



STATUTORY INSTRUMENTS.

S.I. No. 470 of 2019



EUROPEAN UNION (FREEZING AND CONFISCATION OF
INSTRUMENTALITIES AND PROCEEDS OF CRIME) REGULATIONS
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I, CHARLES FLANAGAN, Minister for Justice and Equality, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014¹ on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2019.

Definition

2. In these Regulations, “Principal Act” means the Criminal Justice Act 1994 (No.15 of 1994).

Amendment of section 3 of Principal Act

3. Section 3 of the Principal Act is amended -

(a) in subsection (1) -

- (i) in the definition of “extended confiscation offence”, by the deletion of “in so far as it is an offence referred to in Article 5 of the Directive”,
- (ii) by the substitution of the following definition for the definition of “relevant conduct”:

“ ‘relevant conduct’ means criminal conduct within the meaning of section 43;”, and

- (iii) in the definition of “relevant offence”, by the deletion of “in so far as it is covered by an instrument referred to in Article 3 of the Directive”, and

¹ OJ L 127, 29.4.2014, p. 39

- (b) by the insertion of the following subsection after subsection (17):

“(18) For the purposes of this Act in so far as it relates to a relevant offence, a reference to a court shall be construed as including a reference to the Special Criminal Court.”.

Amendment of section 8F of Principal Act

4. Section 8F of the Principal Act is amended, in subsection (1)(b)(ii), by the substitution of “relevant conduct” for “conduct constituting that offence”.

Amendment of Schedule 1A to Principal Act

5. Schedule 1A to the Principal Act is amended -

- (a) in Part 1, by the substitution of the following paragraph for paragraph 4:

“4. An offence under -

- (a) section 6 or 7 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017), or
(b) section 8 of that Act in so far as such offence is covered by an instrument referred to in the Article 3 of the Directive.”,

- (b) in Part 2 -

- (i) in paragraph 3, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 12 of 1977)”,
(ii) in paragraph 4, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 32 of 1990)”,
(iii) in paragraph 5, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 20 of 1993)”,
(iv) in paragraph 6, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 15 of 1994)”,
(v) in paragraph 7, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 38 of 1996)”,

(vi) by the substitution of the following paragraph for paragraph 8:

- “8. (a) An offence under section 3(1), (2), (3) or (4) of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998) (in this paragraph referred to as the ‘Act of 1998’) in so far as such offence is an offence referred to in Article 5 of the Directive
- (b) An offence under section 4A of the Act of 1998
- (c) An offence under section 5 of the Act of 1998 in so far as such offence is an offence referred to in Article 5 of the Directive
- (d) An offence under section 5A(1) of the Act of 1998.”,

(vii) in paragraph 10 -

- (I) in subparagraph (a), by the insertion of “(but only in so far as such offence is an offence referred to in Article 5 of the Directive)” after “section 4”,
- (II) in subparagraph (c), by the insertion of “(but only in so far as such offence is an offence referred to in Article 5 of the Directive)” after “section 17(1)”,
- (III) in subparagraph (d), by the insertion of “(but only in so far as such offence is an offence referred to in Article 5 of the Directive)” after “section 18(1)”,
- (IV) in subparagraph (f), by the insertion of “(but only in so far such offence is an offence referred to in Article 5 of the Directive)” after “section 26(1)”,
- (V) in subparagraph (g), by the insertion of “(but only in so far as such offence is an offence referred to in Article 5 of the Directive)” after “section 29(1)”, and
- (VI) in subparagraph (o), by the insertion of “(but only in so far as such offence is an offence referred to in Article 5 of the Directive)” after “section 37(1)”,

(viii) in paragraph 11, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 2 of 2005)”,

(ix) by the substitution of the following paragraph for paragraph 13:

- “13. An offence under -
- (a) section 71A of the Criminal Justice Act 2006 (No. 26 of 2006), or
 - (b) section 72 of that Act in so far as such offence is an offence referred to in Article 5 of the Directive.”,
- (x) in paragraph 14, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 8 of 2008)”,
- (xi) in paragraph 15, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 6 of 2010)”,
- (xii) in paragraph 16, by the insertion of “in so far as such offence is an offence referred to in Article 5 of the Directive” after “(No. 2 of 2017)”,
- (xiii) in paragraph 18, by the insertion of “in so far as such second- mentioned offence is an offence referred to in Article 5 of the Directive” after “17(a) or (b)”, and
- (xiv) in paragraph 19, by the insertion of “in so far as such second- mentioned offence is an offence referred to in Article 5 of the Directive” after “17 and 17A”.



GIVEN under my Official Seal,
23 September, 2019.

CHARLES FLANAGAN,
Minister for Justice and Equality.

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