed.

(6B) “Any power of a magistrates' court to impose a relevant alternative sanction” means any of the following powers conferred on a magistrates' court by virtue of subsection (6)—

- (a) the power under Article 92(1)(b) or (c) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 12)) to issue a warrant committing a person to prison;
- (b) the power under Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) to make an attendance centre order;
- (c) the power under Article 48 of the Criminal Justice (Children) (Northern Ireland) Order 1998 to commit a person aged 16 to 18 to custody in a young offenders' institution.”.

(5) After subsection (6B) (as inserted by sub-paragraph (4) above) insert—

“(6C) If the person required to pay the financial penalty to which the certificate relates provides evidence that all or part of the penalty has been paid in any State, the designated officer for the magistrates' court or the Department of Justice must—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(6) For subsection (7) substitute—

“(7) If—

- (a) the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid,
- (b) the Department of Justice is informed, in accordance with Article 15(3) of that Decision, that all or part of the financial penalty has been paid, or
- (c) the magistrates' court is satisfied, having regard to evidence provided as mentioned in subsection (6C) and following consultation under that subsection, that all or part of the financial penalty has been paid in any State,

the references in subsections (6) and (6A) to the financial penalty are to be read as references to so much of the penalty as remains unpaid (and, accordingly, if none of the penalty remains unpaid, subsection (6) ceases to have effect in relation to the penalty).”.

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**Marginal Citations**

**M13** Section 88 was amended by [S.I. 2010/976](#).

**9.**—(1) Section 89 (modification of Magistrates' Courts (Northern Ireland) Order 1981) <sup>M14</sup> is amended as follows.

(2) After subsection (5) insert—

“(6) Where a transfer of fine order is made under Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981 as applied by section 88(6) of this Act—

(a) subsections (7A) to (8) of section 85 of this Act apply in relation to the powers conferred by section 91 of the Magistrates' Courts Act 1980 (transfer of fines from Northern Ireland) as a result of the order as they apply in relation to the powers conferred on a magistrates' court by virtue of section 85(6) of this Act, and

(b) for this purpose—

(i) references in those subsections to the financial penalty are to be treated as references to the financial penalty to which the order relates, and

(ii) references in those subsections to the certificate are to be treated as references to the certificate by virtue of which the order is made.”.

(3) In the heading, at the end insert “ etc ”.

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**Marginal Citations**

**M14** Section 89(5) was amended by [S.I. 2010/976](#).

**10.** In section 90 (transfer of certificates to central authority for Scotland) <sup>M15</sup>, in subsection (1) (a), for sub-paragraphs (i) and (ii) substitute—

“(i) a decision, or a certified copy of a decision, requiring payment of a financial penalty, and

(ii) a certificate requesting enforcement under the Framework Decision on financial penalties, but”.

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**Marginal Citations**

**M15** Section 90 was amended by [S.I. 2010/976](#).

**11.**—(1) Section 90A (transfer of certificates by Department of Justice to Lord Chancellor and vice versa) <sup>M16</sup> is amended as follows.

(2) In subsection (1)(a), for sub-paragraphs (i) and (ii) substitute—

“(i) a decision, or a certified copy of a decision, requiring payment of a financial penalty, and

(ii) a certificate requesting enforcement under the Framework Decision on financial penalties, or”.

(3) In subsection (3)(a), for sub-paragraphs (i) and (ii) substitute—

“(i) a decision, or a certified copy of a decision, requiring payment of a financial penalty, and

- (ii) a certificate requesting enforcement under the Framework Decision on financial penalties, or”.

**Marginal Citations**

**M16** Section 90A was inserted by S.I. 2010/976.

- 12.—(1) Section 91 (recognition of financial penalties: general) <sup>M17</sup> is amended as follows.
- (2) In subsection (2), after “85(3)” insert “, (4A)” and after “ 88(3) ” insert “ , (4A) ”.
- (3) In subsection (4), omit “81(4), 83(4)”.

**Marginal Citations**

**M17** Section 91 was amended by S.I. 2010/976.

13. In section 92 (interpretation of sections 80 to 91 etc) <sup>M18</sup>, in the definition of “decision” in subsection (2), for “in sections 85(4) and 88(4)” substitute “ where the context requires otherwise ”.

**Marginal Citations**

**M18** Section 92 was amended by S.I. 2010/976.

14. In section 147 (orders, rules and regulations) <sup>M19</sup>, in subsection (5)(d), omit “81(4) or”.

**Marginal Citations**

**M19** Section 147 was amended by S.I. 2010/976.

15. In section 152 (extent)—
- (a) in subsection (3)(e), for “and (7)” substitute “ to (7B) ”, and
- (b) in subsection (4)(b), for “to 89” substitute “ , 88 and 89(1) to (5) ”.

- 16.—(1) Schedule 19 (grounds for refusal to enforce financial penalties) <sup>M20</sup> is amended as follows.

- (2) Before paragraph 1 insert—
- “**A1.** The certificate is incomplete or obviously does not correspond to the decision.”.
- (3) After paragraph 2 insert—
- “**2A.** Enforcement of the financial penalty is statute-barred under the law of the relevant part of the United Kingdom and the decision was made in respect of conduct that, under the law of that part of the United Kingdom, falls within its jurisdiction.”.
- (4) In paragraph 3, omit sub-paragraph (2).
- (5) After paragraph 3 insert—
- “**3A.** The decision was made in respect of conduct—
- (a) that occurred in the relevant part of the United Kingdom, and
- (b) does not constitute an offence under the law of that part of the United Kingdom.”.

(6) In paragraph 4, omit sub-paragraph (2).

(7) After paragraph 5 insert—

“**5A.** It appears that the decision was in fact made for the purpose of punishing the liable person on account of the liable person's race, ethnic origin, religion, nationality, language, gender, sexual orientation or political opinions.”.

(8) For paragraph 6 substitute—

“**6.**—(1) The certificate indicates that the proceedings in which the decision was made were conducted in writing but does not confirm that the liable person was informed of—

- (a) the right to contest the proceedings, and
- (b) the time limits that applied to the exercise of that right.

(2) The certificate indicates that the proceedings in which the decision was made provided for a hearing to take place and that the liable person did not attend but does not contain the statement described in—

- (a) Article 7(2)(i)(i) (liable person summoned in person or by other means actually notified of scheduled date and place of hearing and informed that decision may be made in his or her absence),
- (b) Article 7(2)(i)(ii) (liable person's defence conducted at hearing by authorised legal representative),
- (c) Article 7(2)(i)(iii) (liable person indicated intention not to contest decision or did not exercise right to further hearing or appeal within time limit), or
- (d) Article 7(2)(j) (liable person expressly waived right to attend and indicated intention not to contest proceedings).

(3) In this paragraph references to Articles are to Articles of the Framework Decision on financial penalties.”.

(9) In paragraph 47, in sub-paragraph (1), after paragraph (b) insert—

- “(c) “relevant part of the United Kingdom” means—
  - (i) England and Wales, in the application of this Schedule to England and Wales, and
  - (ii) Northern Ireland, in the application of this Schedule to Northern Ireland.”

**Marginal Citations**

**M20** [Schedule 19](#) was amended by [S.I. 2010/976](#).

SCHEDULE 4

Regulation 27

UK competent authorities

**PART 1**

The Association of Chief Police Officers

The Chief Officer of a Police force for a Police Area in England and Wales

The Chief Constable of the Police Service of Northern Ireland

The Chief Constable of the Police Service of Scotland

F8 ...

**F8** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(a)**

**F8** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(a)**

The Crown Agent

The Director-General of the Northern Ireland Prison Service

The Director of Public Prosecutions

[<sup>F9</sup>The Director of Public Prosecutions for Northern Ireland]

**F9** Words in Sch. 4 substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(b)**

**F9** Words in Sch. 4 substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(b)**

The Financial Conduct Authority

F10 ...

**F10** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(c)**

**F10** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(c)**

The Health and Safety Executive

**Changes to legislation:** There are currently no known outstanding effects for the The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014. (See end of Document for details)

Her Majesty's Revenue and Customs

F10  
...

**F10** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(c)**

The Information Commissioner

The Lord Advocate

F10  
...

**F10** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(c)**

The Ministry of Defence Police Service

F10  
...

**F10** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(c)**

The National Crime Agency

The Northern Ireland Department of Justice

The Port of Dover Police

A Procurator Fiscal

The Scottish Court Service

The Scottish Information Commissioner

The Scottish Ministers

The Scottish Police Authority



[<sup>F11</sup>The Secretary of State for Business, Energy and Industrial Strategy]

**F11** Words in Sch. 4 Pt. 1 inserted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 52(a)** (with art. 13)

The Secretary of State for<sup>F12</sup>... Communities and Local Government

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

[<sup>F13</sup>The Secretary of State for Defence]

**F13** Words in Sch. 4 inserted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(e)(i)**

<sup>F14</sup> ...

**F14** Words in Sch. 4 Pt. 1 omitted (9.11.2016) by virtue of [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 52(b)** (with art. 13)

**F14** Words in Sch. 4 Pt. 1 omitted (9.11.2016) by virtue of [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 52(b)** (with art. 13)

The Secretary of State for<sup>F12</sup>... Environment, Food and Rural Affairs

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

[<sup>F15</sup>The Secretary of State for Foreign and Commonwealth Affairs]

**F15** Words in Sch. 4 inserted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(e)(ii)**

The Secretary of State for<sup>F12</sup>... Health [<sup>F16</sup>and Social Care]

**Changes to legislation:** There are currently no known outstanding effects for the *The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014*. (See end of Document for details)

**F16** Words in Sch. 4 Pt. 1 inserted (11.4.2018) by [The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions \(Commonhold Land\) Order 2018 \(S.I. 2018/378\)](#), art. 1(2), **Sch. para. 21(s)** (with art. 14)

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

**F16** Words in Sch. 4 Pt. 1 inserted (11.4.2018) by [The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions \(Commonhold Land\) Order 2018 \(S.I. 2018/378\)](#), art. 1(2), **Sch. para. 21(s)** (with art. 14)

[<sup>F17</sup>The Secretary of State for the Home Department]

**F17** Words in Sch. 4 inserted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(e)(iii)**

[<sup>F17</sup>The Secretary of State for Justice]

**F17** Words in Sch. 4 inserted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(e)(iii)**

The Secretary of State for<sup>F12</sup>... Transport

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

The Secretary of State for<sup>F12</sup>... Work and Pensions

**F12** Words in Sch. 4 omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) \(Amendment\) Regulations 2014 \(S.I. 2014/3191\)](#), regs. 1(b), **2(12)(d)**

The Serious Fraud Office

## PART 2

An agency or other body established by a legal instrument adopted under Title VI of the Treaty on European Union (as it had effect before 1st December 2009) or Chapter 1, 4 or 5 of Title V of Part Three of the Treaty on the Functioning of the European Union that is in the UK.

SCHEDULE 5

Regulation 51

Functions of the Commissioner under the Act: modifications

<i>Column 1</i>	<i>Column 2</i>
this Act (the Data Protection Act 1998)	Part 4 of these Regulations
the data protection principles, or any of them	the requirements of Part 4 of these Regulations
data controller	UK competent authority
section 7 of the Act (right of access to personal data)	regulation 44 of these Regulations (right of access)
section 4(4) of the Act (duty to comply with the data protection principles)	the provision made by Part 4 of these Regulations
section 54A of and paragraph 12 of Schedule 9 to the Act	section 54A of the Act

<sup>F18</sup>SCHEDULE 6

Regulations 85 and 104

.....

**F18** Sch. 6 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **16(3)** (with regs. 16A, 16B) (as amended by [S.I. 2020/1408](#), regs. 1, 48); 2020 c. 1, Sch. 5 para. 1(1)

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations give effect to Commission Decision 2014/858/EU (OJ No. L 345, 1.12.2014, p. 6) and Council Decision 2014/857/EU (OJ No. L 345, 1.12.2014, p. 1) (together “the Protocol 36 Decisions”), made under Article 10(5) of Protocol (No. 36) on transitional provisions (“Protocol 36”) to the Treaty on European Union, the Treaty on the Functioning of the European Union (“TEU” and “TFEU” respectively) and the Treaty establishing the European Atomic Energy Community.

Article 10(4), first sub-paragraph, of Protocol 36 gave the United Kingdom the power to notify the Council that it did not accept, with respect to acts of the Union in the field of police cooperation and judicial cooperation in criminal matters which had been adopted before the entry into force of the Treaty of Lisbon (“the relevant acts”), the powers of the Commission and of the Court of Justice as referred to in Article 10(1) of Protocol 36. By letter to the President of the Council of 24th July 2013, the United Kingdom made use of this power, with the consequence that the relevant acts ceased to apply to the United Kingdom on 1st December 2014.

Article 10(5) of Protocol 36 allows the United Kingdom to notify the Council of its wish to re-participate in the relevant acts. By letter to the President of the Council, the United Kingdom made

use of this power under Article 10(5) of Protocol 36 in relation to some of the relevant acts. For those relevant acts which are part of the Schengen *acquis*, the process for re-participation is set out in Protocol (No. 19) on the Schengen *acquis* integrated into the framework of the European Union. For all other relevant acts, the process for re-participation is set out in Protocol (No. 21) on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice and in Article 331(1) TFEU.

Under these processes, the Protocol 36 Decisions were adopted and the United Kingdom's re-participation in some of the relevant acts has been confirmed.

Pursuant to the Protocol 36 Decisions, the United Kingdom must transpose a number of provisions in the relevant acts which it is re-participating in. These Regulations make such transposing provision in relation to Council Framework Decision 2002/465/JHA of 13th June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p.1) ("JITs"), Council Framework Decision 2005/214/JHA of 24th February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p.16) ("MRFP"), Council Framework Decision 2006/783/JHA of 6th October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p.59) ("confiscation orders Framework Decision"), Council Framework Decision 2006/960/JHA of 18th December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (OJ L 386, 29.12.2006, p.89) ("the Swedish Initiative"), Council Framework Decision 2008/909/JHA of 27th November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327, 5.12.2008, p.27) ("Prisoner Transfer Framework Decision"), Council Framework Decision 2008/977/JHA of 27th November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p.60) ("DPFD"), Council Framework Decision 2009/315/JHA of 26th February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93, 7.4.2009, p.23), Council Decision 2009/316/JHA of 6th April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 93, 7.4.2009, p.33) (together "ECRIS"), and 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 (OJ L 294, 11.11.2009, p.20) ("ESO").

Pursuant to the operation of Article 10(2) and (4) of Protocol 36, these Regulations also make transposing provision in relation to Council Framework Decision 2003/577/JHA of 22nd July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p.45) ("freezing orders Framework Decision").

Part 2 of, and Schedules 1 and 2 to, these Regulations make provision in relation to the freezing and confiscation of criminal assets, including the instrumentalities of crime (instrumentalities are assets used for criminal conduct). Part 2 (and Schedules 1 and 2) transposes the freezing orders Framework Decision (to the extent that the Framework Decision has not already been transposed by the Crime (International Co-operation) Act 2003) and the confiscation orders Framework Decision, including that measure as amended by Council Framework Decision 2009/299/JHA of 26th February 2009 amending, inter alia, the confiscation orders Framework Decision, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial ("*Trials in absentia*").

The Proceeds of Crime Act 2002 makes provision for the freezing and confiscation of criminal property (Part 2 in relation to England and Wales, Part 3 as respects Scotland and Part 4 in relation to Northern Ireland) by means of restraint orders and confiscation orders. Chapters 2 to 4 of Part 2 (and Schedules 1 and 2) make for England and Wales, Scotland and Northern Ireland, respectively, provision to enable the restraint and confiscation orders made by UK court's against property in other member States, to be enforced by the authorities in those states. These

Regulations also make provision to allow our domestic courts to recognise and enforce restraint and confiscation orders made against property in the UK, or persons normally resident in the UK, made by the authorities in other member States. Chapter 5 makes provision in relation to various communication requirements set out in the Framework Decisions, and for saved orders made under predecessor legislation to the Proceeds of Crime Act 2002 to be enforced by the authorities in other member States.

Part 3 of, and Schedule 3 to, these Regulations completes the transposition of the MRFP, including the provisions of MRFP as amended by *Trials in absentia*. MRFP was largely transposed in the Criminal Justice and Immigration Act 2008. Paragraphs 2 and 3 of Schedule 3 make amendments as regards the issuing of a certificate in England and Wales and Northern Ireland requesting enforcement of a financial penalty in another member State. Paragraphs 5 to 8 make amendments as regards the enforcement of a financial penalty in England and Wales and Northern Ireland which has been transferred under MRFP, including provision that any alternative sanction may only be applied in so far as it is authorised by the transferring Member State. Paragraph 9 makes amendments as regards the enforcement of a financial penalty in England and Wales which has been transferred under MRFP and transferred from Northern Ireland to England and Wales. Paragraph 16 makes amendments as regards the grounds on which a court in England and Wales and Northern Ireland must refuse to enforce a financial penalty transferred under MRFP. Paragraphs 4, 5(2), 7, 8(2) and 11 to 15 make amendments consequential on the amendments in Schedule 3.

Part 4 of these Regulations transposes the DPF. In relation to the DPF, these Regulations establish a legal framework which applies to competent authorities in EEA States when transmitting or making available personal data to competent authorities in other EEA States for the prevention, investigation, detection or prosecution of criminal penalties. In implementing the DPF this Part applies instead of the Data Protection Act 1998, except as provided for by this Part.

In implementing the DPF Part 4 provides, amongst other things, for principles that govern the processing of personal data (with extra safeguards where the data is especially sensitive); a power for competent authorities to undertake automated processing; rules that permit the sharing of data with non-EEA States; procedures for monitoring the length of time for which personal data is held; a right for an individual to ask for inaccurate data to be rectified, erased or blocked; and a right for an individual to seek limited information about processing done in relation to them. Part 5 of these Regulations transposes the Swedish Initiative, and one provision for JITs on information exchange and use of data. This Part imposes obligations on competent authorities in the United Kingdom to supply information or intelligence when requested by competent authorities of other States in accordance with the Framework Decision. In addition, this Part enables competent authorities in the United Kingdom to request information and intelligence from competent authorities in other States in accordance with the Framework Decision.

Part 6 of these Regulations transposes ECRIS which sets out a framework for the computerised exchange of information on convictions in the European Union. Part 6 implements the obligations in ECRIS firstly by designating the Chief Constable of Hampshire Constabulary as a “central authority”, which is the body responsible for the tasks relating to the exchange of information on convictions for the whole of the UK. Part 6 also sets out obligations to store information on convictions and procedures to be followed when replying to requests for information from other member States.

Part 7 of these Regulations (Chapter 2 for England and Wales, Chapter 3 for Northern Ireland) transposes the ESO which sets out a framework for the mutual recognition of decisions on supervision measures (bail conditions) in the European Union. Chapter 2 makes provision enabling: (a) certain domestic courts to make a request to a competent authority in another member State to monitor the supervision measures in relation to a person granted bail under the Bail Act 1976 (the Bail Act is modified so that conditions of bail can include those that can only be complied with in the relevant member State); and (b) a magistrates' court to recognise

**Changes to legislation:** *There are currently no known outstanding effects for the The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014. (See end of Document for details)*

a decision on supervision measures imposed on a person by a competent authority in another member State, and to take steps to secure the monitoring of those measures.

Chapter 2 (and Schedule 6) also makes provision for the applicable supervision measures, the procedural requirements, the grounds for refusal, the effect of recognition of a decision on supervision measures, the duties and powers of the courts in relation to the supervision measures, arrest and detention for breach (suspected or anticipated) of a supervision measure in certain circumstances, and the exchange of information. Chapter 3 largely mirrors the provisions in Chapter 2, but with reference to the relevant legislative provisions in Northern Ireland.

Part 8 provides for the extension to Northern Ireland of speciality and transit provisions in the Repatriation of the Prisoners Act 1984 in respect of prisoner transfer arrangements and ensures that the term “international arrangements” in that Act is capable of applying to the Prisoner Transfer Framework Decision.

An impact assessment in respect of the Government's anticipated exercise of its power under Article 10(5) of Protocol 36, of the anticipated Protocol 36 Decisions, and the relevant acts covered by these Regulations was laid before Parliament in July 2014 (Cm 8897), and can be found at <https://www.gov.uk/government/publications/decision-pursuant-to-article-105-of-protocol-36-to-the-treaty-on-the-functioning-of-the-european-union>.

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014.