

2021 No.

CRIMINAL LAW, ENGLAND AND WALES

CRIMINAL LAW, NORTHERN IRELAND

The Crime (International Co-operation) Act 2003 (Freezing Order) (England and Wales and Northern Ireland) Regulations 2021

<i>Sift requirements satisfied</i>	***
<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	<i>1st October 2021</i>

The Secretary of State makes the following Regulations in exercise of the power conferred by section 8(1) of the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation, commencement and interpretation

1. These Regulations may be cited as the Crime (International Co-operation) Act 2003 (Freezing Order) (England and Wales and Northern Ireland) Regulations 2021 and come into force on 1st October 2021.

Extent

2. These Regulations extend to England and Wales and Northern Ireland.

Amendment of the Crime (International Co-operation) Act 2003

3.—(1) The Crime (International Co-operation) Act 2003(b) is amended as follows.

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

- (a) in subsection (1), omit the definition of “the relevant Framework Decision”;
- (b) in subsection (5)(a), for “Article 3(2) of the relevant Framework Decision” substitute “Schedule 1A (listed offences within section 28(5)(a))”;

(a) 2018 c. 16.
(b) 2003 c. 32.

- (c) in subsection (7)(a), for the words “required to be given by the form of certificate annexed to the relevant Framework Decision” substitute “specified in Schedule 1B (certificate under section 11(4) or 20(5): specified information)”.
- (3) After Schedule 1 (proceedings of a nominated court under section 15), insert–

“SCHEDULE 1A

section 28(5)

Listed offences within section 28(5)(a)

The following offences, as they are defined by the law of the issuing State, and if they are punishable in the issuing State by a custodial sentence of a maximum period of at least three years–

- (a) participation in a criminal organisation;
- (b) terrorism;
- (c) trafficking in human beings;
- (d) sexual exploitation of children and child pornography;
- (e) illicit trafficking in narcotic drugs and psychotropic substances;
- (f) illicit trafficking in weapons, munitions and explosives;
- (g) corruption;
- (h) fraud;
- (i) laundering of the proceeds of crime;
- (j) counterfeiting currency;
- (k) computer-related crime;
- (l) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- (m) facilitation of unauthorised entry and residence;
- (n) murder or grievous bodily injury;
- (o) illicit trade in human organs and tissue;
- (p) kidnapping, illegal restraint and hostage-taking;
- (q) racism and xenophobia;
- (r) organised or armed robbery;
- (s) illicit trafficking in cultural goods, including antiques and works of art;
- (t) swindling;
- (u) racketeering and extortion;
- (v) counterfeiting and piracy of products;
- (w) forgery of, or trafficking in, administrative documents;
- (x) forgery of means of payment;
- (y) illicit trafficking in hormonal substances and other growth promoters;
- (z) illicit trafficking in nuclear or radioactive materials;
- (za) trafficking in stolen vehicles;
- (zb) rape;
- (zc) arson;
- (zd) crimes within the jurisdiction of the International Criminal Court;
- (ze) unlawful seizure of aircraft or ships;
- (zf) sabotage.

SCHEDULE 1B

section 28(7)

Certificate under section 11(4) or 20(5): specified information

- 1.—(1) Details of either or both of the following, including name, contact details (address, e-mail address and telephone number) and any relevant reference number—
 - (a) the judicial authority which issued the freezing order;
 - (b) the authority competent for the enforcement of the freezing order in the issuing State.
- (2) In the case of any authority specified under sub-paragraph (1)—
 - (a) languages in which it is possible to communicate with that authority;
 - (b) contact details (including languages in which it is possible to communicate with the person) of the person to contact if additional information on the execution of the order is necessary or to make necessary practical arrangements for the transfer of evidence (if applicable).
- (3) If different authorities are specified under paragraphs (a) and (b) of sub-paragraph (1)—
 - (a) that both of them must be contacted, or
 - (b) (if that is not the case) which one must be contacted.
2. Where a central authority has been made responsible for the transmission and administrative reception of freezing orders, details of that authority, including name, contact details (address, e-mail address and telephone number) and any relevant reference number.
3. The date, purpose and reference number of the freezing order.
4. The formalities and procedures to be observed when executing a freezing order concerning evidence (if applicable).
5. The following information regarding the evidence in the executing State covered by the freezing order—
 - (a) precise description of the evidence;
 - (b) exact location of the evidence (or, if not known, the last known location);
 - (c) party having custody of the evidence or known beneficial owner of the evidence, if different from the person suspected of the offence or convicted (if applicable under the national law of the issuing State).
6. The following information regarding the identity of the natural or legal person suspected of the offence or convicted (if applicable under the national law of the issuing State) and/or the person to whom the freezing order relates (if available)—
 - (a) in the case of natural persons—
 - (i) name;
 - (ii) forename;
 - (iii) other relevant name, if applicable;
 - (iv) aliases, where applicable;
 - (v) sex;
 - (vi) nationality;
 - (vii) date of birth;
 - (viii) place of birth;

- (xi) residence and/or known address; if address not known, the last known address;
- (x) language which the person understands (if known);
- (b) in the case of legal persons—
 - (i) name;
 - (ii) form of legal person;
 - (iii) registration number;
 - (iv) registered seat.

7.—(1) A description of the relevant grounds for the freezing order and a summary of facts as known to the judicial authority issuing the freezing order and certificate.

(2) Information as to the nature and legal classification of the offence and the applicable statutory provision or code on the basis of which the freezing order was made.

(3) If the offence is a listed offence by virtue of section 28(5)(a) an indication as to which one or more of the following offences that offence relates to—

- (a) participation in a criminal organisation;
- (b) terrorism;
- (c) trafficking in human beings;
- (d) sexual exploitation of children and child pornography;
- (e) illicit trafficking in narcotic drugs and psychotropic substances;
- (f) illicit trafficking in weapons, munitions and explosives;
- (g) corruption;
- (h) fraud;
- (i) laundering of the proceeds of crime;
- (j) counterfeiting currency;
- (k) computer-related crime;
- (l) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- (m) facilitation of unauthorised entry and residence;
- (n) murder or grievous bodily injury;
- (o) illicit trade in human organs and tissue;
- (p) kidnapping, illegal restraint and hostage-taking;
- (q) racism and xenophobia;
- (r) organised or armed robbery;
- (s) illicit trafficking in cultural goods, including antiques and works of art;
- (t) swindling;
- (u) racketeering and extortion;
- (v) counterfeiting and piracy of products;
- (w) forgery of, or trafficking in, administrative documents;
- (x) forgery of means of payment;
- (y) illicit trafficking in hormonal substances and other growth promoters;
- (z) illicit trafficking in nuclear or radioactive materials;
- (za) trafficking in stolen vehicles;
- (zb) rape;
- (zc) arson;

- (zd) crimes within the jurisdiction of the International Criminal Court;
- (ze) unlawful seizure of aircraft or ships;
- (zf) sabotage.

(4) A full description of any offence (not covered by sub-paragraph (3)) that is a listed offence by virtue of section 28(5)(b).

8. Details of legal remedies against the freezing order for interested parties, including bona fide third parties, available in the issuing State, including—

- (a) description of the legal remedies available including necessary steps to take;
- (b) court before which the action may be taken;
- (c) information as to those for whom the action is available;
- (d) time limit for submission of the action;
- (e) details of authority in the issuing State who can supply further information on procedures for submitting appeals in the issuing State and on whether the legal assistance and translation is available, including name, address, e-mail address and telephone number.”.

Signed

Signatory
Minister of State
Home Office

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the power contained in section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (and in particular the deficiencies referred to in paragraph (g) of subsection (2)).

The Crime (International Co-operation) Act 2003 (c.32) (“the 2003 Act”) provides for a judicial authority in the United Kingdom to make a domestic freezing order protecting evidence in a participating country pending its transfer to the United Kingdom (sections 10 to 12). Sections 20 to 25 of the 2003 Act contain provisions regarding overseas freezing orders made by a court or authority in a participating country to protect evidence in the United Kingdom pending its transfer to the participating country.

Those provisions apply in relation to “listed offences” as defined by section 28(5) of the 2003 Act. The freezing order provisions also contain requirements in relation to what information needs to be contained within the certificates required by sections 11(4) and 20(5), namely “specified information” as defined by section 28(7).

Originally, the 2003 Act defined these “listed offences” and “specified information” by reference to the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ No. L 196, 02.08.2003, P.45-55) (“the Framework Decision”) and to offences or information prescribed by an order made under the 2003 Act.

These Regulations (which extend to England and Wales and Northern Ireland only) replace those references to the Framework Decision with a list of offences set out in a new Schedule 1A to the 2003 Act and the specified information set out in a new Schedule 1B.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.