
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 456 (C. 34)

PROCEEDS OF CRIME

The Criminal Finances Act 2017
(Commencement) (Scotland) Regulations 2017

Made - - - - - 19th December 2017
Laid before the Scottish
Parliament - - - - - 21st December 2017
Coming into force - - - 31st January 2018

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 58(2) of the Criminal Finances Act 2017⁽¹⁾.

In accordance with section 58(2) of that Act, they have consulted with the Secretary of State.

Citation and commencement

1. These Regulations may be cited as the Criminal Finances Act 2017 (Commencement) (Scotland) Regulations 2017 and come into force on 31st January 2018.

Provisions which come into force on 31st January 2018

2. 31st January 2018 is the day appointed for the coming into force of the following provisions of the Criminal Finances Act 2017:—

- (a) section 28 (seized money);
- (b) section 30 (money received by administrators);
- (c) section 32(4) (reconsideration of discharged orders); and
- (d) section 34(3) (confiscation orders and civil recovery: minor amendments).

St Andrew's House,
Edinburgh
19th December 2017

MICHAEL MATHESON
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first and only commencement regulations to be made by the Scottish Ministers under the Criminal Finances Act 2017 (“the Act”).

The Regulations bring into force, on 31st January 2018, sections 28, 30, 32(4) and 34(3) of the Act. Those sections make various amendments to Part 3 of the Proceeds of Crime Act 2002 (c. 29), regarding confiscation proceedings in Scotland. In particular —

- (a) section 28 of the Act introduces a new court order for the purpose of securing payment of a confiscation order; it enables the court making or enforcing a confiscation order to order that certain money (held either in a bank or building society account or as cash seized by a law enforcement authority) be paid in full or part satisfaction of that order;
- (b) section 30 of the Act redefines the types of institution in which appointed administrators must deposit money received in the exercise of their functions;
- (c) section 32(4) of the Act provides for the reconsideration, in certain circumstances, of a confiscation order that has been discharged because of an insufficient amount available to pay the order; it applies (by virtue of section 32(7)) in relation to a confiscation order whether made before or after 31st January 2018, but only where the discharge of the order occurs after that date;
- (d) section 34(3) of the Act redefines “free property” for the purpose of determining the amount (if any) that is recoverable under a confiscation order; it prevents property that is subject to other, new, kinds of forfeiture or detention proceedings from being taken into account for the purposes of confiscation proceedings (as the property is accounted for elsewhere, it is made unavailable for confiscation).

The Bill for the Act received Royal Assent on 27th April 2017. Sections 54 to 59 of the Act came into force on that day, along with any other provision required for enabling the exercise on or after that day of any power to make provision by subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)). Sections 9, 18, 41 and 42 of the Act came into force on 27th June 2017.

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. 2017/739, S.I. 2017/991 and S.I. 2017/1028) 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 28, 30, 32(4) and 34(3) are the only provisions of the Act which fall to the Scottish Ministers to commence.

<i>Provision(s)</i>	<i>Date of Commencement</i>	<i>Instrument Number</i>
Section 10	31st October 2017	S.I. 2017/991
Section 11 (in part)	31st October 2017	S.I. 2017/991
Section 11 (in part)	31st October 2017	S.I. 2017/1028

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<i>Provision(s)</i>	<i>Date of Commencement</i>	<i>Instrument Number</i>
Section 12	31st October 2017	S.I. 2017/991
Section 15 (in part)	31st October 2017	S.I. 2017/991
Section 17 so far as relating to paragraphs 1 (in part) and 14 of schedule 1	31st October 2017	S.I. 2017/991
Section 36 (in part)	31st October 2017	S.I. 2017/991
Section 36 (in part)	31st October 2017	S.I. 2017/1028
Section 37	31st October 2017	S.I. 2017/991
Section 43 so far as not already in force	31st October 2017	S.I. 2017/991
Sections 44 to 46	30th September 2017	S.I. 2017/739
Section 47	17th July 2017	S.I. 2017/739
Sections 48 to 52	30th September 2017	S.I. 2017/739
Section 53 so far as relating to the following paragraphs of schedule 5: paragraphs 6 to 8, 9 (in part), 10 to 12, 13 (in part), 17 (in part), 37 and 38, 83, 87(3) to (6) (in part), 89, 90 (in part) and 91 (in part)	31st October 2017	S.I. 2017/991
Schedule 1, paragraphs 1 (in part) and 14	31st October 2017	S.I. 2017/991
Schedule 5, paragraphs 6 to 8, 9 (in part), 10 to 12, 13 (in part), 17 (in part), 37 and 38, 83 (so far as not already in force), 87(3) to (6) (in part), 89, 90 (in part) and 91 (in part)	31st October 2017	S.I. 2017/991