

2008 No. 523

PROCEEDS OF CRIME, ENGLAND AND WALES

PROCEEDS OF CRIME, NORTHERN IRELAND

The Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) (Amendment) Regulations 2008

<i>Made</i> - - - -	<i>27th February 2008</i>
<i>Laid before Parliament</i>	<i>27th February 2008</i>
<i>Coming into force</i> - -	<i>1st April 2008</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred upon him by sections 286A, 286B and 459(2) of the Proceeds of Crime Act 2002(a) and articles 198, 199 and 5(2) of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(b).

He has consulted in accordance with sections 286A(4) and 286B(3) of that Act and articles 198(4) and 199(3) of that Order.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) (Amendment) Regulations 2008 and shall come into force on 1st April 2008.

(2) In these Regulations a reference to a regulation by number alone is a reference to the regulation so numbered in the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005(c).

Amendments to the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

2.—(1) The Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005 are amended as follows.

(2) In regulation 2(1) (Interpretation) after the definition of “notice” insert—

““relevant enforcement authority” means the enforcement authority(d) which is conducting the civil recovery proceedings concerned;”.

(a) 2002 c. 29. Sections 286A and 286B were inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 109 and Schedule 6, paragraphs 4 and 20.
(b) S.I. 2005/3181.
(c) S.I. 2005/3382.
(d) The definition of “enforcement authority” in section 316 of the Proceeds of Crime Act 2002 prospectively amended by paragraph 91 of Schedule 8 to the Serious Crime Act 2007 (c. 27).

(3) In regulation 5 (Condition relating to notification) for “Director” substitute “relevant enforcement authority”.

(4) In regulation 8 (Request for Director’s agreement to release of interim payment)—

- (a) in the title of that regulation and in paragraph (1) for “Director’s” substitute “relevant enforcement authority’s”;
- (b) in paragraph (1) for “the Director” substitute “that authority”.

(5) In regulation 9 (Director’s response to request)—

- (a) in the title of that regulation for “Director’s” substitute “Relevant enforcement authority’s”;
- (b) in paragraph (1) for “he” each time it occurs substitute “it”;
- (c) in each of paragraphs (1), (2) and (3) for “Director” substitute “relevant enforcement authority”;
- (d) in each of paragraphs (1) and (3) for “his” substitute “its”.

(6) In regulation 10(1) (Release of interim payment) for “Director” substitute “relevant enforcement authority”.

(7) In regulation 12 (Agreement of expenses by the Director)—

- (a) in the title of that regulation and in paragraphs (2) and (3) for “Director” substitute “relevant enforcement authority”;
- (b) in paragraph (1) for “Director’s” substitute “relevant enforcement authority’s”;
- (c) in paragraph (2) for “his” substitute “its”;
- (d) in paragraph (3)(a) for “he” substitute “it”.

(8) In regulation 13(1) (Expenses to be assessed if not agreed) for “Director” substitute “relevant enforcement authority”.

Signed by authority of the Lord Chancellor

27th February 2008

Hunt
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005 (S.I. 2005/3382), which make provision relating to the payment of legal expenses out of property which is the subject of civil recovery proceedings under Part 5 of the Proceeds of Crime Act 2002 or Part 5 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005. As a result of the abolition of the Assets Recovery Agency and its Director by the Serious Crime Act 2007, these Regulations replace references to the Director in the 2005 Regulations with references to the relevant enforcement authority.

STATUTORY INSTRUMENTS

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