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STATUTORY INSTRUMENTS

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**2014 No. 3141**

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

**PART 2**

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

**CHAPTER 2**

**England and Wales**

**Sending overseas confiscation orders to the court**

**13.—(1)** In a case where—

- (a) a relevant prosecutor receives an overseas confiscation order from the court or authority which made or confirmed the order, and
- (b) conditions A to C are met,

the relevant prosecutor must send a copy of the order to the Crown Court.

(2) An overseas confiscation order is an order made by an appropriate court or authority in a member State for the confiscation of property which is in England and Wales, or is the property of a resident of England and Wales, and which the appropriate court or authority considers—

- (a) was used or intended to be used for the purposes of criminal conduct, or
- (b) is the proceeds of criminal conduct.

(3) Condition A is that a person has been convicted of that criminal conduct in the member State.

(4) Condition B is that the overseas confiscation order was made at the conclusion of the proceedings that gave rise to the conviction.

(5) Condition C is that the order is accompanied by a certificate which—

- (a) gives the specified information;
- (b) is signed by or on behalf of the court or authority which made or confirmed the order,
- (c) includes a statement as to the accuracy of the information given in it, and
- (d) if it is not in English, includes a translation of it into English (or, if appropriate, Welsh).

(6) For the purposes of Condition C—

- (a) the certificate may be treated as giving any specified information which is not given in it if the relevant prosecutor has the information in question;
- (b) the signature may be an electronic signature.

(7) An appropriate court or authority in a member State in relation to an overseas confiscation order is—

- (a) a court exercising criminal jurisdiction in the country,

- (b) a prosecuting authority in the country, or
  - (c) any other authority in the country which appears to the relevant prosecutor to have the function of making such orders.
- (8) References in this Chapter to an overseas confiscation order include its accompanying certificate.
- (9) In this regulation—
- “resident of England and Wales” means—
- (a) an individual who is normally resident in England and Wales, or
  - (b) a body of persons (whether corporate or not) established in England and Wales (including a company registered in England and Wales);
- “criminal conduct” means—
- (a) a listed 2006 Framework Decision offence; or
  - (b) conduct which—
    - (i) constitutes an offence in any part of the United Kingdom; or
    - (ii) would constitute an offence in any part of the United Kingdom if it occurred there.