

2019 No. 0000

EXITING THE EUROPEAN UNION

COURTS OF JUDICATURE, NORTHERN IRELAND

MAGISTRATES' COURTS, NORTHERN IRELAND

SENIOR COURTS OF ENGLAND AND WALES

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Criminal Procedure (Amendment) (EU Exit) Regulations
2019**

Sift requirements satisfied ***

Made - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introduction

Citation and commencement

1. These Regulations—

(a) amend—

(i) the Crown Court Rules (Northern Ireland) 1979(b),

(a) 2018 c. 16.

(b) S.R. 1979 No. 90; to which the most recent relevant amendments were made by S.R. 2018 No. 24, S.R. 2011 No. 230 and S.R. 2004 No. 233.

- (ii) the Magistrates' Courts Rules (Northern Ireland) 1984(a), and
- (iii) the Criminal Procedure Rules 2015(b);
- (b) may be cited as the Criminal Procedure (Amendment) (EU Exit) Regulations 2019; and
- (c) come into force on exit day.

Extent

2.—(1) Except as provided in paragraph (2), these Regulations extend to Northern Ireland and England and Wales.

(2) An amendment made by these Regulations has the same extent as the provision to which it applies.

Transitional and saving provision

3.—(1) This regulation applies to a case in which a transitional or saving provision of one of the following instruments preserves a right, discretion or duty conferred or imposed by legislation which that instrument repeals, revokes or amends—

- (a) the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019(c);
- (b) the Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019(d).

(2) To the extent that such a right, discretion or duty is preserved—

- (a) the amendments made by these Regulations do not apply; and
- (b) the provisions of the instruments listed in regulation 1(a) of these Regulations applicable to the exercise of that right, discretion or duty continue to apply.

Interpretation

4.—(1) In Part 2 of these Regulations a reference to a rule by number alone means the rule so numbered in the Crown Court Rules (Northern Ireland) 1979.

(2) In Part 3 of these Regulations a reference to a rule by number alone means the rule so numbered in the Magistrates' Courts Rules (Northern Ireland) 1984.

(3) In Part 4 of these Regulations a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2015.

PART 2

Amendments to the Crown Court Rules (Northern Ireland) 1979

5.—(1) Omit the following—

- (a) rule 58A (notice of application for a domestic freezing order);
- (b) rule 58B (variation or revocation of a domestic freezing order);
- (c) rule 60A (consideration of an overseas freezing order);
- (d) rule 60B (release of evidence subject to an overseas freezing order);
- (e) rule 62A (record of telephone link before a nominated court); and

(a) S.R. 1984 No. 225; to which the most recent relevant amendments were made by S.R. 2018 No. 25, S.R. 2011 No. 418, S.R. 2010 No.12 and S.R. 2004 No. 204.

(b) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755, 2017/915, 2018/132, 2018/847, 2019/XX.

(c) S.I. 2019/XX.

(d) S.I. 2019/XX.

- (f) rules 62C to 62M (applications under the Criminal Justice (European Investigation Order) Regulations 2017).
- (2) In rule 61 (interpreter for the purposes of proceedings involving a television or telephone link)—
 - (a) in the title, omit “or telephone”;
 - (b) in sub-paragraph (1), omit “or section 31(4) (hearing witnesses in the UK by telephone)”;
 - (c) in sub-paragraph (2), omit “or 2”;
 - (d) in sub-paragraph (3), omit “or, as the case may be, section 31(1)”.
- (3) In rule 62B (restriction on access to records kept under rules 60, 62 and 62A)—
 - (a) for the title substitute “Restriction on access to records kept under rules 60 and 62”;
 - (b) for “62 and 62A” substitute “and 62”.

PART 3

Amendments to the Magistrates’ Courts Rules (Northern Ireland) 1984

- 6.—(1) Omit the following—
 - (a) rule 52GA (notice of application for a domestic freezing order);
 - (b) rule 52GB (variation or revocation of a domestic freezing order);
 - (c) rule 52IA (consideration of an overseas freezing order);
 - (d) rule 52IB (release of evidence subject to an overseas freezing order);
 - (e) rule 52L (record of proceedings by telephone link before a nominated court); and
 - (f) rules 52O to 52Q (applications under the Criminal Justice (European Investigation Order) Regulations 2017).
- (2) In rule 52D (applications and procedures under the Crime (International Co-operation) Act 2003)—
 - (a) in paragraph (c), omit “or Part 2”; and
 - (b) in paragraph (d), omit “or 31”.
- (3) In rule 52J(1) (interpreter for the purposes of proceedings involving a television or telephone link), omit “or section 34(1) (hearing witnesses in the UK by telephone)”.
- (4) In rule 52M (restriction on access to records kept under Rules 52I, 52K and 52L)—
 - (a) in the title, omit “and 52L”; and
 - (b) in paragraph (1), for “, 52K and 52L” substitute “and 52K”.

PART 4

Amendments to the Criminal Procedure Rules 2015

- 7. In Part 3 (case management), in the note to rule 3.9 (case preparation and progression) omit the second paragraph.
- 8. In Part 14 (bail and custody time limits)—
 - (a) in rule 14.1 (where this Part applies)—
 - (i) for paragraph (1) substitute—
 - “(1) This Part applies where a magistrates’ court or the Crown Court can—
 - (a) grant or withhold bail, or impose or vary a condition of bail; and
 - (b) where bail has been withheld, extend a custody time limit.”

(ii) in the first paragraph of the note to the rule, omit sub-paragraph (e) (which refers to Part 7 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014^(a)) and renumber sub-paragraphs (f), (g) and (h) as (e), (f) and (g) respectively, and

(iii) for the second paragraph of the note to the rule substitute—

“At the end of this Part there is a summary of the general entitlement to bail and of the exceptions to that entitlement.”;

- (b) in rule 14.2 (exercise of court’s powers: general), in the second paragraph of the note to the rule omit “and under regulation 79(3) of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014.”;
- (c) in rule 14.7 (notice of application to consider bail), in the first paragraph of the note to the rule omit “and forms of application, draft order and certificate for use where an applicant wants the court to exercise the powers to which rule 14.16 applies (bail condition to be enforced in another European Union member State)”;
- (d) omit rules 14.16 and 14.17 (which concern the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014);
- (e) renumber rules 14.18 to 14.22 as rules 14.16 to 14.20 respectively;
- (f) in rule 14.18 as thus renumbered (exercise of court’s powers: extension of pre-charge bail)—
- (i) in paragraphs (1) and (8), for “14.21”, in each place it occurs, substitute “14.19”,
 - (ii) in paragraph (4), for “14.22” substitute “14.20”,
 - (iii) in the note to the rule, for “rules 14.21 and 14.22” substitute “rules 14.19 and 14.20”;
- (g) amend the table of contents correspondingly; and
- (h) in the note at the end of the Part, omit the headings “Requirements that may be monitored and enforced in another European Union member State” and “Grounds for refusing to monitor and enforce a supervision measure imposed in another European Union member State” and the paragraphs that follow each of those headings.

9. In Part 18 (measures to assist a witness or defendant to give evidence)—

- (a) in rule 18.24 (content of application for a live link direction)—
- (i) omit paragraphs (2) and (3),
 - (ii) paragraph (1) becomes the text of the rule, and
 - (iii) for the first paragraph of the note to the rule substitute—

“[Note. See section 32 of the Criminal Justice Act 1988 and section 51 of the Criminal Justice Act 2003^(b).]”;

- (b) in rule 18.25 (application to discharge a live link direction, etc.)—
- (i) in the title to the rule omit “etc.”,
 - (ii) omit paragraphs (3) and (4),
 - (iii) for the note to the rule substitute—

“[Note. See section 32(4) of the Criminal Justice Act 1988^(c) and section 52(3) of the Criminal Justice Act 2003^(d).]”;

- (c) amend the table of contents correspondingly; and

(a) S.I. 2014/3141.

(b) 2003 c. 44.

(c) 1988 c. 33; section 32(4) was amended by article 3 of, and paragraphs 24 and 26 of the Schedule to S.I. 2004/2035.

(d) 2003 c. 44.

- (d) in the note at the end of the Part, omit the third and fourth paragraphs after the heading “Live link direction” (which paragraphs concern the Criminal Justice (European Investigation Order) Regulations 2017).
- 10.** In Part 21 (evidence of bad character), in the second paragraph of the note to rule 21.2 (content of application or notice) omit “or European Union”.
- 11.** In Part 30 (enforcement of fines and other orders for payment)—
- (a) omit rule 30.10 (financial penalties imposed in other European Union member States); and
 - (b) amend the table of contents correspondingly.
- 12.** In Part 31 (behaviour orders)—
- (a) in rule 31.1 (when this Part applies)—
 - (i) for paragraph (1) substitute—

“(1) This Part applies where a magistrates’ court or the Crown Court can make, vary or revoke a civil order—

 - (a) as well as, or instead of, passing a sentence, or in any other circumstances in which other legislation allows the court to make such an order; and
 - (b) that requires someone to do, or not do, something.”; and
 - (ii) omit the second paragraph of the note to the rule (which concerns the Criminal Justice (European Protection Order) Regulations 2014(a));
 - (b) in rule 31.2 (behaviour orders: general rules)
 - (i) for paragraph (2) substitute—

“(2) That restriction does not apply to making an interim behaviour order, but unless other legislation otherwise provides such an order has no effect unless the person to whom it is directed—

 - (a) is present when it is made; or
 - (b) is handed a document recording the order not more than 7 days after it is made.”; and
 - (ii) omit paragraph (4), and
 - (iii) for the second paragraph of the note to the rule substitute—

“*See section 14A(3) of the Football Spectators Act 1989(b) and section 9(1) of the Crime and Disorder Act 1998(c).*”;
 - (c) omit rules 31.9 and 31.10 (which concern the Criminal Justice (European Protection Order) Regulations 2014);
 - (d) renumber rule 31.11 (court’s power to vary requirements under this Part) as rule 31.9; and
 - (e) amend the table of contents correspondingly.
- 13.** In Part 39 (appeal to the Court of Appeal about conviction or sentence), in rule 39.8 (Application for bail pending appeal or retrial)—
- (a) omit paragraph (4); and
 - (b) in the note to the rule—
 - (i) for the first paragraph substitute—

(a) S.I. 2014/3300.

(b) 1989 c. 37; section 14A was substituted, together with sections 14 and 14B–14J, for the existing sections 14–17, by section 1 of, and paragraphs 1 and 2 of Schedule 1 to, the Football (Disorder) Act 2000 (c. 25).

(c) 1998 c. 37; section 9 was amended by section 85 of the Anti-social Behaviour Act 2003 (c. 38), paragraph 2 of Schedule 34 to the Criminal Justice Act 2003 (c. 44), section 64 of, and paragraph 4 of Schedule 5 to, the Children Act 2004 (c. 31), article 3 of, and paragraph 13 of Schedule 1 to, S.I. 2008/912 and section 181 of, and paragraph 26 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). It is further amended by sections 40 and 41 of the Crime and Security Act 2010 (c. 17), with effect from a date to be appointed.

“See section 19 of the Criminal Appeal Act 1968(a) and section 3(8) of the Bail Act 1976(b). An application about bail or about the conditions of bail may be made either by an appellant or respondent.”, and

- (ii) omit the third paragraph (which concerns the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014(c)).

14. In Part 44 (request to the European Court for a preliminary ruling)—

- (a) omit the title of the Part; and
- (b) for the table of contents and the rules in the Part substitute “There are no rules in this Part.”

15. In Part 47 (investigation orders and warrants)—

- (a) in rule 47.1 (when this Part applies) for “47.54, 47.59 and 47.62” substitute “47.54 and 47.59”;
- (b) omit Section 9 (European investigation orders), comprising rules 47.59 to 47.61;
- (c) renumber Section 10 and rules 47.62 to 47.65 as Section 9 and rules 47.59 to 47.62 respectively;
- (d) in rule 47.59 as thus renumbered (when this section applies), in the fourth paragraph of the note to the rule for “47.64” substitute “47.61”;
- (e) in rule 47.60 as thus renumbered (exercise of court’s powers) for “47.64” substitute “47.61”; and
- (f) amend the table of contents correspondingly.

16. In Part 49 (international co-operation)—

- (a) omit rule 49.10 (overseas freezing orders), which concerns sections 20 to 22 of the Crime (International Co-operation) Act 2003(d);
- (b) omit rules 49.12 and 49.13, which concern the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014;
- (c) omit rules 49.14 to 49.17, which concern the Criminal Justice (European Investigation Order) Regulations 2017(e);
- (d) renumber rule 49.11 (overseas forfeiture orders) as rule 49.10; and
- (e) amend the table of contents correspondingly.

17. In Part 50 (extradition), in the second paragraph of the note to rule 50.1 (when this Part applies) omit “including a Member State of the European Union”.

18. In the Arrangement of Rules contained in the Criminal Procedure Rules 2015, for the title to Part 44 and the list of rules in that Part substitute “There are no rules in this Part”.

Signed by authority of the Secretary of State for Justice.

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

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- (a) 1968 c. 19; section 19 was substituted by section 29 of the Criminal Justice Act 1982 (c. 48) and was amended by section 170 of, and paragraphs 20 and 26 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 168 of, and paragraph 22 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).
 - (b) 1976 c. 63; section 3(8) was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45) and paragraph 48 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
 - (c) S.I. 2014/3141.
 - (d) 2003 c. 32.
 - (e) S.I. 2017/730.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) to amend legislation in consequence of the withdrawal of the UK from the European Union.

The procedure rules amended by these Regulations supplement and apply provisions which are repealed, revoked or disappplied by the 2018 Act, by the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019, S.I. 2019/XXXX or by the Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019, S.I. 2019/XXXX. Those other Regulations include transitional and saving provisions the effect of which is that in some circumstances legislation which the rules supplement is preserved. Therefore these Regulations include a transitional and saving provision to preserve those rules for those purposes.

These Regulations amend the Crown Court Rules (Northern Ireland) 1979 as follows:

<i>Rule</i>	<i>Amendment</i>
Rules 58A, 58B, 60A, 60B and 62A	There are omitted rules that supplement the Crime (International Co-operation) Act 2003.
Rules 61 and 62B	There are consequentially amended rules that supplement the Crime (International Co-operation) Act 2003.
Rules 62C to 62M	There are omitted rules that supplement the Criminal Justice (European Investigation Order) Regulations 2017, which gave effect in the United Kingdom to Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters.

These Regulations amend the Magistrates' Courts Rules (Northern Ireland) 1984 as follows:

<i>Rule</i>	<i>Amendment</i>
Rules 52GA, 52GB, 52IA, 52IB and 52L 3	There are omitted rules that supplement the Crime (International Co-operation) Act 2003.
Rules 52D, 52J and 52M	There are consequentially amended rules that supplement the Crime (International Co-operation) Act 2003.
Rules 52O to 52Q	There are omitted rules that supplement the Criminal Justice (European Investigation Order) Regulations 2017, which gave effect in the United Kingdom to Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters.

These Regulations amend the Criminal Procedure Rules 2015 as follows:

<i>Rule</i>	<i>Amendment</i>
Part 3	There is omitted a reference to Directive 2010/64/EU of the European Parliament and of the Council of 20 th October, 2010, on the right to interpretation and translation in criminal proceedings.
Part 14	There are omitted rules that supplement the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014, which gave effect to Council Framework Decision 2009/829/JHA of 23 rd October, 2009, on the application, between member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (bail conditions pending trial).
Part 18	There are omitted rules that supplement the Criminal Justice (European Investigation Order) Regulations 2017, which gave effect in the United Kingdom to Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters.
Part 21	There is omitted a reference to the admissibility in criminal proceedings in England and Wales of a criminal conviction imposed in a European Union member State.
Part 30	There is omitted a rule that supplements section 84 of the Criminal Justice and Immigration Act 2008 which concerns enforcement of a financial penalty to which applies the Framework Decision of the Council of the European Union 2005/214/JHA, as amended by Council Framework Decision 2009/299/JHA, on the application of the principle of mutual recognition to financial penalties.
Part 31	There are omitted rules that supplement the Criminal Justice (European Protection Order) Regulations 2014, which gave effect to Directive 2011/99/EU of the European Parliament and of the Council of 13 th December, 2011, on the European protection order.
Part 39	There is omitted a rule that supplements the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (and see the note above about Part 14).
Part 44	There are omitted the rules governing procedure in England and Wales on a request to the Court of Justice of the European Union to give a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union.
Part 47	There are omitted rules that supplement the Criminal Justice (European Investigation Order) Regulations 2017 (and see the note above about Part 18).
Part 49	There are omitted rules that supplement the Crime (International Co-operation) Act 2003, the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 and the Criminal Justice (European Investigation Order) Regulations 2017 (and see the notes above about Parts 14 and 18).

Part 50 There is omitted a reference to the European arrest warrant.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen in consequence of this instrument itself.

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