
STATUTORY INSTRUMENTS

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 5

Notification, communication etc., and application to saved orders

Notification, communication etc.

18.—(1) Where proceedings are started in relation to an overseas restraint order or an overseas confiscation order—

- (a) the relevant court must notify the relevant authority; and
- (b) the relevant authority must notify the court or authority which made or confirmed the overseas restraint order or the overseas confiscation order (as the case may be).

(2) Where the relevant court makes a relevant decision, the relevant authority must communicate that decision with reasons to the court or authority which made or confirmed the overseas restraint order or the overseas confiscation order to which the decision relates as soon as reasonably practicable.

(3) Where an overseas confiscation order provides for the confiscation of one or more specified items of property from the subject of the order, the relevant authority must seek the consent of the court or authority which made or confirmed the overseas confiscation order to replace such provision with a requirement that the subject of the order pay a sum of money equivalent to the value of any such specified items of property.

(4) Where an overseas confiscation order provides for the confiscation of a sum of money, the relevant authority must—

- (a) seek the consent of the court or authority which made or confirmed the overseas confiscation order to convert the amount provided into the currency of that member State; and
- (b) where consent is granted, arrange for such conversion at a rate of exchange that was available on the date that the overseas confiscation order was issued.

(5) Where the amount obtained in relation to an overseas confiscation order is greater than or equal to an amount equivalent to 10,000 Euros, the relevant authority must transfer to the court or authority which made or confirmed the order 50% of the amount obtained, unless otherwise agreed with that court or authority.

(6) Where a domestic confiscation order certified in accordance with regulation 11, paragraph 7 of Schedule 1 or paragraph 7 of Schedule 2 ceases to have effect or has been part satisfied, the relevant authority must notify any court or authority to whom the order has been sent in accordance

with regulation 12, paragraph 8 of Schedule 1 or paragraph 8 of Schedule 2 (as the case may be) as soon as reasonably practicable.

(7) Where, in the opinion of the relevant authority, giving effect to a domestic confiscation order certified in accordance with regulation 11, paragraph 7 of Schedule 1 or paragraph 7 of Schedule 2 may lead to more than the amount specified in that order being confiscated, the relevant authority must notify any court or authority to whom the order has been sent in accordance with regulation 12, paragraph 8 of Schedule 1 or paragraph 8 of Schedule 2 (as the case may be) as soon as reasonably practicable.

(8) In this regulation—

“overseas restraint order” and “overseas confiscation order” have the meanings given in regulations 8 and 13, paragraphs 4 and 9 of Schedule 1 or paragraphs 4 and 9 of Schedule 2 (as the case may be);

“relevant authority” means—

(a) in England and Wales—

- (i) for the purposes of paragraphs (1) to (5), the “relevant prosecutor”, as defined in regulation 5; and
- (ii) for the purposes of paragraphs (6) and (7), the prosecutor;

(b) in Scotland, the Lord Advocate;

(c) in Northern Ireland, the “relevant prosecutor”, as defined in paragraph 1 of Schedule 2;

“relevant court” means—

(a) in England and Wales, the Crown Court;

(b) in Scotland, the “court”, as defined in paragraph 1 of Schedule 1;

(c) in Northern Ireland, the “court”, as defined in paragraph 1 of Schedule 2;

“relevant decision” means—

- (a) a decision to give effect to, or to not give effect to, an overseas restraint order,
- (b) a decision to postpone giving effect to an overseas restraint order, or to end any such postponement,
- (c) a decision to discharge (or in Scotland, to recall) an overseas restraint order,
- (d) a decision to consider an appeal against, or an application to discharge (or in Scotland, to recall) or vary an overseas restraint order,
- (e) a decision not to recognise or give effect to, or to give limited effect to, an overseas confiscation order,
- (f) a decision to postpone giving effect to an overseas confiscation order, or to end any such postponement, or
- (g) a decision to consider an appeal against, or an application to discharge or vary an overseas confiscation order.