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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Sections 46 and 47 of the Crime and Courts Act 2013 (c. 22) (“the 2013 Act”) make provision to enable property that is subject to a restraint order in accordance with Part 2 of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) to be used to make a relevant legal aid payment. A relevant legal aid payment is a payment that a person is obliged to make under legal aid legislation in relation to legal services provided to that person in connection with an offence which falls within section 41(5) of the 2002 Act.

Section 46 of the 2013 Act amends section 41 of the 2002 Act to provide that every restraint order must be subject to an exception that enables relevant legal aid payments to be made out of assets restrained by the order. The Secretary of State may however by regulations restrict the circumstances in which such payments may be made. Part 2 of these Regulations prescribes such a restriction.

Regulation 2 provides that a relevant legal aid payment may only be made out of realisable property that is subject to a restraint order where proceedings for an offence to which the relevant legal aid payment relates have resulted in a confiscation order that has been subsequently discharged or satisfied.

Part 3 of these Regulations modifies the application of Part 2 of the 2002 Act in relation to restraint orders and relevant legal aid payments. Regulation 4 sets out the conditions that must be satisfied for the modifications in regulation 5 to apply. The effect of Part 3 of these Regulations is to enable a restraint order made under Part 2 of the 2002 Act to be maintained after the satisfaction or discharge of an associated confiscation order, so that relevant legal aid payments may be made out of assets that are still subject to the restraint order.

An impact assessment has not been produced for this instrument because no impact on the private or voluntary sectors is expected.