
STATUTORY INSTRUMENTS

2017 No. 730

The Criminal Justice (European Investigation Order) Regulations 2017

PART 3

Recognition and execution in the United Kingdom of a European investigation order made in a participating State

CHAPTER 2

General provisions relating to the recognition and execution of a European investigation order

Request by an authority of the issuing State to assist in the execution of a European investigation order

34.—(1) This regulation applies where—

- (a) a European investigation order contains a request for an authority of the issuing State to assist in the execution of the order, pursuant to Article 9(4) of the Directive, and
- (b) the central authority decides to recognise and execute the order, or the part of the order to which the request relates.

(2) The central authority or executing authority must authorise the request unless it considers that permitting the authority of the issuing State to assist would be—

- (a) contrary to a fundamental principle of law, or
- (b) harmful to essential national security interests.

(3) In the case of a person (“P”) authorised under this regulation to assist in the execution of a European investigation order by a chief officer of police for a police area in England and Wales—

- (a) section 88 of the Police Act 1996 (liability for wrongful acts of constables)(**1**) has effect as if—
 - (i) any unlawful conduct in the execution or purported execution of a European investigation order by P were unlawful conduct of a constable under the direction and control of the chief officer, and
 - (ii) subsection (4) of that section applied, in the case of the local policing body maintaining the force for which the chief officer is responsible, to P;
- (b) section 89 of that Act (assaults on constables)(**2**) has effect as if references to a person assisting a constable in the execution of his duty in that section included references to P when assisting in the execution of the European investigation order.

(1) 1996 c. 16; section 88 was amended by sections 102 and 103 of the Police Reform Act 2002 (c. 30) and by paragraph 42 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13). There are other amendments which are not relevant for the purposes of these Regulations.

(2) Section 89 was amended by section 104 of the Police Reform Act 2002. There are other amendments which are not relevant for the purposes of these Regulations.

(4) A person convicted of an offence under subsection (1) of section 89 of the Police Act 1996 as a result of the application of paragraph (3)(b) is liable to imprisonment for a term not exceeding three months, or to a fine, or to both (but is not liable for any other penalty provided for in that subsection).

(5) In the case of a person (“P”) authorised under this regulation to assist in the execution of a European investigation order by the Chief Constable of the Police Service of Northern Ireland—

- (a) section 29 of the Police (Northern Ireland) Act 1998 (liability for wrongful acts of constables)(3) has effect as if any unlawful conduct in the execution or purported execution of a European investigation order by P were unlawful conduct of a constable under the direction and control of the Chief Constable of the Police Service of Northern Ireland;
- (b) section 66 of that Act (assaults on, and obstruction of, constables, etc.) has effect as if references to a person assisting a constable in the execution of his duty in that section included references to P when assisting in the execution of the European investigation order.

(6) On summary conviction of an offence under section 66 of the Police (Northern Ireland) Act 1998 as a result of the application of paragraph (5)(b), a person is liable to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum, or to both (but is not liable on summary conviction for any other penalty provided for in that section).

(7) In the case of a person (“P”) authorised under this regulation to assist in the execution of a European investigation order by the Chief Constable of the Police Service of Scotland—

- (a) section 24 of the Police and Fire Reform (Scotland) Act 2012 (liability for unlawful conduct)(4) has effect as if P were a person falling within subsection (2) of that section;
- (b) section 90 of that Act (assaulting or impeding police) has effect as if the capacities mentioned in subsection (3) of that section included that of P, acting in accordance with authority provided under this regulation.

(8) A person convicted of an offence under section 90 of the Police and Fire Reform (Scotland) Act 2012 as a result of the application of paragraph (7)(b) is liable to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum, or to both (but is not liable for any other penalty provided for in that section).

(9) In the case of a person (“P”) authorised under this regulation to assist in the execution of a European investigation order by the Director of the National Crime Agency—

- (a) paragraph 2 of Schedule 4 to the Crime and Courts Act 2013 (liability of NCA for unlawful acts)(5) has effect as if after sub-paragraph (4) of that paragraph, there were inserted—
 - “(4A) The fourth case is where the unlawful conduct is conduct of a person authorised under regulation 34 of the Criminal Justice (European Investigation Order) Regulations 2017 to assist an NCA officer in the execution of a European investigation order (within the meaning of Part 2 of those Regulations) which occurs when that person is providing, or purporting to provide, such assistance.”;
- (b) where P is assisting in the execution of the European investigation order, paragraph 3 of that Schedule (assaults or obstruction in connection with joint investigation teams) has effect as if P were a member of an NCA-led international joint investigation team (within the meaning of that Act) carrying out functions as a member of that team.

(10) A person convicted of an offence under paragraph 3 of Schedule 4 to the Crime and Courts Act 2013 as a result of the application of paragraph (9)(b) is liable on summary conviction—

(3) 1998 c. 32; section 29 was amended by section 102 of the Police Reform Act 2002 and by paragraph 32 of Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). There are other amendments which are not relevant for the purposes of these Regulations.

(4) 2012 asp 8.

(5) 2013 c. 22.

- (a) in England and Wales, to imprisonment for a term not exceeding three months or to a fine, or to both;
 - (b) in Northern Ireland or Scotland, to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum, or to both;
- but is not liable for any other penalty provided for in paragraph 3 of that Schedule.