

2016 No. 11 (C. 1)

PROCEEDS OF CRIME

The Serious Crime Act 2015 (Commencement No. 1 and Saving Provision) (Scotland) Regulations 2016

<i>Made</i>	- - - -	<i>12th January 2016</i>
<i>Laid before the Scottish Parliament</i>		<i>14th January 2016</i>
<i>Coming into force</i>	- -	<i>1st March 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 88(2) and (9) of the Serious Crime Act 2015(a).

In accordance with section 88(2) of that Act, they have consulted with the Secretary of State.

Citation and commencement

1. These Regulations may be cited as the Serious Crime Act 2015 (Commencement No. 1 and Saving Provision) (Scotland) Regulations 2016 and come into force on 1st March 2016.

Appointed day

2. 1st March 2016 is the day appointed for the coming into force of the following provisions of the Serious Crime Act 2015 (“the Act”)—

- (a) section 16 (orders for securing compliance with confiscation order);
- (b) section 17 (compliance orders: appeals by prosecutor);
- (c) section 18 (accused persons unlawfully at large);
- (d) section 19 (enforcement of confiscation orders);
- (e) section 20 (conditions for exercise of restraint order powers);
- (f) section 21 (continuation of restraint order after conviction quashed or verdict set aside);
- (g) section 22 (conditions for exercise of search and seizure powers);
- (h) section 38(3) (confiscation investigations);
- (i) section 85(1) (minor and consequential amendments), so far as it relates to the provisions mentioned in paragraph (j) of this regulation; and
- (j) paragraphs 16, 35, 42, 43 and 45 of Schedule 4 (minor and consequential amendments).

Saving provision

3.—(1) Despite regulation 2(d), (i) and (j), the amendments mentioned in paragraph (2) have no effect in relation to a default of payment of a sum payable under a relevant confiscation order.

(2) The amendments are those made by the following provisions of the Act—

- (a) section 19; and
- (b) paragraphs 42 and 45 of Schedule 4.

(3) For the purpose of this regulation—

- (a) a “relevant confiscation order” is an order made under section 92 of the Proceeds of Crime Act 2002^(a) where the offence, or any one of the offences, mentioned in subsection (2) of that section was committed before 1st March 2016; and
- (b) where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it is committed on the earliest of those days.

MICHAEL MATHESON
A member of the Scottish Government

St Andrew’s House,
Edinburgh
12th January 2016

(a) 2002 c.29.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first commencement regulations made by the Scottish Ministers under the Serious Crime Act 2015 (“the Act”).

Regulation 2 brings into force, on 1st March 2016, sections 16 to 22 and 38(3) of the Act. Those sections make various amendments to the Proceeds of Crime Act 2002 as it applies in relation to confiscation proceedings in Scotland. The amendments create a new court order for the purpose of securing compliance with a confiscation order (sections 16 and 17); section 86(3) of the Act provides that such a “compliance order” may be made in respect of any confiscation order made on or after 1st March 2016. The amendments also make new provision regarding accused persons unlawfully at large (section 18), enforcement of confiscation orders (section 19), conditions for the exercise of restraint order powers (section 20), continuation of a restraint order after a conviction is quashed or a verdict is set aside (section 21), conditions for the exercise of search and seizure powers (section 22), and confiscation investigations (section 38(3)). In addition, regulation 2 brings into force the minor and consequential amendments in Schedule 4 to the Act which relate to those provisions (and section 85(1) so far as it gives effect to those amendments).

Regulation 3 makes a saving provision in relation to section 19 of, and paragraphs 42 and 45 of Schedule 4 to, the Act. Those provisions increase the maximum periods of imprisonment that may be imposed in default of payment of a confiscation order, and bring to an end the rule that a person is relieved of the obligation to pay the sum due under a confiscation order once he or she has served a default sentence. Regulation 3 provides that these new enforcement provisions do not apply to a default of payment of a sum due under a confiscation order made in respect of any offence committed before 1st March 2016.

The Bill for the Act received Royal Assent on 3rd March 2015. The following provisions of the Act came into force on that day: sections 80, 81 (and the corresponding consequential provisions in paragraph 74 of Schedule 4 and section 85(1) so far as relating to that paragraph), 82, 83, 85(2) to (7) and 86 to 89. Sections 70 to 72 of the Act came into force on 3rd May 2015.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

Certain provisions of the Act have been brought into force by commencement regulations (S.I. 2015/820, S.R. 2015/190, S.I. 2015/1428, S.I. 2015/1809 and S.I. 2015/1976) made before the date of these Regulations. Those regulations commence provisions in relation to other parts of the United Kingdom as well as in relation to Scotland. The provisions of the Act that have been brought into force, and which extend to Scotland, are listed below. Sections 15 to 22 and 38(3), as well as paragraphs 16 and 35 to 45 of Schedule 4 (and section 85(1) so far as relating to those paragraphs), are the only provisions of the Act which fall to the Scottish Ministers to commence.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 37	1st June 2015	2015/820
Section 39	1st June 2015	2015/820
Sections 41 to 44	3rd May 2015	2015/820
Sections 47 to 49	3rd May 2015	2015/820
Section 50(1)(a) and (c) and (2)	3rd May 2015	2015/820
Sections 52 to 65	3rd May 2015	2015/820
Section 84	3rd May 2015	2015/820
Section 85(1) so far as relating to paragraphs 1, 7 to 12, 18, 66(1) and (3), 73(1) and (5), 75 and 76 to 80 of Schedule 4	3rd May 2015	2015/820
Section 85(1) so far as relating to paragraphs	1st June 2015	2015/820

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
6, 52 to 54, 56, 57 and 59 of Schedule 4		
Schedule 2	3rd May 2015	2015/820
Schedule 4, paragraph 1	3rd May 2015	2015/820
Schedule 4, paragraph 6	1st June 2015	2015/820
Schedule 4, paragraphs 7 to 12 and 18	3rd May 2015	2015/820
Schedule 4, paragraphs 52 to 54, 56, 57 and 59	1st June 2015	2015/820
Schedule 4, paragraphs 66(1) and (3), 73(1) and (5), 75 and 76 to 80	3rd May 2015	2015/820

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£4.25

S201601131 01/2016 19585

<http://www.legislation.gov.uk/id/ssi/2016/11>

ISBN 978-0-11-103057-8



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