
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 54(1) of the Criminal Finances Act 2017 (c. 22) (“CFA”), and make a consequential amendment to section 278(7)(a) of the Proceeds of Crime Act 2002 (c. 29) (“POCA”).

Section 278(3) of POCA prevents a court from making a recovery order under section 266 of POCA, where the court considers that the enforcement authority’s right to recover the property has been satisfied by either a previous recovery order or a previous consent order. Section 278(7) ensures that a previous forfeiture order is to be treated as a previous recovery order in respect of the forfeited property for the purposes of section 278(3).

Section 278(7)(a) was amended by the CFA to include references to forfeiture orders made under the new powers to forfeit certain items of personal or moveable property, and to forfeit funds in bank accounts. These Regulations make a consequential amendment to that section so that a forfeiture order made under section 303R of POCA is captured. Section 303R is a power for the High Court to order the forfeiture of a listed item of personal or moveable property, if the matter is referred to the High Court by the Magistrates’ Court (or, in Scotland, to the Court of Session by the Sheriff’s court) under the procedure in Chapter 3A of Part 5 of POCA. Section 303R is inserted into POCA by section 15 of the CFA.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.