

Draft Order laid before Parliament under section 89(3) of the Serious Crime Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

PROCEEDS OF CRIME

The Serious Crime Act 2007 (Amendment of the Proceeds of Crime Act 2002) Order 2008

Made - - - - - *2008*
Coming into force - - - *in accordance with article 1*

This Order is made in exercise of the powers conferred by section 90(1) of the Serious Crime Act 2007(a).

In accordance with section 89(3) of that Act, a draft of this instrument has been approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order:

Citation and commencement

1. This Order may be cited as the Serious Crime Act 2007 (Amendment of the Proceeds of Crime Act 2002) Order 2008 and shall come into force on 1st April 2008 or, if this Order has not been made on or before 31st March 2008, on the day after the day on which it is made.

Amendment of the Proceeds of Crime Act 2002

2. In section 280(4)(b) of the Proceeds of Crime Act 2002(c) (recovery orders: realised proceeds etc. not to be applied in paying the remuneration of trustees who are members of staff of certain enforcement authorities) after “concerned” insert “(but it does apply in relation to such remuneration if the trustee is a person providing services under arrangements made by that enforcement authority)”.

Home Office
2008

Parliamentary Under Secretary of State

(a) 2007 c. 27. Section 90(1) should be read with section 90(2) of the Serious Crime Act 2007.
(b) Section 280(4) was inserted by section 99 of the Serious Organised Crime and Police Act 2005 (c. 15). Section 280(4) has been amended by paragraph 88 of Schedule 8 to the Serious Crime Act 2007.
(c) 2002 c. 29.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 280(4) of the Proceeds of Crime Act 2002 (“the 2002 Act”), in consequence of the amendments made to that Act by the Serious Crime Act 2007 (“the 2007 Act”). The 2007 Act makes amendments to the 2002 Act to abolish the Assets Recovery Agency and its Director. The 2007 Act transfers the Director’s functions in relation to the civil recovery of the proceeds of crime under Part 5 of the 2002 Act to the Serious Organised Crime Agency, the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office and the Director of Public Prosecutions for Northern Ireland. Section 280 of the 2002 Act relates to the application of sums which represent the realised proceeds of property vested in, or obtained by, a trustee for civil recovery under a recovery order and sums vested by a recovery order in the trustee or obtained by the trustee in pursuance of a recovery order. The amendment in this Order clarifies that the reference to “members of staff” in section 280(4) of the 2002 Act does not include the contractors of the persons who will be taking on the functions in Part 5 of the 2002 Act under the amendments made by the 2007 Act. The effect of the Order is that those persons will be able to apply sums they receive under section 280(2) to pay the remuneration of a trustee for civil recovery who is a contractor.

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