



STATUTORY INSTRUMENTS.

S.I. No. 540 of 2017

EUROPEAN UNION (FREEZING AND CONFISCATION OF
INSTRUMENTALITIES AND PROCEEDS OF CRIME) REGULATIONS
2017

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2017

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 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 2017.

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 “confiscation order”, by the insertion of “, 8F(7)” after “8A(5)”, and

(ii) by the insertion of the following definitions:

“ ‘Directive’ means 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;

‘economic advantage’ includes a valuable benefit;

‘extended confiscation offence’ means an offence referred to in Part 2 of Schedule 1A in so far as it is an offence referred to in Article 5 of the Directive;

‘relevant conduct’-

(a) in relation to a relevant offence which falls within paragraph (a) of section 8F(1), means conduct

¹OJ L 127, 29.4.2014, p. 39

referred to in subparagraph (ii) of that paragraph,
and

- (b) in relation to a relevant offence which falls within paragraph (b) of section 8F(1), means conduct referred to in subparagraph (ii) of that paragraph;

‘relevant offence’ means an offence referred to in Part 1 or 2 of Schedule 1A in so far as it is covered by an instrument referred to in Article 3 of the Directive;”,

- (b) in subsection (4)—

- (i) by the substitution of “or a person’s proceeds of a relevant offence or relevant conduct, or” for “or, as the case may be,”, and
- (ii) by the substitution of “other than a drug trafficking offence or a relevant offence” for “other than a drug trafficking offence”,

- (c) in subsection (6)—

- (i) by the insertion of “or an economic advantage” after “or to a payment or reward”, and
- (ii) in paragraph (a), by the insertion of “or economic advantage” after “or reward”,

- (d) by the insertion of the following subsection after subsection (9A):

“(9B) For the purposes of the provisions of this Act relating to an extended confiscation offence, a gift (including a gift made before the commencement of the European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017 (S.I. No. 540 of 2017)) is caught by this Act if—

- (a) it was made by the defendant at any time since the beginning of a period of 6 years ending when proceedings in respect of that offence were instituted against the defendant, or
- (b) it was made by the defendant at any time and was a gift of property—
- (i) which was received by the defendant in connection with conduct constituting that offence carried on by the defendant or another person, or
- (ii) which in whole or in part directly or indirectly represented in the defendant’s hands property received by him or her in that connection.”,

- (e) in subsection (12), by the insertion of “(other than in the case of a relevant offence)” after “For the purposes of this Act”,

(f) by the insertion of the following subsection after subsection (12):

“(12A) (a) For the purposes of this Act in so far as it relates to a relevant offence, the circumstances in which the defendant is to be treated as making a gift include those where he or she transfers property to another person directly or indirectly for a consideration and the person to whom the property is transferred knows that the purpose of the transfer was to avoid the confiscation of the property.

(b) The person shall be taken to know that the transfer was carried out for that purpose where the transfer occurred in circumstances (including that the transfer was carried out for an amount significantly lower than the market value) where the person ought to know that the transfer was carried out for that purpose, unless the contrary is shown.”,

(g) in subsection (15), by the insertion of “or economic advantage” after “pecuniary advantage” in each place where it occurs, and

(h) in subsection (16)—

(i) in paragraph (g), by the insertion of “, 8I” after “8D”, and

(ii) in paragraph (h), by the insertion in of “, 8J” after “8E”.

Amendment of section 4 of Principal Act

4. Section 4 of the Principal Act is amended, in subsection (1), by the insertion of “(other than a relevant offence)” after “one or more drug trafficking offences”.

Amendment of Principal Act

5. The Principal Act is amended by the insertion of the following sections after section 8E:

“Confiscation orders relating to relevant offences

8F. (1) Where a person has been sentenced or otherwise dealt with by a court in respect of a relevant offence of which that person has been convicted on indictment-

(a) if such offence is a drug trafficking offence, the court shall, subject to subsections (2) and (3), determine whether the convicted person has benefited from—

(i) that offence, and

(ii) conduct constituting that offence, or

(b) if such offence is not a drug trafficking offence, the Director of Public Prosecutions may, subject to subsection (5), make, or cause to be made, an application to the court to determine whether the convicted person has benefited—

(i) from that offence, or

(ii) where that offence is an extended confiscation offence, from conduct constituting that offence.

(2) A court may decide not to make a determination under section (1)(a) where, following such preliminary inquiries, if any, as it may make, it is satisfied that having regard to—

(a) the present means of the convicted person, and

(b) all of the other circumstances of the case, including the matters which are to be taken into account under section 12(3),

the amount, if any, which might be recovered under any confiscation order which might be made would not be sufficient to justify proceeding with consideration of the making of such an order.

(3) The duty of a court to make a determination under subsection (1)(a) shall not apply if the convicted person has died or absconded, and accordingly the provisions of section 13 shall apply in such a case.

(4) An application under subsection (1)(b) may be made at the conclusion of the proceedings at which the person is sentenced or otherwise dealt with or at a later stage.

(5) An application under subsection (1)(b) shall not be made unless it appears to the Director of Public Prosecutions that the person in question has benefited from the relevant offence or relevant conduct.

(6) For the purposes of the provisions of this Act relating to an order under this section, a person benefits from a relevant offence or relevant conduct if he or she derives, directly or indirectly, any economic advantage from the offence or conduct, including by means of any subsequent reinvestment or transformation of direct proceeds.

(7) If the court determines that the person in question has benefited from the relevant offence or relevant conduct, the court shall—

- (a) determine in accordance with section 8H the amount to be recovered in that person's case by virtue of this section, and
- (b) make a confiscation order under this section requiring the person to pay that amount.

(8) The standard of proof required to determine any question arising under this Act as to—

- (a) whether a person has benefited as mentioned in subsection (6), or
- (b) the amount to be recovered in his or her case by virtue of this section,

shall be that applicable in civil proceedings.

Assessing proceeds of relevant offence, etc.

8G. (1) For the purposes of this Act, the aggregate of the value of any economic advantage derived, directly or indirectly, from a relevant offence, or from relevant conduct carried on by the defendant or another person, including by means of any subsequent reinvestment or transformation of direct proceeds, is the value of the defendant's proceeds of that offence or conduct.

(2) (a) Subject to paragraph (b), for the purposes of determining whether the defendant has benefited from relevant conduct, and, if he or she has, of assessing the value of his or her proceeds of that conduct, the court shall make the assumptions set out in subsection (4).

(b) The court shall not make an assumption set out in subsection (4) if—

- (i) that assumption is shown to be incorrect in the case of the defendant, or
- (ii) the court is satisfied that there would be a serious risk of injustice in that case if the assumption were to be made.

(3) Where the court does not apply one or more of the assumptions set out in subsection (4), it shall state its reasons.

(4) The assumptions referred to in subsection (2) are as follows:

- (a) that any property appearing to the court—

- (i) to have been held by the defendant at any time since the conviction, or
- (ii) to have been transferred to the defendant at any time since the beginning of the period of 6 years ending when the proceedings were instituted against the defendant,

was received by the defendant, at the earliest time at which the defendant appears to the court to have held it, as an economic advantage derived from relevant conduct;

- (b) that any expenditure of the defendant since the beginning of that period was met out of an economic advantage derived from that conduct;
- (c) that, for the purpose of valuing any property derived from that conduct, the defendant received the property free of any other interests in it.

(5) For the purpose of assessing the value of proceeds of relevant conduct in a case where a confiscation order has previously been made against the defendant, the court shall not take into account any of that defendant's proceeds of relevant conduct that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

Amount to be recovered under confiscation order made under section 8F

8H. (1) Subject to subsection (2), where a confiscation order has been made under section 8F, the amount to be recovered under the order shall be equal to the amount assessed by the court to be the value of the defendant's proceeds of the relevant offence or relevant conduct.

(2) If the court is satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the court assesses to be the value of the defendant's proceeds of the relevant offence or relevant conduct, the amount to be recovered in the defendant's case under the confiscation order shall be the amount appearing to the court to be the amount that might be so realised.

Reassessment of whether defendant has benefited from relevant offence or relevant conduct

8I. (1) This section applies where—

(a) the court has made a decision under section 8F(2) not to make a determination as to whether the defendant has benefited from the relevant offence or relevant conduct, or

(b) either—

(i) the court has determined under section 8F(1)(a) that the defendant has not benefited from the relevant offence or relevant conduct, or

(ii) an application has previously been made to the court under section 8F(1)(b) and the court has determined that the defendant has not benefited from the relevant offence or relevant conduct.

(2) The Director of Public Prosecutions may make, or cause to be made, an application to the court for it to consider evidence—

(a) which was not considered by the court in, as appropriate, making the decision referred to in subsection (1)(a) or the determination referred to in subsection (1)(b)(i) or (ii), and

(b) which, had it been considered, the Director of Public Prosecutions believes would have led the court to determine that the defendant had benefited from the relevant offence or relevant conduct.

(3) If, having considered the evidence, the court is satisfied that, had that evidence been available to it, it would have determined that the defendant had benefited from the relevant offence or relevant conduct, the court—

(a) shall—

(i) make, as appropriate, a determination or fresh determination of whether the defendant has so benefited, and

(ii) make a determination under section 8F(7) of the amount to be recovered by virtue of that section, and

(b) may make a confiscation order under section 8F(7).

(4) In considering an application under this section, the court may take into account any economic advantage derived by the defendant on or after, as appropriate, the date of the decision referred to in subsection (1)(a) or the date of the determination

referred to in subsection (1)(b)(i) or (ii), but only if the Director of Public Prosecutions shows that the economic advantage relates to—

- (a) the relevant offence, or
- (b) where that offence is an extended confiscation offence, the relevant conduct which took place on or before that date by the defendant or another person.

(5) In considering any evidence under this section relating to any economic advantage to which subsection (4) applies, the court shall not make the assumptions which would otherwise be required under section 8G.

(6) No application shall be entertained by the court under this section if it is made after the end of the period of 6 years beginning with the date on which the defendant was convicted.

Revised assessment of proceeds from relevant offence or relevant conduct

8J. (1) This section applies where a court has made a determination (referred to in this section as ‘the current determination’) under section 8F(7) of the amount to be recovered in a particular case by virtue of that section.

(2) Where the Director of Public Prosecutions is of the opinion that the real value of the defendant's proceeds of the relevant offence or relevant conduct was greater than their assessed value, the Director of Public Prosecutions may make, or cause to be made, an application to the court for the evidence on which that opinion was formed to be considered by the court.

(3) In subsections (2) and (4)—

‘assessed value’ means the value of the defendant's proceeds as assessed by the court under section 8H(1);

‘real value’ means the value of the defendant's proceeds which relate to—

- (a) the relevant offence, or
- (b) the relevant conduct which took place either in the period by reference to which the current determination was made or in any earlier period.

(4) If, having considered the evidence, the court is satisfied that the real value of the defendant's proceeds is greater than their assessed value (whether because their real value was

higher at the time of the current determination than was thought or because the value of the proceeds has subsequently increased), the court shall make a fresh determination under section 8F(7) of the amount to be recovered by virtue of that section.

(5) Any determination under section 8F(7) by virtue of this section shall be by reference to the amount that might be realised at the time the determination is made.

(6) For any determination under section 8F(7) by virtue of this section, section 8G(5) shall not apply in relation to any of the defendant's proceeds that were taken into account in respect of the current determination.

(7) In relation to a determination under section 8F(7) by virtue of this section—

- (a) section 3(2) shall have effect as if for ‘a confiscation order is made against the defendant’ there were substituted ‘of the determination’,
- (b) sections 3(8), 10(5)(a) and 12(4) shall have effect as if for ‘confiscation order’ there were substituted ‘determination’, and
- (c) section 8H(2) shall have effect as if for ‘confiscation order is made’ there were substituted ‘determination is made’.

(8) The court may take into account any economic advantage derived by the defendant from the relevant offence or relevant conduct on or after the date of the current determination, but only if the Director of Public Prosecutions shows that the economic advantage relates to—

- (a) the relevant offence, or
- (b) where that offence is an extended confiscation offence, the relevant conduct which took place on or before that date by the defendant or another person.

(9) In considering any evidence relating to any economic advantage to which subsection (8) applies, the court shall not make the assumptions which would otherwise be required by section 8G.

(10) If, as a result of making the fresh determination required by subsection (4), the amount to be recovered exceeds the amount set by the current determination, the court may substitute for the amount to be recovered under the confiscation

order which was made by reference to the current determination such greater amount as it thinks just in all the circumstances of the case.

(11) No application shall be entertained by the court under this section if it is made after the end of the period of 6 years beginning with the date on which the defendant was convicted.”.

Amendment of section 9 of Principal Act

6. Section 9 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “other than a drug trafficking offence, an offence of financing terrorism or a relevant offence” for “other than a drug trafficking offence or an offence of financing terrorism”,
- (b) in subsection (2), by the substitution of “(not being a drug trafficking offence, an offence of financing terrorism or a relevant offence)” for “(not being a drug trafficking offence or an offence of financing terrorism)”, and
- (c) in subsection (4), by the substitution of “other than a drug trafficking offence, an offence of financing terrorism or a relevant offence” for “other than a drug trafficking offence or an offence of financing terrorism”.

Amendment of section 10 of Principal Act

7. Section 10 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by the insertion of “, 8F, 8I, 8J” after “8E”, and
 - (ii) in paragraph (b)—
 - (I) in subparagraph (i), by the substitution of the following clauses for clauses (II) and (III):
 - “(II) in the case of a conviction for an offence of financing terrorism, holds funds subject to confiscation,
 - (IIA) in the case of a conviction for a relevant offence, has benefited as mentioned in section 8F(1)(a) or (b), or
 - (III) in the case of a conviction for an offence other than a drug trafficking offence, an offence of financing terrorism or a relevant offence, has benefited as mentioned in section 9(4), or”, and

- (II) in subparagraph (ii), by the insertion of “, the value of the defendant’s benefit as mentioned in section 8F(1)(a) or (b) (as assessed in accordance with section 8G)” after “the value of the funds subject to confiscation”,
- (b) in subsection (4), in paragraph (b)—
 - (i) in subparagraph (ii), by the substitution of “confiscation,” for “confiscation, or”,
 - (ii) by the insertion of the following subparagraph after subparagraph (ii):
 - “(iia) in the case of a conviction for a relevant offence, the defendant has benefited from the offence or relevant conduct, or has derived any economic advantage from that offence or conduct, or”,
 - (iii) in subparagraph (iii), by the substitution of “other than a drug trafficking offence, an offence of financing terrorism or a relevant offence” for “other than a drug trafficking offence or an offence of financing terrorism”, and
- (c) in subsection (8)—
 - (i) in paragraph (b), by the deletion of “or”,
 - (ii) by the insertion of the following paragraph after paragraph (b):
 - “(bb) the defendant has benefited from a relevant offence or relevant conduct, or”,
 - and
 - (iii) in paragraph (c), by the substitution of “other than a drug trafficking offence, an offence of financing terrorism or a relevant offence, or from relevant conduct” for “other than a drug trafficking offence or an offence of financing terrorism”.

Amendment of section 11 of Principal Act

8. Section 11 of the Principal Act is amended—

- (a) in subsection (1)(b), by the insertion of “, 8F, 8I, 8J” after “8E”, and
- (b) in subsection (8), by the substitution of the following paragraph for paragraph (b):
 - “(b) on conviction on indictment—
 - (i) subject to subparagraph (ii), to imprisonment for a term not exceeding 5 years or to a fine or to both, or

- (ii) where the application referred to in subsection (1)(b) was made under section 8F, 8I or 8J, to imprisonment for a term not exceeding 3 years or to a fine not exceeding €500,000 or to both.”.

Amendment of section 12 of Principal Act

9. Section 12 of the Principal Act is amended, in subsection (1), by the insertion of “8F or” after “confiscation order under section”.

Amendment of section 13 of Principal Act

10. Section 13 of the Principal Act is amended—

- (a) in subsections (2) and (4), by the insertion of “, 8F” after “8A”,
- (b) by the insertion of the following subsections after subsection (5):

“(5A) Subsection (5B) applies where proceedings have been instituted against a person for a relevant offence but have not been concluded.

(5B) The High Court may exercise the powers of a court under section 8F to make a confiscation order against the defendant or the powers of a court under section 61 to make a forfeiture order if—

- (a) the Director of Public Prosecutions asks the High Court to proceed under this section, and
- (b) the High Court is satisfied that—
 - (i) the proceedings have been discontinued by reason of the defendant being ill, or in the case of a forfeiture order, the defendant has absconded, and
 - (ii) the proceedings could have led to a conviction if the proceedings had continued.”, and

- (c) in subsection (6)(a), by the insertion of “8G(2),” after “8B(2),”.

Amendment of section 17 of Principal Act

11. Section 17 of the Principal Act is amended—

- (a) in subsection (2)—
 - (i) in paragraph (a)—
 - (I) in subparagraph (ii), by the substitution of “confiscation,” for “confiscation, or”, and
 - (II) by the insertion of the following subparagraph after subparagraph (ii):

“(ia) benefit as mentioned in section 8F(1)(a) or (b) (as assessed in accordance with section 8G), or”

(ii) in paragraph (i)—

(I) in subparagraph (II), by the substitution of “terrorism,” for “terrorism, and”,

(II) in subparagraph (III), by the substitution of “other than a drug trafficking offence, an offence of financing terrorism or a relevant offence” for “other than a drug trafficking offence or an offence of financing terrorism”, and

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

“(IV) benefit as mentioned in section 8F(1)(a) or (b) (as assessed in accordance with section 8G), and”,

and

(b) by the insertion of the following subsection after subsection (3A):

“(3B) For any determination under section 8F by virtue of this section, section 8G(5) shall not apply in relation to the any of the defendant’s benefit as mentioned in section 8F(1)(a) or (b) (as determined in accordance with the other provisions of section 8G) that was taken into account in determining the original value.”.

Amendment of section 23 of Principal Act

12. Section 23 of the Principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a)—

(I) by the substitution of the following subparagraph for subparagraph (i):

“(i) proceedings have been instituted in the State against the defendant for a drug trafficking offence, an offence of financing terrorism, a relevant offence, or an indictable offence (other than a drug trafficking offence, an offence of financing terrorism or a relevant offence), or an application has been made in respect of the defendant under section 7, 8, 8D, 8E, 8I, 8J, 13 or 18,”

(II) in subparagraph (iii)—

(I) by the insertion of “8I, 8J,” after “8E,” and

(II) by the insertion of “8I(3), 8J(4),” after “8E(4),” and

(ii) in paragraph (b)(i), by the substitution of “section 8F or 9” for “section 9”, and

(b) in subsection (2)(b), by the substitution of “section 8F or 9” for “section 9”.

Amendment of section 24 of Principal Act

13. Section 24 of the Principal Act is amended, in subsection (4)(b), by the insertion of “(which shall include the reasons for the making of the order)” after “shall provide for notice”.

Amendment of section 28 of Principal Act

14. Section 28 of the Principal Act is amended, in subsection (3)(a)(ii), by the insertion of “8I, 8J,” after “8E,”.

Amendment of section 61 of Principal Act

15. Section 61 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraph after paragraph (a):

“(aa) in the case of a relevant offence, the court by or before which he or she is convicted is satisfied that any property—

(i) has been used for the purpose of committing, or facilitating the commission of, any offence, or

(ii) was intended by him or her to be used for that purpose, or”.

Amendment of section 64 of Principal Act

16. Section 64 of the Principal Act is amended, in subsections (1)(f), (3)(a)(vi) and (4)(a)(vi) and (b)(i)(IV), by the substitution of “an offence in respect of which a confiscation order might be made under section 8F or 9” for “an offence in respect of which a confiscation order might be made under section 9”.

Amendment of section 65 of Principal Act

17. Section 65 of the Principal Act is amended, in subsection (1), by the substitution of “confiscation order might be made under section 9, a relevant offence” for “compensation order might be made under section 9 of this Act”.

Insertion of Schedule 1A into Principal Act

18. The Principal Act is amended by the insertion of the following Schedule after Schedule 1:

“Schedule 1A

Section 3

Relevant Offences

Part 1

Relevant offences which are not extended confiscation offences

1. An offence under section 1 of the Prevention of Corruption Act 1906 (No. 34 of 1906).
2. An offence under section 5A(4) or 6 of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998).
3. An offence under section 3A of the Criminal Law (Sexual Offences) Act 2006 (No. 15 of 2006) or an attempt to commit such an offence.
4. An offence under section 6, 7 or 8 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017).
5. An offence under section 2 or 5 of the Criminal Justice (Offences Against Information Systems) Act 2017 (No. 11 of 2017).
6. An offence consisting of aiding, abetting, counselling, procuring or inciting the commission of an offence referred to in any of paragraphs 1 to 5.

Part 2

Relevant offences which are extended confiscation offences

1. An offence under section 1 of the Prevention of Corruption Act 1906 (No. 34 of 1906).
2. An offence under section 21 or 21A of the Offences Against the State Act 1939 (No. 13 of 1939).
3. An offence under any of the following provisions of the Misuse of Drugs Act 1977 (No. 12 of 1977):
 - (a) section 15(1);
 - (b) section 15A;
 - (c) section 15B;
 - (d) section 15C;

(e) section 17(2);

(f) section 20(1);

(g) section 21(1);

(h) section 21(2) consisting of a contravention of Regulation 4 of the Misuse of Drugs Regulations 1988 (S.I. No. 328 of 1988).

4. An offence under section 4 of the Criminal Law (Rape) Amendment Act 1990 (No. 32 of 1990).
5. An offence under section 6 of the Criminal Law (Sexual Offences) Act 1993 (No. 20 of 1993).
6. An offence under section 34(2) of the Criminal Justice Act 1994 (No. 15 of 1994).
7. An offence under section 2 of the Sexual Offences (Jurisdiction) Act 1996 (No. 38 of 1996).
8. An offence under section 3(1), (3) or (4), 4A, 5 or 5A(1) of the Child Trafficking and Pornography Act 1998 (No. 22 of 1998).
9. An offence under section 6 of the Offences Against the State (Amendment) Act 1998 (No. 39 of 1998).
10. An offence under any of the following provisions of the Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50 of 2001):
 - (a) section 4;
 - (b) section 9;
 - (c) section 17(1);
 - (d) section 18(1);
 - (e) section 25(1);
 - (f) section 26(1);
 - (g) section 29(1);
 - (h) section 29(3);
 - (i) section 33(1);
 - (j) section 34(1);

(*k*) section 34(2);

(*l*) section 35(1);

(*m*) section 36(1);

(*n*) section 36(2);

(*o*) section 37(1);

(*p*) section 38(1).

11. An offence under section 6 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005).
12. An offence under section 2 or 3 of the Criminal Law (Sexual Offences) Act 2006 (No. 15 of 2006).
13. An offence under section 71A or 72 of the Criminal Justice Act 2006 (No. 26 of 2006).
14. An offence under section 2, 3, 4 or 7 of the Criminal Law (Human Trafficking) Act 2008 (No. 8 of 2008).
15. An offence under section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010).
16. An offence under section 3, 22 or 41 of the Criminal Law (Sexual Offences) Act 2017 (No. 2 of 2017).
17. An offence under any of the following provisions of the Criminal Justice (Offences Against Information Systems) Act 2017 (No. 11 of 2017):
 - (*a*) section 3;
 - (*b*) section 4;
 - (*c*) section 6.
18. An offence consisting of attempting to commit an offence referred to in any of paragraphs 3, 4, 5, 6, 7, 8, 10 (other than an offence referred to in paragraph 10(*c*), (*d*), (*f*), (*g*), (*h*), (*m*) or (*n*)), 11, 14, 15, 16 and 17(*a*) or (*b*).
19. An offence consisting of aiding, abetting, counselling, procuring or inciting the commission of an offence referred to in any of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 (other than an offence referred to in paragraph 10(*a*) to (*h*)), 11, 12, 14, 15, 16 and 17.

20. An offence consisting of conspiracy to commit an offence carrying a maximum penalty of four years' imprisonment or more.”.

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19. For the purpose of proceedings for a relevant offence (within the meaning of section 3 of the Principal Act) instituted but not concluded before the commencement of these Regulations, section 4, or, as the case may be, section 9, of the Principal Act applies as if these Regulations had never been made.



GIVEN under my Official Seal,
28 November 2017.

CHARLES FLANAGAN,
Minister for Justice and Equality.

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