## GENERAL SCHEME OF CRIMINAL JUSTICE (MUTUAL RECOGNITION OF DECISIONS ON SUPERVISION MEASURES) BILL

### PART 1

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SCHEDULE

Head 1  Short title and commencement

Provide that:

(1) This Act may be cited as the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2014.

(2) This Act shall come into operation on such day or days as the Minister may appoint, by order or orders, either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
Head 2 Interpretation

Provide that:

In this Act—

“Annex I certificate” means a certificate—

(a) which is in the form set out in Annex I to the Framework Decision,

(b) which is signed, and

(c) the content of which is certified as accurate by the competent authority that issued it;

“Central Authority” means the Central Authority in the State within the meaning of Head 6;

“designated state” means a Member State designated under Head 4;

“executing state” means a designated state in which a decision on supervision measures is monitored or to which a request to monitor a decision on supervision measures is sent in accordance with the provisions of this Act and in Part 3 is the State;

“the Framework Decision” means the Framework Decision of 23 October 2009 (2009/829/JHA) of the Council of the European Union on the application between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention¹, the text of which is set out in the Schedule;

“issuing state” means a designated state in which a decision on a supervision measure has been issued and for the purposes of Part 2 means the State;

“Minister” means the Minister for Justice and Equality.

¹ OJ L294, 11.11.2009, p. 20
Head 3 Application of Act

Provide that:

(1) This Act shall apply in relation to an offence, whether committed or alleged to have been committed, before or after the commencement of the Act.

(2) This Act does not confer any rights on a person in the course of criminal proceedings to bail other than any rights conferred by or otherwise existing at law.

(3) [This Act and the Framework Decision are without prejudice to the exercise by the State of responsibilities relating to the maintenance of law and order, protection of the public and the safeguarding of national security.]
Head 4  Designated states

Provide that:

(1) For the purposes of this Act, the Minister may, by order, designate a Member State that has, under its national law, given effect to the Framework Decision.

(2) It shall be presumed that a designated state will comply with the requirements of the Framework Decision, unless the contrary is shown.
Head 5  Corresponding offences

Provide that:

For the purposes of this Act, an offence specified in a decision on supervision measures within the meaning of Head 22 corresponds to an offence under the law of the State where the act or omission that constitutes the offence so specified would, if committed in the State on the date on which the decision on supervision measures is issued, constitute an offence under the law of the State.
Head 6 Central Authority in the State

Provide that:

(1) The Minister shall be the Central Authority in the State for the purposes of this Act.

(2) The Minister may, by order, designate such persons as he or she considers appropriate to perform such functions of the Central Authority in the State as are specified in the order and different persons may be so designated to perform different functions of the Central Authority in the State.

(3) For so long as an order under subhead (2) remains in force, a reference in this Act to the Central Authority in the State shall, insofar as it relates to the performance of a function specified in the order, be construed as a reference to the person designated by the order to perform the function concerned.

(4) The Minister shall, by notice in writing, inform the General Secretariat of the Council of the European Union of the making of an order under this head and of the names of the persons designated under the order.

[(5) The Minister may, by order, amend or revoke an order under this head (including an order under this subhead).]
Head 7 Obligation to consult

Provide that:

(1) Insofar as is practicable and reasonable, the Central Authority shall, as the case may be, consult with the competent authority in an executing state in relation to a decision on supervision measures made in the State in accordance with the provisions of Part 2 or with the competent authority in an issuing state in relation to a decision on supervision measures forwarded to the State in accordance with the provisions of Part 3—

   (a) to facilitate the preparation or forwarding of the decision on supervision measures,

   (b) to facilitate the monitoring of the decision on supervision measures, or

   (c) where a person has committed a serious breach of the decision on supervision measures, to notify such breach or clarify any matter in connection with it or any action necessary as a consequence of such breach.

(2) The application of subhead (1) shall include the exchange of information including information verifying the identity and place of residence of the person concerned and the exchange of criminal records as permitted by law.

(3) Where the Central Authority is informed by the competent authority in the executing state during consultations under subhead (1) or at any time that a person might pose a risk to a victim of the offence to which the decision on supervision relates or to the public, the Central Authority shall bring such information to the attention of the court and the court shall have due regard to such information in the exercise of its responsibilities under this Act.
Head 8 Expenses

Provide that:

Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.
Head 9 Regulations

Provide that:

(1) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(2) Every regulation or order made by the Minister under this Act (other than an order under Head 1(2)) shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annuling the regulation or order is passed by either such House within the next 21 days on which the House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
PART 2

PROVISIONS APPLICABLE WHERE IRELAND IS THE ISSUING STATE

Head 10 Interpretation and general provisions (Part 2)

Provide that:

(1) This Part applies where the State is the issuing state [within the meaning of Article 4(c) of the Framework Decision].

(2) In this Part—

“competent authority” means a judicial or other authority in the executing state meeting the criteria specified in Article 6 of the Framework Decision and notified [to the Secretariat of the Council of the European Union] in accordance with that Article;

“decision on supervision measures” means an order authorising the executing state to monitor the supervision measures provided for in the order and to take other actions in accordance with this Act and with the Framework Decision;

“supervision measures” means one or more of the following conditions of bail as may be specified in a decision on supervision measures—

(a) an obligation on the person to keep a specified authority in the executing state informed of his or her place of residence and of any change in such residence in that state;

(b) an obligation on the person to refrain from attending at a specified premises or other place in the executing state;

(c) an obligation on a person to reside or remain in a specified place in the executing state, where appropriate, at specified times;

(d) an obligation on the person to obey general or specified restrictions in relation to travel outside of the territory of the executing state;

(e) an obligation on the person to report at specified times to a relevant authority in the executing state;

(f) an obligation on the person to refrain from having contact with specified persons,

[or such other obligation as may be specified as a supervision measure by the Minister by order made under subhead (3)].

(3) The Minister may by order and for the purposes of giving better effect to the Framework Decision specify that a measure specified in Article 8(2) of the Framework Decision is a supervision measure for the purpose of this Part.
Head 11 Power of court to make decision on supervision measures

Provide that:

(1) Subject to subhead (2), where—

(a) an accused person who appears to the court to be lawfully and ordinarily resident in a designated state is before a court charged with an offence, and

(b) the court has refused bail or intends to refuse bail because the court considers it necessary to do so to ensure that the person does not evade justice, or

(c) the court would grant bail on condition that the person does not leave the jurisdiction,

the court may make a decision on supervision measures and grant bail conditional on—

(i) the competent authority of the designated state in which the person is lawfully and ordinarily resident agreeing in accordance with Head 16 within 20 days of receipt of the decision, or such other additional reasonable time as may be agreed with the Central Authority or as may be provided for in accordance with [Head 13 or 15 of] this Act, to recognise the decision on supervision measures and to take the necessary measures to monitor compliance with the measures, and

(ii) the conditions specified in subhead (3).

(2) A court shall not make a decision under subhead (1) if—

(a) it has refused bail or intends to refuse bail under section 2 of the Bail Act 1997 or to ensure that a person will not interfere with justice,

(b) the court considers that the making of a decision on supervision measures will not satisfy it that the person will not evade justice, or

(c) the person does not consent to the making of the decision.

(3) A decision on supervision measures shall be conditional on—

(a) the person agreeing to enter into a recognisance subject to one or more supervision measures as specified by the court and subject to the condition that the person attends before the court as required, and

(b) the person agreeing to enter into a recognisance that if the executing state agrees to monitor the supervision measures, he or she will report to the competent authority in the executing state as soon as practicable after the decision comes into effect.

(4) A decision on supervision measures shall specify the intended duration of the decision, whether it can be renewed and the provisional length of time for which monitoring of the decision may be required in so far as it is possible to indicate having regard to the circumstances of the case.
(5) A court in making the decision under subhead (1) shall specify that the decision shall come into effect when—

(a) in a case to which subhead (1)(a) or (b) applies—

(i) the Central Authority informs the Governor of the prison to which the person is remanded that the state referred to in subhead (1) has agreed to monitor the supervision measures in accordance with that subhead, and

(ii) the person has entered into a recognisance in accordance with subhead (3) to be taken by the Governor of a prison or a prison officer designated for that purpose, or

(b) in a case to which subhead (1)(c) applies, the person has entered into a recognisance in accordance with subhead (3).

(6) A court may adjourn the proceedings and—

(a) in a case to which subhead (1)(a) or (b) applies, remand the person in custody, or

(b) in a case to which subhead (1)(c) applies, remand the person on bail,

to enable the Central Authority to consult with the competent authority in the executing state in relation to any matter pertaining to the application or the decision on supervision measures.

(7) The court shall send the decision on supervision measures or a duly certified copy of that decision, or cause it to be sent, to the Central Authority, to the person and to the Governor of the prison to which the person is remanded.

(8) Pending the coming into effect of the decision on supervision measures in the executing state, the court may deal with the person as if the decision had not been made.

(9) The court shall forward or cause to be forwarded a duly certified copy of the decision on supervision measures together with information as far as practicable in the form set out in Annex I to the Framework Decision to the Central Authority for transmission to the competent authority in the executing state referred to in subhead (3)(b).
Head 12  Application from person granted bail in the State

Provide that:

(1) A person who is legally and ordinarily resident in a designated state and who has been granted bail in the State on condition that he or she does not leave the State and who subsequently wishes to return to reside in his or her state of residence pending the trial of the offence may apply to the court that granted the bail and request the court to make a decision on supervision measures.

(2) The court may treat the application as if it were an application from a person referred to in Head 11(1)(c) and may grant the application subject to the conditions of that head.

(3) Where an application is granted under subhead (2), the procedures under Head 11 applicable to a person to whom Head 11(1)(c) refers shall apply.
Head 13    Appeal against decision on supervision measures

Provide that:

(1) The prosecutor may appeal a decision to grant bail under *Head 11(1)* or *12* or if dissatisfied with any matter relating to the bail, including any conditions referred to in *Head 11(3)*, in like manner as an appeal under section 28(3)(a) of the Criminal Procedure Act 1967 and the procedures of that section shall apply to the appeal.

(2) A person may appeal a decision to refuse bail under *Head 11(1)* or *Head 12* in like manner as an appeal under section 28(3)(a) of the Criminal Procedure Act 1967 and the procedures of that section shall apply to the appeal.

(3) Where bail is granted under *Head 11(1)* or *12*, the person concerned may, if dissatisfied with any matter relating to the bail, including any conditions referred to in *Head 11*, appeal the decision on the matter in like manner as an appeal under section 28(3)(a) of the Criminal Procedure Act 1967 and the procedures of that section shall apply to the appeal.

(4) Where an appeal is made in accordance with the provisions of this head, the court may cause the Central Authority to inform the competent authority of the executing state of the fact of the appeal and that the time limit for recognition of the decision has been extended by a further 20 working days from the expiry of the 20 days specified in *Head 11(1)(i)*.
Head 14  Forwarding of decision on supervision measures to competent authority in executing state

Provide that:

(1) On receipt of the decision on supervision measures, the Central Authority shall forward it to the competent authority in the executing state referred to in Head 11(1)(i).

(2) Where the Central Authority forwards a decision on supervision measures to the competent authority in the executing state, it shall—

(a) forward with it an Annex I certificate,

(b) forward the decision on supervision measures and Annex I certificate directly to the competent authority or the central authority, as the case may be, of the executing state by any means that leaves a written record under conditions allowing that state to establish their authenticity,

(c) send a duly authenticated copy of the decision on supervision measures and the original Annex I certificate to the competent authority or the central authority, as the case may be, of the executing state if that authority so requires,

(d) where the official language of the executing state is not English, a translation of the Annex I certificate into the official language or one of the official languages of the executing state, unless it is known that such a translation is not required by the competent or central authority, as the case may be, in that state.
Head 15  Response of competent authority in executing state

Provide that:

(1) Where the competent authority in the executing state informs the Central Authority—

(a) that because of exceptional circumstances it cannot make a decision on monitoring the decision on supervision measures within the deadline referred to in *Head 11(1)(i)*, 

(b) of the reasons for the delay and of the time expected to make a final decision in the matter,

the Central Authority shall inform the court accordingly and the court may decide to extend the deadline or revoke the decision on supervision measures.

(2) Where the competent authority in the executing state informs the Central Authority that it has adapted the supervision measure in line with its law, the Central Authority shall inform the court and the court may—

(a) note the adaptation on the decision on supervision measures and forward or cause to be forwarded a copy of the note to the person concerned,

(b) amend the decision on supervision measures, or

(c) if the court considers that the adapted measure is not a supervision measure within the meaning of this Act, revoke the decision on supervision measures.

(3) Where the competent authority in the executing state informs the Central Authority that there is a maximum length of time during which the decision on supervision measures can be monitored in that state, the Central Authority shall inform the court accordingly (*Article 20(2)(b)*) and the court may—

(a) limit the duration of the decision on supervision measures and amend the decision accordingly, or

(b) revoke the decision on supervision measures.

(4) (a) Where the Central Authority is informed by the competent authority in the executing state that it will not agree to monitor the decision on supervision measures, the Central Authority shall inform the court of that decision and of the reasons for the decision specified by the competent authority in the executing state.

(b) Where paragraph (a) applies, the court shall revoke the decision and the information referred to in subhead (6)(a) shall include the reasons specified by the competent authority in the executing state for its decision.

(5) Where a court amends a decision on supervision measures under this head, it shall send or cause to be sent the amended decision or a certified copy of the amended decision to the Central Authority for transmission to the executing state and shall send or cause to be sent a
copy of the amended decision to the person and to the Governor of the prison to which the person was remanded.

(6) Where the court revokes the decision on supervision measures, it shall—

(a) inform the person, the Governor of the prison to which the person has been remanded and the Central Authority accordingly, and

(b) deal with the person as if the decision on supervision measures had not been made.
Head 16    Decision of executing state to monitor supervision measures

Provide that:

(1) Where the Central Authority is informed by the competent authority in the executing state that it will agree to monitor the decision on supervision measures, the Central Authority shall—

(a) inform the person and the Governor of the prison to which the person has been remanded of the agreement,

(b) specify the competent authority in the executing state to which the person should report as soon as practicable after his or her arrival in the executing state, and

(c) inform the court that made the decision on supervision measures of the agreement.

(2) Where subhead (1) applies, the court or the Governor as the case may be shall arrange for the taking of the recognisance from the person and the subsequent release of the person from custody and shall inform the Central Authority accordingly.

(3) As soon practicable after a decision on supervision measures comes into effect, the Governor of the prison shall inform the [clerk or registrar of the] court and[ the Central Authority of the fact and the Central Authority shall inform the competent authority in the designated state accordingly.]

(4) Monitoring of the decision on supervision measures shall be subject to the law of the executing State for so long as it remains in force and has not been withdrawn or revoked.

(5) The decision on supervision measures shall cease to have effect on the day notified as being the last day on which the decision can be monitored in the executing State, and the court shall order the person to appear before the court on a specified date as soon as may be thereafter.
**Head 17  Notifications from executing state**

Provide that:

(1) Where the Central Authority is informed by the executing state:

   (a) of the change of address of the person concerned,

   (b) [that it proposes to alter the period during which the decision on supervision measures can be monitored in the state,]

   (c) [of any subsequent proposal to adapt or alter a supervision measure,]

the Central Authority shall inform the court accordingly.

[(2) Where subhead (1)(b) or (c) applies, the court may treat the matter as if such proposals had been made prior to the decision on supervision measures coming into effect and shall adapt, alter or revoke its order endorsing the decision on supervision measures in accordance with Head 15 and shall inform the Central Authority, the Garda Síochána and the person accordingly.]
Head 18   Expiry of decision on supervision measures

Provide that:

(1) On its own initiative or on application by the person who is the subject of the decision on supervision measures or by the prosecution within a reasonable period of the expected expiry date of the decision, the court may, if it considers that the circumstances of the case and of the person warrant it, direct the Central Authority to request the executing state to extend the monitoring of the decision on supervision measures for a further specified period and the Central Authority shall make the request accordingly.

(2) Where the court is informed by the Central Authority that the competent authority in the designated state concerned will not agree to a request made under subhead (1), the decision on supervision measures shall cease to have effect on the day notified as being the last day on which the decision can be monitored in the executing state and the Central Authority shall inform the person accordingly.

(3) Where the court is informed that an extension to the decision on supervision measures has been agreed to by the competent authority of the designated state concerned, it may extend the decision on supervision measures for the period agreed by the competent authority in the executing state.

(4) The court shall send or cause to be sent a duly amended decision on supervision measures or certified copy thereof to the Central Authority for transmission to the competent authority in the executing state and shall send or cause to be sent a copy of the amended decision to the person.

(5) Where a person appears before the court on the date specified after the expiry of the decision on supervision measures, the court may deal with the person as if he or she had during the period of supervision in the executing state been a person on bail or on remand in custody in the State.
Head 19    Subsequent decisions in relation to decision on supervision measures

Provide that:

(1) Where a court has made a decision on supervision measures, it may at any time where it considers it necessary to do so—

   (a) renew the decision, provided such renewal is within any maximum period notified to the court as the maximum period during which it can be supervised in the executing state, or

   (b) revoke the decision, or

   (c) modify a condition of the decision on supervision measures provided that the modified condition remains a supervision measure within the meaning of this Act.

(2) The court shall request the Central Authority to inform the competent authority in the executing state of any decision taken under subhead (1).

(3) Notice of any renewal, revocation or modification under subhead (1) or application for such renewal, revocation or modification shall be given to the person.

(4) (a) Any modification of a supervision measure under this head shall not have effect on notification to the court by the Central Authority that the competent authority in the executing state will not agree to such modification.

   (b) A court may revoke a decision on supervision measures if it considers it necessary to do so where it is informed under paragraph (a) that the competent authority in the executing state will not agree to the modification and the Central Authority shall inform the competent authority in the executing state and the person accordingly.
Head 20  Revocation of decision on supervision measures

Provide that:

(1) A court may revoke a decision on supervision measures where the Central Authority informs it that—

(a) the executing state has indicated that the person the subject of the decision cannot be found in that state or has established his or her lawful and ordinary residence in a state other than the executing state,

(b) the executing state has indicated that a condition of the decision has been breached and the court considers that the breach is sufficiently serious to warrant revocation of the decision, or

(c) the competent authority in the executing state has indicated that it can no longer monitor the decision on supervision measures.

(2) Where the court intends to revoke a decision on supervision measures under this head or under any provision of this Part, it shall notify the person accordingly and may deal with the person as if the decision on supervision measures had not been made.

(3) A notice under subhead (2) shall require the person to appear before the court at a specified date and time.

(4) Proceedings relating to the person’s appearance before the court in accordance with a notice under subhead (2) may be held by video link.

(5) The court shall inform or cause the Central Authority to be informed of any decision under this head and the competent authority in the executing state shall be so informed by the Central Authority.
Head 21 Issue of arrest warrant

Provide that:

(1) Where a person fails to appear before the court on the date specified after the expiry of the decision on supervision measures or as otherwise required by a court under this Act, the court may issue a warrant for the arrest of the person.

(2) A member of the Garda Síochána may arrest a person pursuant to subhead (1) notwithstanding that he or she does not have the warrant concerned in his or her possession at the time of the arrest.

(3) Where a person is arrested pursuant to subhead (2), the member arresting him or her shall as soon as practicable produce and serve on the person the warrant concerned.

(4) A person arrested pursuant to subhead (2) shall, as soon as practicable, be brought before the court that made the order directing that the recognisance be entered into and the person may be dealt with in accordance with section 6(9) of the Bail Act 1997.
PART 3

PROVISIONS APPLICABLE WHERE IRELAND IS THE EXECUTING STATE

Head 22 Interpretation and general provisions (Part 3)

Provide that:

(1) This Part applies where the State is the executing state.

(2) In this Part—

“competent authority” means a judicial or other authority in the issuing state meeting the criteria specified in Article 6 of the Framework Decision and notified [to the Secretariat of the Council of the European Union] in accordance with that Article;

“court” means—

(a) the High Court where the decision on supervision measures relates to an offence corresponding to an offence referred to in subhead (3),

(b) in all other cases, the District Court;

“decision on supervision measures” means an order forwarded to the State in accordance with the provisions of Head 23 authorising the State to monitor the supervision measures provided for in the order and to take other actions in accordance with the Framework Decision;

“relevant authority” means the Garda Síochána, unless otherwise specified by the court;

“supervision measure” means one or more of the following measures as may be specified in a decision on supervision measures—

(a) an obligation on the person to keep a relevant authority informed of his or her place of residence in the State and of any change in such residence;

(b) an obligation on the person to refrain from attending at a specified premises or other place in the State;

(c) an obligation on a person to reside or remain in a specified place in the State, where appropriate, at specified times;

(d) an obligation on the person to obey general or specified restrictions in relation to travel outside of the territory of the State;

(e) an obligation on the person to report at specified times to a relevant authority in the State;
(f) an obligation on the person to refrain from having contact with specified persons,

[or such other obligation as may be specified as a supervision measure by the Minister by order made under subhead (4)].

(3) The following are the offences referred to in paragraph (a) of the definition of “court” in subhead (2):

(a) treason,

(b) an offence under section 2 or 3 of the Treason Act 1939,

(c) an offence under section 6, 7 or 8 of the Offences Against the State Act 1939,

(d) a grave breach such as is referred to in section 3(1)(i) of the Geneva Conventions Act 1962,

(e) an offence under section 9 of the Official Secrets Act 1963, or an offence under Part II of that Act committed in a manner prejudicial to the safety or preservation of the State,

(f) murder, attempt to murder, conspiracy to murder or piracy, including an accessory before or after the fact,

(g) an offence under section 3, as amended, of the Geneva Conventions Act 1962 or an offence under section 7 or 8 of the International Criminal Court Act 2006,

(h) an offence under the Criminal Justice (United Nations Convention against Torture) Act 2000,

(i) the offence of murder under section 2 of the Criminal Justice (Safety of United Nations Workers) Act 2000, or an attempt or conspiracy to commit that offence,

(j) the offence of killing or attempted killing under paragraph (h) or (j) of section 2(1) of the Maritime Security Act 2004,

(k) the offence of murder under section 6 or 11 of the Criminal Justice (Terrorist Offences) Act 2005 or an attempt to commit such offence,

(l) an offence under section 71, 71A, 72 or 73 of the Criminal Justice Act 2006.

(4) The Minister may by order and for the purposes of giving better effect to the Framework Decision specify that a measure specified in Article 8(2) of the Framework Decision is a supervision measure for the purpose of this Part.
Head 23  Transmission of decision on supervision measures

Provide that:

(1) Where the competent authority of an issuing state forwards a decision on supervision measures to the Central Authority—

(a) an Annex I certificate shall be forwarded with the decision,

(b) the Annex I certificate shall relate to one or more supervision measures, and

(c) the Annex I certificate, if not in Irish or English, shall be accompanied by a translation into either of those languages of the certificate.

(2) Where the Central Authority considers that the Annex I certificate is incomplete or obviously does not correspond to the decision on supervision measures, it shall so inform the competent authority in the issuing state and specify to that authority a reasonable period of time for completion or correction of the certificate.

(3) Any document required to be transmitted to the Central Authority for the purposes of this Part shall be transmitted directly to the Central Authority by any means which leaves a written record under conditions allowing the Central Authority to establish its authenticity.

(4) For the purposes of this Part, a document shall be deemed to be a true copy of an original document if it has been certified as a true copy of the original document by the competent authority in the issuing state.

(5) In proceedings to which this Part applies, a document that purports to be—

(a) a decision on supervision measures issued by the competent authority in the issuing state,

(b) an Annex I certificate issued by the competent authority of an issuing state, or

(c) a true copy of such a document,

shall be received in evidence without further proof.

(6) In proceedings to which this Part applies, a document that purports to be a true copy of a decision on supervision measures or Annex I certificate referred to in subhead (5) shall, unless the contrary is shown, be evidence of the decision on supervision measures or Annex I certificate concerned, as the case may be.

(7) The Minister may, for the purposes of ensuring the accuracy of documents transmitted in accordance with this head, make regulations prescribing—

(a) the procedures that shall be followed in connection with the transmission of documents in accordance with this head, and
(b) that such features as are specified in the regulations shall be present in any equipment being used in that connection.
Head 24  Grounds on which decision on supervision measures shall not be
monitored in the State

Provide that:

(1) A decision on supervision measures shall not be endorsed or executed in the State under
this Act where—

(a) the Annex I certificate is incomplete or manifestly does not correspond to the
decision on supervision measures [and has not been completed or corrected within a
reasonable period set by the court],

(b) the person is not lawfully and ordinarily residing in the State,

(c) the person does not wish to return to the State,

(d) the Annex I certificate includes measures other than those specified in Head 22 or
in an order made under Head 22(4),

(e) the offence to which the decision on supervision measures relates is a summary
offence that could have been prosecuted in the State but for the fact that it has become
statute-barred,

(f) the person the subject of the decision is not a person—

(i) against whom the issuing state intends to bring proceedings for an offence
to which a European arrest warrant could relate,

(ii) who is the subject of proceedings in the issuing state for an offence to
which a European Arrest warrant could relate,

(iii) who has been convicted of, but not yet sentenced, in respect of an offence
in the issuing state to which a European arrest warrant could relate, or

(iv) on whom a sentence of imprisonment or detention has been imposed in
the issuing state in respect of an offence to which a European arrest warrant
could relate,

(g) the competent authority in the issuing state has notified the court that the decision
on supervision measures has been withdrawn or revoked,

(h) there are reasonable grounds for believing that the decision on supervision
measures was made for the purpose of punishing the person on account of his or her
sex, race, religion, ethnic origin, nationality, language, political opinion or sexual
orientation, or that the person may be disadvantaged for any of those reasons, or

[(i) the supervision measures were imposed in relation to an offence in respect of
which the person has been [or is being] prosecuted before a court in the State.]
(2) Subject to subhead (3), the decision on supervision measures shall not be endorsed or executed unless the decision on supervision measures relates to an offence which corresponds to an offence under the law of the State.

(3) The endorsement and execution of a decision on supervision measures under this Act shall not be refused on the ground that, in relation to a revenue offence—

(a) no tax or duty of the kind to which the offence relates is imposed in the State, or

(b) the rules relating to taxes, duties, customs or exchange control that apply in the issuing state differ in nature from the rules that apply in the State to taxes, duties, customs or exchange controls.

(4) A decision on supervision measures shall not be endorsed or executed in the State under this Act if it relates to a person who has been granted a pardon, under Article 13.6 of the Constitution, in respect of the offence consisting of an act or omission that constitutes in whole or in part an offence specified in the decision on supervision measures.

(5) A decision on supervision measures shall not be endorsed or executed in the State where it relates to a person who has, by virtue of any Act of the Oireachtas, become immune from prosecution or punishment for an offence consisting of an act or omission that constitutes in whole or in part the offence specified in the decision on supervision measures.

(6) A decision on supervision measures shall not be endorsed or executed in the State if the offence to which the decision on supervision measures relates corresponds to an offence under the law of the State in respect of which a person of the same age as the person to which the decision relates could not be proceeded against by reason of his or her age.

(7) In the cases referred to in this head, the Central Authority shall communicate, by appropriate means, with the competent authority in the issuing state and shall, as necessary, ask it to supply any additional information required as soon as practicable, if it considers that the decision on supervision measures cannot be recognised on the basis of the information supplied for the purpose of the assumption by the State of responsibility for supervising the decision on supervision measures.

(8) In this head—

“European arrest warrant” in subhead (1)(f) has the meaning it has in the European Arrest Warrant Act 2003;

“ordinarily residing in the State” in subhead (1)(b) means a person who has his or her principal residence in the State for the 12 months immediately preceding the date of receipt by the Central Authority of a decision on supervision measures relating to that person forwarded by the competent authority of an issuing state in accordance with Head 23);

“revenue offence” in subhead (3) means, in relation to an issuing state, an offence in connection with taxes, duties, customs or exchange control.
Head 25  Application to court for endorsement of decision on supervision measures

Provide that:

(1) Subject to subheads (3), (4) and (5), the Central Authority shall as soon as may be after it receives a decision on supervision measures transmitted to it in accordance with Head 23 apply, or cause an application to be made, to the court for the endorsement by it of the decision on supervision measures, or a true copy thereof, for execution.

(2) An application to the court under this head shall include—

   (a) the decision on supervision measures issued by the competent authority in the issuing state, or a true copy of the decision, and
   (b) the Annex I certificate issued by the competent authority of an issuing state, or a true copy of the certificate.

(3) The Central Authority shall make the application to the court in sufficient time to permit that court to make a decision within the time limits specified in Head 27.

(4) If the Central Authority becomes aware that it will not be possible in exceptional circumstances to meet the time frame specified in Head 27, it shall as soon as practicable inform the competent authority in the issuing state by any means, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken.

(5) (a) The Central Authority shall not make an application to the court under subhead (1) where the Annex I certificate is incomplete or obviously does not correspond to the decision on supervision measures.

   (b) The Central Authority shall make an application to the court where it is satisfied that the Annex I certificate is completed or corrected within the reasonable time limit set in accordance with Head 23(2).

(6) In making an application under subhead (1), the Central Authority shall inform the court of—

   (a) the date of receipt of the decision on supervision measures together with the Annex I certificate, or
   (b) in a case to which subhead (4) applies, the position applicable under that subhead, or
   (c) in a case to which subhead (5) applies, the date of receipt of the completed or corrected Annex I certificate.
Head 26 Endorsement by court

Provide that:

(1) If, on an application to the court pursuant to Head 25, the court is satisfied in relation to a decision on supervision measures that there has been compliance with the provisions of this Act and that a ground for refusing to endorse and execute the decision on supervision measures specified as such in Head 24 does not exist, it shall—

(a) subject to subhead (3)(b), make an order endorsing the decision for the purpose of its recognition and the assumption by the State of responsibility for monitoring the decision on supervision measures,

(b) if any measure specified in the decision on supervision measures is incompatible with the law of the State, adapt the measure to that of a supervision measure within the meaning of Head 22 which is imposable in the State as a condition of bail and which corresponds as far as possible to the specified measure and which is not more severe than the specified measure.

(2) (a) Subject to Head 30 and to paragraph (b), where a court endorses a decision on supervision measures under this head, the decision shall be monitored in the State as if it were a decision to grant bail in the State.

(b) An order to monitor a supervision measure in the State does not confer on a court in the State the power of trial of the person for the offence to which the decision on supervision measures relates.

(3) Where the court endorses a decision on supervision measures under this head, it shall direct that compliance with the decision be monitored by a relevant authority.

(4) Where the court adapts a measure in accordance with subhead (1)(b), the court shall not make an order endorsing the decision on supervision measures for execution unless the court is satisfied that the competent authority in the issuing state has indicated consent to its adaptation.

(5) (a) The Central Authority shall ascertain from the competent authority concerned whether any adaptation made under subhead (1)(b) is acceptable to it.

(b) Where the court is satisfied on information from the Central Authority that the competent authority in the issuing state agrees to the adaptation concerned, it shall endorse the decision on supervision measures, adapted in accordance with subhead (1)(b), for execution.

(c) Where the court is informed by the Central Authority that the competent authority in the issuing state does not accept the adaptation of the measure concerned, the court shall refuse to endorse the decision.

(6) An order endorsing a decision on supervision measures shall specify:
(a) the relevant authority to which the person concerned shall report as soon as practicable after his or her arrival in the State;

(b) the period for which a renewal of the decision on supervision measures is permissible in the State on notification of a decision to renew the decision on supervision measures by the competent authority in the issuing state to the Central Authority;

(c) any adaptation of the decision on supervision measures that is permissible in the State on notification of a decision to renew the decision on supervision measures by the competent authority in the issuing state to the Central Authority.
Head 27 Time limit for decision

Provide that:

(1) Subject to subhead (2), the court shall make a decision under Head 26 as soon as practicable and in any event—

   (a) within a period of 20 working days of receipt by the Central Authority of a decision on supervision measures, together with the Annex I certificate, or

   (b) in a case where the court is informed by the Central Authority that an appeal has been lodged against the decision on supervision measures in the issuing state, within a further period of 20 working days from the expiry of the period referred to in paragraph (a),

   (c) in a case to which Head 25(5)(b) applies, the date of receipt of the completed or corrected Annex I certificate.

(2) When, in exceptional circumstances, it is not possible for the court to comply with the time limit provided for in subhead (1), it shall as soon as practicable inform the competent authority in the issuing state through the Central Authority, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken.

(3) If, on notification to the competent authority in the issuing state of the time needed for a final decision in accordance with subhead (2), the Central Authority is informed by the competent authority in the issuing state that it is withdrawing the Annex I certificate, the Central Authority shall inform the court accordingly and the decision on supervision measures shall not be endorsed for supervision in the State.
Head 28 Notification of endorsement of decision on supervision measures

Provide that:

Where the court has made an order under Head 26, the court shall cause a certified copy of the order together with the Annex I certificate to be sent to—

(a) the Central Authority,

(b) the superintendent of the Garda Síochána for the district in which the person concerned resides or will reside, and

(c) the person concerned.
Head 29  Obligation to provide certain information to issuing state

Provide that:

(1) The Central Authority shall, as soon as practicable, send to the competent authority in the issuing state by any means which leaves a written record—

   (a) the order of the court under Head 26 endorsing a decision on supervision measures for the purposes of assumption by the State of responsibility for monitoring the decision on supervision measures in the State,

   (b) any decision of the court, on a ground specified in Head 24, not to endorse the decision on supervision measures, together with the reasons for the decision,

   (c) an order under Head 26 adapting a supervision measure, together with the reasons for the order.
Head 30  Issuing state to retain competence for subsequent decisions

Provide that:

(1) Notwithstanding an order of the court under Head 26 to endorse a decision on supervision measures for the purpose of monitoring that decision in the State, the issuing state shall retain competence to—

   (a) renew, review or revoke the decision on supervision measures, and

   (b) modify the supervision measure.

(2) A decision by an issuing state to renew, review or modify a decision on supervision measures referred to in subhead (1) shall apply to a decision endorsed under Head 26 for monitoring in the State if any such renewal, review or modification is within the terms of the endorsement or is approved by the court on application under this head.

(3) A notification by the issuing state that it has made a decision to renew, review, modify or revoke a decision on supervision measures which has been endorsed by the court for monitoring in the State may be forwarded to the Central Authority by any means that leaves a written record.

(4) The Central Authority shall—

   (a) where it considers that the renewal, review or modification satisfies any conditions in relation to such renewal, review or modification of the decision on supervision measures as may have been provided for in the endorsement, inform the competent authority in the issuing state of such view and send a copy for noting to the court, to the relevant authority and to the person concerned,

   (b) where it considers that the renewal, review or modification of the decision on supervision measures is not within the terms of the endorsement, make an application to the court for amendment of the order of endorsement under Head 26 and on such an application the court may—

       (i) amend or renew its order of endorsement if it considers it appropriate to do so, or

       (ii) refuse to amend or renew the order of endorsement, or

       (iii) if any measure specified in the renewal, review or modification of the supervision measures is incompatible with the law of the State, adapt the measure to that of a supervision measure within the meaning of Head 22 imposable as a condition of bail in the State which corresponds as far as possible to the specified measure and which is not more severe than the specified measure.

(5) Where a court adapts a measure in accordance with subhead (4)(b)(iii), the court shall not amend the order endorsing the decision on supervision measures unless the court is satisfied that the competent authority in the issuing state has indicated consent to its adaptation.
(6) (a) The Central Authority shall ascertain from the competent authority in the issuing state whether any adaptation made under subhead (4)(b)(iii) is acceptable to it.

(b) Where the court is satisfied on information from the Central Authority that the competent authority in the issuing state agrees to the adaptation concerned, it shall amend the order endorsing the decision on supervision measures accordingly.

(7) Where the court is informed by the Central Authority that the competent authority in the issuing state does not accept the adaptation of the measure concerned, the court shall refuse to amend the order endorsing the decision and may revoke the order.

(8) The Central Authority shall as soon as practicable inform the court of a decision by the issuing state to withdraw the decision on supervision measures and the court shall revoke the order of endorsement made under Head 26.

(9) Where the court has amended or renewed an order under this head, it shall cause a certified copy of the amended or renewed order to be sent to—

(a) the Central Authority,

(b) the superintendent of the Garda Síochána for the district in which the person concerned resides or will reside, and

(c) the person concerned.

(10) Where the court has revoked, under this head, an order endorsing a decision on supervision measures, it shall cause a notice of such revocation to be sent to—

(a) the Central Authority,

(b) the superintendent of the Garda Síochána for the district in which the person concerned resides or will reside, and

(c) the person concerned.
Head 31 Extension of period of monitoring

Provide that:

(1) The court may at any time request the Central Authority to make enquiries of the competent authority in the issuing state as to whether the monitoring of the decision on supervision measures is still required and may authorise the Central Authority to—

   (a) issue further such enquiries to the competent authority in the issuing state if no response to the first enquiry is received and to specify a time limit for a response to be made by that authority, and

   (b) inform the authority concerned that if a decision is not received within the specified time, the court shall revoke the order of endorsement of the decision on supervision measures.

(2) The court may deal with the response from the competent authority in the issuing state as it deems appropriate in all the circumstances of the case.

(3) Where no response is received from the competent authority in the issuing state or where that authority revokes the decision on supervision measures, the court shall revoke the order made under Head 26 endorsing the decision on supervision measures.

(4) Where a request for renewal of the period of monitoring is made to the Central Authority, that Authority shall apply to the court for a decision on whether the request can be acceded to and the monitoring continued for a further period.

(5) Where the court agrees to extend the period of monitoring, it shall amend the order endorsing the decision on supervision measures accordingly and shall cause a copy of the amended order to be sent to—

   (a) the Central Authority,

   (b) the relevant authority, and

   (c) the person concerned.

(6) The Central Authority shall inform the competent authority in the issuing state of the decision of the court.
Head 32 Breach of condition of decision on supervision measures

Provide that:

(1) The court may, on the application of a member of the Garda Síochána and on information being made in writing and on oath by or on behalf of the member that the person has contravened a condition of the decision on supervision measures as endorsed by the court under Head 26, order that he or she appear before a specified court on a specified date at a specified place and issue a warrant for the arrest of the person.

Option 1
[(2) A member of the Garda Síochána may arrest the person pursuant to a warrant issued under subhead (1) notwithstanding that the member does not have the warrant concerned in his or her possession at the time of the arrest.

(3) Where subhead (2) applies, the member shall serve the warrant on the arrested person as soon as practicable.

(4) The arrested person shall be brought as soon as practicable before the court.]

Option 2
[(2) A court may determine that a condition of a decision on supervision measures has been breached if the person fails to appear before the court and the court is satisfied that the person has been duly notified of the requirement to so appear.

(5) Where a court considers that the person has committed a serious breach of the decision on supervision measures, it shall order consultation on the matter by the Central Authority with the competent authority of the issuing state in accordance with the provisions of Head 7 and shall authorise the Central Authority to exchange information with that authority as provided by Head 7.

(6) If the court determines that the decision on supervision measures as endorsed by the court has been breached, it shall—

(a) cause notice of such breach to be sent through the Central Authority to the competent authority in the issuing state in the form set out in Annex II together with information on any time limit within which a response to the notice or notices should be made,

(b) authorise the Central Authority to—

(i) issue further such notices to the competent authority in the issuing state if no response to the first notice is received and to specify a time limit for a decision to be made by that authority, and

(ii) inform the authority concerned that if a decision is not received within the specified time, that the order of endorsement of the decision on supervision measures will be revoked.
(7) The court may deal with the response from the competent authority in the issuing state as it deems appropriate in all the circumstances of the case.

(8) Where no response is received from the competent authority in the issuing state within any time limit specified in accordance with subhead (6)(b)(i) or where that authority revokes the decision on supervision measures, the court shall revoke the order made under Head 26 endorsing the decision on supervision measures.

(9) The court shall cause a decision under this head to be communicated to—

(a) the Central Authority,

(b) the relevant authority, and

(c) the person concerned.

(10) The Central Authority shall as soon as practicable inform the competent authority in the issuing state of any decision made under this head.