



STATUTORY INSTRUMENTS.

S.I. No. 150 of 2021

EUROPEAN UNION (EUROPEAN ARREST WARRANT ACT 2003)
(AMENDMENT) REGULATIONS 2021

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I, HELEN MCENTEE, Minister for Justice, 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 full effect to Title VII of Part Three of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at Brussels and London on 30 December 2020¹ and to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway, done at Vienna on 28 June 2006², approved on behalf of the European Union by Council Decision of 27 November 2014³, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (European Arrest Warrant Act 2003) (Amendment) Regulations 2021.

(2) These Regulations shall come into operation on 30 March 2021.

2. In these Regulations, “Act of 2003” means the European Arrest Warrant Act 2003 (No. 45 of 2003).

3. Section 2 of the Act of 2003 is amended -

(a) in subsection (1) -

(i) in the definition of “European arrest warrant”, by the substitution of “relevant Member State” for “Member State” in each place where it occurs,

(ii) in the definition of “Framework Decision”, by the substitution of “relevant Member States” for “Member States”,

(iii) by the substitution of the following definition for the definition of “issuing judicial authority”:

“ ‘issuing judicial authority’ means, in relation to a relevant arrest warrant, the judicial authority in the issuing state that issued the relevant arrest warrant concerned;”,

(iv) by the substitution of the following definition for the definition of “issuing state” :

¹ OJ No. L 444, 31.12.2020, p. 14

² OJ No. L 292, 21.10.2006, p. 2

³ OJ No. 343, 28.11.2014, p. 1

“ ‘issuing state’ means -

- (a) in relation to a European arrest warrant, a relevant Member State designated under section 3, a judicial authority of which has issued that European arrest warrant,
 - (b) in relation to a Trade and Cooperation Agreement arrest warrant, the United Kingdom of Great Britain and Northern Ireland, a judicial authority of which has issued that warrant, and
 - (c) in relation to an arrest warrant within the meaning of the EU-Iceland Norway Agreement, the Republic of Iceland or the Kingdom of Norway, a judicial authority of which has issued that warrant;”
- (v) by the substitution of the following definition for the definition of “Member State”:

“ ‘Member State’ means a relevant Member State of the European Communities (other than the State) and the United Kingdom of Great Britain and Northern Ireland, the Republic of Iceland and the Kingdom of Norway;”, and

- (vi) by the insertion of the following definitions:

“ ‘EU-Iceland Norway Agreement’ means the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway, done at Vienna on 28 June 2006², approved on behalf of the European Union by Council Decision of 27 November 2014³;

‘relevant agreement’ means -

- (a) in relation to a European arrest warrant, the Framework Decision,
- (b) in relation to a Trade and Cooperation Agreement arrest warrant, the Trade and Cooperation Agreement, and
- (c) in relation to an arrest warrant within the meaning of the EU-Iceland Norway Agreement, the EU-Iceland Norway Agreement;

‘relevant arrest warrant’ means -

- (a) a European arrest warrant,
- (b) a Trade and Cooperation Agreement arrest warrant, or
- (c) an arrest warrant within the meaning of the EU-Iceland Norway Agreement;

‘relevant Member State’ means a Member State, other than, subject to subsection (3), the United Kingdom of Great Britain and Northern Ireland, the Republic of Iceland and the Kingdom of Norway;

‘Trade and Cooperation Agreement’ means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at Brussels and London on 30 December 2020¹;

‘Trade and Cooperation Agreement arrest warrant’ means an arrest warrant within the meaning of Title VII of Part Three of the Trade and Cooperation Agreement;”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) (a) In this Act, a reference to a European arrest warrant shall be construed as including a reference to a European arrest warrant that satisfies the following conditions:

- (i) that the European arrest warrant has been issued by a judicial authority in the United Kingdom of Great Britain and Northern Ireland before 11.00 p.m. on the 31st day of December 2020, and
- (ii) that the person in respect of whom the European arrest warrant is issued has been arrested for the purposes of the execution of the European arrest warrant before 11.00 p.m. on the 31st day of December 2020.

(b) Where paragraph (a) applies, a reference in this Act to a ‘relevant Member State’ shall be construed as a reference to the United Kingdom of Great Britain and Northern Ireland.”.

4. Section 3(1) of the Act of 2003 is amended by the substitution of “relevant Member State” for “Member State”.

5. Section 4A of the Act of 2003 is amended by the substitution of “the relevant agreement” for “the Framework Decision”.

6. Section 5 of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

7. Section 9 of the Act of 2003 is amended by the substitution of “the relevant agreement” for “the Framework Decision”.

8. Section 10 of the Act of 2003 is amended -

- (a) by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs, and
- (b) by the substitution of “the relevant agreement” for “the Framework Decision”.

9. Section 11 of the Act of 2003 is amended -

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

“(1) A relevant arrest warrant shall, in so far as is practicable -

- (a) in the case of a European arrest warrant, be in the form set out in the Annex to the Framework Decision as amended by Council Framework Decision 2009/299/JHA,
 - (b) in the case of a Trade and Cooperation Agreement arrest warrant, be in the form set out in Annex Law-5 to the Trade and Cooperation Agreement, and
 - (c) in the case of an arrest warrant within the meaning of the EU-Iceland Norway Agreement, be in the form set out in the Annex to the EU-Iceland Norway Agreement.”,
- (b) in subsection (1A), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs,
 - (c) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
 - (d) in subsection (2A), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
 - (e) in subsection (4), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

10. Section 12 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs,
- (b) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (c) in subsection (3A), by the substitution of “relevant arrest warrant” for “European arrest warrant”,

- (d) in subsection (8), by the substitution of “relevant arrest warrant” for “European arrest warrant” in paragraphs (a) and (c) of that subsection,
- (e) in subsection (9), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and
- (f) in subsection (11), by the substitution of “ ‘relevant arrest warrant’ ” for “ ‘European arrest warrant’ ”.

11. Section 13 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs,
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs,
- (c) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs,
- (d) in subsection (4), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (e) in subsection (5), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

12. Section 15 of the Act of 2003 is amended -

- (a) in subsection (1)(a), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (b) in subsection (2)(a), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

13. Section 16 of the Act of 2003 is amended -

- (a) in subsection (1) -
 - (i) in paragraph (a), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
 - (ii) in paragraph (b), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
 - (iii) in paragraph (c), by the substitution of “European arrest warrant or Trade and Cooperation Agreement arrest warrant, as the case may be,” for “European arrest warrant”,and
- (b) in subsection (2) -
 - (i) in paragraph (a), by the substitution of “European arrest warrant or Trade and Cooperation Agreement arrest warrant, as the case may be, including” for “European arrest warrant, including”, and

- (ii) in paragraph (b), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

14. Section 17 of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs.

15. Section 19(1) of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

16. Section 22 of the Act of 2003 is amended-

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs,
- (b) in subsection (2)(a), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (c) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

17. Section 23 of the Act of 2003 is amended -

- (a) in subsection (1), in the definition of “offence” by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (b) in subsection (2) -
 - (i) in paragraph (a), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and
 - (ii) in paragraph (b), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (c) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs,
- (d) in subsection (4) -
 - (i) in paragraph (a), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
 - (ii) in paragraph (b)(ii), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
 - (iii) in paragraph (c)(i), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
 - (iv) in paragraph (d), by the substitution of “relevant arrest warrant” for “European arrest warrant”,and
- (e) in subsection (5), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

18. Section 24 of the Act of 2003 is amended-

- (a) in subsection (1)(a), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

19. Section 25 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (c) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (d) in subsection (4)(b)(i), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

20. Section 28 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs,
- (b) in subsection (3)(a), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (c) in subsection (4)(b), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (d) in subsection (5), in the definition of “executing state” by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

21. Section 29 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrants” for “European arrest warrants” in each place where it occurs, and
- (b) in subsection (2), by the substitution of “relevant arrest warrants” for “European arrest warrants” in each place where it occurs.

22. Section 30 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs, and
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

23. Section 31 of the Act of 2003 is amended -

- (a) in the definition of “domestic warrant” by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (b) by the substitution of the following definition for the definition of “European arrest warrant”:

“ ‘relevant arrest warrant’ means a warrant to which a relevant agreement applies issued by a court, in accordance with this Chapter and for the purposes of -

- (a) the arrest, in a Member State, of that person, and
- (b) the surrender of that person to the State by the Member State concerned.”.

24. Section 33 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (b) by the substitution of the following subsection for subsection (2):

“(2) A relevant arrest warrant shall, in so far as is practicable -

- (a) in the case of a European arrest warrant, be in the form set out in the Annex to the Framework Decision as amended by Council Framework Decision 2009/299/JHA,
- (b) in the case of a Trade and Cooperation Agreement arrest warrant, be in the form set out in Annex Law-5 to the Trade and Cooperation Agreement, and
- (c) in the case of an arrest warrant within the meaning of the EU-Iceland Norway Agreement, be in the form set out in the Annex to the EU-Iceland Norway Agreement.”,

- (c) by the insertion of the following subsection after subsection (2):

“(2A) A relevant arrest warrant shall specify -

- (a) the name and the 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 relevant arrest warrant,
 - (ii) the Circuit Court Office of the county in which the Circuit Criminal Court was sitting when it issued the relevant arrest warrant,
 - (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 relevant arrest warrant 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)
 - (i) the penalties to which the person named in the relevant arrest warrant would, if convicted of the offence to which the relevant arrest warrant relates, be liable,
 - (ii) where the person named in the relevant arrest warrant has been convicted of the offence specified therein and a sentence has been imposed in respect thereof, the penalties of which that sentence consists, and
 - (iii) where the person named in the relevant arrest warrant 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.”,
- (d) by the substitution of the following subsection for subsection (3):
“(3) Where it is not practicable for the relevant arrest warrant to be in the form referred to in subsection (2) the warrant shall, in addition to containing the information specified in subsection (2A), include such other information as would be required to be provided were it in that form.”, and
- (e) in subsection (4), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

25. Section 34 of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

26. Section 35 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and

- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

27. Section 36 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant” in each place where it occurs, and
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

28. Section 37(1) of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

29. Section 38(1) of the Act of 2003 is amended -

- (a) in paragraph (a)(ii) by the substitution of “that term of imprisonment,” for “that term of imprisonment, or”,
- (b) by the substitution of the following paragraph for paragraph (b):
 - “(b) in the case of a European arrest warrant, the offence is an offence to which paragraph 2 of Article 2 of the Framework decision applies and under the law of the issuing state the offence is punishable by imprisonment for a maximum period of not less than three years, or”,and
- (c) by the insertion of the following paragraph after paragraph (b):
 - “(c) in the case of a Trade and Cooperation Agreement arrest warrant, the offence is an offence to which paragraph 5 of Article LAW.SURR.79 of the Trade and Cooperation Agreement applies and under the law of the issuing state the offence is punishable by imprisonment for a maximum period of not less than three years.”.

30. Section 39 of the Act of 2003 is amended -

- (a) in subsection (1), by the substitution of “relevant arrest warrant” for “European arrest warrant”,
- (b) in subsection (2), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
- (c) in subsection (3), by the substitution of “relevant arrest warrant” for “European arrest warrant”.

31. Section 42 of the Act of 2003 is amended in paragraph (b) by the substitution of “relevant arrest warrant” for “European arrest warrant”.

32. Section 43 of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

33. Section 44 of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

34. Section 45 of the Act of 2003 is amended by the substitution of “in respect of which the European arrest warrant or the Trade and Cooperation Agreement arrest warrant, as the case may be, was issued, unless in the case of a European arrest warrant, the warrant indicates the matters required by points 2, 3 and 4 of point (d) of the form of warrant in the Annex to the Framework Decision as amended by Council Framework Decision 2009/299/JHA and in the case of a Trade and Cooperation Agreement arrest warrant, the warrant indicates the matters required by paragraph 1(i) of Article LAW.SURR.81 of the Cooperation and Trade Agreement” for “in respect of which the European arrest warrant was issued, unless the European arrest warrant indicates the matters required by points 2, 3 and 4 of point (d) of the form of warrant in the Annex to the Framework Decision as amended by Council Framework Decision 2009/299/JHA”.

35. Section 45A(11) of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

36. Section 45B(1) of the Act of 2003 is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

37. Section 45C of the Act of 2003 is amended in paragraph (a) by the substitution of “relevant arrest warrant” for “European arrest warrant”.

38. Section 3(5)(b) of the Protection of Cultural Property in the Event of Armed Conflict (Hague Convention) Act 2017 (No. 36 of 2017) is amended by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs.

39. Section 2 of the European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Act 2012 (No. 30 of 2012) is amended-

(a) in subsection (1) -

(i) by the deletion of the definition of “Member State”,

(ii) by the insertion of the following definition:

“ ‘relevant Member State’ has the same meaning as it has in the Act of 2003;”, and

(iii) by the substitution of the following definition for the definition of “third country”:

“ ‘third country’ means a country other than the State or a relevant Member State;”,

and

(b) in subsection (2), by the substitution of “relevant Member States” for “Member States”.

40. Section 8 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010) is amended -

(a) in subsection (1)(e), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and

(b) in subsection (4), by the substitution of “ “relevant arrest warrant” ” for “ “European arrest warrant” ”.

41. Section 74 of the Criminal Justice Act 2006 (No. 26 of 2010) is amended

-

(a) in subsection (3)(b), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and

(b) in subsection (4), by the substitution of “ “relevant arrest warrant” ” for “ “European arrest warrant” ”.

42. Section 18 of the International Criminal Court Act 2006 (No. 30 of 2006) is amended-

(a) in subsection (1)(b), by the substitution of “relevant arrest warrant” for “European arrest warrant”, and

(b) in subsection (6), by the substitution of “section 30(2)” for “section 30(3)”.

43. Section 43 of the Criminal Justice (Terrorist Offences) Act 2005 (No. 2 of 2005) is amended -

(a) in subsection (3)(b), by the substitution of “relevant arrest warrant” for “European arrest warrant” in both places where it occurs, and

(b) in subsection (4), by the substitution of “ “relevant arrest warrant” ” for “ “European arrest warrant” ”.

44. Section 10(2)(f)(i) of the Transfer of Execution of Sentences Act 2005 (No. 28 of 2005) is amended by the substitution of “relevant arrest warrant” for “European arrest warrant”.

45. Section 7 of the Maritime Security Act 2004 (No. 29 of 2004) is amended

- (a) in subsection (4)(b)(ii) -
 - (i) by the substitution of “relevant arrest warrant” for “European arrest warrant”, and
 - (ii) by the substitution of “Member State (within the meaning of the European Arrest Warrant Act 2003)” for “member state of the European Communities”,and
- (b) in subsection (5), by the substitution of “ “relevant arrest warrant” ” for “ “European arrest warrant” ”.

46. Section 7 of the International War Crimes Tribunals Act 1998 (No. 40 of 1998) is amended in paragraph (b) (inserted by section 65 of the International Criminal Court Act 2006) (No. 30 of 2006) by the substitution of “relevant arrest warrant” for “European arrest warrant”.

47. Regulation 10 of the European Communities Act 1972 (Interpretation and Translation in Criminal Proceedings) Regulations 2013 (S.I. No. 565 of 2013) is amended by the substitution of “relevant arrest warrant (within the meaning of the European Arrest Warrant Act 2003)” for “European arrest warrant”.



GIVEN under my Official Seal,
26 March, 2021.

HELEN MCENTEE,
Minister for Justice.

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