

EUROPEAN INVESTIGATION ORDER

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IMPLEMENTATION

- Criminal Justice (European Investigation Order) Regulations 2017):
<http://www.legislation.gov.uk/ukxi/2017/730/contents/made>
- Reference to Crime (International Co-operation) Act 2003
- Effective 31.7.17
- Language : English

UK CENTRAL AUTHORITIES

- The UK Central Authority (UKCA) – EIOs for England, Wales and Northern Ireland should be sent to the UKCA
- The Crown Office – All EIOs relating to Scotland should be sent to the Crown Office
- Her Majesty's Revenue and Customs (HMRC) – All EIOs to England, Wales and Northern Ireland relating to tax and fiscal customs matters should be sent to HMRC

COMPETENT ISSUING AUTHORITIES

- A designated public prosecutor (those listed in Part 1 of Schedule 1 to the Criminal Justice (European Investigation Order) Regulations 2017) (for England and Wales or Northern Ireland)
- Any judge or justice of the peace (for England)
- Any judge (for Northern Ireland)
- Any judge of the High Court or sheriff (for Scotland)
- The Lord Advocate or a procurator fiscal (for Scotland)

COMPETENT EXECUTING AUTHORITIES

- The Chief Constable of the British Transport Police Force
- • The Chief Constable of the Police Service of Northern Ireland
- • The Chief Officer of police for a police area in England and Wales
- • The Director of Public Prosecutions and any Crown Prosecutor
- • The Director of Public Prosecutions for Northern Ireland and any Public Prosecutor
- • The Director of the Serious Fraud Office and any person designated under section 1(7) of the
- • Criminal Justice Act 1987
- • The Financial Conduct Authority
- • The Health and Safety Executive
- • Her Majesty's Revenue and Customs
- • The Land Registry
- • The Ministry of Defence Police Service

COMPETENT EXECUTING AUTHORITIES

- The National Crime Agency
- The Northern Ireland Department for Communities
- The Northern Ireland Department of Justice
- The Port of Dover Police
- The Secretary of State for Business, Energy and Industrial Strategy
- The Secretary of State for Defence
- The Secretary of State for Environment, Food and Rural Affairs
- The Secretary of State for the Home Department
- The Secretary of State for Justice
- The Secretary of State for Transport
- The Secretary of State for Work and Pensions,
- For Scotland, the competent executing authority is the Lord Advocate.

COMPETENT VALIDATING AUTHORITY

- A designated public prosecutor (those listed in Part 1 of Schedule 1 to the Criminal Justice (European Investigation Order) Regulations 2017) (for England and Wales or Northern Ireland)
- Any judge or justice of the peace (for England)
- Any judge (for Northern Ireland)
- Any judge of the High Court or sheriff (for Scotland)
- The Lord Advocate or a procurator fiscal (for Scotland)

ISSUING AN EIO

- Same requirement as under MLA:
- that an offence has been committed or that there are reasonable grounds for suspecting
- that an offence has been committed, and
- that proceedings in respect of the offence have been instituted or it is being investigated,
- If so, the judicial authority may make an EIO but requires to be proportionate and necessary
- Can be made by prosecuting authorities and on behalf of the accused

ENGLAND, WALES AND NI

- Designated public prosecutor may make an EIO and
- A designated investigating authority may request a designated public prosecutor to validate an EIO where :
 - that an offence has been committed or that there are reasonable grounds for suspecting
 - that an offence has been committed, and
 - proceedings have been instituted in respect of the offence in question or it is being investigated,

DESIGNATED PROSECUTING AUTHORITIES: E&W AND NI

- The Bank of England
- The Director of Public Prosecutions and any Crown Prosecutor
- The Director of Public Prosecutions for Northern Ireland and any Public Prosecutor
- The Director of the Serious Fraud Office and any person designated under section 1(7) of
- the Criminal Justice Act 1987
- The Environment Agency
- The Financial Conduct Authority
- The Prudential Regulation Authority

DESIGNATED PROSECUTING AUTHORITIES: E&W AND NI

- The Attorney General for England and Wales
- The Attorney General for Northern Ireland
- The Northern Ireland Department for Communities
- The Secretary of State for Business, Energy and Industrial Strategy
- The Secretary of State for Health
- The Secretary of State for Transport
- The Secretary of State for Work and Pensions

DESIGNATED INVESTIGATING AUTHORITY

- The Chief Constable of the British Transport Police Force
- The Chief Constable of the Police Service of Northern Ireland
- The Chief Officer of police for a police area in England and Wales
- The Health and Safety Executive
- Her Majesty's Revenue and Customs
- The Ministry of Defence Police Service
- The National Crime Agency
- The Port of Dover Police
- SI 2017/730 P age 53
- The Secretary of State for Health
- The Secretary of State for the Home Department
- The Secretary of State for Justice

MEANING OF "UNDER THE SAME CONDITIONS IN A SIMILAR DOMESTIC CASE"

- relevant authority must consider whether it could have issued such an instrument taking into account in particular—
 - (a) the nature of the evidence to be obtained;
 - (b) the purpose for which that evidence is sought (including its relevance to the investigation or proceedings in respect of which the European investigation order is sought);
 - (c) the circumstances in which the evidence is held;
 - (d) the nature and seriousness of the offence to which the investigation or proceedings relates;
 - (e) any provision or rule of domestic law applicable to the issuing of such an instrument

NOMINATED COURT

- A court will be nominated to consider granting the EIO and permitting the search, customer monitoring/information order or production order
- In Scotland, content that request made for police or officials of the issuing state to be present at search (also includes interview of witnesses)

ANCILLARY ISSUES

- See no difficulty in multiple individuals included in the EIO
- However, consider any impact arising from:
 - the nature of the investigation and measure(s) requested
 - disclosure to others perhaps named on the EIO
- Access to a lawyer: not an entitlement but matter for the individual subject to the EIO
- Will an EIO be required where previously not e.g. police statements from cooperative witnesses?

INTRA JURISDICTIONAL ISSUES

- If the central authority in relation to one part of the United Kingdom receives a European investigation order which includes a request for evidence appearing to the central authority to be situated in another part of the United Kingdom, that central authority must—
 - (a) forward the European investigation order to the relevant UK central authority , and
 - (b) notify the issuing authority or, where appropriate, the central authority of the issuing State that the European investigation order has been forwarded.

CONTACT

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