



Number 9 of 2024

European Arrest Warrant (Amendment) Act 2024



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EUROPEAN ARREST WARRANT (AMENDMENT) ACT 2024

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Criminal Justice (Mutual Assistance) Act 2008 (No. 7)

European Arrest Warrant Act 2003 (No. 45)

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EUROPEAN ARREST WARRANT (AMENDMENT) ACT 2024

An Act to give further effect to Council Framework Decision of 13 June 2002¹ on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision of 26 February 2009² amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial; for that and other purposes to amend the European Arrest Warrant Act 2003; and to provide for related matters. [12th March, 2024]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Act of 2003” means the European Arrest Warrant Act 2003.

Application of Act

2. (1) The amendments to the Act of 2003 effected by this Act shall apply to a relevant arrest warrant and a true copy thereof, that is—
 - (a) endorsed in accordance with section 13(2) of the Act of 2003,
 - (b) produced to the High Court under section 14(4) of the Act of 2003, or
 - (c) issued under section 33(1) of the Act of 2003,on or after the date on which this Act comes into operation.
- (2) In this section—

“relevant arrest warrant” has the same meaning as it has in the Act of 2003;

“true copy” has the same meaning as it has in the Act of 2003.

Amendment of section 2 of Act of 2003

3. Section 2(1) of the Act of 2003 is amended—

¹ OJ No. L 190, 18.07.2002, p. 1

² OJ No. L 81, 27.3.2009, p. 81

- (a) by the deletion of the definition of “Council Decision”,
- (b) in the definition of “Schengen Convention”, by the substitution of “SIS Regulation” for “Council Decision”,
- (c) in the definition of “SIS”, by the substitution of “SIS Regulation” for “Council Decision”, and
- (d) by the insertion of the following definitions:

“ ‘flag’ means the addition to an alert by the SIRENE Bureau of a Member State, the Republic of Iceland or the Kingdom of Norway, pertaining to a European arrest warrant, to the effect that an action to be taken on the basis of the alert in accordance with Article 24 or 25 of the SIS Regulation will not be taken in the State;

‘remand centre’ has the same meaning as it has in section 3 of the Children Act 2001;

‘SIRENE Bureau’, in relation to a Member State, the Republic of Iceland or the Kingdom of Norway, means the authority designated by the Member State, the Republic of Iceland or the Kingdom of Norway, as the case may be, in accordance with Article 7 of the SIS Regulation to perform the functions referred to in that Article;

‘SIS Regulation’ means Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018³ on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, as amended by Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019⁴, Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021⁵, Regulation (EU) 2021/1150 of the European Parliament and of the Council of 7 July 2021⁶ and Regulation (EU) 2022/1190 of the European Parliament and of the Council of 6 July 2022⁷;

Amendment of section 10 of Act of 2003

4. Section 10 of the Act of 2003 is amended—

- (a) in paragraph (a)—
 - (i) by the substitution of “whom” for “against whom”, and
 - (ii) by the substitution of “prosecute” for “bring proceedings”,

³ OJ No. L 312, 7.12.2018, p. 56

⁴ OJ No. L 135, 22.5.2019, p. 85

⁵ OJ No. L 248, 13.7.2021, p. 1

⁶ OJ No. L 249, 14.7.2021, p. 1

⁷ OJ No. L 185, 12.7.2022, p. 1

- (b) in paragraph (b), by the substitution of “a prosecution” for “proceedings”, and
- (c) in paragraph (d), by the deletion of “in that state”.

Amendment of section 12 of Act of 2003

5. Section 12 of the Act of 2003 is amended by the substitution of the following subsection for subsection (3B):

“(3B) The written record of a document that is transmitted in accordance with subsection (3)(b) shall be deemed to be the document that was transmitted and, in the case of the further transmission of the document electronically by or on behalf of the Central Authority in the State to the High Court, the written record of the document that is further transmitted shall be deemed to be the document that was transmitted to the Central Authority.”.

Amendment of section 13 of Act of 2003

6. Section 13 of the Act of 2003 is amended—

- (a) by the substitution of the following subsection for subsection (2):

“(2) Upon an application under subsection (1), the High Court shall, in relation to a relevant arrest warrant, decide as soon as may be whether there has been compliance with the provisions of this Act, and, if so satisfied, shall, in accordance with the provisions of this Act, endorse the relevant arrest warrant for execution.”.

- (b) in subsection (4)—

- (i) in paragraph (b), by the substitution of “representation,” for “representation, and”,
- (ii) in paragraph (c), by the substitution of “an interpreter, and” for “an interpreter.”, and
- (iii) by the insertion of the following paragraph after paragraph (c):

“(d) in the case of a Trade and Cooperation Agreement arrest warrant, and without prejudice to paragraph (b), obtain, or be provided with, professional legal advice in the issuing state for the purposes of assisting his or her legal representatives in the State in respect of the proceedings under this Act.”.

and

- (c) in subsection (5)(c)—

- (i) in subparagraph (ii), by the substitution of “representation,” for “representation, and”,
- (ii) in subparagraph (iii), by the substitution of “an interpreter, and” for “an interpreter.”, and

(iii) by the insertion of the following subparagraph after subparagraph (iii):

“(iv) in the case of a Trade and Cooperation Agreement arrest warrant, and without prejudice to subparagraph (ii), obtain, or be provided with, professional legal advice in the issuing state for the purposes of assisting his or her legal representatives in the State in respect of the proceedings under this Act.”.

Amendment of section 14 of Act of 2003

7. Section 14 of the Act of 2003 is amended—

(a) in subsection (5), by the substitution of “shall be released from custody or the terms of his or her bail” for “shall be released from custody”, and

(b) by the addition of the following subsections after subsection (5):

“(6) The release of a person under subsection (5) shall not prevent his or her re-arrest and surrender if a European arrest warrant for his or her surrender is received by the Central Authority and subsequently endorsed by the High Court for execution.

(7) Where the arrest and surrender of a person named in an alert is sought, the High Court shall direct the Commissioner of the Garda Síochána to request the SIRENE Bureau concerned to add a flag to the alert where—

(a) the person has been remanded on bail,

(b) the High Court has refused to surrender the person in accordance with section 16, or

(c) the person has been released from custody or the terms of his or her bail in accordance with subsection (5).”.

Insertion of sections 14A and 14B in Act of 2003

8. The Act of 2003 is amended by the insertion of the following sections after section 14:

“Facilitation of hearing by judicial authority of issuing state

14A. (1) Without prejudice to Part 4 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, this section applies where—

(a) a relevant arrest warrant has been issued by a judicial authority in an issuing state, and

(b) a decision regarding whether to make an order directing that a person be surrendered has not been taken.

(2) Where this section applies, the High Court shall, where practicable and on being satisfied that it is not contrary to the interests of justice, upon receiving a request from a judicial authority of an issuing state to facilitate a person in respect of whom the relevant arrest warrant was

issued appearing using a live video link between that judicial authority and the place where the person is located, direct that arrangements be made to facilitate the video link request.

- (3) Where a request is made, regarding a relevant arrest warrant issued in respect of a person who the issuing state intends to prosecute for an offence to which the warrant relates, that arrangements pursuant to the applicable relevant provisions be put in place to facilitate the person being heard by a judicial authority of the issuing state, the High Court shall decide whether—
 - (a) subject to subsection (5), to order the temporary transfer of the person to the issuing state, or
 - (b) to direct that the person be heard in accordance with subsection (7).
- (4) The High Court shall, in making its decision under subsection (3), have regard to the views of the person concerned.
- (5) The High Court shall not order a temporary transfer under subsection (3)(a) unless it is satisfied that the person shall be able to return to the State to participate in proceedings relating to him or her to which this Act applies.
- (6) Where the High Court decides under subsection (3)(a) to order the temporary transfer of a person to the issuing state, the High Court shall, with the agreement of the issuing judicial authority, determine the conditions and duration of the transfer.
- (7) Where the High Court decides under subsection (3)(b) to direct that the person be heard in accordance with subsection (7), the High Court shall, subject to subsection (8), direct that the person be heard—
 - (a) by a judge of the High Court, nominated by the President of the High Court, assisted by a person designated by the issuing state, and
 - (b) without prejudice to paragraph (a), otherwise in accordance with the law of the State applicable to proceedings under this Act.
- (8) The High Court may, with the agreement of the issuing judicial authority, agree such other conditions as may be required for the purposes of this section.
- (9) In this section, ‘applicable relevant provisions’ in relation to a relevant arrest warrant means—
 - (a) in respect of a European Arrest Warrant, Articles 18 and 19 of the Framework Decision,
 - (b) in respect of a Trade and Cooperation Arrest Warrant, Articles 617 and 618 of the Trade and Cooperation Agreement, and

- (c) in respect of an arrest warrant within the meaning of the EU-Iceland Norway Agreement, Articles 21 and 22 of the EU-Iceland Norway Agreement.

Warrant for temporary transfer of person to issuing state

14B. (1) The Minister shall, on the grant of an order under subsection (3)(a), issue a warrant under section 66 of the Criminal Justice (Mutual Assistance) Act 2008 for the temporary transfer of the person out of the State to the issuing state.

(2) For the purposes of subsection (1), section 66 of the Criminal Justice (Mutual Assistance) Act 2008 shall apply subject to the following modifications:

(a) a reference in section 66 to a request shall be construed as a reference to a request under section 14A(3),

(b) a reference in section 66 to—

- (i) a person serving a sentence of imprisonment in a prison, and
- (ii) a prisoner,

shall be construed as a reference to the person referred to in subsection (1),

(c) a reference in section 66 to a—

- (i) designated state, and
- (ii) requesting authority,

shall be construed as a reference to the issuing state,

(d) the purpose for which the warrant may be issued shall be to ensure that the person is heard in the issuing state pursuant to the applicable relevant provisions (within the meaning of section 14A),

(e) a reference in section 66 to a prison shall be construed as including a reference to a remand centre,

(f) subsections (2), (3) and (6) of section 66 shall not apply, and

(g) any other necessary modifications.”.

Amendment of section 15 of Act of 2003

9. Section 15 of the Act of 2003 is amended—

(a) in subsection (1)—

(i) in paragraph (c)—

(I) by the deletion of “21A,”, and

(II) by the substitution of “sections 80” for “sections 79, 80”,

and

(ii) in paragraph (d), by the substitution of “by, or refused under, Part 3” for “by Part 3”,

(b) in subsection (2)—

(i) in paragraph (c)—

(I) by the deletion of “21A,”, and

(II) by the substitution of “sections 80” for “sections 79, 80”,

and

(ii) in paragraph (d), by the substitution of “by, or refused under, Part 3” for “by Part 3”,

(c) by the substitution of the following subsection for subsection (3):

“(3) An order—

(a) under subsection (1) shall, subject to section 18, be made within the period of 10 days beginning on the date on which the person provides his or her consent to the High Court to his or her being surrendered to the issuing state, or

(b) under subsection (2) shall, following the period of time for which the person is remanded under section 14(3)(b)(ii) and subject to section 18, be made within the period of 10 days beginning on the date on which the person provides his or her consent to the High Court to his or her being surrendered to the issuing state.”,

(d) in subsection (3A), by the substitution of “subsections (5), (5C), (6) and (6A)” for “subsections (5) and (6)”,

(e) in subsection (4)(a), by the substitution of “within the period of 10 days referred to in paragraph (a) or (b), as applicable, of subsection (3)” for “at any time before his or her surrender to the issuing state”,

(f) in subsection (4)(b), by the substitution of “issuing state concerned and, where appropriate, that the person has renounced his or her entitlement not to be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that for which he or she was surrendered,” for “issuing state concerned,”,

(g) in subsection (4)(c), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,

(h) by the substitution of the following subsection for subsection (5):

“(5) Where a person is brought before the High Court pursuant to subsection (4)(d)—

- (a) the High Court shall, if satisfied that, because of circumstances beyond the control of the State or the issuing state concerned, the person was not surrendered within the time for surrender under subsection (3A) or, as the case may be, will not be so surrendered—
 - (i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and order that the person be detained in a prison (or if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days, pending the agreement of a date for the purpose of this subparagraph, and
 - (ii) on agreement of a date under subparagraph (i), order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under subparagraph (i), pending the surrender,
- (b) the High Court shall continue to apply the provisions of paragraph (a) for so long as it is satisfied that the person will not be surrendered before the expiration of the period specified under paragraph (a)(ii) because of circumstances beyond the control of the State or the issuing state concerned, and
- (c) in any other case, the High Court shall—
 - (i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and
 - (ii) remand the person on bail (and for that purpose the High Court shall have the same powers in relation to remand as it would have if the person was brought before it charged with an indictable offence) pending the carrying out of the order directing that the person be surrendered to the issuing state.”
- (i) by the substitution of the following subsection for subsection (5A):

“(5A) A person to whom an order for the time being in force under subsection (5)(a) applies shall be surrendered to the issuing state concerned not later than 10 days after any new date fixed under that subsection.”,
- (j) in subsection (5B), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,
- (k) by the insertion of the following subsection after subsection (5B):

“(5C) (a) Where, in particular circumstances, the High Court has not, within 10 days beginning on the date the person provides his or her

consent to the High Court to his or her being surrendered to the issuing state, made an order under subsection (1) or (2) or has decided not to make an order under subsection (1) or (2), the Court shall, without delay, direct the Central Authority in the State to inform the issuing judicial authority in relation thereto and of the reasons therefor specified in the direction, and the Central Authority in the State shall comply with the direction.

- (b) The Court may extend the period of time referred to in paragraph (a) for a further period of 30 days, where it considers it appropriate and just in the circumstances to do so.”

- (l) by the insertion of the following subsection after subsection (6):

“(6A) If, in exceptional circumstances, the proceedings referred to in subsection (6) have not been finally determined after the expiration of 40 days from the person’s consent, pursuant to subsection (3), the High Court shall—

- (a) notify the issuing judicial authority and Eurojust without delay, provide reasons as to why the proceedings have not yet been finalised and, on conclusion of those proceedings and with that authority’s agreement, fix a new date for the surrender of the person, and
- (b) order that the person be detained in a prison (or if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under paragraph (a), pending the surrender.”

and

- (m) by the insertion of the following subsection after subsection (7):

“(7A) The period of 40 days referred to in subsection (6A) consists of the aggregate of the initial period of 10 days referred to in subsection (3) and such further extension of 30 days as may be granted by the High Court under subsection (5C)(b).”

Amendment of section 16 of Act of 2003

10. Section 16 of the Act of 2003 is amended—

- (a) in subsection (1)—
- (i) by the substitution of “shall” for “may”,
- (ii) by the substitution of “under section 13 or, subject to subsection (3),” for “under section 13 or”,
- (iii) in paragraph (d)—
- (I) by the deletion of “21A,”, and

- (II) by the substitution of “sections 80” for “sections 79, 80”,
and
- (iv) in paragraph (e), by the substitution of “by, or refused under, Part 3” for “by Part 3”,
- (b) in subsection (2)—
 - (i) by the substitution of “shall” for “may”,
 - (ii) by the substitution of “under section 14 or, subject to section (3),” for “under section 14 or”,
 - (iii) in paragraph (c)—
 - (I) by the deletion of “21A,”, and
 - (II) by the substitution of “sections 80” for “sections 79, 80”,
and
 - (iv) in paragraph (d), by the substitution of “by, or refused under, Part 3” for “by Part 3”,
- (c) by the substitution of the following subsection for subsection (3):
 - “(3) An order under subsection (1) or (2) shall, subject to subsection (3B) (b), be made not later than 60 days from the date of the person’s arrest.”,
- (d) in subsection (3A), by the substitution of “subsections (3B), (5), (6), and (6A)” for “subsections (5) and (6)”,
- (e) by the insertion of the following subsection after subsection (3A):
 - “(3B) (a) Where the High Court has not, upon the expiration of 60 days from the arrest of the person under section 13 or 14, made an order under subsection (1) or (2), it shall, without delay, so inform the issuing judicial authority.
 - (b) The High Court may extend the period of time specified under paragraph (a) for a further period of 30 days, where the Court considers it appropriate and just in the circumstances to do so.”,
- (f) in subsection (4)(b), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,
- (g) by the substitution of the following subsection for subsection (5):
 - “(5) Where a person is brought before the High Court pursuant to subsection (4)(c)—
 - (a) the High Court shall, if satisfied that, because of circumstances beyond the control of the State or the issuing state concerned, the

person was not surrendered within the time for surrender under subsection (3A) or, as the case may be, will not be so surrendered—

- (i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days, pending the agreement of a date for the purpose of this subparagraph, and
 - (ii) on agreement of a date under subparagraph (i), order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under subparagraph (i), pending the surrender,
- (b) the High Court shall continue to apply the provisions of paragraph (a) for so long as it is satisfied that the person will not be surrendered before the expiration of the period specified under paragraph (a)(ii) because of circumstances beyond the control of the State or the issuing state concerned, and
- (c) in any other case, the High Court shall—
- (i) notify the issuing judicial authority without delay and, with the agreement of that authority, fix a new date for the surrender of the person, and
 - (ii) remand the person on bail (and for that purpose the High Court shall have the same powers in relation to remand as it would have if the person was brought before it charged with an indictable offence) pending the carrying out of the order directing that the person be surrendered to the issuing state.”,
- (h) by the substitution of the following subsection for subsection (5A):
- “(5A) A person to whom an order for the time being in force under subsection (5)(a) applies shall be surrendered to the issuing state concerned not later than 10 days after any new date fixed under that subsection.”,
- (i) in subsection (5B), by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if the person is not more than 21 years of age, in a remand institution)”,
 - (j) in subsection (6), by the substitution of “pending, provided that the proceedings comply with the time limit specified in subsection (3) or, where applicable, (3B).” for “pending.”,
- (k) by the insertion of the following subsection after subsection (6):

“(6A) If, in exceptional circumstances, the proceedings referred to in paragraph (a) or (b) of subsection (6) have not been finalised within 90 days of the person’s arrest, pursuant to section 13 or 14, the High Court shall—

- (a) notify the issuing judicial authority and Eurojust without delay, provide reasons as to why the proceedings have not yet been finalised and, on conclusion of those proceedings and with that authority’s agreement, fix a new date for the surrender of the person, and
- (b) order that the person be detained in a prison (or, if the person is not more than 18 years of age, in a remand centre) for a period not exceeding 10 days after the date fixed under paragraph (a), pending surrender.”,

(l) by the substitution of the following subsection for subsection (9):

“(9) If the High Court has not, after the expiration of 60 days from the arrest of the person concerned under section 13 or 14, made an order under subsection (1) or (2) or subsection (1) or (2) of section 15, or has decided not to make an order under subsection (1) or (2) as the case may be, it shall direct the Central Authority in the State to—

- (a) inform the issuing judicial authority without delay, and
- (b) where appropriate, Eurojust,

in relation thereto and of the reasons therefor specified in the direction, and the Central Authority in the State shall comply with the direction.”,

and

(m) by the insertion of the following subsection after subsection (10):

“(10A) The period of 90 days referred to in subsection (10) consists of the aggregate of the initial period of 60 days referred to in subsection (3) and such further extension of 30 days as may be granted by the High Court under subsection (3B).”.

Failure to comply with time periods in section 15 or 16

11. The Act of 2003 is amended by the insertion of the following section after section 16:

“**16A.** (1) The expiry of the period of 40 days referred to in section 15(7A) shall not—

- (a) constitute a ground to refuse to surrender a person under this Act, or
- (b) preclude the continued detention of a person under this Act.

- (2) The expiry of the period of 90 days referred to in section 16(10A) shall not—
- (a) constitute a ground to refuse to surrender a person under this Act, or
 - (b) preclude the continued detention of a person under this Act.”.

Amendment of section 18 of Act of 2003

12. Section 18 of the Act of 2003 is amended by the substitution of the following subsection for subsection (5):

- “(5) Upon the making of an order under subsection (4)—
- (a) the issuing judicial authority shall be notified of the making of the order without delay by the Central Authority for the purpose of agreeing a new date for the surrender of the person,
 - (b) the person shall be surrendered not later than 10 days after the agreed new date, and
 - (c) where a further date is required for the surrender of the person, the issuing judicial authority shall be notified of that fact without delay by the Central Authority and with the agreement of the issuing judicial authority, the High Court shall fix a new date for the surrender of the person.”.

Amendment of section 19 of Act of 2003

13. Section 19 of the Act of 2003 is amended—

- (a) in subsection (1), by the substitution of “the High Court, with the agreement of the issuing judicial authority, may direct that the person be temporarily surrendered to the issuing state” for “the High Court may, subject to such conditions as it shall specify, direct that the person be surrendered to the issuing state for the purpose of his or her being tried for the offence to which the relevant arrest warrant concerned relates”, and
- (b) by the insertion of the following subsection after subsection (1):

- “(1A) A direction under subsection (1) shall be made on the basis of conditions determined by the High Court, with the agreement of the issuing judicial authority, and such conditions shall be recorded in writing, and be binding on all of the relevant authorities, as appropriate, in the issuing state.”.

Amendment of section 21 of Act of 2003

14. Section 21 of the Act of 2003 is amended by the substitution of “remand centre” for “remand institution” in each place it occurs.

Amendment of section 22 of Act of 2003

15. Section 22 of the Act of 2003 is amended—

(a) by the substitution of the following subsection for subsection (7):

“(7) The High Court shall, in relation to a person who has been surrendered to an issuing state under this Act, not later than 30 days after receipt of a request in writing from the issuing state in that behalf, consent to—

- (a) proceedings being brought against the person in the issuing state for an offence,
- (b) the imposition in the issuing state of a penalty, including a penalty consisting of a restriction of the person’s liberty, in respect of an offence, or
- (c) proceedings being brought against, or the detention of, the person in the issuing state for the purpose of executing a sentence or order of detention in respect of an offence,

provided that the offence is not—

- (i) an offence for which his or her surrender would be prohibited by virtue of Part 3, or
- (ii) an offence for which his or her surrender would be refused under Part 3.”,

and

(b) by the repeal of subsection (8).

Amendment of section 23 of Act of 2003

16. Section 23 of the Act of 2003 is amended—

(a) by the substitution of the following subsection for subsection (5):

“(5) The High Court shall, in relation to a person who has been surrendered to an issuing state under this Act, and not later than 30 days after the date of the request being made, consent to the person being surrendered by the issuing state to a Member State pursuant to a relevant arrest warrant issued by a judicial authority in that Member State in respect of an offence, upon receiving a request in writing from the issuing state in that behalf, provided that the offence is not—

- (a) an offence for which his or her surrender would be prohibited by virtue of Part 3, or
- (b) an offence for which his or her surrender of a person would be refused under Part 3.”,

and

(b) by the repeal of subsection (6).

Amendment of section 27 of Act of 2003

17. Section 27(1) of the Act of 2003 is amended by the substitution of “(or, if the person is not more than 18 years of age, in a remand centre)” for “(or, if he or she is not more than 21 years of age, in a remand institution)”.

Amendment of section 28 of Act of 2003

18. Section 28(4) of the Act of 2003 is amended by the substitution of “is being” for “has been”.

Extradition arrangements with third countries

19. The Act of 2003 is amended by the insertion of the following section after section 30:

“30A. (1) Where a person has been extradited to the State from a third country and the person is protected by provisions of the arrangement under which he or she was extradited, the High Court shall request the third country to consent to the surrender of the person to the issuing state which issued the relevant arrest warrant.

(2) The periods of time referred to in section 15 or 16, as the case may be, shall commence from the date on which the consent of the third country is received by the High Court.”.

Amendment of section 33 of Act of 2003

20. Section 33 of the Act of 2003 is amended by the insertion of the following subsections after subsection (4):

“(4A) The High Court, sitting otherwise than in public, may, upon an application made by a member of the Garda Síochána, approve the making temporarily unavailable of an alert for a period not exceeding 48 hours in respect of a person where it is satisfied—

(a) that the person is the subject of an ongoing criminal investigation, and

(b) that the purpose of the criminal investigation cannot be achieved by any other measure.

(4B) The period for which an alert may be made unavailable may be extended by the High Court for a further period not exceeding 48 hours upon an application by a member of the Garda Síochána that is made before the expiry of the period approved under subsection (4A).”.

Request for disapplication of rule of specialty

21. The Act of 2003 is amended by the insertion of the following section after section 33:

- “33A.** (1) In this section, an ‘offence’ means, in relation to a person to whom a relevant arrest warrant applies, an offence (other than an offence specified in the relevant arrest warrant issued by the High Court in respect of which the person has been surrendered to the State pursuant to the relevant arrest warrant) under the law of the State committed before the person’s surrender to the State, but shall not include an offence consisting, in whole, of acts or omissions of which the offence specified in the relevant arrest warrant consists in whole or in part.
- (2) A court may, upon an application made by or on behalf of the Director of Public Prosecutions, issue a request for the executing state’s consent to the prosecution of an offence or enforcement of a conviction, sentence or detention order against a person in respect of an offence where the court is satisfied that—
- (a) a domestic warrant has been issued for the arrest of that person but has not been executed, and
 - (b) a term of imprisonment or detention of not less than 4 months has been imposed on the person in respect of the offence concerned and the person is required to serve all or part of that term of imprisonment or detention, or, as the case may be, the person would, if convicted of the offence concerned, be liable to a term of imprisonment or detention of 12 months or more than 12 months.
- (3) A request under subsection (2) for the executing state’s consent to the prosecution of an offence or enforcement of a conviction, sentence or detention order against a person in respect of an offence shall specify—
- (a) the name and nationality of the person to whom it relates,
 - (b) the name, address, fax number and e-mail address of—
 - (i) the District Court Office for the district in which the District Court was sitting when it issued the warrant referred to in section 2(a),
 - (ii) the Circuit Court Office of the county in which the Circuit Criminal Court was sitting when it issued the warrant referred to in section 2(a),
 - (iii) the Central Office of the High Court, or
 - (iv) the Registrar of the Special Criminal Court,as may be appropriate,
 - (c) the offence to which the request relates including a description thereof,

- (d) that a conviction, sentence or detention order is immediately enforceable against the person, or that a domestic warrant for his or her arrest has been issued in respect of that offence,
- (e) the circumstances in which the offence was committed or is alleged to have been committed, including the time and place of its commission or alleged commission, and the degree of involvement or alleged degree of involvement of the person in the commission of the offence, and
- (f) the following information, as applicable:
 - (i) the penalties to which the person named in the relevant arrest warrant would, if convicted of the offence to which the request relates, be liable;
 - (ii) where the person named in the request has been convicted of the offence specified therein and a sentence has been imposed in respect thereof, the penalties of which that sentence consists;
 - (iii) where the person named in the request has been convicted of the offence specified therein but has not yet been sentenced, the penalties to which he or she is liable in respect of the offence.
- (4) A request under subsection (2) may be issued in respect of one or more than one offence.
- (5) In this section, ‘court’ means—
 - (a) the court that issued the domestic warrant to which subsection (2) applies, or
 - (b) the High Court.”.

Guarantees surrounding custodial sentences imposed *in absentia*

22. The Act of 2003 is amended by the insertion of the following section after section 35:

- “35A.** (1) Where a person is arrested on foot of a relevant arrest warrant issued by the High Court for service of a sentence or detention order imposed on him or her *in absentia* and the person has not received any information from the authorities in the State about the existence of criminal proceedings against him or her, the person may request a copy of the judgment which was the basis for the relevant arrest warrant and upon such a request being made, the High Court shall arrange for the judgment to be sent to the executing judicial authority without delay.
- (2) Where a person is surrendered to the State pursuant to a relevant arrest warrant and is detained pending a retrial or an appeal and he or she did not appear in person at the proceedings resulting in the sentence or detention order in respect of which a relevant arrest warrant was issued, his or her detention pending a retrial or appeal shall be

reviewed in accordance with the law of the State in relation to such detention.”.

Conditional surrender to State pursuant to relevant arrest warrant

23. The Act of 2003 is amended by the insertion of the following section after section 36:

“Conditional surrender to State pursuant to relevant arrest warrant

36A. (1) The High Court may—

- (a) on the application of the Director of Public Prosecutions, and
- (b) where a judicial authority of an executing state indicates that it may temporarily surrender a person to the State pursuant to a relevant arrest warrant,

agree with the judicial authority the conditions of such a temporary surrender.

(2) The conditions agreed under subsection (1) shall be recorded in writing.

(3) Without prejudice to the generality of subsection (1), the conditions agreed under that subsection may include—

(a) that the person shall be returned to the executing state on conclusion of the criminal proceedings in respect of the offence specified in the relevant arrest warrant, notwithstanding that the person may be required to serve a term of imprisonment by virtue of the imposition of a sentence by a court in the State in respect of that offence, and

(b) that the currency of a sentence imposed in the State shall not be suspended notwithstanding the return of the person to the executing state.

(4) In this section, ‘executing state’ means, in relation to a relevant arrest warrant, a Member State (a judicial authority of which has ordered the arrest and conditional surrender to the State, pursuant to the relevant arrest warrant, of a person in respect of whom that warrant was issued).”.

Amendment of section 38 of Act of 2003

24. Section 38 of the Act of 2003 is amended—

(a) in subsection (1)—

(i) by the substitution of “A person” for “Subject to subsection (2), a person”, and

(ii) in paragraph (a), by the substitution of “it is the case that” for “the offence corresponds to an offence under the law of the State, and”,

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) Subject to subsection (2), the surrender of a person to an issuing state under this Act in respect of an offence may be refused where the offence does not correspond to an offence under the law of the State.”.

Amendment of section 39 of Act of 2003

25. Section 39 of the Act of 2003 is amended by the substitution of the following subsection for subsection (2):

“(2) A person shall not be surrendered under this Act where he or she has, in accordance with the law of the State, become immune, by virtue of any amnesty or pardon, from prosecution or punishment in the State for the offence specified in the relevant arrest warrant issued in respect of him or her, where that offence is one that the State has jurisdiction to prosecute under its own law.”.

Amendment of section 41 of Act of 2003

26. Section 41 of the Act of 2003 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A person shall not be surrendered under this Act for the purpose of his or her being proceeded against in the issuing state, or for the execution of a sentence order or detention order for an offence consisting of an act or omission that constitutes an offence in respect of which final judgment has been given in the State or a Member State provided that where a sentence of imprisonment or period of detention was imposed on the person in respect of the second-mentioned offence in the State or Member State, as the case may be—

(a) the person has completed serving the sentence of imprisonment or period of detention,

(b) the person is otherwise no longer liable under the law of the State or the Member State, as the case may be, to serve any period of imprisonment or detention in respect of the offence, or

(c) where that sentence of imprisonment or period of detention is currently being served by the person.”,

and

(b) in subsection (2)—

(i) by the substitution of “The surrender of a person to an issuing state under this Act may be refused where the surrender is for the purpose of his or her being proceeded against in the issuing state” for “A person shall not be

surrendered under this Act for the purpose of his or her being proceeded against in the issuing state”,

- (ii) by the substitution of “sentence of imprisonment or period of detention” for “sentence of imprisonment or detention”, and
- (iii) in paragraph (a), by the substitution of “sentence or period of detention” for “sentence”.

Amendment of section 42 of Act of 2003

27. Section 42 of the Act of 2003 is amended by the substitution of the following section for section 42:

“Proceedings in the State

42. The surrender of a person to an issuing state under this Act may be refused where the person is being prosecuted in the State for an offence consisting of an act or omission of which the offence specified in the relevant arrest warrant issued in respect of him or her consists in whole or in part.”

Amendment of section 44 of Act of 2003

28. Section 44 of the Act of 2003 is amended by the substitution of “The surrender of a person to an issuing state under this Act may be refused where” for “A person shall not be surrendered under this Act if”.

Amendment of section 45 of Act of 2003

29. Section 45 of the Act of 2003 is amended—

- (a) by the designation of that section as subsection (1),
 - (b) in subsection (1) by—
 - (i) the substitution of “The High Court may refuse to order the surrender of a person under this Act” for “A person shall not be surrendered under this Act”, and
 - (ii) the substitution of “Article 601 of the Trade and Cooperation Agreement” for “Article LAW.SURR.81 of the Cooperation and Trade Agreement”,
- and
- (c) by the addition of the following subsection after subsection (1):
 - “(2) Where a person has not received any information from the authorities in the State about the existence of criminal proceedings against him or her, he or she may request a copy of the judgment in relation to which the European arrest warrant or the Trade and Cooperation Agreement arrest warrant, as the case may be, in respect of the person has been issued and upon such a request being made the High Court shall

without delay arrange for the issuing state to be informed of the request.”.

Amendment of section 46 of Act of 2003

30. Section 46 of the Act of 2003 is amended by—

- (a) the designation of that section as subsection (1),
- (b) the substitution of the following subsection for subsection (1):

“(1) A person who, by virtue of his or her holding any office or other position, enjoys a privilege or immunity under the law of the State from prosecution for any offence, shall not while he or she holds such office or position be surrendered under this Act.”,

and

- (c) the addition of the following subsections after subsection (1):

“(2) Where the power to waive an immunity or privilege referred to in subsection (1)—

- (a) is exercisable by a person in the State, the High Court shall request the person concerned to exercise the power to waive such privilege or immunity, or
- (b) resides with an international organisation or a person in another state, the issuing judicial authority shall request the organisation or person concerned to waive the privilege or immunity.

- (3) Section 15 or 16, as the case may be, shall apply to a person to whom subsection (1) applies as of the date on which the High Court is informed that the immunity or privilege, as the case may be, has been waived, as though that order were an order made under subsection (1) or (2) of section 15 or subsection (1) or (2) of section 16, as the case may be.”.

Repeals

31. The following provisions of the Act of 2003 are repealed:

- (a) section 21A;
- (b) paragraph (b) of section 37(1);
- (c) subsections (1) and (3) of section 39.

Short title, collective citation, construction and commencement

32. (1) This Act may be cited as the European Arrest Warrant (Amendment) Act 2024.

- (2) The European Arrest Warrant Acts 2003 and 2012 and this Act may be cited together as the European Arrest Warrant Acts 2003 to 2024 and shall be construed together as one Act.
- (3) This Act shall come into operation on such day or days as the Minister for Justice may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.