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STATUTORY INSTRUMENTS

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**2019 No. 742**

**EXITING THE EUROPEAN UNION  
ARMS AND AMMUNITION  
CRIMINAL LAW  
DANGEROUS DRUGS  
INVESTIGATORY POWERS  
POLICE  
PROCEEDS OF CRIME**

The Law Enforcement and Security  
(Amendment) (EU Exit) Regulations 2019

*Made - - - - 28th March 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1), 69(1), 71(4), 73(5), 84(7), 86(7) and 223(3) and (8) of the Extradition Act 2003<sup>(1)</sup>, and by sections 8(1) and 23(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(2)</sup>.

A draft of these Regulations has been laid before Parliament and approved by a resolution of each House, in accordance with section 223(5) and (6) of the Extradition Act 2003 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

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(1) 2003 c. 41.  
(2) 2018 c. 16.

## PART 1

### Introductory

#### Citation and commencement

1. These Regulations may be cited as the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

#### Extent

2.—(1) Subject to paragraphs (2) and (3), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(2) Any amendment, repeal or revocation made by these Regulations has the same extent within the United Kingdom as the provision to which it relates, except that—

- (a) regulation 107(5) (amendment of the Proceeds of Crime Act 2002<sup>(3)</sup>) extends to England and Wales and Scotland only;
- (b) regulation 107(8) extends to England and Wales only, and
- (c) regulation 109(1) to (3) (amendment of the Criminal Finances Act 2017<sup>(4)</sup>) extends to Northern Ireland only.

(3) Any saving or transitional provision in these Regulations has the same extent within the United Kingdom as the provision to which it relates, except that regulation 72 (saving provision – investigation teams operating in the UK after commencement day) extends to England and Wales, Scotland and Northern Ireland.

#### General interpretation

3. In these Regulations—

“the 1990 Schengen Convention” means the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders<sup>(5)</sup>;

“the CJDP Regulations” means the Criminal Justice and Data Protection (Protocol No 36) Regulations 2014<sup>(6)</sup>;

“commencement day” means the date and time on which these Regulations come into force;

“the Withdrawal Act” means the European Union (Withdrawal) Act 2018.

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(3) [2002 c. 29](#).

(4) [2017 c. 22](#).

(5) OJ L No 239, 23.9.2000, pp. 19-62.

(6) [S.I. 2014/3141](#); as amended by paragraph 380 of Part 2 of Schedule 19 to the Data Protection Act 2018 ([c. 12](#)) and by [S.I. 2014/3191](#) and [2016/992](#).

## PART 2

### Child Pornography

#### Amendment of Council Decision 2000/375/JHA

4.—(1) Council Decision 2000/375/JHA of 29 May 2000 to combat child pornography on the internet is amended as follows.

- (2) In Article 1—
  - (a) in paragraph 1—
    - (i) for “Within the framework of Decision No 276/1999/EC of the European Parliament and of the Council and in” substitute “In”;
    - (ii) for “Member States” substitute “the Secretary of State”;
  - (b) in paragraph 2 omit “, and taking account of the administrative structure of each Member State,”;
  - (c) in paragraph 3 for “Member States” substitute “The Secretary of State”.
- (3) Omit Article 2.
- (4) In Article 3—
  - (a) in the paragraph before sub-paragraph (a)—
    - (i) for “Member States” in the first place where it occurs substitute “The Secretary of State”;
    - (ii) omit the second sentence;
    - (iii) for “they” in the last sentence substitute “the Secretary of State”;
  - (b) in sub-paragraph (c), omit “in accordance with the Council resolution of 17 January 1995 on the lawful interception of telecommunications”.
- (5) In Article 4, for “Member States” substitute “The Secretary of State”.
- (6) Omit Articles 5 to 8.

## PART 3

### Counter-Terrorism

#### Amendment of the Terrorism Act 2000

- 5.—(1) The Terrorism Act 2000(7) is amended as follows.
- (2) In section 21E(8) (disclosures within an undertaking or group etc), in subsections (2)(b) and (4)(b), for “an EEA State” substitute “the United Kingdom or an EEA state”.
  - (3) In section 21F(2)(c)(9) (other permitted disclosures between institutions etc), for “an EEA State” substitute “the United Kingdom or an EEA state”.
  - (4) In section 123(2)(i) (orders and regulations), for “paragraphs 11A, 25A, 41A and” substitute “paragraph”.

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(7) 2000 c. 11.

(8) Section 21E was inserted by S.I. 2007/3398.

(9) Section 21F was inserted by S.I. 2007/3398.

(5) In Schedule 3A(10) (regulated sector and supervisory authorities), in paragraph 1 (business in the regulated sector)—

(a) for sub-paragraph (1)(c), substitute—

“(c) the carrying on of activities by an authorised person (within the meaning of section 31 of the Financial Services and Markets Act 2000) who has permission under Part 4A of that Act to carry out or effect contracts of insurance, where those activities consist of carrying out or effecting contracts of long-term insurance.”;

(b) in sub-paragraph (1)(d), for “(other than a person falling within Article 2 of the Markets in Financial Instruments Directive)” substitute “(other than a person falling within one of the exclusions to the definition of “investment firm” in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544))”;

(c) in sub-paragraph (1)(g), for “an EEA State” substitute “the United Kingdom”;

(d) in sub-paragraph (2)(b), for “an EEA state” substitute “the United Kingdom”;

(e) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (1)(c), “contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).”;

(f) for sub-paragraph (5) substitute—

“(5) For the purposes of sub-paragraph (4)(d) “regulated market” has the meaning given by regulation 3(1) (general interpretation) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692).”;

(g) omit sub-paragraph (6).

(6) In Schedule 4 (forfeiture orders)—

(a) omit paragraphs 11A to 11G, 25A to 25G and 41A to 41G(11) (domestic and overseas freezing orders);

(b) in paragraph 14(2) (enforcement of orders made in designated countries), omit “(other than an overseas freezing order within the meaning of paragraph 11D)”;

(c) in paragraph 28(2) (enforcement of orders made in designated countries), omit “(other than an overseas freezing order within the meaning of paragraph 25D)”;

(d) in paragraph 44(2) (enforcement of orders made in designated countries), omit “(other than an overseas freezing order within the meaning of paragraph 41D)”;

(e) in paragraph 45 (general), in the definition of “restraint order”, in paragraph (c) omit “or an order which is enforceable in England and Wales, Scotland or Northern Ireland by virtue of paragraph 11G, 25G or 41G”.

(7) In Schedule 6 (financial information), in paragraph 6 (financial institution)—

(a) in sub-paragraph (1), for sub-paragraphs (ha) and (i) substitute—

“(ha) an electronic money institution within the meaning of the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2(1)), and

(i) an authorised person (within the meaning of section 31 of the Financial Services and Markets Act 2000) who has permission under Part 4A of that Act to carry out or effect contracts of insurance, when carrying out or effecting any contract of long-term insurance.”;

(10) Schedule 3A was inserted by paragraph 6 of Schedule 2 to the Anti-terrorism, Crime and Security Act 2001 (c. 24).

(11) Paragraphs 11A to 11G, 25A to 25G and 41A to 41G were inserted by paragraphs 3, 5 and 7 of Schedule 4 to the Crime (International Co-operation) Act 2003 (c. 32).

- (b) after sub-paragraph (1A)(12) insert—
  - “(1AA) For the purposes of sub-paragraph (1)(i), “contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).”
- (8) In Schedule 8A(13) (offence under section 58A: supplementary provisions)—
  - (a) in paragraph 1 (introduction), omit sub-paragraph (2);
  - (b) omit paragraph 2 (domestic service providers: extension of liability);
  - (c) in paragraph 3(1) (non-UK service providers: restriction on proceedings) omit “other than the United Kingdom”;
  - (d) in paragraph 7 (interpretation)—
    - (i) in sub-paragraph (1), insert in the relevant place—

““the E-Commerce Directive” means [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market(14);”;
    - (ii) in sub-paragraph (2)—
      - (aa) in the words before paragraph (a), for “the United Kingdom, or in some other EEA state,” substitute “an EEA state”;
      - (bb) in paragraph (a), for “the United Kingdom, or in a particular EEA state,” substitute “a particular EEA state”;
      - (cc) in sub-paragraph (i) of paragraph (a), for “the United Kingdom, or that EEA state,” substitute “that EEA state”.

#### **Transitional provision in relation to amendment of Schedule 4 to the Terrorism Act 2000**

6. Regulation 5(4) and (6) does not apply in relation to a case where, before commencement day, any of the following has occurred—

- (a) the High Court has made a certificate under paragraph 11B(2) or 41B(2) of Schedule 4 to the Terrorism Act 2000 (domestic freezing orders: certification);
- (b) the Secretary of State has received an overseas freezing order under paragraph 11D, 25D or 41D of that Schedule (overseas freezing orders), or
- (c) the Court of Session has made a certificate under paragraph 25B(2) of that Schedule (domestic freezing orders: certification).

#### **Amendment of the Electronic Commerce Directive (Terrorism Act 2006) Regulations 2007**

7.—(1) The Electronic Commerce Directive (Terrorism Act 2006) Regulations 2007(15) are amended as follows.

- (2) Omit regulation 3 (internal market: UK service providers).
- (3) In regulation 4 (internal market: non-UK service providers)—
  - (a) in paragraph (5), omit “and” at the end of paragraph (a) and omit paragraph (b);
  - (b) in paragraph (6), omit “and” at the end of paragraph (a) and omit paragraph (b);

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(12) Sub-paragraph (1A) was inserted by paragraph 6(3) of Schedule 2 to the Anti-terrorism, Crime and Security Act 2001 (c. 24).

(13) Schedule 8A was inserted by Schedule 8 to the Counter-Terrorism Act 2008 (c. 28).

(14) O.J. L 178/1, 17.7.2000.

(15) S.I. 2007/1550.

- (c) in paragraph (8)—
  - (i) omit paragraph (a);
  - (ii) in paragraph (b) omit “other than the United Kingdom”.

## PART 4

### Cross-border Surveillance

#### **Revocation of Council Decisions relating to cross-border surveillance**

**8.**—(1) The following Council Decisions are revoked but only so far as they relate to Articles 40, 42 and 43 of the 1990 Schengen Convention—

- (a) Council [Decision 2000/365/EC](#) of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis;
- (b) Council Decision 2000/586/JHA of 28 September 2000 establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65(2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders;
- (c) Council [Decision 2004/926/EC](#) of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland.

(2) Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders is revoked.

#### **Consequential amendment of the Regulation of Investigatory Powers Act 2000**

**9.** In section 76A of the Regulation of Investigatory Powers Act 2000(**16**) (foreign surveillance operations)—

- (a) in each of subsections (3) and (10)—
  - (i) omit paragraph (a) and the “or” at the end of that paragraph;
  - (ii) in paragraph (b), omit “other”;
- (b) in subsection (11), omit the definition of “the Schengen Convention”.

#### **Transitional provision – surveillance which is not completed before commencement day**

**10.**—(1) Regulations 8 (revocation of Council Decisions relating to cross-border surveillance) and 9 (consequential amendment of the Regulation of Investigatory Powers Act 2000) do not apply to relevant surveillance by a relevant foreign police or customs officer which began but which is not completed before commencement day.

(2) In this Regulation—

“relevant foreign police or customs officer” means a police or customs officer who, in relation to a country or territory other than the United Kingdom, is an officer for the purposes of Article 40 of the 1990 Schengen Convention (police co-operation);

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**(16)** [2000 c. 23](#). Section 76A was inserted by section 83 of the Crime (International Co-operation) Act 2003 ([c. 32](#)), and amended by paragraph 8 of Part 1 of Schedule 6 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 ([asp. 10](#)), by paragraph 26 of Schedule 12 to the Serious Crime Act 2007 ([c. 27](#)), by paragraph 98 of Part 2 of Schedule 8 to the Crime and Courts Act 2013 ([c. 22](#)) and by [S.I.2013/602](#).

“relevant surveillance” means surveillance which is carried out lawfully in the United Kingdom by virtue of section 76A of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations).

## PART 5

### Drug Precursors and Psychoactive Substances

#### CHAPTER 1

##### Drug precursors

#### **Amendment of the Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008**

**11.**—(1) The Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008<sup>(17)</sup> are amended as follows.

(2) In regulation 3 (competent authorities)—

- (a) in paragraph (2) for “, 9(3) and 13” substitute “and 9(3)”;
- (b) in paragraph (4) for “, 9(1) and 10” substitute “and 9(1)”.

#### **Amendment of the Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2008**

**12.**—(1) The Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2008<sup>(18)</sup> are amended as follows.

(2) In regulation 2 (interpretation), omit the definition of “customs territory of the Community” and the word “and” immediately before it.

(3) In regulation 3(2) (competent authorities)—

- (a) after “17” omit “(except references to competent authorities of a third country)”;
- (b) for “26(5) and 32” substitute “and 26(5)”;
- (c) omit paragraph (6).

(4) In regulation 6(2)<sup>(19)</sup> (requirements, offences and penalties: exports), omit “either” and “or other competent authorities at the point of exit from the customs territory of the European Union”.

(5) In paragraph (1) and paragraph (2) of regulation 7 (requirements, offences and penalties: imports)<sup>(20)</sup>, for “customs territory of the European Union” substitute “United Kingdom”.

#### **Amendment of Regulation (EC) 273/2004 of the European Parliament and Council**

**13.**—(1) Council Regulation (EC) 273/2004 on drug precursors is amended as follows.

(2) In Article 1 (scope and objectives) for “for the intra-Union” substitute “in the United Kingdom for the”.

(3) In Article 2 (definitions)—

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<sup>(17)</sup> [S.I. 2008/295](#). Regulation 3(3) and (4) was amended by paragraph 190 of Part 4 of Schedule 8 to the Crime and Courts Act 2013 (c. 22).

<sup>(18)</sup> [S.I. 2008/296](#).

<sup>(19)</sup> “European Union” substituted by [S.I. 2011/1043](#).

<sup>(20)</sup> “European Union” substituted by [S.I. 2011/1043](#).

- (a) in point (a), in the definition of “scheduled substance”, for all the words after “economically viable means” to the end of the definition substitute “medicinal products as defined in regulation 2 (medicinal products) of the Human Medicines Regulations 2012(21) and veterinary medicinal products as defined in regulation 2 of the Veterinary Medicines Regulations 2013(22).”;
  - (b) in point (c), for “Union” in both places substitute “United Kingdom”.
- (4) In Article 3 (requirements for the placing on the market of scheduled substances)—
- (a) in paragraph 2, omit “of the Member State in which they are established”;
  - (b) in paragraph 6, omit “of the Member State in which they are established” in both places;
  - (c) omit paragraph 7;
  - (d) in paragraph 8—
    - (i) for “The Commission shall be empowered to adopt delegated acts in accordance with Article 15a concerning” substitute “The Secretary of State may prescribe by regulations”;
    - (ii) omit sub-paragraph (c).
- (5) In Article 4 (customer declaration)—
- (a) in paragraph 1, for “Union” substitute “United Kingdom”;
  - (b) in paragraph 3, for “Union” substitute “United Kingdom”;
  - (c) for paragraph 4, substitute—

**“4. The Secretary of State may prescribe by regulations requirements and conditions for obtaining and using customer declarations.”.**
- (6) In Article 5 (documentation), for paragraph 7 substitute—
- “7. The Secretary of State may prescribe by regulations requirements and conditions for the documentation of mixtures containing scheduled substances.”.**
- (7) For the second unnumbered paragraph of Article 7 (labelling), substitute—
- “The Secretary of State may prescribe by regulations requirements and conditions for the labelling of mixtures containing scheduled substances.”.**
- (8) In Article 8 (notification of the competent authorities), for paragraph 3 substitute—
- “3. The Secretary of State may prescribe by regulations the requirements and conditions for operators to provide information as referred to in paragraph 2 of this Article including, where relevant, the categories of personal data to be processed for that purpose and the safeguards for processing such personal data.”.**
- (9) In Article 9 (guidelines), in paragraph 1 for “The Commission shall” substitute “The Secretary of State must”.
- (10) Omit Articles 10 (powers and obligations of competent authorities), 11 (cooperation between the Member States and the Commission) and 12 (penalties).
- (11) For Article 13 (communications from Member States) substitute—

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(21) S.I. 2012/1916.

(22) S.I. 2013/2033.



*“Article 13*

*Report to International Narcotics Control Board*

1. To permit the necessary adjustments to the arrangements for monitoring trade in scheduled substances and non-scheduled substances, the Secretary of State must draw up a report annually summarising all relevant information on the implementation of the monitoring measures laid down in this Regulation, in particular as regards the substances used for the illicit manufacture of narcotic drugs or psychotropic substances and methods of diversion and illicit manufacture, and their licit trade.

2. The report mentioned in paragraph 1 must be submitted by the Secretary of State to the International Narcotics Control Board in accordance with article 12(12) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna on 19 December 1988.”.

(12) Omit Article 13a (European database on drug precursors).

(13) In Article 13b (data protection)—

(a) omit paragraph 1;

(b) in paragraph 2, for “Without prejudice to Article 13 of [Directive 95/46/EC](#)” substitute “Without prejudice to the [Data Protection Act 2018\(23\)](#)”;

(c) omit paragraphs 3 and 4.

(14) Omit Articles 14 (implementing acts) and 14a (committee procedure).

(15) In Article 15 (adaptation of annexes), for “The Commission shall be empowered to adopt delegated acts in accordance with Article 15a in order to adapt” substitute “The Secretary of State may make regulations to amend”.

(16) For Article 15a (exercise of the delegation) substitute—

*“Article 15a*

*Regulations*

1. A power of the Secretary of State to make regulations under this Regulation is to be exercised by statutory instrument which may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

2. Regulations may make different provision for different purposes and may include such incidental, supplemental, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.”.

(17) Omit Article 16 (information about measures adopted by Member States).

(18) In Article 18 (entry into force), omit the second unnumbered paragraph.

**Amendment of Council Regulation (EC) 111/2005**

14.—(1) Council Regulation (EC) 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Union and third countries in drug precursors is amended as follows.

(2) In Article 1 for “Union” in both places substitute “United Kingdom”.

(3) In Article 2—

(a) in point (a) in the definition of “scheduled substance”, for all the words after “economically viable means,” substitute “medicinal products as defined in regulation 2 (medicinal

- products) of the Human Medicines Regulations(24) and veterinary medicinal products as defined in regulation 2 of the Veterinary Medicines Regulations 2013(25);”;
- (b) for point (c) substitute—
- “(c) ‘import’ means any entry of scheduled substances having the status of non-domestic goods into the United Kingdom;”;
- (c) for point (d) substitute—
- “(d) ‘export’ means any departure of scheduled substances from the United Kingdom;”;
- (d) in point (e)—
- (i) for “Union” substitute “United Kingdom”;
- (ii) for “customs territory of the Union” substitute “United Kingdom”;
- (e) after point (k) insert—
- “(l) “special Customs procedures” means special Customs procedures within the meaning of section 3 of, and Schedule 2 to, the Taxation (Cross-border Trade) Act 2018(26) and “a special Customs procedure” is to be construed accordingly.”.
- (4) In Article 6—
- (a) in paragraph 1—
- (i) for “Union” substitute “United Kingdom”;
- (ii) omit “of the Member State in which the operator is established”;
- (iii) in the second unnumbered sub-paragraph for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b” substitute “The Secretary of State may make regulations”;
- (b) for paragraph 3 substitute—
- “3. The Secretary of State must prescribe by regulations a model for licences.”.
- (5) In Article 7—
- (a) in paragraph 1—
- (i) for “Union” substitute “United Kingdom”;
- (ii) omit “in the Member State in which the operator is established”;
- (b) in the second unnumbered paragraph, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b” substitute “The Secretary of State may make regulations”.
- (6) In Article 8—
- (a) in paragraph 1—
- (i) for “customs territory of the Union” substitute “United Kingdom”;
- (ii) omit “of control type I or a free warehouse”;
- (b) in paragraph 2—
- (i) for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b” substitute “The Secretary of State may make regulations”;
- (ii) for “customs territory of the Union” substitute “United Kingdom”.
- (7) In Article 9—

(24) S.I.2012/1916.

(25) S.I.2013/2033.

(26) 2018 c. 22.

- (a) in paragraph 1, for “Union” substitute “United Kingdom”;
- (b) in paragraph 2—
  - (i) in the first unnumbered sub-paragraph for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b to determine” substitute “The Secretary of State may set out”;
  - (ii) omit the second unnumbered paragraph.
- (8) In Article 10—
  - (a) for paragraph 1 substitute—

“1. In order to facilitate cooperation between the competent authorities, operators established in the United Kingdom and the chemical industry, in particular as regards non-scheduled substances, the Secretary of State must draw up and update guidelines.”;
  - (b) in paragraph 4 for “the competent authorities of the Member State and the Commission may propose to” substitute “the Secretary of State may”;
  - (c) in paragraph 5—
    - (i) for “Commission may” substitute “Secretary of State may by regulations”;
    - (ii) omit “by means of delegated acts in accordance with Article 30b”.
- (9) In Article 11—
  - (a) in paragraph 1—
    - (i) omit “in the Union”;
    - (ii) for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b of this Regulation to” substitute “The Secretary of State may make regulations”;
  - (b) in the unnumbered sub-paragraph below omit “of the Member State of export”;
  - (c) in paragraph 2—
    - (i) omit “of the Member State concerned”;
    - (ii) for “authority” in the first place where it occurs in the unnumbered sub-paragraph substitute “Secretary of State”;
  - (d) in paragraph 3, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b” substitute “The Secretary of State may make regulations”.
- (10) In Article 12—
  - (a) in paragraph 1—
    - (i) for “customs territory of the Union” substitute “United Kingdom”;
    - (ii) for “in a free zone of control type I or free warehouse” substitute “under a special customs procedure”;
  - (b) in the unnumbered sub-paragraph below, for “suspensive procedure or under a free zone of control type II,” substitute “special customs procedure”;
  - (c) in paragraph 2, omit “of the Member State where the exporter is established”.
- (11) In Article 13, in paragraph 1(d) for “customs territory of the Union” substitute “United Kingdom”.
- (12) In Article 14, in paragraph 1—
  - (a) for “customs territory of the Union” substitute “United Kingdom”;
  - (b) after that paragraph omit the unnumbered paragraph;

- (c) in paragraph 2 and in the unnumbered paragraph after it, for “customs territory of the Union” substitute “United Kingdom”.

(13) For Article 17 substitute—

*“Article 17*

Whenever, under an agreement between the United Kingdom and a third country, exports are not to be authorised unless an import authorisation has been issued by the competent authorities of that third country for the substances in question, the competent authorities in the United Kingdom shall satisfy themselves as to the authenticity of such import authorisation, if necessary by requesting confirmation from the competent authority of the third country.”.

(14) In Article 18, for “customs territory of the Union” substitute “United Kingdom”.

(15) In Article 19, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b to” substitute “The Secretary of State may”.

(16) In Article 20—

(a) in the first unnumbered paragraph—

- (i) for “Union” substitute “United Kingdom”;
- (ii) omit “of the Member State where the importer is established”;

(b) in the second unnumbered paragraph—

- (i) before “stored in a free zone” insert “or”;
- (ii) omit “of control type I or a free warehouse, or placed under the external Union transit procedure”.

(17) In Article 22—

- (a) in the first unnumbered paragraph for “customs territory of the Union” substitute “United Kingdom”;
- (b) omit the last paragraph.

(18) In Article 25, for “customs territory of the Union” substitute “United Kingdom”.

(19) In Article 26—

(a) in paragraph 1—

- (i) omit “of each Member State”;
- (ii) for “customs territory of the Union” substitute “United Kingdom”;

(b) omit paragraph 3;

(c) in paragraph 3a—

- (i) omit “of each Member State”;
- (ii) for “customs territory of the Union” substitute “United Kingdom”;
- (iii) omit the first unnumbered sub-paragraph;

(d) omit paragraph 3b;

(e) omit paragraph 4.

(20) Omit Chapter IV.

(21) In Article 28—

- (a) for “Commission shall be empowered to lay down, where necessary, by means of implementing acts, measures” substitute “Secretary of State may by regulations make provision”;

(b) for “Union” substitute “United Kingdom”;

(c) omit the last sentence.

(22) Omit Article 30.

(23) In Article 30a, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 30b of this Regulation in order to adapt” substitute “The Secretary of State may by regulations make provision to amend”.

(24) For Article 30b substitute—

*“Article 30b*

A power of the Secretary of State to make regulations under this Regulation is to be exercisable by statutory instrument which may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. Regulations may make different provision for different purposes and may include such incidental, supplemental, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.”.

(25) Omit Article 31.

(26) For Article 32 substitute—

*“Article 32*

The Secretary of State must draw up a report annually summarising all relevant information on the implementation of the monitoring measures laid down in this Regulation, in particular as regards the substances used for the illicit manufacture of narcotic drugs or psychotropic substances and methods of diversion and illicit manufacture, and their licit trade. The report must be submitted by the Secretary of State to the International Narcotics Control Board in accordance with Article 12(12) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna on 19 December 1988.”.

(27) Omit Article 32a.

(28) In Article 33—

(a) in paragraph 1, omit “in the Member States”;

(b) omit paragraph 2;

(c) omit paragraph 5.

(29) In Article 35, omit the third unnumbered paragraph.

**Amendment of Commission Delegated Regulation (EU) 2015/1011**

**15.**—(1) Commission Delegated Regulation (EU) 2015/1011 of 24 April 2015 supplementing Regulation (EC) No 273/2004 of the European Parliament and of the Council on drug precursors and Council Regulation (EC) 111/2005 laying down rules for the monitoring of trade between the Union and third countries in drug precursors, and repealing Commission Regulation (EC) 1277/2005 is amended as follows.

(2) In Article 2 (definitions), after the definition of “business premises”, add as an unnumbered paragraph—

““Special Customs procedures” means special Customs procedures within the meaning of section 3 of, and Schedule 2 to, the Taxation (Cross-border Trade) Act 2018 and “a special Customs procedure” is to be construed accordingly.”.

(3) In Article 3 (conditions for granting licences), in paragraph 7 for “Union” substitute “United Kingdom”.

(4) In Article 9 (information required to monitor trade), in paragraph 2, in sub-paragraph (b), for “a free zone of control type II, placed into a suspensive procedure,” substitute “a special customs procedure”.

(5) In Article 10 (conditions for determining the lists of the countries of destination for exports of scheduled substances of Categories 2 and 3)—

- (a) in paragraph (a) for “Union” substitute “United Kingdom”;
- (b) in the last sentence for “Commission” substitute “Home Office”.

(6) In Article 12 (criteria for determining simplified procedures for export authorisations), in paragraph 1, for “Union” substitute “United Kingdom”.

(7) Omit Article 13 (conditions and requirements concerning the information to be provided on the implementation of the monitoring measures).

(8) After Article 15 (entry into force and application) omit the unnumbered paragraph.

(9) In Annex II (form for declaration on the entry of scheduled substances)—

- (a) in the form—
  - (i) omit the European Union flag;
  - (ii) in the heading, for “European Union” substitute “United Kingdom”;
  - (iii) in the text below the heading, for “customs territory of the Union” substitute “United Kingdom”;
- (b) in the notes to the form, in the paragraphs under the heading “Personal data protection”—
  - (i) omit the first unnumbered paragraph;
  - (ii) omit the second unnumbered paragraph;
  - (iii) in the third unnumbered paragraph, for “Union” in both places substitute “United Kingdom”;
  - (iv) in the fourth unnumbered paragraph omit “national” and the second sentence and the hyperlink immediately after it;
  - (v) in the fifth unnumbered paragraph for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;
  - (vi) in the sixth unnumbered paragraph for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
  - (vii) omit from the tenth unnumbered paragraph to the end of the notes.

(10) In Annex III (form for multilateral chemical reporting notification)—

- (a) in the form, omit the flag of the European Union;
- (b) in the notes to the form, in the paragraphs under the heading “Personal data protection”—
  - (i) omit the first unnumbered paragraph;
  - (ii) omit the second unnumbered paragraph;
  - (iii) in the third unnumbered paragraph for “Union” in both places substitute “United Kingdom”;
  - (iv) in the fourth unnumbered paragraph omit “authority” and the second sentence and hyperlink immediately after it;
  - (v) in the fifth unnumbered paragraph for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;

- (vi) in the sixth unnumbered paragraph for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
- (vii) omit from the tenth unnumbered paragraph to the end of the notes.

### **Amendment of Commission Implementing Regulation (EU) 2015/1013**

**16.**—(1) Commission Implementing Regulation (EU) 2015/1013 of 25 June 2015 laying down rules in respect of Regulation (EC) No 273/2004 of the European Parliament and of the Council on drug precursors and of Council Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Union and third countries in drug precursors is amended as follows.

(2) In Article 3 (licence granting procedure), in paragraph 2, for “Authorised Economic Operator” to the end of that paragraph substitute “Authorised Economic Operator for customs simplification (AEOC), to the extent they are relevant for the examination of the conditions for granting a licence.”.

(3) In the unnumbered paragraph after paragraph 2, for “AEO” substitute “AEOC”.

(4) In Article 10 (information required to monitor trade), in paragraph 1 and 2 for “as prescribed by the Member State concerned” substitute “as specified by the Secretary of State”.

(5) In Article 11 (export and import authorisations)—

(a) in paragraph 2, for “customs territory of the Union” substitute “United Kingdom”;

(b) in paragraph 3, for “customs territory of the Union” substitute “United Kingdom”;

(c) in paragraph 5—

(i) omit the first sentence;

(ii) in the next sentence, for “it” in the first place where it occurs substitute “an authorisation”;

(d) in paragraph 6—

(i) for “A Member State” substitute “The Secretary of State”;

(ii) omit “itself”;

(iii) for “it” substitute “the Secretary of State”;

(e) omit paragraph 7;

(f) in paragraph 9, omit the second sentence.

(6) Omit Article 12 (listing of operators and users in the European database on drug precursors).

(7) In the text following Article 13 (entry into force and application), omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(8) In Annex I (form for licence)—

(a) in the form—

(i) omit the European Union flag;

(ii) in the heading to the form, for “European Union” substitute “United Kingdom”;

(b) in the notes to the form—

(i) omit paragraph 4;

(ii) in the paragraphs under the heading “Personal data protection”—

(aa) omit the first unnumbered paragraph;

(bb) omit the second unnumbered paragraph;

(cc) in the third unnumbered paragraph for “Union” in both places substitute “United Kingdom”;

- (dd) in the fourth unnumbered paragraph omit “national” and the second sentence and the hyperlink immediately after it;
  - (ee) in the fifth unnumbered paragraph for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;
  - (ff) in the sixth unnumbered paragraph for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
  - (gg) in the tenth unnumbered paragraph omit the second sentence and the hyperlink immediately after it;
  - (hh) omit the eleventh unnumbered paragraph.
- (9) In Annex II (registration form)—
- (a) in the form—
    - (i) omit the European Union flag;
    - (ii) omit the heading “European Union”;
  - (b) in the notes to the form—
    - (i) omit paragraph 4;
    - (ii) in the paragraphs under the heading “Persona data protection”—
      - (aa) omit the first unnumbered paragraph;
      - (bb) omit the second unnumbered paragraph;
      - (cc) in the third unnumbered paragraph, for “Union” in both places substitute “United Kingdom”;
      - (dd) in the fourth unnumbered paragraph, omit “national” and the second sentence and the hyperlink immediately after it;
      - (ee) in the fifth unnumbered paragraph, for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;
      - (ff) in the sixth unnumbered paragraph, for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
      - (gg) in the tenth unnumbered paragraph, omit the second sentence;
      - (hh) omit the eleventh unnumbered paragraph.
- (10) In Annex III (forms for grant of export authorisation)—
- (a) in each of the forms—
    - (i) in the heading, for “EUROPEAN UNION” substitute “UNITED KINGDOM”;
    - (ii) in box 22—
      - (aa) for “EU” substitute “UK”;
      - (bb) for “customs territory of the Union” substitute “United Kingdom”;
  - (b) in the notes to the forms—
    - (i) omit paragraph 1;
    - (ii) in paragraph 2, for “customs territory of the Union” substitute “United Kingdom”;
    - (iii) in paragraph 7, omit “Member State.”;
    - (iv) in paragraph 14, in the second sub-paragraph, omit “, according to the modalities provided for by the Member State concerned,” and “in the Member States”;



- (v) in the paragraphs under the heading “Personal data protection”—
  - (aa) omit the first unnumbered paragraph;
  - (bb) omit the second unnumbered paragraph;
  - (cc) in the third unnumbered paragraph, for “Union” in both places substitute “United Kingdom”;
  - (dd) in the fourth unnumbered paragraph, omit “national” and the second sentence and the hyperlink immediately after it;
  - (ee) in the fifth unnumbered paragraph, for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;
  - (ff) in the sixth unnumbered paragraph, for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
  - (gg) in the tenth unnumbered paragraph, omit the second sentence;
  - (hh) omit the eleventh unnumbered paragraph.
- (11) In Annex IV (forms for grant of import authorisation)—
  - (a) in each of the forms—
    - (i) for the heading “EUROPEAN UNION” substitute “UNITED KINGDOM”;
    - (ii) in box 9, for “customs territory of the Union” substitute “United Kingdom”;
  - (b) in the notes to the forms—
    - (i) omit paragraph 1;
    - (ii) in paragraph 2, for “customs territory of the Union” substitute “United Kingdom”;
    - (iii) in paragraph 7, omit “the Member State and”;
    - (iv) in the second subparagraph under paragraph 12, omit “, according to the modalities provided for by the Member State concerned,” and “in the Member States”;
    - (v) in the paragraphs under the heading “Personal data protection”—
      - (aa) omit the first unnumbered paragraph;
      - (bb) omit the second unnumbered paragraph;
      - (cc) in the third unnumbered paragraph, for “Union” in both places substitute “United Kingdom”;
      - (dd) in the fourth unnumbered paragraph, omit “national” and the second sentence and the hyperlink immediately after it;
      - (ee) in the fifth unnumbered paragraph, for “Union” in both places substitute “United Kingdom” and for “the Commission and the competent authorities of the Member States” substitute “competent authorities”;
      - (ff) in the sixth unnumbered paragraph, for “or the national laws implementing Directive 95/46/E” substitute “or the Data Protection Act 2018”;
      - (gg) in the tenth unnumbered paragraph, omit the second sentence;
      - (hh) omit the eleventh unnumbered paragraph.

## CHAPTER 2

## Psychoactive substances

**Amendment of the Psychoactive Substances Act 2016**

17.—(1) The Psychoactive Substances Act 2016(27) is amended as follows.

(2) In Schedule 1 (exempted substances), in paragraph 7 (food)—

(a) before the definition of “food” insert—

““enactment” includes—

- (a) an enactment contained in subordinate legislation;
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;”;

(b) in paragraph (b) of the definition of “prohibited ingredient”, for “by an EU instrument” substitute “by an enactment”.

(3) In Schedule 4 (providers of information society services)—

- (a) omit paragraph 1 (domestic service providers: extension of liability);
- (b) in paragraph 2(3) (non-UK service providers: restriction on institution of proceedings), in the definition of “non-UK service provider” omit “other than the United Kingdom”;
- (c) omit paragraph 6 (domestic service providers: extension of liability);
- (d) in paragraph 7 (non-UK service providers: restriction on including terms in prohibition notice or order)—
  - (i) in sub-paragraph (5), omit paragraph (b) and the “and” immediately preceding that paragraph;
  - (ii) omit sub-paragraph (6);
  - (iii) in sub-paragraph (7)—
    - (aa) omit “or notification”;
    - (bb) for “referred to in sub-paragraph (6)(b)” substitute “for the order or variation”;
  - (iv) in sub-paragraph (8), in the definition of “non-UK service provider” omit “other than the United Kingdom”;
- (e) in paragraph 8(1) (protections for service providers of intermediary services), at the end insert “, reading those Articles as if the requirements imposed on a Member State were imposed on the person giving the notice or the court making the order.”;
- (f) in paragraph 8(2), for “covered by” substitute “falling within the descriptions contained in”;
- (g) in paragraph 11(1) (establishment of a service provider)—
  - (i) in the words before paragraph (a), for “in a particular part of the United Kingdom, or in a particular EEA state,” substitute “in a particular EEA state”;

- (ii) in paragraph (a), for “that part of the United Kingdom, or that EEA state,” substitute “that EEA state”.

#### **Revocation of Regulation (EC) No 1920/2006**

18. Regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12 December 2006 on the European Monitoring Centre for Drugs and Drug Addiction (recast) is revoked.

#### **Revocation of Regulation (EU) 2017/2101**

19. Regulation (EU) 2017/2101 of the European Parliament and of the Council of 15 November 2017 amending Regulation (EC) No 1920/2006 as regards information exchange on, and an early warning system and risk assessment procedure for, new psychoactive substances is revoked.

## **PART 6**

### **Eurojust**

#### **Interpretation**

20. In this Part, “Eurojust Council Decision” means Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime.

#### **Revocation of Eurojust Council Decision**

21. Subject to regulation 22 (saving provisions – personal data received before commencement day), the Eurojust Council Decision is revoked.

#### **Saving provisions – information received before commencement day**

22.—(1) Article 22(1) of the Eurojust Council Decision (data security) continues to have effect in relation to personal data provided by Eurojust to the United Kingdom before commencement day with the following modifications—

- (a) omit “Eurojust and,”;
- (b) the reference to “each Member State” is to be treated as a reference to “any person or body having functions of a public nature that received personal data provided by Eurojust prior to commencement day, or successor thereto,”.

(2) Article 25 of the Eurojust Council Decision (confidentiality) continues to have effect with the following modifications—

- (a) in paragraph 1, the reference to “the national members” is to be treated as a reference to “any former national member of the United Kingdom”;
- (b) in paragraph 4, after “all information received by Eurojust”, add “before commencement day”.

## PART 7

### European Agency for Law Enforcement Training (CEPOL)

#### **Revocation of The European Police College (Immunities and Privileges) Order 2004**

23. The European Police College (Immunities and Privileges) Order 2004(28) is revoked.

#### **Revocation of Council Decision 2005/681/JHA**

24. Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA is revoked.

## PART 8

### European Criminal Record Information System (ECRIS)

#### CHAPTER 1

Amendment of legislation extending to England and Wales, Scotland and Northern Ireland

#### **Interpretation**

25. In this Chapter—

“the Framework Decision” means Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States;

“UK Central Authority” means the authority designated as the “central authority” for the United Kingdom in regulation 63 of the CJDP Regulations as in force immediately before commencement day.

#### **Revocation of Part 6 of the CJDP Regulations**

26. Subject to regulations 27 (saving provisions - information transmitted to the UK Central Authority before commencement day) and 28 (transitional provisions - requests made before commencement day for information from the UK Central Authority), Part 6 of the CJDP Regulations (exchange of information relating to criminal convictions) is revoked.

#### **Saving provisions – information transmitted to the UK Central Authority before commencement day**

27.—(1) This regulation applies in relation to information transmitted to the UK Central Authority before commencement day in accordance with Article 4(2), (3) or (4) of the Framework Decision (obligations of the convicting Member State) or Article 7(1), (2) or (4) of the Framework Decision (reply to a request for information on convictions).

(2) The following provisions of the CJDP Regulations continue to have effect in relation to information to which this regulation applies, subject to the modifications set out in paragraph (3)—

- (a) regulation 62 (interpretation);
- (b) regulation 63 (designation as a “central authority”);

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(28) [S.I. 2004/3334](#). Article 13 was amended by [S.I. 2011/1043](#). [S.I. 2004/3334](#) has not been commenced.

- (c) regulation 68 (replies to a request for information by a third country);
  - (d) regulation 72 (conditions for the use of personal data).
- (3) The modifications are that—
- (a) the definition of “central authority” in regulation 62 is to be read as if, after “Framework Decision”, there were inserted “or, for the United Kingdom, the authority designated under regulation 63”;
  - (b) the heading of regulation 68 is to be read as if the words “under Article 6 of the Framework Decision” were omitted.
- (4) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued to be a Member State.

### **Transitional provisions – requests made before commencement day for information from the UK Central Authority**

- 28.**—(1) This regulation applies where—
- (a) a request referred to in regulation 67(1) or (2) (replies to a request for information under Article 6 of the Framework Decision in relation to criminal proceedings and proceedings other than criminal proceedings) or regulation 69 (replies to a request for information under Article 6 of the Framework Decision to a central authority of a member State other than the member State of the person’s nationality) of the CJPD Regulations was made to the UK Central Authority before commencement day, and
  - (b) the requested information was not transmitted before commencement day.
- (2) The following provisions of the CJPD Regulations continue to have effect in relation to that request, so far as relevant, subject to the modification set out in paragraph (3)—
- (a) regulation 62 (interpretation);
  - (b) regulation 63 (designation as a “central authority”);
  - (c) regulation 67;
  - (d) regulation 69.
- (3) The modification is that the definition of “central authority” in regulation 62 is to be read as if, after “Framework Decision”, there were inserted “or, for the United Kingdom, the authority designated under regulation 63”.
- (4) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued to be a member State.

### **Revocation of Council Decision 2009/316/JHA**

**29.** Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA is revoked.

## CHAPTER 2

Amendment of legislation extending to England and Wales and Northern Ireland only

### **Interpretation**

**30.** In this Chapter, “the 2013 Regulations” means the Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013(**29**).

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(29) [S.I. 2013/2945](#).

**Revocation of the Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013**

31. Subject to regulation 32 (transitional provision – requests made before commencement day), the 2013 Regulations 2013 are revoked.

**Transitional provision – requests made before commencement day**

32.—(1) This regulation applies where —

- (a) a request referred to in regulation 3(1) of the 2013 Regulations (exchange of conviction and disqualification information) was made before commencement day, and
- (b) the requested information was not transmitted before commencement day.

(2) The 2013 Regulations continue to have effect in relation to the request, subject to the modification set out in paragraph (3).

(3) The modification is that regulation 3(1) of the 2013 Regulations is to be read as if the words “in accordance with the procedures set out in the Framework Decision” were omitted.

## PART 9

### European Judicial Network

**Revocation of Council Decision 2008/976/JHA**

33. Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network is revoked.

## PART 10

### EU-LISA

**Revocation of Regulation (EU) 2018/1726**

34. Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 is revoked.

**Revocation of Council Decisions 2010/779/EU and (EU) 2018/1600**

35. The following Council Decisions are revoked—

- (a) Council [Decision 2010/779/EU](#) of 14 December 2010 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* relating to the establishment of a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice;
- (b) Council Decision (EU) 2018/1600 of 28 September 2018 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* relating to the establishment of a European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA).

## PART 11

### Europol

#### Interpretation

**36.** In this Part—

“Europol” means the European Union Agency for Law Enforcement Cooperation, as established by the Europol Regulation;

“Europol Regulation” means Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.

#### Revocation of the Europol Regulation

**37.** Subject to regulation 40 (saving provisions – information provided before commencement day), the Europol Regulation is revoked.

#### Revocation of Europol Council Decisions

**38.** The following Council Decisions are revoked in so far as they are retained EU law—

- (a) Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol);
- (b) Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol’s relations with partners, including the exchange of personal data and classified information;
- (c) Council Decision 2009/935/JHA of 30 November 2009 determining the list of third States and organisations with which Europol shall conclude agreements;
- (d) Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files;
- (e) Council Decision 2009/968/JHA of 30 November 2009 adopting the rules on the confidentiality of Europol information.

#### Revocation of Commission Decision (EU) 2017/388

**39.** Commission Decision (EU) 2017/388 of 6 March 2017 confirming the participation of the United Kingdom of Great Britain and Northern Ireland in Regulation (EU) 2016/794 of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) is revoked.

#### Saving provisions – information provided before commencement day

**40.—(1)** The following provisions of the Europol Regulation continue to have effect in relation to information provided by Europol to the United Kingdom before commencement day, with the modifications specified below—

- (a) paragraph 3 of Article 20 (access by Member States and Europol’s staff to information stored by Europol), with the modification that the reference to “Member States” is to be treated as a reference to “any person or body having functions of a public nature that received information provided by Europol prior to commencement day, or successor thereto,”;

- (b) for paragraph 7 of Article 23 (common provisions), substitute—
- “7. Onward transfers of personal data held by Europol by any person or body having functions of a public nature that received information provided by Europol prior to commencement day, or successor thereto, shall be prohibited, unless Europol has given its prior explicit authorisation.”;
- (c) Article 30 (processing of special categories of personal data and of different categories of data subjects), with the following modifications—
- (i) omit paragraphs 3 and 6;
  - (ii) in paragraph 4, omit “or Union”;
  - (iii) in paragraph 5, the reference to “Chapter V” is to be treated as a reference to “national law”;
- (d) Article 32 (security of processing), with the following modifications—
- (i) omit paragraph 1;
  - (ii) in paragraphs 2 and 3, omit “Europol and”;
  - (iii) in paragraph 2, the reference to “each Member State” is to be treated as a reference to “any person or body having functions of a public nature that received information provided by Europol prior to commencement day, or successor thereto.”;
  - (iv) in paragraph 3, the reference to “Member States” is to be treated as a reference to “any person or body having functions of a public nature that received information provided by Europol prior to commencement day, or successor thereto.”.
- (2) Article 42 of the Europol Regulation (supervision by the national supervisory authority) continues to have effect, with the modifications specified below—
- (a) for paragraph 1, substitute—
- “1. The Information Commissioner’s Office shall have the task of monitoring independently, in accordance with national law, the permissibility of the transfer, the retrieval and any communication to Europol before the date on which regulation 37 of the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (revocation of the Europol Regulation) commenced of personal data by the United Kingdom, and of examining whether such transfer, retrieval or communication violates the rights of the data subjects concerned. For that purpose, the Information Commissioner’s Office shall have access to data submitted by the United Kingdom to Europol in accordance with the relevant national procedures.”;
- (b) omit paragraphs 2 and 3;
- (c) for paragraph 4, substitute—
- “4. Any person shall have the right to request the Information Commissioner’s Office to verify the legality of any transfer or communication to Europol before the date on which regulation 37 of the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (revocation of the Europol Regulation) commenced of data concerning him or her in any form and of access to those data by the United Kingdom. That right shall be exercised in accordance with national law.”.

### Revocation of additional legislation

41. The following Orders are revoked—

- (a) The European Police Office (Legal Capacities) Order 1996<sup>(30)</sup>;

<sup>(30)</sup> S.I. 1996/3157. S.I. 1997/2973 provides for the revocation of S.I. 1996/3157 but neither S.I. has been commenced.



- (b) The European Communities (Immunities and Privileges of the European Police Office) Order 1997<sup>(31)</sup>;
- (c) The European Communities (Immunities and Privileges of the European Police Office) (Amendment) Order 2004<sup>(32)</sup>.

## PART 12

### Exchange of Information and Intelligence between Law Enforcement Authorities and Disclosure in Foreign Proceedings

#### CHAPTER 1

##### Exchange of information and intelligence between law enforcement authorities

#### **Introductory**

**42.**—(1) In this Part, the expressions which are defined in regulation 53 of the CJDP Regulations (interpretation) have the meanings given in that regulation (disregarding for this purpose the revocation made by regulation 43 (revocation of Part 5 of the CJDP Regulations)).

(2) Regulation 53 of the CJDP Regulations continues to apply for the purposes of any provision of Part 5 of the CJDP Regulations<sup>(33)</sup> (exchange of information and intelligence between law enforcement authorities) which is continued by this Part.

#### **Revocation of Part 5 of the CJDP Regulations**

**43.** Subject to regulations 44 to 47 (transitional and saving provisions), Part 5 of the CJDP Regulations is revoked.

#### **Transitional provision – requests for information or intelligence received before commencement day**

**44.**—(1) This regulation applies where—

- (a) a request referred to in regulation 54(1) of the CJDP Regulations (duty to provide information or intelligence) was made to a UK competent authority before commencement day, and
- (b) the information or intelligence was not provided before commencement day.

(2) The following provisions of the CJDP Regulations continue to have effect in relation to the request, subject to the modification in paragraph (3)—

- (a) regulation 54;
- (b) regulation 58(2) and (6) (requirements for the sharing of information or intelligence);
- (c) regulation 59 (reasons to withhold information or intelligence).

(3) The modifications are that—

- (a) paragraph (2) of regulation 58 is to be read as if the words “in accordance with the Framework Decision” were omitted;

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<sup>(31)</sup> [S.I. 1997/2973](#). [S.I. 2004/3330](#) provides for the amendment of [S.I. 1997/2973](#) but neither S.I. has been commenced.

<sup>(32)</sup> [S.I. 2004/3330](#).

<sup>(33)</sup> Part 5 was amended by [S.I. 2014/3191](#).

(b) paragraphs (3) and (4) of regulation 59 (reasons to withhold information or intelligence) are to be read as if the words “under the Framework Decision” in each paragraph were omitted.

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

#### **Saving provision – information and intelligence supplied before commencement day**

**45.**—(1) This regulation applies in relation to information or intelligence supplied to a UK competent authority before commencement day in accordance with the Framework Decision.

(2) The following provisions of the CJDP Regulations continue to have effect in relation to the information or intelligence, subject to the modification in paragraph (3)—

- (a) regulation 58(1), (4) and (5) (requirements for the sharing of information or intelligence);
- (b) regulation 59 (reasons to withhold information or intelligence), in so far as it applies for the purposes of regulation 58(5).

(3) The modification is that paragraphs (3) and (4) of regulation 59 are to be read as if the words “under the Framework Decision” in each paragraph were omitted.

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

#### **Saving provision – representations concerning use of information or intelligence**

**46.**—(1) This regulation applies where the UK competent authority has imposed conditions on the use of information or intelligence under regulation 58(2) of the CJDP Regulations (requirements for the sharing of information or intelligence), whether before commencement day or (in a case to which regulation 44 (transitional provision) applies) on or after commencement day.

(2) Regulation 58(3) continues to have effect with the omission of sub-paragraph (b) in relation to the use of the information or intelligence.

#### **Saving provision – information obtained by a UK member of an international joint investigation team**

**47.**—(1) This regulation applies in relation to information referred to in regulation 61(2) of the CJDP Regulations (joint investigation teams) which was lawfully obtained by a UK member (within the meaning of that regulation) before commencement day.

(2) Regulation 61 of the CJDP Regulations continues to have effect in relation to the information.

(3) The provision referred to in paragraph (2) is to be construed as if the United Kingdom continued to be a member State.

## CHAPTER 2

### Disclosure in foreign proceedings.

#### **Amendment of the Anti-terrorism, Crime and Security Act 2001**

**48.** In section 18(4)(b) of the Anti-terrorism, Crime and Security Act 2001<sup>(34)</sup> (restriction on disclosure of information for overseas purposes), for “an EU obligation” substitute “a retained EU obligation”.

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(34) 2001 c. 24. Section 18 was amended by [S.I. 2011/1043](#).

## PART 13

### Explosive Precursors

#### **Amendment of the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014**

**49.**—(1) The Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014<sup>(35)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “EEA State”;
- (b) omit the definition of “member State”;
- (c) in the definition of “the Precursors Regulation” omit “, as amended from time to time”.

(3) In regulation 12 (supply of tier 1 substances)—

- (a) in paragraph (5) for “another” substitute “a”;
- (b) in paragraph (6)(b) for “another” substitute “a”.

(4) In regulation 13(2)(c) (supply of tier 2 substances), for “another” substitute “a”.

(5) In regulation 14(1)(b) (supply of tier 1 substances for despatch or export: consent), for “another” substitute “a”.

(6) In regulation 18(1) (application of enforcement provisions in the 1978 Order), after “competent authority” insert “, the United Kingdom”.

(7) In regulation 24(1)(c) (guidance), omit “(incorporating any guidance issued by the European Commission in accordance with those Articles)”.

#### **Amendment of the Control of Poisons and Explosives Precursors Regulations 2015**

**50.**—(1) The Control of Poisons and Explosives Precursors Regulations 2015<sup>(36)</sup> are amended as follows.

(2) In regulation 2(3) (supplies of substances involving despatch to Northern Ireland or export from the UK: modification of section 3A of the Act), for “another member State” substitute “a member State”.

#### **Amendment of Regulation (EU) No 98/2013**

**51.**—(1) Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors is amended as follows.

(2) In Article 1 (subject matter), omit the second paragraph.

(3) In Article 2 (scope), for paragraph 1 substitute—

“1. This Regulation applies—

- (a) in England and Wales and Scotland, in relation to the substances listed in Part 1 (regulated explosives precursors) and Part 3 (reportable explosives precursors) of Schedule 1A to the Poisons Act 1972<sup>(37)</sup>, and to mixtures and substances containing them;

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<sup>(35)</sup> S.R. 2014 No. 224.

<sup>(36)</sup> S.I. 2015/966.

<sup>(37)</sup> 1972 c. 66. Schedule 1A was inserted by paragraph 16 of Schedule 21 to the Deregulation Act 2015 (c. 20), and Parts 1 and 3 were amended by S.I. 2018/451.

- (b) in Northern Ireland, in relation to the substances listed in the Annexes, and to mixtures and substances containing them.
- 1A.** In relation to England and Wales and Scotland, any reference in this Regulation to—
- (a) “the Annexes” is to be read as a reference to Parts 1 and 3 of Schedule 1A to the Poisons Act 1972;
  - (b) “Annex I” is to be read as a reference to Part 1 of Schedule 1A to that Act;
  - (c) “Annex II” is to be read as a reference to Part 3 of Schedule 1A to that Act.”.
- (4) In Article 3(5) (definitions), for “a Member State whether from another Member State or from a third country” substitute “the United Kingdom”.
- (5) In Article 4 (making available, introduction, possession and use)—
- (a) in paragraph 2—
    - (i) for “a Member State” substitute “the Secretary of State”;
    - (ii) for “a competent authority of the Member State” substitute “the Secretary of State”;
  - (b) in paragraph 3, for “a Member State” substitute “the Secretary of State”;
  - (c) omit paragraph 4;
  - (d) omit paragraph 5;
  - (e) for paragraph 6 substitute—
 

“6. Where a member of the general public intends to introduce a restricted explosives precursor into the territory of the United Kingdom, that person shall obtain and, if requested present to the Secretary of State, a licence issued in accordance with rules laid down in Article 7.”;
  - (f) in paragraph 7, for “the Member State” to the end, substitute “the Secretary of State”.
- (6) In Article 6 (free movement)—
- (a) for “Without prejudice to the second paragraph of Article 1 and to Article 13, and unless” substitute “Unless”;
  - (b) for “or in other legal acts of the Union, Member States” substitute “the Secretary of State”.
- (7) In Article 7 (licences)—
- (a) in paragraph 1—
    - (i) for “Each Member State” to “restricted explosives precursors” substitute “The Secretary of State”;
    - (ii) for “competent authority of the Member State” substitute “Secretary of State”;
  - (b) in paragraph 2, for “competent authority” in both places where it occurs substitute “Secretary of State”;
  - (c) in paragraph 3, for “competent authorities” substitute “Secretary of State”;
  - (d) in paragraph 4, for “competent authority” substitute “Secretary of State”;
  - (e) omit paragraph 5;
  - (f) for paragraph 6 substitute—
 

“6. Licences granted by the competent authorities of a Member State or of any other country may be recognised in the United Kingdom.”.
- (8) In Article 8(3) (registration of transactions), for “competent authorities” substitute “Secretary of State”.
- (9) In Article 9 (reporting of suspicious transactions, disappearances and thefts)—

- (a) in paragraph 2, for “Each Member State” substitute “The Secretary of State” and omit “national”;
  - (b) in paragraph 3, for “the national contact point of the Member State where the transaction was concluded or attempted” substitute “a contact point established under Article 9(2)”;
  - (c) in paragraph 4, for “the national contact point of the Member State” substitute “a contact point established under Article 9(2)”;
  - (d) in paragraph 5—
    - (i) for the first sentence substitute “The Secretary of State shall draw up guidelines to assist the chemical supply chain.”;
    - (ii) for “The Commission shall update” substitute “The Secretary of State shall update”;
  - (e) in paragraph 6, for “competent authorities”, in both places where it occurs, substitute “Secretary of State”.
- (10) In Article 10 (data protection)—
- (a) for the first reference to “Member States” substitute “The Secretary of State”;
  - (b) for the second reference to “Member States” substitute “the Secretary of State”;
  - (c) for “Articles 8 and 17” substitute “Article 8”.
- (11) Omit Article 11 (penalties).
- (12) For Article 12 (amendments to the annexes) substitute—

## *“Article 12*

### *Amendments to the Annexes*

1. In relation to Northern Ireland, the Secretary of State may by regulations amend the Annexes (whether to add, vary or remove a substance or concentration limit or make any other change).
  2. In determining the distribution of substances as between Annex I and Annex II, the Secretary of State must have regard to the desirability of restricting Annex II to substances that meet each of the following criteria—
    - (a) they are in common use, or are likely to come into common use, for purposes other than the treatment of human ailments, and
    - (b) it is reasonably necessary to include them in Annex II if members of the general public are to have adequate facilities for obtaining them.
  3. The power to make regulations under paragraph 1 includes power—
    - (a) to make different provision for different purposes,
    - (b) to make consequential, incidental or supplemental provision, and
    - (c) to make transitional, transitory or saving provision.
  4. The power to make regulations under paragraph 1 is exercisable by statutory instrument.
  5. An instrument containing regulations made under paragraph 1 is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (13) Omit Articles 13 to 18.
- (14) In the text following Article 19 (entry into force), omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

## PART 14

### Extradition

#### Interpretation

**52.** In this Part “the 2003 Act” means the Extradition Act 2003**(38)**.

#### Amendment of the 2003 Act

- 53.**—(1) The 2003 Act is amended as follows.
- (2) In section 204 (transmission of warrant by electronic means)**(39)**—
- (a) in subsection (1)—
    - (i) in paragraph (a), omit the words from “in a case” until the end;
    - (ii) in paragraph (b), for “and the alert are” substitute “is”;
  - (b) omit subsection (2);
  - (c) in subsection (5), omit paragraph (a);
  - (d) in subsection (6), omit paragraph (a) together with the word “and” immediately after it.
- (3) Omit section 212 (article 95 alerts)**(40)**.
- (4) In section 215 (European framework list), omit subsections (2) and (3).
- (5) In section 223 (orders and regulations)**(41)**, in subsection (6)(a), omit “section 215(2)”.

#### Amendment of the Anti-social Behaviour, Crime and Policing Act 2014

**54.** In section 157 of the Anti-social Behaviour, Crime and Policing Act 2014 (proportionality)**(42)**, omit subsection (4).

#### Amendment of the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003

- 55.**—(1) The Extradition Act 2003 (Designation of Part 1 Territories) Order 2003**(43)** is amended as follows.
- (2) For article 2 (designated territories) substitute—
- “Gibraltar is designated for the purposes of Part 1 of the Extradition Act 2003.”.

#### Amendment of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003

- 56.**—(1) The Extradition Act 2003 (Designation of Part 2 Territories) Order 2003**(44)** is amended as follows.
- (2) In article 2(2) insert, in the appropriate places, the territories listed in paragraph (4).
  - (3) In article 3(2) insert, in the appropriate places, the territories listed in in paragraph (4).
  - (4) The territories are—

**(38)** 2003 c. 41.

**(39)** Section 204 was amended by section 67 of the Policing and Crime Act 2009 (c. 26) and by section 170 of, and paragraph 120 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

**(40)** Section 212 was amended by section 68 of the Policing and Crime Act 2009 (c. 26).

**(41)** Section 223 was amended but the amendments are not relevant for the purposes of this instrument.

**(42)** 2014 c. 12.

**(43)** S.I. 2003/3333, as amended by S.I. 2004/1898, 2005/365, 2005/2036, 2006/3451, 2007/2238, and 2013/1583.

**(44)** S.I. 2003/3334, as amended by section 43(1) of the Police and Justice Act 2006 (c. 48) and S.I. 2004/1898, 2005/365, 2005/2036, 2006/3451, 2007/2238, 2008/1589, 2010/861, 2013/1583, and 2015/992.

Austria;  
Belgium;  
Bulgaria;  
Croatia;  
Cyprus;  
Czech Republic;  
Denmark;  
Estonia;  
Finland;  
France;  
Germany;  
Greece;  
Hungary;  
Ireland;  
Italy;  
Latvia;  
Lithuania;  
Luxembourg;  
Malta;  
The Netherlands;  
Poland;  
Portugal;  
Romania;  
Slovakia;  
Slovenia;  
Spain;  
Sweden.

### **Transitional provision**

- 57.** Regulations 53(2), 55, and 56 do not apply in a case where, before commencement day—
- (a) a person has been arrested under a Part 1 warrant (within the meaning of the 2003 Act);
  - (b) a person has been arrested under section 5 of the 2003 Act (provisional arrest)(**45**), or
  - (c) a person has been extradited to or from the UK.

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(45) Section 5 was amended by section 378 of, and Schedule 16 to, the Armed Forces Act 2006 (c.52).

## PART 15

## Firearms

## CHAPTER 1

Amendment of legislation extending to England and Wales, Scotland and Northern Ireland

**Amendment of Commission Implementing Regulation (EU) No 2015/2403**

**58.**—(1) Commission Implementing Regulation (EU) No 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable is amended as follows.

(2) In Article 1 (scope), in paragraph 2—

- (a) for “the date of its application” substitute “8 April 2016”;
- (b) for “to another Member State” substitute “outside of the United Kingdom”.

(3) In Article 3 (verification and certification of deactivation of firearms)—

- (a) in paragraph 1 for “Member States” substitute “The appropriate authority”;
- (b) in paragraph 2 for “Member States” substitute “the appropriate authority”;
- (c) omit paragraph 3;
- (d) in paragraph 4—
  - (i) for “a deactivation certificate in accordance with the template set out in Annex III” substitute “certification in writing in accordance with the relevant legislation”;
  - (ii) omit the final sentence;
- (e) in paragraph 6 for “Member States” substitute “The appropriate authority”;
- (f) after paragraph 6 insert—

“7. In this Article—

“the appropriate authority” means, in relation to England and Wales and Scotland, the Secretary of State and, in relation to Northern Ireland, the Department of Justice in Northern Ireland;

“the relevant legislation” means, in relation to England and Wales and Scotland, section 8(b) of the Firearms (Amendment) Act 1988<sup>(46)</sup> and, in relation to Northern Ireland, Article 2(7) of the Firearms (Northern Ireland) Order 2004.”.

(4) Omit Article 4 (requests for assistance).

(5) In Article 5 (marking of deactivated firearms)—

- (a) the existing provision becomes paragraph 1;
- (b) for “the template set out in Annex II” substitute “the relevant legislation”;
- (c) omit sub-paragraph (b);
- (d) after sub-paragraph (c), insert—

“2. In this Article, “the relevant legislation” means, in relation to England and Wales and Scotland, section 8(a) of the Firearms (Amendment) Act 1988 and, in relation to Northern Ireland, Article 2(7) of the Firearms (Northern Ireland) Order 2004.”.

(6) Omit Article 6 (additional deactivation measures).

<sup>(46)</sup> 1988 c. 45.



- (7) Omit Article 7 (transfer of deactivated firearms within the Union).
- (8) Omit Article 8 (notification requirements).
- (9) After Article 9 (entry into force), omit “This Regulation shall be binding in its entirety and directly applicable in all Member States”.
- (10) In Annex I (technical specifications for the deactivation of firearms)—
  - (a) omit “as defined in [Directive 91/477/EC](#)”;
  - (b) omit “In order to ensure a correct and uniform application of the deactivation operations of firearms, the Commission shall elaborate definitions in cooperation with the Member States.”.
- (11) Omit Annex II (template for marking of deactivated firearms).
- (12) Omit Annex III (model certificate for deactivated firearms).

## CHAPTER 2

### Amendment of legislation extending to England and Wales and Scotland

#### **Amendment of the Firearms Act 1968**

- 59.**—(1) The Firearms Act 1968(**47**) is amended as follows.
- (2) In section 5A(**48**) (exemptions from requirement of authority under s.5), omit subsection (3).
  - (3) In section 22 (acquisition and possession of firearms by minors), omit subsection (1A)(**49**).
  - (4) In section 27 (special provisions about firearm certificates), omit subsection (1A)(**50**).
  - (5) In section 28 (special provisions about shot gun certificates), omit subsection (1C)(**51**).
  - (6) Omit section 32A (documents for European purposes)(**52**) and the italic cross-heading before that section.
  - (7) Omit section 32B (renewal of European firearms pass)(**53**).
  - (8) Omit section 32C (variation, endorsement etc. of European documents)(**54**).
  - (9) In section 42A (information as to transactions under visitors’ permits)(**55**)—
    - (a) in subsection (1)(b)—
      - (i) omit “or (d)”;
      - (ii) omit “or purchases or acquisitions by collectors etc”;
      - (iii) for “the member States” substitute “Great Britain”;
    - (b) in subsection (2)(b), for “the member State” substitute “Great Britain”.
  - (10) In section 48 (production of certificates)(**56**) —
    - (a) omit subsection (1A);

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(47) 1968 c. 27.

(48) Section 5A was inserted by [S.I. 1992/2823](#). Relevant amendments were made by sections 108(5) and 109(2)(a) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

(49) Section 22(1A) was inserted by [S.I. 1992/2823](#).

(50) Section 27(1A) was inserted by [S.I. 1992/2823](#).

(51) Section 28(1C) was inserted by [S.I. 1992/2823](#) and amended by [S.I. 2010/1759](#).

(52) Section 32A was inserted by [S.I. 1992/2823](#) and amended by paragraph 6 of Schedule 2 to the Firearms (Amendment) Act 1997 (c. 5).

(53) Section 32B was inserted by [S.I. 1992/2823](#).

(54) Section 32C was inserted by [S.I. 1992/2823](#) and amended by paragraph 6 of Schedule 2 to the Firearms (Amendment) Act 1997 (c. 5).

(55) Section 42A was inserted by [S.I. 1992/2823](#) and amended by [S.I. 2011/713](#).

(56) Section 48(1A) was inserted by [S.I. 1992/2823](#).

- (b) in subsection (2) omit “or document”;
- (c) omit subsection (4).
- (11) In section 57 (interpretation)—
  - (a) in subsection (4)(**57**), omit the following definitions—
    - (i) “another member State” and “other member States”;
    - (ii) “Article 7 authority”;
    - (iii) “European firearms pass”;
  - (b) omit subsection (4A)(**58**).
- (12) In Part 1 of Schedule 6 (prosecution and punishment of offences)(**59**), in the table, omit the entries relating to sections 32B(5), 32C(6) and 48(4) of that Act.

### **Saving provision – exemptions from requirement of authority under section 5 of the Firearms Act 1968**

- 60.**—(1) This regulation applies if, immediately before commencement day—
- (a) a person has in the person’s possession a prohibited weapon or prohibited ammunition within the meaning of the Firearms Act 1968, and
  - (b) subsection (3) of section 5A of that Act (exemptions from requirement of authority under section 5) applies in relation to that person’s possession of the weapon or ammunition.
- (2) Despite the repeal of that subsection by regulation 59 (amendment of the Firearms Act 1968), that subsection continues to have effect on and after commencement day in relation to the possession by that person of the weapon or ammunition.

### **Amendment of the Firearms (Amendment) Act 1988**

- 61.**—(1) The Firearms (Amendment) Act 1988(**60**) is amended as follows.
- (2) In section 8A(**61**) (controls on defectively deactivated weapons), in each of subsections (2) and (3), for “the EU” in each place those words occur substitute “the United Kingdom”.
- (3) In section 17(**62**) (visitors’ permits)—
- (a) in subsection (1A)(**63**)—
    - (i) in paragraph (b), omit “to a place outside the member States without first being taken to another member State”;
    - (ii) at the end of paragraph (b) insert “or”;
    - (iii) omit paragraph (d) and the “or” immediately preceding that paragraph;
  - (b) omit subsection (3A)(**64**).
- (4) In section 18(**65**) (firearms acquired for export)—
- (a) omit subsection (1A)(**66**);

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(57) Section 57(4) was amended by [S.I. 1992/2823](#).

(58) Section 4A was inserted by [S.I. 1992/2823](#).

(59) The table in Part 1 of Schedule 6 was amended by [S.I. 1992/2823](#).

(60) [1988 c. 45](#).

(61) Section 8A was inserted by section 128 of the Policing and Crime Act 2017 (c. 3).

(62) Relevant amendments made by [S.I. 1992/2823](#).

(63) Section 17(1A) was inserted by [S.I. 1992/2823](#).

(64) Section 17(3A) was inserted by [S.I. 1992/2823](#) and amended by [S.I. 2011/2175](#).

(65) Relevant amendments made by [S.I. 1992/2823](#).

(66) Section 18(1A) was inserted by [S.I. 1992/2823](#).

- (b) in subsection (4)(**67**) omit “and, in a case where the transaction is one for the purposes of which a document such as is mentioned in subsection (1A)(a) above is required to be produced, particulars of the agreement contained in that document”;
- (c) omit subsection (6)(**68**).
- (5) Omit section 18A(**69**) (purchase or acquisition of firearms in other member States).
- (6) In section 18B(**70**) (permitted electronic means), in subsection (1)—
  - (a) in the opening words omit “or 18A”;
  - (b) in paragraph (a), for “the section concerned” substitute “that section”.

### **Amendment to the Firearms Acts (Amendment) Regulations 1992**

**62.** In the Firearms Acts (Amendment) Regulations 1992(**71**), omit regulation 10 (exchange of information).

### **Amendment to the Firearms (Amendment) Act 1988 (Amendment) Regulations 2011**

**63.** In the Firearms (Amendment) Act 1988 (Amendment) Regulations 2011(**72**), omit regulation 3 (review).

## CHAPTER 3

### Amendment of legislation extending to Northern Ireland

### **Amendment to the Firearms (Northern Ireland) Order 2004**

- 64.**—(1) The Firearms (Northern Ireland) Order 2004(**73**) is amended as follows.
- (2) In Article 2(2) (interpretation), omit the following definitions—
    - (a) “another member State”;
    - (b) “Article 7 authority”;
    - (c) “European firearms pass”.
  - (3) In Article 15 (visitor’s firearm permit)(**74**), omit paragraph (6).
  - (4) Omit Article 19 (issue of European firearms pass) and the italic cross-heading before Article 19.
  - (5) Omit Article 20 (duration of European firearms pass).
  - (6) Omit Article 21 (renewal of European firearms pass).
  - (7) Omit Article 22 (Article 7 authorities).
  - (8) Omit Article 23 (variation, endorsement, etc. of European documents)(**75**).
  - (9) Omit Article 43 (purchase or acquisition of firearms in other member States).
  - (10) In Article 44 (firearms acquired for export)—

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(67) Section 18(4) was amended by [S.I.1992/2823](#).

(68) Section 18(6) was inserted by [S.I. 1992/2823](#).

(69) Section 18A was inserted by [S.I. 1992/2823](#) and amended by [S.I. 2011/713](#).

(70) Section 18B was inserted by [S.I. 2011/713](#) and amended by paragraphs 6 and 7(b) of Schedule 14 to the Policing and Crime Act 2017 and by [S.I. 2013/602](#).

(71) [S.I. 1992/2823](#).

(72) [S.I. 2011/2175](#).

(73) [S.I. 2004/702 \(N.I. 3\)](#).

(74) Article 15 was amended by regulation 2 of [S.R. 2012 No. 395](#).

(75) Article 23 was amended by [S.I. 2010/976](#).

- (a) omit paragraph (2);
  - (b) in paragraph (5), omit sub-paragraph (b) and the “and” immediately preceding that sub-paragraph.
- (11) In Article 46 (exemptions from requirement of authority under Article 45), omit paragraph (4).
- (12) In Article 55 (production of certificates, etc.)—
- (a) omit paragraphs (2) and (5);
  - (b) in paragraph (3)(a) omit “or document”.
- (13) In Schedule 5 (table of punishments) omit the entries relating to—
- (a) Article 21(4);
  - (b) Article 23(6);
  - (c) Article 43(5);
  - (d) Article 55(5).

**Saving provision – exemptions from requirement of authority under Article 45 of the Firearms (Northern Ireland) Order 2004**

- 65.**—(1) This regulation applies if, immediately before commencement day—
- (a) a person has in the person’s possession a prohibited weapon or prohibited ammunition within the meaning of the Firearms (Northern Ireland) Order 2004, and
  - (b) paragraph (4) of Article 46 of that Order (exemptions from requirement of authority under Article 45) applies in relation to that person’s possession of the weapon or ammunition.
- (2) Despite the revocation of that paragraph by regulation 64 (amendment of the Firearms (Northern Ireland) Order 2004), that paragraph continues to have effect on and after commencement day in relation to the possession by that person of the weapon or ammunition.

## PART 16

### Football Disorder

**Revocation of retained law relating to football disorder**

- 66.** The following Decisions are revoked—
- (a) Council Decision 2002/348/JHA of 25 April 2002 concerning security in connection with football matches with an international dimension;
  - (b) Council Decision 2007/412/JHA of 12 June 2007 amending Decision 2002/348/JHA concerning security in connection with football matches with an international dimension.

## PART 17

### Joint Investigation Teams

#### **Amendment of the Police Act 1996**

**67.**—(1) The Police Act 1996(**76**) is amended as follows.

(2) In section 88 (liability for wrongful acts of constables), in subsection (7), omit paragraphs (a) and (b) (together with the “or” at the end of paragraph (b)).

(3) In section 89 (assaults on constables), in subsection (5), omit paragraphs (a) and (b) (together with the “or” at the end of paragraph (b)).

#### **Amendment of the Police (Northern Ireland) Act 1998**

**68.**—(1) The Police (Northern Ireland) Act 1998(**77**) is amended as follows.

(2) In section 29 (liability for wrongful acts of constables), in subsection (7), omit paragraphs (a) and (b) (together with the “or” at the end of paragraph (b)).

(3) In section 66 (assaults on, and obstruction of constables, etc.), in subsection (6), omit paragraphs (a) and (b) (together with the “or” at the end of paragraph (b)).

#### **Amendment of the Police and Fire Reform (Scotland) Act 2012**

**69.** In the Police and Fire Reform (Scotland) Act 2012(**78**), in section 99 (interpretation of Part 1), in subsection (1), in the definition of “international joint investigation team” omit paragraphs (a) to (c).

#### **Amendment of the Crime and Courts Act 2013**

**70.** In Schedule 4 to the Crime and Courts Act 2013(**79**), in paragraph 5 (interpretation)—

(a) in sub-paragraph (1), omit paragraphs (a) and (b) (together with the “or” at the end of paragraph (b));

(b) omit sub-paragraph (2).

#### **Revocation of the International Joint Investigation Teams (International Agreement) Order 2004**

**71.** The International Joint Investigation Teams (International Agreement) Order 2004(**80**) is revoked.

#### **Saving provision – investigation teams operating in the UK on or after commencement day**

**72.** Regulations 67 to 69 and 71 do not apply in a case to which regulation 10 (transitional provision – surveillance which is not completed before commencement day) applies.

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(76) 1996 c. 16. Section 88(7) was inserted by section 103(1) of the Police Reform Act 2002 (c. 30) (“the PRA 2002”) and amended by S.I. 2012/1809, and section 89(5) was inserted by section 104(1) of the PRA 2002 and amended by S.I. 2012/1809.

(77) 1998 c. 32. Section 29(7) was inserted by section 103(5) of the PRA 2002 and amended by S.I. 2010/976, and section 66(6) was inserted by section 104(3) of the PRA 2002 and amended by S.I. 2010/976.

(78) 2012 asp 8.

(79) 2013 c. 22.

(80) S.I. 2004/1127.

## PART 18

### Mutual Legal Assistance in Criminal Matters

#### CHAPTER 1

##### Interpretation

##### **Interpretation**

73. In this Part—

- “the 2003 Act” means the Crime (International Co-operation) Act 2003<sup>(81)</sup>;
- “the 2017 Regulations” means the Criminal Justice (European Investigation Order) Regulations 2017<sup>(82)</sup>;
- “central authority” has the same meaning as in the 2017 Regulations;
- “country” has the same meaning as in Part 1 of the 2003 Act;
- “EU prisoner” has the same meaning as in the 2017 Regulations;
- “participating State” has the same meaning as in the 2017 Regulations;
- “prisoner” has the same meanings as in the 2017 Regulations.

#### CHAPTER 2

##### Revocation of the 2017 Regulations

##### **Revocation of the 2017 Regulations**

74. The 2017 Regulations are revoked.

#### CHAPTER 3

##### Amendment of primary legislation consequential upon amendments made by this Part

##### **Amendment of the Criminal Justice Act 1987**

- 75.—(1) The Criminal Justice Act 1987<sup>(83)</sup> is amended as follows.
- (2) In section 2 (Director’s investigation powers)<sup>(84)</sup>—
- (a) in subsection (1A), for paragraph (b) substitute—
    - “(b) the Secretary of State acting under section 15(2) of the Crime (International Co-operation) Act 2003, in response to a request received from a person mentioned in section 13(2) of that Act (an “overseas authority”).”;
  - (b) in subsection (18), omit the definition of “overseas authority”.
- (3) In section 3(6) (disclosure of information)<sup>(85)</sup>, in paragraph (n), for “the Treaty on European Union or any other” substitute “a”.

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<sup>(81)</sup> 2003 c. 32.

<sup>(82)</sup> S.I. 2017/730 as amended by S.I. 2018/378.

<sup>(83)</sup> 1987 c. 38.

<sup>(84)</sup> Section 2(1A) was inserted by section 164(2)(c) of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by S.I. 2017/730. Section 2(18) was amended by S.I. 2017/730. There are other amendments not relevant to this instrument.

<sup>(85)</sup> Section 3(6) was amended by section 80(b) of the Crime (International Co-operation) Act 2003 (c. 32). There are other amendments not relevant to this instrument.

### **Amendment of the Criminal Justice Act 1988**

76. In Schedule 13 to the Criminal Justice Act 1988 (evidence before service courts)(**86**), in paragraph 6 (letters of request etc.), in sub-paragraph (1), omit “, and no order shall be made or validated under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017,”.

### **Amendment of the Criminal Procedure (Scotland) Act 1995**

77.—(1) The Criminal Procedure (Scotland) Act 1995(**87**) is amended as follows.

(2) In section 210(1) (consideration of time spent in custody)(**88**), in paragraph (c), omit “or regulation 20 or 54 of the Criminal Justice (European Investigation Order) Regulations 2017”.

(3) In section 267A (citation of witnesses for precognition)(**89**), omit subsection (1A).

(4) In section 272 (evidence by letter of request or on commission)(**90**), omit subsection (14).

(5) In section 273 (television link evidence from abroad)(**91**), omit subsection (5).

### **Amendment of the Criminal Law (Consolidation) (Scotland) Act 1995**

78. In section 27 of the Criminal Law (Consolidation) Scotland Act 1995 (Lord Advocate’s direction)(**92**), for subsection (2) substitute—

“(2) The Lord Advocate may also give a direction under this section by virtue of section 15(4) of the Crime (International Co-operation) Act 2003 or on a request made by the Attorney-General of the Isle of Man, Jersey or Guernsey acting under legislation corresponding to this Part of this Act.”.

### **Amendment of the Criminal Justice and Police Act 2001**

79.—(1) Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (powers of seizure to which the additional powers in section 50 of that Act apply)(**93**) is amended as follows.

(2) In paragraph 73C(**94**), for “sections 17 and 22” substitute “section 17”.

(3) Omit paragraph 73R(**95**).

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(86) 1988 c. 33. Paragraph 6 of Schedule 13 was amended by paragraph 6 of Schedule 4 to the Criminal Justice (International Co-operation) Act 1990 (c. 5), by paragraph 16 of Schedule 5 to the Crime (International Co-operation) Act 2003, and by S.I. 2017/730.

(87) 1995 c. 46.

(88) Section 210 was amended by section 12 of the Crime and Punishment (Scotland) Act 1997 (c. 48), by paragraph 8(14) of Schedule 4 and Part 1 of Schedule 5 to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), by paragraph 65 of Schedule 5 to the Crime (International Co-operation) Act 2003, by section 172 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and by S.I. 2017/730.

(89) Section 267A was inserted by section 22 of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) and by S.I. 2017/730.

(90) Section 272 was amended by section 35(4) of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 (asp 6) and by S.I. 2017/730.

(91) Section 273 was amended by section 91(2) of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13 and by S.I. 2017/730.

(92) 1995 c. 39. Section 27 was amended by paragraph 62 of Schedule 5 to the Crime (International Co-operation) Act 2003 and by S.I. 2017/730.

(93) 2001 c. 16.

(94) Paragraph 73C was inserted by section 26(3)(b) of the Crime (International Co-operation) Act 2003.

(95) Paragraph 73R was inserted by S.I. 2017/730.

**Amendment of the Criminal Justice Act 2003**

**80.** In section 117 of the Criminal Justice Act 2003 (hearsay evidence: business and other documents)(**96**), in subsection (4)(b)(iii) omit “an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017”.

**Amendment of the Criminal Justice (Evidence) (Northern Ireland) Order 2004**

**81.** In article 21 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 (hearsay evidence: business and other documents)(**97**), in paragraph (4)(b)(iii) omit “an order under Part 2 of the Criminal Justice (European Investigation Order) Regulations 2017”.

**Amendment of the Investigatory Powers Act 2016**

**82.**—(1) The Investigatory Powers Act 2016(**98**) is amended as follows.

(2) In section 10 (restriction on requesting assistance under mutual assistance agreements etc.)(**99**)—

- (a) in subsection (1), omit paragraph (a) and the “and” at the end of that paragraph;
- (b) in subsection (3), omit the definition of “EU mutual assistance instrument”.

(3) In section 15(4) (warrants that may be issued under Chapter 1 of Part 2)—

- (a) in paragraph (a), omit “an EU mutual assistance instrument or”;
- (b) in paragraph (b), omit “instrument or”.

(4) In section 18(1)(h) (persons who may apply for issue of a warrant), omit “an EU mutual assistance instrument or”.

(5) In section 20(3)(a) (grounds on which warrants may be issued by Secretary of State), omit “an EU mutual assistance instrument or”.

(6) In section 21(4)(b)(i) (power of Scottish Ministers to issue warrants), omit “an EU mutual assistance instrument or”.

(7) In section 40 (special rules for certain mutual assistance warrants)—

- (a) in subsection (1)(a), omit “an EU mutual assistance instrument or”;
- (b) in subsections (3)(a) and (5)(a), omit “an EU mutual assistance instrument or” and “(as the case may be)”.

(8) In section 60(1) (Part 2: interpretation), omit the definition of “EU mutual assistance instrument”.

## CHAPTER 4

## Saving provisions relating to European investigation orders

**Outgoing European investigation orders (other than relating to the temporary transfer of a prisoner or EU prisoner)**

**83.**—(1) This regulation applies in relation to a European investigation order transmitted under regulation 9 (transmission of a European investigation order) or 10 (variation or revocation of a European investigation order) of the 2017 Regulations before commencement day.

(96) 2003 c.44. Section 117 was amended by S.I. 2017/730.

(97) S.I. 2004/1501 (N.I. 10) was amended by S.I. 2017/730.

(98) 2016 c. 25.

(99) Section 10 was amended by S.I. 2017/730.



(2) Regulations 77(4) and (5) (amendment of the Criminal Procedure (Scotland) Act 1995), 80 (amendment of the Criminal Justice Act 2003), 81 (amendment of the Criminal Justice (Evidence) (Northern Ireland) Order 2004) and 82 (amendment of the Investigatory Powers Act 2016) of these Regulations do not apply.

(3) The following provisions of the 2017 Regulations continue to have effect—

(a) regulation 10 (variation or revocation of a European investigation order), but modified to read as if—

(i) the words “vary or” where they appear in each of paragraphs (1) and (2) were omitted;

(ii) paragraphs (6) and (7) were omitted;

(b) regulation 12 (use of evidence);

(c) regulations 2 and 5 (interpretation), Part 1 of Schedule 1 (designated public prosecutors) and Schedule 2 (participating States), but only for the purposes of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).

(4) In this regulation, “European investigation order” has the meaning given by regulation 5(1) (a) of the 2017 Regulations.

#### **Incoming European investigation order (other than relating to a request for the temporary transfer of a prisoner)**

**84.**—(1) This regulation applies in relation to a European investigation order received before commencement day by a central authority in the United Kingdom, to the extent that the order does not relate to a request for the temporary transfer of a prisoner or an EU prisoner.

(2) Regulations 75 (amendment of the Criminal Justice Act 1987), 77(3) (amendment of the Criminal Procedure (Scotland) Act 1995), 78 (amendment of the Criminal Law (Consolidation) (Scotland) Act 1995) and 79(3) (amendment of the Criminal Justice and Police Act 2001) of these Regulations do not apply.

(3) The following provisions of the 2017 Regulations continue to have effect—

(a) Part 3 (recognition and execution of a European investigation order made in a participating State), except Chapter 7 of that Part;

(b) regulation 59 (designation for the purposes of the Investigatory Powers Act 2016);

(c) Part 4 of Schedule 1 (designated executing authorities);

(d) Schedule 4 (general grounds for refusal), Schedule 5 (receiving evidence before a nominated court), and Schedule 6 (hearing a person by video-link or telephone conference);

(e) regulation 2 (general interpretation) and Schedule 2 (participating States), but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) to (d).

(4) In this regulation “European investigation order” has the meaning given by regulation 25 of the 2017 Regulations (interpretation).

#### **European investigation order made in the United Kingdom relating to the temporary transfer of a prisoner or EU prisoner**

**85.**—(1) In relation to a prisoner temporarily transferred to a participating State pursuant to a European investigation order made and transmitted under regulation 22 of the 2017 Regulations (European investigation order for the temporary transfer of a prisoner) before commencement day—

- (a) regulation 77(2) (amendment of the Criminal Procedure (Scotland) Act 1995) of these Regulations does not apply;
  - (b) the following provisions of the 2017 Regulations continue to have effect—
    - (i) regulation 20 (temporary transfer of UK prisoner to participating State for the purpose of UK investigation);
    - (ii) regulation 24 (time spent by UK prisoner in custody overseas);
    - (iii) regulations 2 and 5 (interpretation) and Schedule 2 (participating States), but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.
- (2) In relation to an EU prisoner temporarily transferred to the United Kingdom pursuant to a European investigation order made and transmitted under regulation 22 of the 2017 Regulations before commencement day, the following provisions of those Regulations continue to have effect—
- (a) regulation 21 (temporary transfer of EU prisoner to the UK for the purposes of UK investigation or proceedings);
  - (b) regulation 23 (restrictions on prosecution and detention for other matters);
  - (c) regulations 2 and 5 and Schedule 2, but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).
- (3) In this regulation, “European investigation order” has the meaning given by regulation 5(1) (a) of the 2017 Regulations.

**European investigation order made in a participating State relating to the temporary transfer of a prisoner or EU prisoner**

- 86.**—(1) In relation to a prisoner temporarily transferred to a participating State pursuant to a warrant issued by the Secretary of State or Scottish Ministers under regulation 54 of the 2017 Regulations (temporary transfer of UK prisoner to issuing State for the purpose of issuing State’s investigation or proceedings) before commencement day—
- (a) regulation 77(2) (amendment of the Criminal Procedure (Scotland) Act 1995) of these Regulations does not apply;
  - (b) the following provisions of the 2017 Regulations continue to have effect—
    - (i) regulation 54;
    - (ii) regulation 57 (time spent by UK prisoner in custody overseas);
    - (iii) regulations 2 and 25 (interpretation) and Schedule 2 (participating States), but only for the purpose of the other provisions which continue to have effect by virtue of this sub-paragraph.
- (2) In relation to an EU prisoner temporarily transferred to the United Kingdom pursuant to a warrant issued by the Secretary of State or Scottish Ministers under regulation 55 of the 2017 Regulations (temporary transfer of EU prisoner to the UK for the purpose of issuing State’s investigation) before commencement day, the following provisions of those Regulations continue to have effect—
- (a) regulation 55;
  - (b) regulation 56 (restrictions on prosecution and detention for other matters);
  - (c) regulations 2 and 25 (interpretation) and Schedule 2 (participating States), but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) and (b).

## CHAPTER 5

### Amendment of the 2003 Act

#### **Amendment of the 2003 Act**

**87.**—(1) The 2003 Act is amended as follows.

(2) In section 1 (service of overseas process)—

(a) in subsection (1)—

(i) omit “or other document”;

(ii) omit “or document”;

(b) in subsection (2), omit paragraphs (b), (c) and (d);

(c) in subsections (3) and (4), omit “or document”.

(3) In section 7 (requests for assistance in obtaining evidence abroad), omit subsection (7).

(4) In section 8(3) (sending requests for assistance), omit paragraph (b) and the “or” immediately before it.

(5) Omit the following—

(a) section 10 (domestic freezing orders);

(b) section 11 (sending freezing orders);

(c) section 12 (variation or revocation of freezing orders);

(6) In section 13(3) (requests for assistance from overseas authorities), omit paragraph (b).

(7) In section 14 (powers to arrange for evidence to be obtained)—

(a) in subsection (1), omit paragraphs (b) and (c);

(b) in subsection (2)—

(i) omit “or (b)”;

(ii) omit “An offence includes an act punishable in administrative proceedings.”.

(8) Omit the following—

(a) section 20 (overseas freezing orders);

(b) section 21 (considering overseas freezing orders);

(c) section 22 (giving effect to overseas freezing orders);

(d) section 23 (postponement);

(e) section 24 (evidence seized by or produced to a constable);

(f) section 25 (release of evidence held);

(9) In section 26 (powers under warrants)—

(a) in subsection (1) omit “or 22”;

(b) omit subsection (2).

(10) In section 28 (interpretation of Chapter 2)—

(a) in subsection (1), omit the following definitions—

(i) “domestic freezing order”;

(ii) “overseas freezing order”;

(iii) “the relevant Framework Decision”;

(b) omit subsections (5) to (8).

- (11) Omit Chapter 4 of Part 1 (information about banking transactions).
- (12) In section 50(5) (subordinate legislation)(**100**), omit “designating a country other than a member State”.
- (13) In section 51 (general interpretation)(**101**)—
- (a) in subsection (1), omit the following definitions—
    - (i) “the 2001 Protocol”;
    - (ii) “administrative proceedings”;
    - (iii) “clemency proceedings”;
    - (iv) “criminal proceedings”;
    - (v) “the Mutual Legal Assistance Convention”;
    - (vi) “the Schengen Convention”;
  - (b) in subsection (2)—
    - (i) omit paragraph (a) and the “and” at the end of that paragraph;
    - (ii) in paragraph (b), omit “other”.

## CHAPTER 6

### Amendment and revocation of subordinate legislation made under the 2003 Act

#### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2009**

**88.**—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2009(**102**) is amended as follows.

(2) For article 3 substitute—

**“3.** Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden are designated as participating countries under section 51(2)(b) of the 2003 Act for the purposes of sections 31, 47 and 48 of, and paragraph 15 of Schedule 2 to, that Act.”

(3) Omit article 4.

#### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2009**

**89.**—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales, and Northern Ireland) (No. 2) Order 2009(**103**) is amended as follows.

(2) In article 3—

(a) for “Iceland and Norway are designated as participating countries” substitute “Norway is designated as a participating country”;

(b) omit “32, 35, 43, 44, 45,”.

(3) Omit article 4.

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**(100)** There are amendments to section 50 not relevant for the purposes of this instrument.

**(101)** Section 51 was amended by [S.I. 2013/602](#) and [2017/730](#).

**(102)** [S.I. 2009/613](#) as amended by [SI 2017/730](#).

**(103)** [S.I. 2009/1764](#).

### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009**

**90.**—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2009(**104**) is amended as follows.

(2) For article 2 substitute—

“**2.** Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden are designated as participating countries under section 51(2)(b) of the 2003 Act for the purposes of sections 31, 47 and 48 of, and paragraph 15 of Schedule 2 to, that Act.”

(3) Omit article 3.

### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 2) Order 2009**

**91.**—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 2) Order 2009(**105**) is amended as follows.

(2) In article 2—

(a) for “Iceland and Norway are designated as participating countries” substitute “Norway is designated as a participating country”;

(b) omit paragraph (b);

(c) omit paragraph (c);

(d) omit paragraph (d);

(e) omit paragraph (e);

(f) omit paragraph (f).

(3) Omit article 3.

### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 3) Order 2009**

**92.**—(1) The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 3) Order 2009(**106**) is amended as follows.

(2) In article 3, omit “Croatia”.

(3) Omit article 4.

### **Amendment of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010**

**93.** In the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010(**107**), omit article 5.

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(104) S.S.I. 2009/106 as amended by S.I. 2017/730.

(105) S.S.I. 2009/206.

(106) S.S.I. 2009/441 as amended by S.I. 2017/730.

(107) S.I. 2010/36 as amended by S.I. 2017/730.

**Revocation of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2011**

94. The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2011(108) is revoked.

**Revocation of the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2011**

95. The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2011(109) is revoked.

## CHAPTER 7

Saving provisions relating to the amendment of the Crime  
(International Co-operation) Act 2003 and subordinate legislation**Freezing orders**

96.—(1) Despite regulation 87(5) (amendment of the 2003 Act), section 12 of the 2003 Act (variation or revocation of freezing orders) continues to have effect in relation to a domestic freezing order made under section 10 of that Act (domestic freezing orders) and forwarded by the Secretary of State or the Lord Advocate under section 11 of that Act (sending freezing orders) before commencement day, but as if the words “vary or” in subsection (1) of section 12 were omitted.

(2) Despite regulations 87(8)(b) to (10), the provisions of the 2003 Act mentioned in paragraph (3) continue to have effect in relation to an overseas freezing order (within the meaning of section 20 of the 2003 Act (overseas freezing orders) received by the Secretary of State or Lord Advocate before commencement day.

(3) Those provisions are—

- (a) sections 21 to 25;
- (b) section 26 without the amendments made by regulation 87(9);
- (c) section 28 without the amendments made by regulation 87(10).

(4) A provision mentioned in paragraph (3) has effect by virtue of paragraph (2) as if the country from which the overseas freezing order was received continued to be a participating country within the meaning of the 2003 Act.

**Requests for information about financial accounts and transactions**

97.—(1) Despite regulation 87(11) (amendment of the 2003 Act), sections 32 to 34 (customer information (England and Wales and Northern Ireland) and offences) and 42 (offence of disclosure) of the 2003 Act continue to have effect in relation to a request for customer information received by the Secretary of State under section 32 of that Act before commencement day.

(2) Despite regulation 87(11), sections 37 to 39 (customer information (Scotland) and offences) and 42 (offence of disclosure) of the 2003 Act continue to have effect in relation to a request for customer information received by the Lord Advocate under section 37 of that Act before commencement day.

(3) Despite regulation 87(11), sections 35 (account information: England and Wales and Northern Ireland), 36 (account monitoring orders: England and Wales and Northern Ireland) and 42 (offence

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(108) S.S.I. 2011/7.

(109) S.I. 2011/229.

of disclosure) of the 2003 Act continue to have effect in relation to a request for account information received by the Secretary of State under section 35 of that Act before commencement day.

(4) Despite regulation 87(11), sections 40, 41 (account monitoring orders: Scotland) and 42 (offence of disclosure) of the 2003 Act continue to have effect in relation to a request for account information received by the Lord Advocate under section 40 of that Act before commencement day.

(5) A provision mentioned in this regulation has effect by virtue of this regulation as if the country from which the request was received continued to be a participating country within the meaning of the 2003 Act.

### **Certain mutual legal assistance requests from Iceland**

**98.**—(1) Paragraph (2) applies where, before commencement day, by virtue of an agreement with the competent authority of Iceland—

- (a) a person has been transferred to that country from the United Kingdom pursuant to a warrant issued under section 47 of the 2003 Act (transfer of UK prisoner to assist investigation abroad)(**110**), or
- (b) a person has been transferred from that country to the United Kingdom pursuant to a warrant issued under section 48 of the 2003 Act (transfer of EU etc prisoner to assist UK investigation)(**111**).

(2) The provisions of the 2003 Act mentioned in paragraph (1) continue to have effect in relation to the person as if Iceland continued to be a participating country within the meaning of the 2003 Act.

(3) Paragraph (4) applies where, before commencement day, a request under section 31 of the 2003 Act (hearing witnesses in the UK by telephone) is received from an authority in Iceland.

(4) Section 31 of, and Part 2 of Schedule 2 to, the 2003 Act (evidence given by telephone link) continue to have effect in relation to the request as if Iceland continued to be a participating country within the meaning of the 2003 Act.

## **CHAPTER 8**

### **Other retained EU law relating to mutual legal assistance in criminal matters and certain aspects of police cooperation**

#### **Provisions of the 1990 Schengen Convention relating to police cooperation and mutual legal assistance in criminal matters**

**99.** The following decisions are revoked but only so far as they relate to Articles 39, 46 to 49 and 51 of the 1990 Schengen Convention—

- (a) Council [Decision 2000/365/EC](#) of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis;
- (b) Council [Decision 2004/926/EC](#) of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland;
- (c) Council [Decision 2014/857/EU](#) of 1 December 2014 concerning the notification of the United Kingdom of Great Britain and Northern Ireland of its wish to take part in some of the provisions of the Schengen acquis which are contained in acts of the Union in the field

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(110) Section 47 of the Crime (International Co-operation) Act 2003 (c. 32) was amended by paragraph 237 of Schedule 16 to the Armed Forces Act 2006 (c. 52).

(111) Section 48 of the Crime (International Co-operation) Act 2003 was amended by paragraph 52 of Part 2 of Schedule 26 to the Criminal Justice and Immigration Act 2008 (c. 4).

of police cooperation and judicial cooperation in criminal matters and amending Decisions [2000/365/EC](#) and [2004/926/EC](#).

### **Third Pillar Conventions**

**100.**—(1) The following conventions established by the Council of the European Union under former Article 34 of the Treaty on European Union are revoked, to the extent that they have been saved by the Withdrawal Act—

- (a) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Council Act of 29 May 2000);
- (b) the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Council Act of 16 October 2001).

(2) Reference in this regulation to former Article 34 of the Treaty on European Union are references to that Article as it had effect at any time before the coming into force of the Treaty of Lisbon.

### **Consequential amendment of the Investigatory Powers (Consequential Amendments etc.) Regulations 2018**

**101.** Regulation 5 of the Investigatory Powers (Consequential Amendments etc.) Regulations 2018 (designation of a relevant international agreement)(**112**) is omitted.

### **Saving provision: requests for the interception of telecommunications under the 2000 MLA Convention**

**102.** Regulation 101 (consequential amendment of the Investigatory Powers (Consequential Amendments etc.) Regulations 2018) does not apply in relation to a request made under Article 18 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Council Act of 29 May 2000) (requests for interception of telecommunications) received by the Secretary of State before commencement day.

## **PART 19**

### **Passenger Name Record Data**

#### **Amendment of the Immigration and Police (Passenger, Crew and Service Information) Order 2008**

**103.**—(1) The Immigration and Police (Passenger, Crew and Service Information) Order 2008(**113**) is amended as follows.

(2) In regulation 7 (form and manner in which passenger and service information to be provided: police)—

- (a) in paragraph (2), for “which conforms to the data formats and transmission protocols provided for in Article 1 of the Implementing Decision”, substitute “that is compatible with the technology used by the recipient of the information”;
- (b) omit paragraph (7).

(112) S.I. 2018/682.

(113) S.I. 2008/5. This instrument was amended by S.I. 2015/859 and 2018/598.



## **Amendment of the Passenger Name Record Data and Miscellaneous Amendments Regulations 2018**

**104.**—(1) The Passenger Name Record Data and Miscellaneous Amendments Regulations 2018(114) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) at the appropriate places insert—

““serious crime” has the meaning given in the Passenger Name Record Directive;”;

““terrorist offences” has the meaning given in the Passenger Name Record Directive;”;

(b) omit the following definitions—

(i) “European Commission”;

(ii) “Europol”;

(iii) “non-UK PIU”;

(c) for the definition of “non-UK competent authority”, substitute—

““non-UK competent authority” means an authority based in a third country that is competent for the prevention, detection, investigation or prosecution of terrorist offences or serious crime;”;

(d) in the definition of “PNR data”, for “Annex I to the Passenger Name Record Directive” substitute “Schedules 2 or 4 to the 2008 Order”;

(e) in the definition of “third country”, for “a Member State” substitute “the United Kingdom”;

(f) in the definition of “UK competent authority”, omit all the words that appear after “serious crime”;

(g) omit paragraph (2).

(3) In regulation 3 (designation of passenger information unit)—

(a) in paragraph (1), omit “for the United Kingdom”;

(b) in paragraph (2), for sub-paragraph (d) substitute—

“(d) where appropriate, exchanging PNR data and the result of processing that data with a non-UK competent authority”.

(4) In regulation 6 (processing of PNR data by the PIU), in paragraph (3)—

(a) for sub-paragraph (a) substitute—

“(a) carrying out an assessment of passengers prior to their scheduled arrival in, or departure from, the UK to identify persons who require further examination by a UK competent authority in view of the fact that such persons may be involved in a terrorist offence or serious crime;”;

(b) in sub-paragraph (b) omit “or, where appropriate, Europol”.

(5) Omit regulations 8 to 10 (exchange of data).

(6) In regulation 11 (requests for PNR data made by a UK competent authority to another Member State)—

(a) in the heading, for “another Member State” substitute “a non-UK competent authority”;

(b) in paragraph (1), for “non-UK PIU” substitute “non-UK competent authority”;

(c) in paragraph (2), for “non-UK PIU” substitute “non-UK competent authority”;

- (d) for paragraph (3) substitute—
  - “(3) The conditions are that—
    - (a) the request is made solely for the purposes of the prevention, detection, investigation or prosecution of terrorist offences or serious crime;
    - (b) the request is made in respect of a specific case;
    - (c) the request is duly reasoned, and
    - (d) a copy of the request is sent to the PIU.”
- (7) In regulation 12 (transfers of PNR to third countries)—
  - (a) in the heading, for “third countries” substitute “non-UK competent authorities”;
  - (b) for paragraphs (1) and (2) substitute—
    - “(1) The PIU may transfer PNR data or the result of processing that data to a non-UK competent authority if either of the conditions set out in paragraph (2) or (2A) is met.
    - (2) The first condition is that—
      - (a) the request from the non-UK competent authority is duly reasoned;
      - (b) the PIU is satisfied that the transfer is necessary for the prevention, investigation, detection or prosecution of terrorist offences or serious crime, and
      - (c) the non-UK competent authority agrees to transfer the data to another non-UK competent authority only where it is strictly necessary for the purposes described in sub-paragraph (b).
    - (2A) The second condition is that—
      - (a) following the assessment referred to in regulation 6(3)(a), a person is identified by the PIU as requiring further examination, and
      - (b) the PIU considers it necessary for the prevention, detection, investigation or prosecution of terrorist offences or serious crime for a non-UK competent authority to be notified of that fact.”;
  - (c) in paragraph (4), for “third country” substitute “non-UK competent authority”.
- (8) In regulation 13(8)(b) (period of data retention and depersonalisation), for “non-UK PIU” substitute “non-UK competent authority”.
- (9) In regulation 14(3)(c) (protection of personal data) omit “and non-UK PIUs”.
- (10) Omit regulation 15 (supervisory authority).

### **Revocation of Council Decisions 2012/381/EU and 2012/472/EU**

- 105.** The following Council Decisions are revoked—
- (a) Council [Decision 2012/381/EU](#) of 13 December 2011 on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service;
  - (b) Council [Decision 2012/472/EU](#) of 26 April 2012 on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of passenger name records to the United States Department of Homeland Security.

## Revocation of Commission Implementing Decision 2017/759

**106.** Commission Implementing Decision (EU) 2017/759 of 28 April 2017 on the common protocols and data formats to be used by air carriers when transferring PNR data to Passenger Information Units is revoked.

## PART 20

### Proceeds of Crime

#### Amendment of the Proceeds of Crime Act 2002

- 107.**—(1) The Proceeds of Crime Act 2002(**115**) is amended as follows.
- (2) In section 67(**116**) (seized money: England and Wales)—
- (a) in subsection (9), omit paragraph (c);
  - (b) in subsection (10), omit “or firm” in both places where those words occur.
- (3) In section 131ZA(**117**) (seized money: Scotland)—
- (a) in subsection (10), omit paragraph (c);
  - (b) in subsection (11), omit “or firm” in both places those words occur.
- (4) In section 282D(**118**) (evidence overseas: interim receiver or interim administrator), in subsection (10), omit paragraph (b) and the “or” immediately preceding that paragraph.
- (5) In section 303Z7(**119**) (“bank”)—
- (a) in subsection (2), omit paragraph (c);
  - (b) in subsection (3), omit “or firm” in both places those words occur.
- (6) In section 333B(**120**) (disclosures within an undertaking or group etc), in subsections (2)(b) and (4)(b), for “an EEA State” substitute “the United Kingdom or an EEA state”.
- (7) In section 333C(**121**) (other permitted disclosures between institutions etc), in subsection (2) (c), for “an EEA State” substitute “the United Kingdom or an EEA state”.
- (8) In section 362B(**122**) (requirements for making of unexplained wealth order), in subsection (7)(a), for “the United Kingdom or another EEA State,” substitute—
- “\_\_
- (i) the United Kingdom, or
  - (ii) an EEA state,”.
- (9) In section 375A(**123**) (evidence overseas), in subsection (9), omit paragraph (b) and the “or” immediately preceding that paragraph.
- (10) In section 396B(**124**) (requirements for making of unexplained wealth order), in subsection (7)(a), for “the United Kingdom or another EEA State,” substitute—

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(**115**) 2002 c. 29.

(**116**) Section 67 was amended by section 14(1) to (3) of the Serious Crime Act 2015 (c. 9) and section 26 of the Criminal Finances Act 2017 (c. 22).

(**117**) Section 131ZA was inserted by section 28 of the Criminal Finances Act 2017.

(**118**) Section 282D was inserted by paragraph 6 of Schedule 18 to the Crime and Courts Act 2013 (c. 22).

(**119**) Section 303Z7 was inserted by section 16 of the Criminal Finances Act 2017.

(**120**) Section 333B was inserted by S.I. 2007/3398.

(**121**) Section 333C was inserted by S.I. 2007/3398.

(**122**) Section 362B was inserted by section 1 of the Criminal Finances Act 2017.

(**123**) Section 375A was inserted by paragraph 26 of Schedule 19 to the Crime and Courts Act 2013.

(**124**) Section 396B was inserted by section 4 of the Criminal Finances Act 2017.

“—

- (i) the United Kingdom, or
- (ii) an EEA state.”

(11) In section 408A(125) (evidence overseas), in subsection (9), omit paragraph (b) and the “or” immediately preceding that paragraph.

(12) In Schedule 3 (administrators: further provision), in paragraph 6—

- (a) omit sub-paragraph (4)(c);
- (b) in sub-paragraph (5), omit “or firm” in both places those words occur.

(13) In Schedule 9 (regulated sector and supervisory authorities), in paragraph 1 (business in the regulated sector)—

(a) for sub-paragraph (1)(c) substitute—

“(c) the carrying on of activities by an authorised person (within the meaning of section 31 of the Financial Services and Markets Act 2000(126)) who has permission under Part 4A of that Act to carry out or effect contracts of insurance, where those activities consist of carrying out or effecting contracts of long-term insurance;”;

(b) in sub-paragraph (1)(d), for “(other than a person falling within Article 2 of the Markets in Financial Instruments Directive)” substitute “(other than a person falling within one of the exclusions to the definition of “investment firm” in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544))”;

(c) in sub-paragraph (1)(g), for “an EEA State” substitute “the United Kingdom”;

(d) in sub-paragraph (2)(b), for “an EEA state” substitute “the United Kingdom”;

(e) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (1)(c), “contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).”.

(f) for sub-paragraph (5) substitute—

“(5) For the purposes of sub-paragraph (4)(d) “regulated market” has the meaning given by regulation 3(1) (general interpretation) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692).”;

(g) omit sub-paragraph (6).

#### **Amendment of the Serious Organised Crime and Police Act 2005**

**108.**—(1) The Serious Organised Crime and Police Act 2005(127) is amended as follows.

(2) Omit section 96 (mutual assistance in freezing property or evidence).

(3) In section 172 (orders and regulations), in subsection (5), omit paragraph (h).

#### **Amendment of the Criminal Finances Act 2017**

**109.**—(1) The Criminal Finances Act 2017(128) is amended as follows.

(125) Section 408A was inserted by paragraph 28 of Schedule 19 to the Crime and Courts Act 2013.

(126) 2000 c.8.

(127) 2005 c. 15.

(128) 2017 c. 22.

(2) In section 1(**129**) (unexplained wealth orders: England and Wales and Northern Ireland), in the text to be inserted as section 362B(7)(a) of the Proceeds of Crime Act 2002, for “the United Kingdom or another EEA State,” substitute—

“—

- (i) the United Kingdom, or
- (ii) an EEA state.”

(3) In section 16(**130**) (forfeiture of money held in bank and building society accounts), in the text to be inserted as section 303Z7 of the Proceeds of Crime Act 2002—

- (a) in subsection (2), omit paragraph (c);
- (b) in subsection (3), omit “or firm” in both places those words occur.

(4) In section 27 (seized money: Northern Ireland)—

- (a) in the text to be inserted as subsection (9) of section 215 of the Proceeds of Crime Act 2002, omit paragraph (c);
- (b) in the text to be inserted as subsection (10) of that section, omit “or firm” in both places those words occur.

#### **Amendment of the CJDP Regulations**

**110.**—(1) Subject to regulation 111 (transitional provisions in relation to the amendment of the CJDP Regulations), the CJDP Regulations are amended as follows.

- (2) Part 2 (proceeds of crime (foreign property and foreign orders)) is revoked.
- (3) Schedule 1 (proceeds of crime (foreign property and foreign orders): Scotland) is revoked.
- (4) Schedule 2 (proceeds of crime (foreign property and foreign orders): Northern Ireland) is revoked.

#### **Transitional provisions in relation to amendment of the CJDP Regulations**

**111.** Regulation 110 does not apply in relation to a case where, before commencement day, any of the following has occurred—

- (a) the Crown Court makes a certificate under regulation 6(2) of the CJDP Regulations (domestic restraint orders: certification);
- (b) a relevant prosecutor receives an overseas restraint order under regulation 8(1) of the CJDP Regulations (sending overseas restraint orders to the court);
- (c) the Crown Court makes a certificate under regulation 11(2) of the CJDP Regulations (domestic confiscation orders: certification);
- (d) a relevant prosecutor receives an overseas confiscation order under regulation 13(1) of the CJDP Regulations (sending overseas confiscation orders to the court);
- (e) the court makes a certificate under paragraph 2(2) of Schedule 1 to the CJDP Regulations (domestic restraint orders: certification);
- (f) the Lord Advocate receives an overseas restraint order under paragraph 4(1) of Schedule 1 to the CJDP Regulations (sending overseas restraint orders to the court);
- (g) the court makes a certificate under paragraph 7(2) of Schedule 1 to the CJDP Regulations (domestic confiscation orders: certification);

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(**129**) Section 1 extends to England and Wales and Northern Ireland and was commenced in England and Wales only by [S.I. 2018/78](#).  
(**130**) Section 16 extends to the United Kingdom and was commenced in England and Wales and Scotland by [S.I. 2018/78](#).

- (h) the Lord Advocate receives an overseas confiscation order under paragraph 9(1) of Schedule 1 to the CJDPA Regulations (sending overseas confiscation orders to the court);
- (i) the court makes a certificate under paragraph 2(2) of Schedule 2 to the CJDPA Regulations (domestic restraint orders: certification);
- (j) the relevant prosecutor receives an overseas restraint order under paragraph 4(1) of Schedule 2 to the CJDPA Regulations (sending overseas restraint orders to the court);
- (k) the court makes a certificate under paragraph 7(2) of Schedule 2 to the CJDPA Regulations (domestic confiscation orders: certification), or
- (l) the relevant prosecutor receives an overseas confiscation order under paragraph 9(1) of Schedule 2 to the CJDPA Regulations (sending overseas confiscation orders to the court).

#### **Revocation of Council Decision 2000/642/JHA and Council Decision 2007/845/JHA**

**112.** Subject to regulation 113 (saving provision), the following are revoked—

- (a) Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information;
- (b) Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

#### **Saving provision**

**113.—**(1) Article 5 of Council Decision 2000/642/JHA (use of information or documents) continues to have effect in relation to information or documents obtained under Article 1 of that Council Decision (cooperation of financial intelligence units) before commencement day.

(2) Article 5 of Council Decision 2007/845/JHA (data protection) continues to have effect in relation to information exchanged under Article 3 (exchange of information between Asset Recovery Offices on request) or 4 (Spontaneous exchange of information between Asset Recovery Offices) of that Council Decision before commencement day.

## **PART 21**

### **Prüm – Exchange of Data Relating to DNA, Fingerprints and Vehicle Registration**

#### **Interpretation**

**114.** In this Part, “the Prüm Decision” means Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime.

#### **Revocation of the Prüm Decision and related Council Decisions**

**115.** The following are revoked—

- (a) the Prüm Decision;
- (b) Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime;

- (c) Council [Decision 2014/836/EU](#) of 27 November 2014 determining certain consequential and transitional arrangements concerning the cessation of the participation of the United Kingdom of Great Britain and Northern Ireland in certain acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon;
- (d) Council [Decision 2014/837/EU](#) of 27 November 2014 determining certain direct financial consequences incurred as a result of the cessation of the participation of the United Kingdom of Great Britain and Northern Ireland in certain acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon.

### **Revocation of Commission Decision (EU) 2016/809**

**116.** Commission Decision (EU) 2016/809 of 20 May 2016 on the notification by the United Kingdom of Great Britain and Northern Ireland of its wish to participate in certain acts of the Union in the field of police cooperation adopted before the entry into force of the Treaty of Lisbon and which are not part of the Schengen acquis is revoked.

### **Revocation of Council Implementing Decisions**

**117.** The following are revoked—

- (a) Council Implementing Decision (EU) 2015/2009 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Poland;
- (b) Council Implementing Decision (EU) 2015/2049 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Sweden;
- (c) Council Implementing Decision (EU) 2015/2050 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Belgium;
- (d) Council Implementing Decision (EU) 2016/254 of 12 February 2016 on the launch of automated data exchange with regard to vehicle registration data (VRD) in Latvia;
- (e) Council Implementing Decision (EU) 2016/2047 of 18 November 2016 on the launch of automated data exchange with regard to DNA data in Denmark;
- (f) Council Implementing Decision (EU) 2016/2048 of 18 November 2016 on the launch of automated data exchange with regard to dactyloscopic data in Denmark;
- (g) Council Implementing Decision (EU) 2017/617 of 27 November 2017 on the launch of automated data exchange with regard to DNA data in Greece;
- (h) Council Implementing Decision (EU) 2017/618 of 27 March 2017 on the launch of automated data exchange with regard to vehicle registration data in Denmark;
- (i) Council Implementing Decision (EU) 2017/943 of 18 May 2017 on the automated data exchange with regard to vehicle registration data in Malta, Cyprus and Estonia, and replacing Decisions 2014/731/EU, 2014/743/EU and 2014/744/EU;
- (j) Council Implementing Decision (EU) 2017/944 of 18 May 2017 on the automated data exchange with regard to dactyloscopic data in Latvia, and replacing [Decision 2014/911/EU](#);
- (k) Council Implementing Decision (EU) 2017/945 of 18 May 2017 on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU;



- (l) Council Implementing Decision (EU) 2017/946 of 18 May 2017 on the automated data exchange with regard to dactyloscopic data in Slovenia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU;
- (m) Council Implementing Decision (EU) 2017/947 of 18 May 2017 on the automated data exchange with regard to vehicle registration data in Finland, Slovenia, Romania, Poland, Sweden, Lithuania, Bulgaria, Slovakia and Hungary and replacing Decisions 2010/559/EU, 2011/387/EU, 2011/547/EU, 2012/236/EU, 2012/664/EU, 2012/713/EU, 2013/230/EU, 2013/692/EU and 2014/264/EU;
- (n) Council Implementing Decision (EU) 2017/1020 of 8 June 2017 on the launch of automated data exchange with regard to vehicle registration data in Croatia;
- (o) Council Implementing Decision (EU) 2017/1866 of 12 October 2017 on the launch of automated data exchange with regard to vehicle registration data in the Czech Republic;
- (p) Council Implementing Decision (EU) 2017/1867 of 12 October 2017 on the launch of automated data exchange with regard to dactyloscopic data in Portugal;
- (q) Council Implementing Decision (EU) 2017/1868 of 12 October 2017 on the launch of automated data exchange with regard to dactyloscopic data in Greece;
- (r) Council Implementing Decision (EU) 2018/1035 of 16 July 2018 on the launch of automated data exchange with regard to DNA data in Croatia.

## PART 22

### Schengen Information System (SIS II)

#### Introductory

**118.**—(1) In the provisions to which this regulation applies, the expressions which are referred to in Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) have the same meanings as they have in that decision (disregarding for this purpose the revocation of that decision by regulation 119 (revocation of retained EU law relating to SIS II)).

- (2) This regulation applies to—
  - (a) regulations 120 (saving provision – SIS II data and national files) and 121 (saving provision – supplementary information and national files);
  - (b) any provision of Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) which is continued by this Part.

#### Revocation of retained EU law relating to the Schengen information system (SIS II)

**119.**—(1) The following Decisions are revoked but only so far as they relate to the Schengen information system—

- (a) Council [Decision 2000/365/EC](#) of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis;



- (b) Council [Decision 2004/926/EC](#) of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland;
  - (c) Council [Decision 2014/857/EU](#) of 1 December 2014 concerning the notification of the United Kingdom of Great Britain and Northern Ireland of its wish to take part in some of the provisions of the Schengen acquis which are contained in acts of the Union in the field of police cooperation and judicial cooperation in criminal matters and amending Decisions [2000/365/EC](#) and [2004/926/EC](#).
- (2) Subject to regulations 120 (saving provisions – SIS II data and national files) and 121 (saving provisions – supplementary information and national files), the following Decisions are revoked—
- (a) Commission [Decision 2007/171/EC](#) of 16 March 2007 laying down the network requirements for the Schengen Information System II (3rd pillar);
  - (b) Council [Decision 2007/533/JHA](#) of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II);
  - (c) Commission Implementing [Decision 2013/115/EU](#) of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II);
  - (d) Council [Decision 2013/157/EU](#) of 7 March 2013 fixing the date of application of [Decision 2007/533/JHA](#) on the establishment, operation and use of the second generation Schengen Information System (SIS II);
  - (e) Council Implementing [Decision \(EU\) 2015/215](#) of 10 February 2015 on the putting into effect of the provisions of the Schengen acquis on data protection and on the provisional putting into effect of parts of the provisions of the Schengen acquis on the Schengen Information System for the United Kingdom of Great Britain and Northern Ireland;
  - (f) Commission Implementing [Decision \(EU\) 2015/450](#) of 16 March 2015 laying down test requirements for Member States integrating into the second generation Schengen Information System (SIS II) or changing substantially their directly related national systems;
  - (g) Commission Implementing [Decision \(EU\) 2016/1345](#) of 4 August 2016 on minimum data quality standards for fingerprint records within the second generation Schengen Information System (SIS II).
- (3) In this regulation, “Schengen information system” means any information system established under Title IV of the 1990 Schengen Convention, or any system established in its place in pursuance of any EU obligation.

### **Saving provisions – SIS II data and national files**

**120.**—(1) This regulation applies in relation to—

- (a) SIS II data in connection with which action was taken on the territory of the United Kingdom before commencement day;
- (b) data contained in a particular alert issued in SIS II by the United Kingdom before commencement day.

(2) Subject to the modifications in paragraph (3), the following provisions of Council [Decision 2007/533/JHA](#) of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) continue to have effect in relation to the data referred to in paragraph (1)—

- (a) Article 46(1), (5), (6) and (7) (processing of SIS II data);
- (b) Article 47 (SIS II data and national files);
- (c) Article 54 (transfer of personal data to third parties).

- (3) The modifications are that—
- (a) Article 46 is to be read as if—
- (i) in paragraph 1—
- (aa) for the words “The Member States” there were substituted “The United Kingdom”;
- (bb) after the words “and 38” there were inserted “of Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) as it applied in the European Union immediately before commencement day”;
- (ii) in paragraph 5, for the words “this Decision” there were substituted “Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) as it applied in the European Union immediately before commencement day”;
- (iii) in paragraph 7—
- (aa) for the words “paragraphs 1 to 6” there were substituted “paragraphs 1, 4 and 5”;
- (bb) for the words “each Member State” there were substituted “the United Kingdom”;
- (b) Article 47 is to read as if—
- (i) for the words “Article 46(2) shall not prejudice the right of a Member State to” (in each place) there were substituted “The United Kingdom may”;
- (ii) in paragraph 2, for the words “that Member State” there were substituted “the United Kingdom”;
- (c) Article 54 is to be read as if for the words “this Decision” there were substituted “Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) as it applied in the European Union before commencement day”.

### **Saving provisions – supplementary information and national files**

- 121.**—(1) This regulation applies in relation to data relating to—
- (a) an alert which the United Kingdom issued before commencement day, or
- (b) an alert in connection with which action was taken on the territory of the United Kingdom before commencement day.
- (2) Subject to the modifications in paragraph (3), the following provisions of Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) continue to have effect in relation to the data referred to in paragraph (1)—
- (a) Article 8(2) (exchange of supplementary information);
- (b) Article 53(3) (purpose and retention period of supplementary information);
- (c) Article 54 (transfer of personal data to third parties).
- (3) The modifications are that—
- (a) Article 53(3) is to be read as if—
- (i) for the words “Paragraph 2 shall not prejudice the right of a Member State” there were substituted “The United Kingdom may”;
- (ii) for the words “that Member State” there were substituted “the United Kingdom”;

- (b) Article 54 is to be read as if for the words “this Decision” there were substituted “Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) as it applied in the European Union before commencement day”.

## PART 23

### Serious Crime and Fraud

#### **Amendment of the Serious Crime Act 2007**

**122.**—(1) The Serious Crime Act 2007(**131**) is amended as follows.

(2) In section 34 (providers of information society services)—

- (a) in subsection (1) omit “other than the United Kingdom”;
- (b) in subsection (3) omit paragraph (b) and the “and” immediately preceding that paragraph;
- (c) in subsection (4) omit “or notification”;
- (d) in subsection (5), at the end insert “, reading those Articles as if the requirements imposed on a Member State were imposed on the court making the order”;
- (e) in subsection (6), for “covered by” substitute “falling within the descriptions contained in”.

(3) In section 54 (institution of proceedings etc for an offence under Part 2), in subsection (5) omit “other than the United Kingdom”.

(4) In section 69(2)(d) (offence for certain further disclosures of information), for “an EU obligation” substitute “a retained EU obligation”.

#### **Revocation of Council Regulation (EU) No 331/2014**

**123.** Council Regulation (EU) No 331/2014 of the European Parliament and of the Council of 11 March 2014 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the ‘Pericles 2020’ programme) and repealing Council Decisions [2001/923/EC](#), [2001/924/EC](#), [2006/75/EC](#), [2006/76/EC](#), [2006/849/EC](#) and [2006/850/EC](#) is revoked.

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**(131)** [2007 c. 27](#). Section 34 was amended by paragraph 24 of Schedule 1 to the Serious Crime Act [2015 \(c. 9\)](#), and by [S.I. 2011/1043](#) and [2012/1809](#).

## PART 24

## Miscellaneous

## CHAPTER 1

## Miscellaneous amendments to police legislation

## SECTION 1

*Amendment of primary legislation***Amendment of the Local Government (Miscellaneous Provisions) Act 1982**

**124.** In Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(**132**) (control of sex establishments), in paragraph 12(1)(c) and (d)(**133**), after “in” insert “the United Kingdom or”.

**Amendment of the Licensing Act 2003**

**125.** In section 120 of the Licensing Act 2003(**134**) (determination of application for grant), in subsection (8)(c) omit “(other than the United Kingdom)”.

**Amendment of the Anti-social Behaviour, Crime and Policing Act 2014**

**126.**—(1) Schedule 6A to the Anti-social Behaviour, Crime and Policing Act 2014(**135**) (anonymity of victims of forced marriage) is amended as follows.

(2) Omit paragraph 4 (domestic service providers: extension of liability).

(3) In paragraph 9 (interpretation)—

(a) in sub-paragraph (1)—

(i) omit the definition of “domestic service provider”;

(ii) in the definition of “non-UK service provider” omit “other than the United Kingdom”;

(b) in sub-paragraph (3)—

(i) in the words before paragraph (a), for “definitions of “domestic service provider” and “non-UK service provider”” substitute “definition of “non-UK service provider””;

(ii) in paragraph (a), for “in a particular part of the United Kingdom, or in a particular EEA state,” substitute “in a particular EEA state”;

(iii) in sub-paragraph (i) of paragraph (a), for “that part of the United Kingdom, or that EEA state,” substitute “that EEA state”.

**Amendment of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015**

**127.**—(1) Schedule 3A to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(**136**) (anonymity of victims of forced marriage) is amended as follows.

(132) 1982 c. 30.

(133) Paragraph 12(1)(c) and (d) was amended by S.I. 2009/2999.

(134) 2003 c. 17. Section 120 was amended by paragraph 15(2) to (9) of Part 3 of Schedule 4 to the Immigration Act 2016 (c. 19).

(135) 2014 c. 12. Schedule 6A was inserted by section 173(2) of the Policing and Crime Act 2017 (c. 3).

(136) 2015 c. 2 (N.I.). Schedule 3A was inserted by section 174(2) of the Policing and Crime Act 2017 (c. 3).

- (2) Omit paragraph 4 (special rules for providers of information society services).
- (3) In paragraph 9 (interpretation)—
  - (a) in sub-paragraph (1)—
    - (i) omit the definition of “domestic service provider”;
    - (ii) in the definition of “non-UK service provider” omit “other than the United Kingdom”;
  - (b) in sub-paragraph (3)—
    - (i) in the words before paragraph (a), for “definitions of “domestic service provider” and “non-UK service provider”” substitute “definition of “non-UK service provider””;
    - (ii) in paragraph (a), for “in a particular part of the United Kingdom, or in a particular EEA state,” substitute “in a particular EEA state”;
    - (iii) in sub-paragraph (i) of paragraph (a), for “that part of the United Kingdom, or that EEA state,” substitute “that EEA state”.

#### **Amendment of the Policing and Crime Act 2017**

**128.** In the Policing and Crime Act 2017(**137**), omit section 144 (powers to create offences under section 2(2) ECA 1972: maximum term of imprisonment).

#### *SECTION 2*

#### *Amendment of secondary legislation*

#### **Amendment of the Police Pensions (Additional Voluntary Contributions) Regulations 1991**

**129.**—(1) The Police Pensions (Additional Voluntary Contributions) Regulations 1991(**138**) are amended as follows.

- (2) In regulation 2(3)(interpretation), in the definition of “insurance company”(**139**)—
  - (a) at the end of paragraph (a) omit “or”;
  - (b) omit paragraph (b).

#### **Amendment of the Electronic Commerce Directive (Trafficking People for Exploitation) Regulations 2013**

**130.**—(1) The Electronic Commerce Directive (Trafficking People for Exploitation) Regulations 2013(**140**) are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) in paragraph (1) omit the definition of “UK national”;
  - (b) in paragraph (2)—
    - (i) in the words before paragraph (a), for “in England and Wales or in an EEA state other than the United Kingdom” substitute “in an EEA state”;
    - (ii) in paragraph (a), for “in England and Wales, or in a particular EEA state other than the United Kingdom,” substitute “in a particular EEA state”;

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(137)2017 c. 3.

(138)S.I. 1991/1304.

(139)The definition of “insurance company” was inserted in relation to England and Wales by S.I. 2003/27 and in relation to Scotland by SSI 2003/406.

(140)S.I. 2013/817 as amended by S.I. 2015/1472.

(iii) in sub-paragraph (i) of paragraph (a), for “in England Wales, or that EEA state,” substitute “in that EEA state”.

(3) Omit regulation 3 (internal market: England and Wales service providers).

(4) In regulation 4(1) (internal market: non-UK service providers), omit “other than the United Kingdom”.

(5) In regulation 8 (review), omit paragraph (2).

### **Amendment of the Police Pensions Regulations 2015**

**131.**—(1) The Police Pensions Regulations 2015(**141**) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “duly qualified medical practitioner”, omit “or the equivalent EEA qualification”.

## CHAPTER 2

### Miscellaneous amendments to investigatory powers legislation

### **Amendment of the Investigatory Powers Act 2016**

**132.**—(1) The Investigatory Powers Act 2016(**142**) is amended as follows.

(2) In section 19 (power of Secretary of State to issue warrants), omit subsection (5).

(3) In section 102 (power to issue warrants to intelligence services: the Secretary of State), omit subsection (9).

### **Amendment of the Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018**

**133.**—(1) The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018(**143**) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “regulatory or self-regulatory practices or procedures”, in paragraph (a)—

(a) in sub-paragraph (i), for the words from “provision” to “Area” substitute “enactment”;

(b) in sub-paragraph (ii), for the words “a member” to “Area” substitute “the United Kingdom”.

(3) In regulation 4 (restrictions on the lawful interception of communications), omit paragraph (2).

## CHAPTER 3

### International agreements

### **Revocation of rights etc.**

**134.**—(1) Subject to regulation 135 (saving provision), to the extent that any rights, powers, liabilities, obligations, restrictions, remedies and procedures—

(a) continue by virtue of section 4(1) of the Withdrawal Act, and

(b) are derived from one of the international agreements to which this regulation applies,

**(141)**[S.I. 2015/445](#).

**(142)**[2016 c. 25](#).

**(143)**[S.I. 2018/356](#).

those rights, powers, liabilities, obligations, restrictions, remedies and procedures cease to be recognised and available in domestic law.

- (2) This regulation applies to—
- (a) the Agreement concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway on the association of these two states to the implementation, to application and to the development of the *acquis de Schengen* – final Act(144);
  - (b) the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway on the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Republic of Iceland and the Kingdom of Norway, on the other, in areas of the *Schengen acquis* which apply to these States(145);
  - (c) the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto(146);
  - (d) the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the *Schengen acquis*(147);
  - (e) the Agreement between the European Union and Iceland and Norway on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto(148);
  - (f) the Agreement between the European Union and Japan on mutual legal assistance in criminal matters(149);
  - (g) the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the *Schengen acquis*(150).

### **Saving provision**

- 135.**—(1) This regulation applies to the extent that—
- (a) a transitional or saving provision of these Regulations preserves a right, power, liability, obligation, restriction, remedy or procedure conferred or imposed by legislation which these Regulations revoke or amend, and
  - (b) a corresponding right, power, liability, obligation, restriction, remedy or procedure is derived from an instrument listed in regulation 134(2) and continues by virtue of section 4(1) of the Withdrawal Act.
- (2) To the extent that this regulation applies, regulation 134(1) does not.

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(144) OJ L No 176, 10.07.1999, p.36.

(145) OJ L No 15, 20.01.2000, p. 2.

(146) OJ L No 26, 29.01.2004, p.3.

(147) OJ L No 53, 27.02.2008, p. 52.

(148) OJ L No 353, 31.12.2009, p.3.

(149) OJ L No 39, 12.02.2010, p. 20.

(150) OJ L No 160, 18.06.2011, p.3.

## CHAPTER 4

## Atlas – cooperation between special intervention units

**Introductory**

**136.** In this Chapter—

- (a) “the Atlas Council Decision” means Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations(**151**);
- (b) the expressions which are defined in Article 2 of the Atlas Council Decision (interpretation) have the meanings given in that provision (disregarding for this purpose the revocation of that decision by regulation 2).

**Revocation of the Atlas Council Decision**

**137.** Subject to regulations 138 (transitional provisions – assistance provided to member States on or after commencement day) and 139 (transitional provisions – assistance provided to the United Kingdom after commencement day), the Atlas Council Decision is revoked.

**Transitional provisions – assistance provided to member States after commencement day**

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

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

- (a) a member State made a request for assistance under Article 3(1) of the Atlas Council Decision (assistance to another member State) to the competent authority of the United Kingdom, and—
- (b) either—
  - (i) the competent authority of the United Kingdom did not respond in relation to that request, or
  - (ii) the competent authority of the United Kingdom accepted the request for assistance or proposed a different kind of assistance, but some or all of the assistance has not been provided before commencement day.

(3) The following provisions of the Atlas Council Decision continue to have effect in relation to a relevant case (in so far as relevant in the circumstances of the case), subject to the modifications set out in paragraph (4)—

- (a) Article 2 (definitions), in so far as relevant to the provision referred to in sub-paragraph (b);
- (b) Article 3.

(4) The modifications are—

- (a) paragraph 1 of Article 3 is to be read as if—
  - (i) the first sentence were omitted;
  - (ii) for the words “such a request” there were substituted “a request made by a Member State under Article 3(1)”;
  - (iii) for the words “the requested Member State” there were substituted “the United Kingdom”;

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**(151)** “Atlas” is the name given to the network of special intervention units established in 2001 and formalised by the Atlas Council Decision.



(b) paragraph 3 of Article 3 is to be read as if the words “be authorised to operate in a supporting capacity on the territory of the requesting Member State and” were omitted.

(5) The provisions referred to in paragraph (3) are to be construed (so far as necessary) as if the United Kingdom continued to be a member State.

### **Transitional provisions – assistance provided to the United Kingdom after commencement day**

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

(2) For the purposes of this regulation, a “relevant case” is one in which—

- (a) the competent authority of the United Kingdom made a request for assistance under Article 3(1) of the Atlas Council Decision (assistance to another member State) before commencement day, and
- (b) the requested member State is willing to provide assistance of the kind referred to in Article 3(2) of the Atlas Council Decision in relation to that request on or after commencement day.

(3) The following provisions of the Atlas Council Decision continue to have effect in relation to a relevant case (in so far as relevant in the circumstances of the case), subject to the modifications set out in paragraph (4)—

- (a) Article 2 (definitions), in so far as relevant to the provisions referred to in sub-paragraphs (b) to (d);
- (b) Article 3(3);
- (c) Article 4 (civil and criminal liability);
- (d) Article 6 (costs).

(4) The modifications are—

(a) paragraph 3 of Article 3 is to be read as if—

- (i) in the words before sub-paragraph (a), for the words “the requesting Member State” (in each place) there were substituted “the United Kingdom”;
- (ii) in sub-paragraph (a)—

(aa) for the words “the requesting Member State”, in the first place it occurs, there were substituted “the competent authority of the United Kingdom”;

(bb) for the words “the requesting Member State”, in the second place it occurs, there were substituted “the United Kingdom”;

(b) Article 4 is to be read as if—

- (i) for the words “another Member State” there were substituted “the United Kingdom”;
- (ii) the words “under this Decision” were omitted;

(c) Article 6 is to be read as if for the words “The requesting Member State” there were substituted “The United Kingdom”.

(5) The provisions referred to in paragraph (3) are to be construed (so far as necessary) as if the United Kingdom continued to be a member State.

28th March 2019

*Nick Hurd*  
Minister of State  
Home Office

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## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers conferred by sections 8(1) and 23(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) (“the Withdrawal Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (d) and (g)) arising from the withdrawal of the UK from the European Union (“the EU”). Part 14 of these Regulations (extradition) is also made in part in reliance on various powers in the Extradition Act 2003 (c. 41) (“the 2003 Act”).

Part 2 of these regulations amends the provisions of the Council Decision 2000/375/JHA of 29 May 2000 to combat child pornography on the internet which remain appropriate for the UK after the date and time on which these Regulations come into force (“commencement day”) and revokes those which provide for continued cooperation between member States after commencement day.

In Part 3, regulation 5 makes amendments to the Terrorism Act 2000 (c.11) (“TACT”). Minor amendments are made to sections 21E and 21F to reflect the fact that the UK will not be an EEA state after commencement day. Amendments are made to Schedule 3A which mirror those made by Part 20 of these Regulations to Schedule 9 to the Proceeds of Crime Act 2002 (c. 29) (“POCA”), to amend the definition of businesses in the “regulated sector” to appropriate domestic law-defined categories. Paragraphs 11A to 11G, 25A to 25G and 41A to 41G of Schedule 4 to TACT are omitted; these paragraphs collectively provide a mechanism to allow freezing orders to be sent to, and received from, Member States under 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, 2.8.200 p.45-55) (“Framework Decision 2003/577/JHA”) (see below), and transitional provision is made to preserve these paragraphs in respect of any requests sent or received prior to commencement day. The definition of “financial institution” in paragraph 6 of Schedule 6 to TACT is amended to replace reference to certain EU definitions with domestic definitions. Amendments are also made to Schedule 8A to TACT, to maintain certain exemptions to liability for the section 58A offence (eliciting, publishing or communicating information about members of the armed forces etc) for information service providers where those exemptions would otherwise have been required to be in place had the “E-Commerce Directive” (Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market) continued to bind the UK. Similar amendment is made by regulation 7 to the Electronic Commerce Directive (Terrorism Act 2006) Regulations 2007 (S.I. 2007/1550), to preserve those liability exemptions in relation to the offences of encouraging terrorism and disseminating terrorist publications. Provisions in Schedule 8A and the 2007 Regulations which implemented requirements in Article 3 of the E-Commerce Directive to extend domestic courts’ jurisdiction to service providers engaged in conduct in other EEA states have been omitted because such requirement represents a reciprocal arrangement which no longer works in a no-deal scenario.

Part 4 makes changes to retained EU law governing reciprocal arrangements for carrying out cross-border surveillance, including the limited circumstances under which law enforcement officers from another Member State can carry out surveillance here without prior authority. The principal source of EU law in this area is the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (“the 1990 Schengen Convention”), applicable in part in the United Kingdom under Protocol 22 to the Treaties, and under Council Decision 2000/365/EC of 29 May 2000 concerning the request of the

United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (which was made under Article 4 of that Protocol). In the absence of an agreement with the EU providing for continued cooperation under these instruments, on commencement day the UK will no longer need these arrangements.

Chapter 1 of Part 5 amends retained EU law which relates to, or was enacted to implement, the requirements of Regulation (EC) 273/2004 and (EC) 111/2005, which establishes processes and rules governing trade in drug precursors within the European Union (intra-community trade) and between the European Union and third countries (extra-community trade). Amendments deal with deficiencies arising in legislation, in particular by adjusting references to the UK as a Member State and to transfer powers from the Commission to the Secretary of State to amend annexes containing regulated drug precursors and to set out requirements and conditions relating to trade in the same. In the absence of an agreement with the EU providing for continued participation of the UK in intra-community trade, on commencement day differing rules governing trade with EU Member States are no longer appropriate and are amended so that trade in drug precursors with all countries is treated in the same way.

In Chapter 2 of Part 5, regulation 17(3) amends Schedule 4 to the Psychoactive Substances Act 2016 to remove the extension of liability in respect of the offences of supplying, of offering to supply, a psychoactive substance. Certain exemptions from liability for the offences are maintained where those exemptions would otherwise have been required to be in place had the E-Commerce Directive continued to bind the UK. Amendments are made to remove the extension of liability in respect of the offence of failing to comply with a prohibition order or premises. The restriction on a person's ability to impose conditions in a prohibition notice or order which is inconsistent with the liability exemptions in that Directive will also be maintained.

Regulation 18 revokes Regulation (EC) 1920/2006 of the European Parliament and of the Council of 12 December 2006 providing for the European Monitoring Centre for Drugs and Drug Addiction (recast) and Regulation (EU) 2017/2101 of the European Parliament and of the Council of 15 November 2007 amending Regulation (EC) No 1920/2006 as regards information exchange on, and an early warning system and risk assessment procedure for, new psychoactive substances. In the absence of an agreement with the EU providing for continued UK co-operation with, or participation in, the EMCDDA on commencement day the UK will no longer need these arrangements.

Part 6 of these Regulations revokes Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, subject to certain savings provisions relating to information received prior to commencement day. This measure establishes a unit, referred to as "Eurojust", as a body of the Union. Eurojust's objectives are: to stimulate and improve the coordination, between competent authorities of the Member States; to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of requests for, and decisions on, judicial cooperation; and to further support the competent authorities of the Member States in order to render their investigations and prosecutions more effective. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these reciprocal arrangements.

Part 7 of these Regulations revokes retained EU law concerning the European Police College ("CEPOL"), which was established to train senior officers of police forces of Member States. Regulation 23 revokes the European Police College (Immunities and Privileges) Order 2004, which remains uncommenced. Regulation 24 revokes Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these arrangements.

Part 8 of these Regulations revokes retained EU law which relates to the European Criminal Records Information System ("ECRIS"), a system for the exchange of information extracted from criminal records between Member States. Chapter 1 of Part 8 revokes Part 6 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141) ("the CJDPA Regulations"),

which was enacted to implement the requirements of Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States, and Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA. Chapter 1 also makes saving provision in relation to information provided to the UK Central Authority before commencement day and transitional provision in relation to requests for information made before commencement day. Chapter 2 of Part 8 revokes the Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013 (S.I. 2013/2945), which was enacted to implement Article 10(3) of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA. This imposed additional information-sharing requirements via ECRIS. Chapter 2 also makes transitional provision in relation to requests for information made before commencement day. In the absence of an agreement with the EU providing for continued cooperation under ECRIS, on commencement day the UK will no longer need these arrangements.

Part 9 revokes Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network. This measure provides for a network of judicial contact points to improve judicial cooperation between EU Member States particularly in actions to combat forms of serious crime. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these reciprocal arrangements.

Part 10 revokes retained EU law relating to the establishment of a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these arrangements.

Part 11 revokes Regulation 2016/794/EU of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, subject to certain saving provisions relating to information provided prior to commencement day. This Part also revokes a number of previous Europol measures to the extent they still apply in UK law. Europol is mandated to support cooperation among law enforcement authorities in the Union. Its objectives include to support Member States in the fight against serious crime, terrorism and other forms of crime such as drug trafficking, trafficking in human beings and forgery. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these reciprocal arrangements.

Chapter 1 of Part 12 revokes retained EU law which was originally enacted to implement Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union and Council Framework Decision of 13 June 2002 on joint investigation teams (2002/465/JHA). In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these reciprocal arrangements.

Regulations 44 to 47 make transitional and saving provision. These regulations provide: for requests for information or intelligence received by a UK competent authority, but not responded to, before commencement day to be responded to after commencement day (regulation 44); for the UK competent authority to make representations concerning the use of information or intelligence provided before or after commencement day (regulation 45); for information and intelligence supplied to a UK competent authority before commencement day to remain subject to existing conditions on use (regulation 46); and for information obtained by a UK member of an international joint investigation team to remain subject to conditions on use (regulation 47).

Chapter 2 of Part 12 amends a provision in the Anti-terrorism, Crime and Security Act 2001 (c. 24) to ensure that certain disclosure in overseas proceedings will not be prohibited if required because of a retained EU obligation.

Part 13 of these Regulations makes amendments to deal with deficiencies arising in legislation regulating of access by members of the public to explosive precursors, in particular, by adjusting references to the UK as a Member State and to transfer a power for the Commission to amend annexes containing regulated explosive precursors to the Secretary of State for Northern Ireland (there is already a power for Ministers to amend such lists in the regime that applies to Great Britain).

Part 14 amends legislation in the field of extradition. The provisions in this Part make changes to primary legislation, including the 2003 Act and to secondary legislation made under that Act, namely the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 (S.I. 2003/3333) (“the Part 1 Order”) and the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (“the Part 2 Order”) (S.I. 2003/3334).

It is necessary to make changes to the domestic framework relating to extradition between the UK and other member States as, from commencement day, the UK will cease to participate in the European arrest warrant scheme (“EAW”), a reciprocal arrangement based on the mutual recognition of judicial decisions and governed by EU law. Accordingly, regulation 55 amends the Part 1 Order to remove member States as territories for the purposes of Part 1 of the 2003 Act, which implements the EAW scheme. Regulation 56 makes corresponding changes to the Part 2 Order necessary to designate the member States under Part 2 of the 2003 Act. Designation under Part 2 will enable the UK to comply with its obligations under the European Convention on Extradition 1957, which will provide the basis for extradition between the UK and the member States once the EAW scheme ceases to apply. Re-categorisation of the member States is subject to the transitional provision in regulation 57. That provision will mean, for example, in the case of a person arrested under a Part 1 warrant prior to commencement day, a decision will be taken by the courts on that person’s extradition in accordance with the Part 1 regime.

Part 15 amends legislation in the field of firearms. Chapter 1 makes amendments to Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, in particular by amending references to member States, to reflect the fact that the UK will no longer be a member State after commencement day, and to make changes which ensure the continuation of deactivation standards and techniques through domestic legislation. The amendments also omit Articles 4, 6, 7 and 8 of that Regulation as they will no longer have practical application in the UK after commencement day.

Regulation 59 amends the Firearms Act 1968 (c. 27) to remove references to European Weapons Directive and authorisations which are dependent on complying with the law of a Member State. References to the European Firearms Pass have also been removed. Where appropriate, references to Member states have been amended to references to Great Britain. Firearms Law is devolved to Northern Ireland.

Regulation 60 creates a saving provision in relation to the amendment to section 5A(3) of the Firearms Act 1968. Section 5A(3) provides that the authority of the Secretary of State or Scottish Ministers under section 5 of the Firearms Act 1968 is not required for any person to have in his possession, or to purchase or acquire certain weapons and ammunition, etc. if that person is recognised, for the purposes of the law of another member State relating to firearms, as a collector of firearms or a body concerned in the cultural or historical aspects of weapons. The saving provision will mean that individuals in lawful possession of such items before commencement day are able to continue to be in lawful possession afterwards. It will not apply in relation to the purchase and acquisition of such items on or after commencement day.

Regulation 61 amends the Firearms (Amendment) Act 1988 (c. 45) to change references to EU to United Kingdom. Section 17 is amended to remove references to member States. Section 18 is



amended to omit subsection (1A) which dealt with restrictions on the purchase of a firearm which falls within category B for the purposes of Annex I to the European weapons directive, as well as omitting references to that subsection. Section 18A is omitted as are references to it in section 18B. Regulation 62 amends the Firearms Acts (Amendment) Regulations 1992 (S.I. 1992/2823) to omit regulation 10 concerning the exchange of information. Regulation 63 amends the Firearms (Amendment) Act 1988 (Amendment) Regulations 2011 (S.I. 2011/2175) to omit regulation 3 concerning review.

Chapter 3 of Part 15 makes amendments to deal with deficiencies arising in the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3)) to reflect the fact that the UK will no longer be a member of the EU after commencement day. In particular it removes the provisions in relation to the European firearms pass and creates a saving provision in relation to the amendment to Article 46, similar to the saving provision made in respect of section 5A(3) of the Firearms Act 1968.

Part 16 of these Regulations revokes Council Decision 2002/348/JHA concerning security in connection with football matches with an international dimension and related legislation. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will no longer need these arrangements.

Part 17 of these Regulations revokes EU retained law relating to joint investigation teams. Regulations 67 to 69 revoke provisions in the laws of England and Wales, Northern Ireland and Scotland respectively which defined ‘international joint investigation team’ as teams formed in accordance with various EU instruments, namely under Article 34 of the Treaty on the European Union and the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (including the Protocol to that Convention). In the absence of an agreement with the EU providing for continued cooperation under these instruments, on commencement day the UK will no longer need these arrangements.

Regulation 70 makes similar provision in relation to the Crime and Courts Act 2013 (c. 22) amending the definition of ‘international joint investigation team’ for the purpose of that legislation. Regulation 71 makes consequential amendments revoking an Order specifying the Convention Implementing the Schengen Agreement for the purposes of section 88(7)(c) of the Police Act 1996 (c. 16). Regulation 72 makes saving provision with respect to regulations 67 to 69 and 71, so that they continue to apply in relation to investigation teams operating in the UK after commencement day pursuant to regulation 10 in Part 4 of these Regulations.

Part 18 makes amendments to deal with deficiencies in retained EU law relating to mutual legal assistance in criminal matters and some aspects of police cooperation. Chapter 2 revokes the Criminal Justice (European Investigation Order) Regulations 2017 (S.I. 2017/730), which transpose Directive 2014/41/EU on the European investigation order. The Directive creates a system for the mutual recognition of judicial decisions relating to evidence gathering for the purposes of criminal investigations and prosecutions. On commencement day, in the absence of an agreement with the EU providing for continued cooperation in relation to the European investigation order, the UK will no longer be obliged to recognise such decisions issued by other member States (and vice versa) and it is therefore no longer appropriate to maintain domestic law implementing the regime. Other regulations in this Part make consequential amendments to primary legislation (Chapter 3) and save aspects of the regime in order to allow the UK to give effect to orders received from other member States before commencement day and to allow UK courts to continue to revoke orders transmitted to other member States before commencement day (Chapter 4).

Chapter 5 of Part 18 makes amendments to parts of the Crime (International Co-operation) Act 2003 (c. 32) which implement existing EU law obligations in the field of mutual legal assistance and are therefore retained EU law for the purposes of the Withdrawal Act. The obligations include the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (Council Act of 29 May 2000) (“the 2000 EU MLA Convention”), the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European

Union (Council Act of 16 October 2001) (“the 2001 Protocol”), provisions of the 1990 Schengen Convention and Council Framework Decision 2003/577/JHA. Whilst these measures have to a large extent been replaced by the EIO Directive, they continue to apply, in some circumstances, to member States which do not participate in the Directive and to third countries to whom they have been extended by international agreement between the EU and the country concerned. All of these arrangements involve reciprocal rights and obligations which will no longer apply to the UK after commencement day. Accordingly, it is no longer appropriate to retain the relevant provision in domestic law. Regulations in Chapter 6 amend subordinate legislation made under the 2003 Act designating countries for the purposes of specific provisions in the Act. Where a member State has been designated solely on the basis of the UK’s participation in one of the measures referred to above, the designations have been removed. Chapter 7 makes saving provision for various types of requests for assistance which may have been received, but not responded to, prior to commencement day.

Chapter 8 of Part 18 revokes retained EU law applying provisions of the 1990 Schengen Convention relating to mutual legal assistance and police cooperation to the United Kingdom, and any provisions of the 2000 EU MLA Convention or the 2001 Protocol which may, under the Withdrawal Act, be retained EU law. Regulation 101 removes the designation of the EU MLA Convention for the purposes of the Investigatory Powers Act 2016 (c. 25), subject to the saving provision in regulation 102.

Part 19 amends retained EU law which relates to, or was enacted to implement, the requirements of Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record data for the prevention, detection investigation and prosecution of terrorist offences and serious crime. This Directive establishes processes and rules for the processing of passenger name record data. In the absence of an agreement with the EU providing for the continued operation of this instrument, on commencement day, data sharing obligations with EU Member States are no longer appropriate and are amended so that data sharing with all countries is treated in the same way.

In Part 20, regulation 107 makes the following amendments to POCA: the term “EEA Firms” is removed from the definition of “bank” in sections 67, 131ZA and 303Z7 of, and in paragraph 6 of Schedule 3 to, POCA. In sections 282D, 375A and 408A, which relate to the procedure by which assistance can be requested from overseas countries, references to individuals authorised under “EU Treaties” to receive such requests are removed. In sections 333B and 333C, which provide a defence to the offence of “tipping off” under section 333A, amendments are made to references to groups of companies to ensure that the defence will capture companies in the UK after commencement day. In sections 362B and 396B, which make provision for unexplained wealth orders, minor amendments are made to reflect the fact that the UK will not be an “EEA state” after commencement day. The amendments made to Schedule 9 to POCA are all made to ensure that the definition of a business operating in the “regulated sector” (which are subject to the offence in section 330 of failing to report suspicions of money laundering) cross-refers, where possible, to categories of business defined in domestic law rather than categories defined in EU law which will remain frozen in their meaning as of commencement day.

Regulation 108 omits section 96 of the Serious Organised Crime and Police Act 2005 (c.15). That section provides a power to allow the Secretary of State to make provision to give effect to rights and obligations arising under Framework Decision 2003/577/JHA). The UK will not participate in that Framework Decision after commencement day. For the same reason, regulation 110 revokes Part 2 of, and Schedules 1 and 2 to, the CJDP Regulations, which contain provisions allowing for freezing orders and confiscation orders to be sent to Member States, and for such orders received from Member States to be given effect in the UK, under that Framework Decision and 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. 59-78). After commencement day, the UK will not send or process any new requests under this mechanism, but transitional provision is made in Regulation 111 makes provision to ensure that the procedure in domestic law continues to



apply where any request was sent or received prior to commencement day, or received prior to commencement day (regardless of whether the overseas restraint or overseas confiscation order has been registered by a domestic court).

Regulation 109 amends section 1 of the Criminal Finances Act 2017 (c. 22) to reflect the fact that the UK will not be an “EEA state” after commencement day. In addition, references to “EEA Firms” are removed from the definitions of “bank” in sections 16 and 27 of that Act; those sections make amendments to POCA which have not yet been commenced in Northern Ireland. Regulation 113 revokes Council Decisions 2000/642/JHA concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information and 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime. Regulation 114 makes saving provision to ensure that the provisions relating to the use of information (including personal data) in those Council Decisions is preserved in respect of any information provided under those procedures prior to commencement day.

Part 21 of these Regulations revokes Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (“the Prüm Decision”) and related legislation. The Prüm Decision facilitates the exchange of DNA, fingerprints and vehicle registration data among EU Member States. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day these reciprocal arrangements will not be needed by the UK.

Part 22 revokes retained EU law relating to the Schengen information system, a real time system for circulating alerts relating to persons and objects of interest to law enforcement and other authorities in other states which participate in the system, subject to saving provisions. Most of the rules relating to the use of the Schengen information system are currently found in Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), which is directly applicable in the UK. In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day the UK will cease to have access to the system and it is therefore no longer appropriate for rules governing its use to continue to form part of domestic law.

In Part 23, regulation 122 makes amendments to the Serious Crime Act 2007 (c. 27) to ensure that notwithstanding the fact that the E-Commerce Directive will not bind the UK upon commencement day, the courts cannot impose conditions in Serious Crime Prevention Orders that are inconsistent with the liability exemptions in that Directive had it continued to bind the UK. Amendments are also made so as to omit provisions which implement a requirement in Article 3 of the E-Commerce Directive to extend domestic courts’ jurisdiction to service providers engaged in conduct in other EEA states. These provisions have been omitted because such requirement represents a reciprocal arrangement which no longer works in a no-deal scenario. Regulation 122 also ensures that an offence of disclosing information received from anti-fraud agencies is not committed if the disclosure was required by a retained EU obligation. Regulation 123 revokes an EU Regulation which establishes an exchange, assistance and training programme for the protection of the euro against counterfeiting. This EU Regulation has no practical application in relation to the UK in a no-deal scenario.

Chapters 1 and 2 of Part 24 of these Regulations make miscellaneous amendments to retained EU law relating to the police (Chapter 1) and investigatory powers (Chapter 2). Chapter 3 of Part 24 revokes rights and obligations in a number of international agreements in the law enforcement and security sphere, to the extent that these are retained by the Withdrawal Act. The international agreements in question involve reciprocal rights and obligations which will no longer apply to the UK after commencement day. Accordingly, to the extent that these rights and obligations are retained by the Withdrawal Act, it is no longer appropriate to retain them in domestic law. Regulation 135 of Chapter 3 has the effect of preserving any rights and obligations which correspond to rights preserved elsewhere in these Regulations.

**Status:** This is the original version (as it was originally made).

Chapter 4 of Part 23 revokes Council Decision 2008/617/JHA on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (commonly referred to as “the Atlas Council Decision”). In the absence of an agreement with the EU providing for continued cooperation under this instrument, on commencement day these reciprocal arrangements will no longer be needed by the UK. Regulations 138 and 139 make transitional provision with respect to requests for assistance made to and from the UK before commencement day.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Home Office, 2 Marsham Street, London, SW1P 4DF and is published with the Explanatory Memorandum alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).