
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 95

**EXITING THE EUROPEAN UNION
CRIMINAL LAW**

**The Crime (International Co-operation) Act 2003
(Freezing Order) (EU Exit) (Scotland) Regulations 2022**

<i>Made</i>	- - - -	<i>16th March 2022</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>18th March 2022</i>
<i>Coming into force</i>	- -	<i>16th May 2022</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Crime (International Co-operation) Act 2003 (Freezing Order) (EU Exit) (Scotland) Regulations 2022 and come into force on 16 May 2022.

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

2. The Crime (International Co-operation) Act 2003⁽²⁾ is amended in accordance with regulations 3 and 4.

3. In section 28 (interpretation of chapter 2)—

(a) in subsection (1)—

(i) after the definition of “domestic freezing order” insert—

““executing State” means the participating country or the part of the United Kingdom in which the property or evidence is located (as the case may be),

“freezing order” means—

- (a) a domestic freezing order, or
- (b) an overseas freezing order,

(1) 2018 c. 16.
(2) 2003 c. 32.

“issuing State” means in relation to—

- (a) a domestic freezing order, the part of the United Kingdom in which a judicial authority, as defined by the law of the part of the United Kingdom in question, has made that order,” or
- (b) an overseas freezing order, the participating country in which a judicial authority, as defined by the law of that country has made, validated or in any way confirmed the order in the framework of criminal proceedings”,
- (ii) 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”,
- (c) in subsection (7)(a), for “required to be given by the form of certificate annexed to the relevant Framework Decision” substitute “specified in schedule 1B”.

4. 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,
- (z1) trafficking in stolen vehicles,
- (z2) rape,
- (z3) arson,
- (z4) crimes within the jurisdiction of the International Criminal Court,
- (z5) unlawful seizure of aircraft or ships,
- (z6) 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 of the person to contact if additional information on the execution of the freezing 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) confirmation—
 - (a) that both authorities must be contacted, or
 - (b) of which authority should be contacted.
2. Where an authority has been made responsible for the transmission and administrative reception of freezing orders (“central authority”) in the issuing State, details of the central 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) or the person to whom the freezing order relates (if available)—

- (a) in the case of natural persons—
 - (i) surname,
 - (ii) forename,
 - (iii) other relevant name where applicable,
 - (iv) aliases, where applicable,
 - (v) sex,
 - (vi) nationality,
 - (vii) date of birth,
 - (viii) place of birth,
 - (ix) residence or known address/ 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 (if any),
 - (iv) registered seat (if any).

7. The action to be taken by the executing State after executing the freezing order.

8.—(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 offences listed in schedule 1A that offence relates to.

(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).

9. Details of legal remedies against the freezing order for interested parties, including 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.”.

St Andrew's House,
Edinburgh
16th March 2022

KEITH BROWN
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in order to address failures of retained EU law to operate effectively arising from the withdrawal of the United Kingdom from the European Union.

Sections 10 to 12 of the Crime (International Co-operation) Act 2003 (“the Act”) provide 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 20 to 25 of the Act make provision 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 of the Act apply to offences defined by section 28(5) 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, P45-55) (“the Framework Decision”). The Framework Decision is also referred to in the Act in relation to what information must be contained within the certificates required by sections 11(4) and 20(5), namely “specified information” as defined by section 28(7).

Regulation 3 amends section 28(1) of the Act, which provides for the interpretation of chapter 2 of the Act, as it applies in Scotland, by:

- adding definitions of “executing State”, “freezing order” and “issuing State”, to aid the interpretation of new schedules 1A and B of the Act, and
- removing the reference to the Framework Decision.

Regulation 4 inserts two schedules into the Act. Schedule 1A replicates the list of offences and schedule 1B contains the specified information, both found in the Framework Decision.