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STATUTORY INSTRUMENTS

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**2017 No. 1223**

The Proceeds of Crime Act 2002 (Administrative Forfeiture Notices) (England and Wales and Northern Ireland) Regulations 2017

**PART 3**

Amendment of the Administrative Forfeiture of Cash (Forfeiture Notices) (England and Wales) Regulations 2015

7.—(1) The Administrative Forfeiture of Cash (Forfeiture Notices) (England and Wales) Regulations 2015<sup>MI</sup> are amended as follows.

(2) In regulation 3 (giving of a forfeiture notice) after paragraph (2) insert—

“(3) Where a forfeiture notice is to be given outside the United Kingdom—

- (a) nothing in these Regulations authorises or requires any person to do anything which is contrary to the law of the country where the account forfeiture notice is to be given, and
- (b) the duty for the account forfeiture notice to be given by way of publication under paragraph (2)(b) does not apply.”

(3) In regulation 4 (manner in which a forfeiture notice must be given)—

(a) in paragraph (1), for “Subject to paragraph (3), a forfeiture notice” substitute “ A forfeiture notice ”;

(b) for paragraph (2) substitute—

“(2) An account forfeiture notice which is required to be given by way of publication must be published—

- (a) in the London Gazette, if the senior officer believes any affected person may be in England or Wales;
- (b) in the Belfast Gazette, if the senior officer believes any affected person may be in Northern Ireland;
- (c) in the Edinburgh Gazette, if senior officer believes any affected person may be in Scotland.”

(c) omit paragraph (3).

(4) In regulation 7—

(a) in paragraph (1), after “given to” insert “ the child and ”;

(b) for paragraph (2) substitute—

“(2) Where the intended recipient of a forfeiture notice is known to be a protected person, the forfeiture notice must be given to the protected person and—

*Status: Point in time view as at 31/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (Administrative Forfeiture Notices) (England and Wales and Northern Ireland) Regulations 2017, PART 3. (See end of Document for details)*

- (a) where the protected person is resident in England and Wales, to one of the following persons—
  - (i) the attorney under a registered enduring power of attorney that relates to the protected person;
  - (ii) the donee of a lasting power of attorney that relates to the protected person;
  - (iii) the deputy appointed in relation to the protected person by the Court of Protection;
- (b) where the protected person is resident in Northern Ireland, to one of the following persons—
  - (i) the attorney under a registered enduring power of attorney that relates to the protected person;
  - (ii) the controller appointed in relation to the protected person by the Office of Care and Protection;
- (c) where the protected person is resident in Scotland, to one of the following persons—
  - (i) the continuing attorney under a continuing power of attorney that relates to the protected person;
  - (ii) the welfare attorney under a welfare power of attorney that relates to the protected person;
  - (iii) the person authorised under an intervention order in respect of the protected person;
  - (iv) the person authorised under a guardianship order in respect of the protected person;
  - (v) the person authorised under a withdrawal certificate in respect of the funds of the protected person.”;
- (c) in paragraph (5), for the definition of “protected person” substitute—
  - ““protected person” means—
    - (a) in England and Wales, a person who lacks capacity within the meaning of the Mental Capacity Act 2005 <sup>M2</sup> in relation to a forfeiture notice;
    - (b) in Northern Ireland, means a person who is 16 years or over who lacks capacity to understand the nature of a forfeiture notice because of an impairment of, or a disturbance in the functioning of, the mind or brain;
    - (c) in Scotland, an adult who is incapable, within the meaning of the Adults with Incapacity (Scotland) Act 2000 <sup>M3</sup>, of understanding the nature of a forfeiture notice.”.
- (5) Omit regulation 8 (giving a forfeiture notice to a person outside the United Kingdom).

#### **Marginal Citations**

**M1** S.I. 2015/857. Relevant amendments made by S.I. 2015/1854.

**M2** 2005 c. 9.

**M3** 2000 asp 4.

**Status:**

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**Changes to legislation:**

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