
DRAFT STATUTORY INSTRUMENTS

2020 No.

The Law Enforcement and Security (Separation
Issues etc.) (EU Exit) Regulations 2020

PART 3

Amendments of the Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019

Amendments to criminal justice provisions

39. This Part makes amendments to the Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁾.

Chapter 1

European Protection Orders: England and Wales

Amendment of interpretation provision

40. For regulation 3 (interpretation) substitute—

“**3.** In this Chapter, “the England and Wales EPO Regulations” means the Criminal Justice (European Protection Order) (England and Wales) Regulations 2014⁽²⁾.”.

Amendment of transitional and saving provision: restraining orders made before exit day

41. For regulation 5 (transitional and savings provision: restraining orders made before exit day), including its heading, substitute—

“Transitional and saving provision: requests to executing States to recognise European protection orders made in England and Wales

5.—(1) The following provisions of the England and Wales EPO Regulations continue to apply, as if they had not been revoked by regulation 4, to relevant European protection orders as defined in paragraph (2) below (and see Article 62(1)(k) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018)—

- (a) regulations 1 to 4;
- (b) regulation 6;
- (c) regulations 9 and 10.

(2) A relevant European protection order is one received before IP completion day by the competent authority of the executing State under regulation 9(2) of the England and Wales EPO Regulations (notifying the executing State of the European protection order), or

(1) S.I. 2019/780.
(2) S.I. 2014/3300.

by any other authority of the executing State with no competence to recognise a European protection order but which forwards it to the competent authority.

(3) For the purposes of this regulation—

- (a) “the competent authority” has the same meaning as in regulation 2(1) of the England and Wales EPO Regulations (interpretation – general);
- (b) “the executing State” has the same meaning as in regulations 3(2) and 4(5) of the England and Wales EPO Regulations (interpretation – Part 2 and power of a court to make a European protection order);
- (c) the provisions of the England and Wales EPO Regulations referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.”.

Amendment of saving provision: requests for recognition of European protection orders received before exit day

42. For regulation 6 (saving provision: requests for recognition of European protection orders received but not determined before exit day), including its heading, substitute—

“Transitional and saving provision: recognition by England and Wales of European protection orders made by issuing States

6.—(1) The following provisions of the England and Wales EPO Regulations continue to apply, as if they had not been revoked by regulation 4, to relevant European protection orders as defined in paragraph (2) below—

- (a) regulations 1 and 2;
- (b) regulations 11 to 14;
- (c) regulations 16 to 19;
- (d) the Schedule (grounds for refusal to give effect to a European protection order).

(2) A relevant European protection order is one received from the issuing state before IP completion day by the central authority for England and Wales under regulation 12(2) of the England and Wales EPO Regulations (requests from other member States to recognise a European protection order), or any other authority of England and Wales with no competence to recognise a European protection order but which forwards it to the central authority.

(3) For the purposes of this regulation—

- (a) “the central authority for England and Wales” has the same meaning as in regulation 2(1) of the England and Wales EPO Regulations;
- (b) “the issuing State” has the same meaning as in regulations 11(2) and 12(1) of the England and Wales EPO Regulations (interpretation – Part 3 and the Schedule);
- (c) the provisions of the England and Wales EPO Regulations referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.”.

Revocation of savings provisions

43. Omit regulations 7 (savings provision: European protection order modifications communicated, but not given effect to, before exit day) and 8 (saving provision: European protection order revocation notifications made, but not given effect to, before exit day).

Chapter 2

European Protection Orders: Northern Ireland

Amendment of interpretation provision

44. For regulation 9 (interpretation) substitute—

“9. In this Chapter, “the Northern Ireland EPO Regulations” means the Criminal Justice (European Protection Order) (Northern Ireland) Regulations 2014(3).”

Amendment of transitional and saving provision: restraining orders made before exit day

45. For regulation 11 (transitional and saving provision: restraining orders made before exit day), including its heading, substitute—

“Transitional and saving provision: requests to executing States to recognise European protection orders made in Northern Ireland

11.—(1) The following provisions of the Northern Ireland EPO Regulations continue to apply, as if they had not been revoked by regulation 10, to relevant European protection orders as defined in paragraph (2) below (and see Article 62(1)(k) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018)—

- (a) regulations 1 to 4;
- (b) regulation 6;
- (c) regulations 9 and 10.

(2) A relevant European protection order is one received before IP completion day by the competent authority of the executing State under regulation 9(2) of the Northern Ireland EPO Regulations (notifying the executing State of the European protection order) or by any other authority of the executing State with no competence to recognise a European protection order but which forwards it to the competent authority.

(3) For the purposes of this regulation—

- (a) “the competent authority” has the same meaning as in regulation 2(1) of the Northern Ireland EPO Regulations (interpretation - general);
- (b) “the executing State” has the same meaning as in regulation 3(2) and 4(5) of the Northern Ireland EPO Regulations (interpretation – Part 2 and power of a court to make a European protection order);
- (c) the provisions of the Northern Ireland EPO Regulations referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.”.

Amendment of saving provision: requests for recognition of European protection orders received before exit day

46. For regulation 12 (saving provision: requests for recognition of European protection orders received but not determined before exit day), including its heading, substitute—

“Transitional and saving provision: recognition by Northern Ireland of European protection orders made by issuing States

12.—(1) The following provisions of the Northern Ireland EPO Regulations continue to apply, as if they had not been revoked by regulation 10, to relevant European protection orders as defined in paragraph (2) below—

- (a) regulations 1 and 2;
- (b) regulations 11 to 14;
- (c) regulations 16 to 19;
- (d) the Schedule (grounds for refusal to give effect to a European protection order).

(2) A relevant European protection order is one received from the issuing State before IP completion day by the central authority for Northern Ireland under regulation 12(2) of the Northern Ireland EPO Regulations (requests from other member States to recognise a European protection order), or by any other authority of Northern Ireland with no competence to recognise a European protection order but which forwards it to the central authority.

(3) For the purposes of this regulation—

- (a) “the central authority for Northern Ireland” has the same meaning as in regulation 2(1) of the Northern Ireland EPO Regulations;
- (b) “the issuing State” has the same meaning as in regulation 2(1) of the Northern Ireland EPO Regulations;
- (c) the provisions of the Northern Ireland EPO Regulations referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.”.

Revocation of savings provisions

47. Omit regulations 13 (saving provision: European protection order modifications communicated, but not given effect to, before exit day) and 14 (saving provision: European protection order revocation notifications made, but not given effect to, before exit day).

Chapter 3

European Supervision Orders

Transitional and saving provision

48. After regulation 16 insert—

“Transitional and saving provision for England and Wales: decisions on supervision measures received before IP completion day

16A.—(1) The following provisions of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014(4) (“the 2014 Regulations”) continue to apply, as if they had not been revoked by regulation 16, to relevant decisions on supervision measures as defined in paragraph (2) below (and see Article 62(1)(i) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018)—

- (a) regulation 75(1) and (3);
- (b) regulations 76 and 77;

- (c) regulations 79 to 83;
 - (d) regulation 84(2) to (4);
 - (e) regulations 85 to 93;
 - (f) regulation 94(2) and (3);
 - (g) Schedule 6.
- (2) A relevant decision on supervision measures is one received before IP completion day by—
- (a) the central authority or the competent authority of the executing State under regulation 77(2) of the 2014 Regulations (requests to other member States for monitoring supervision measures), or any other authority in the executing State with no competence to recognise a decision on supervision measures but which forwards the decision to the competent authority; or
 - (b) the central authority of England and Wales under regulation 85(2) of the 2014 Regulations (requests from other member states for monitoring supervision measure), or any other authority in England and Wales with no competence to recognise a decision on supervision measures but which forwards the decision to the central authority.
- (3) For the purposes of this regulation—
- (a) “the central authority or competent authority of the executing State” has the same meaning as in regulations 76 and 77(9) of the 2014 Regulations (interpretation);
 - (b) “the central authority of England and Wales” has the same meaning as in regulation 76 of the 2014 Regulations;
 - (c) the provisions of the 2014 Regulations referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.

Transitional and saving provision for Northern Ireland: decisions on supervision measures received before IP completion day

16B.—(1) The following provisions of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (“the 2014 Regulations”) continue to apply, as if they had not been revoked by regulation 16, to relevant decisions on supervision measures as defined in paragraph (2) below (and see Article 62(1)(i) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018)—

- (a) regulation 75(2) and (3);
 - (b) regulations 95 and 96;
 - (c) regulations 98 to 102;
 - (d) regulation 103(2) and (3);
 - (e) regulations 104 to 112;
 - (f) regulation 113(2) and (3);
 - (g) Schedule 6.
- (2) A relevant decision on supervision measures is one received before IP completion day by—
- (a) the central authority or the competent authority of the executing State under regulation 96(2) of the 2014 Regulations (requests to other member States for monitoring supervision measures), or any other authority in the executing State

with no competence to recognise a decision on supervision measures but which forwards the decision to the competent authority; or

- (b) the central authority of Northern Ireland under regulation 104(2) of the 2014 Regulations (requests from other member States for monitoring supervision measures), or any other authority in Northern Ireland with no competence to recognise a decision on supervision measures but which forwards the decision to the central authority for execution.
- (3) For the purposes of this regulation—
- (a) “the central authority or competent authority of the executing State” has the same meaning as in regulations 95 and 96(9) of the 2014 Regulations (interpretation);
 - (b) “the central authority of Northern Ireland” has the same meaning as in regulation 95 of the 2014 Regulations
 - (c) the provisions of the 2014 Regulations referred to in paragraph (1) are to be read as if the term “Member State” included the United Kingdom.”.

Chapter 4

Mutual Recognition of Financial Penalties

Amendment of the Criminal Justice and Immigration Act 2008

49. In regulation 19 (amendment of the 2008 Act)—

- (a) the existing provisions become paragraph (1);
- (b) after paragraph (1) insert—

“(2) See Article 62(1)(d) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018.”

Transitional and saving provision

50. For regulation 20 (saving provision: requests from member States), including in its heading, substitute—

“Transitional and saving provision: decisions requiring payment of financial penalties received before IP completion day

20.—(1) The following provisions of the 2008 Act continue to apply, as if they had not been revoked by regulation 19, to relevant decisions requiring payment of financial penalties—

- (a) regulation 80(2) to (5);
- (b) regulations 81 to 90A;
- (c) regulation 91(1) and (2)
- (d) regulation 92;
- (e) Schedule 18;
- (f) Schedule 19;
- (g) paragraph 29(2) to (4) of Schedule 27.

(2) A relevant decision requiring payment of a financial penalty is one received, with a certificate requesting enforcement of a penalty, before IP completion day by—

- (a) the central authority or competent authority of a member State under section 81(3) or (as the case may be) under section 83(3) of the 2008 Act (procedure on issue of certificate: England and Wales and procedure on issue of certificate; Northern Ireland), or by any other authority of the member State with no jurisdiction to enforce a penalty but which transmits the decision and certificate to the competent authority; or
 - (b) the Lord Chancellor or Department of Justice in Northern Ireland under section 84(1) or (as the case may be) under section 87(1) of the 2008 Act (requests from other member States: England and Wales and requests from other member States: Northern Ireland), or by any other authority in England and Wales or Northern Ireland with no jurisdiction to enforce a penalty but which transmits the decision and certificate to the competent authority.
- (3) For the purposes of this regulation—
- (a) “central authority” and “competent authority” has the same meaning as in section 92(1) of the 2008 (interpretation of sections 80 to 91 etc.);
 - (b) “a certificate requesting enforcement” has the same meaning as in section 92(3) of the 2008 Act;
 - (c) for the purposes of this regulation, the provisions of the 2008 Act referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.”.