
STATUTORY INSTRUMENTS

2015 No. 1854

PROCEEDS OF CRIME, ENGLAND AND WALES

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

<i>Made</i>	- - - -	<i>29th October 2015</i>
<i>Laid before Parliament</i>		<i>5th November 2015</i>
<i>Coming into force</i>	- -	<i>30th November 2015</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 297A(3) and (4) and 459(2)(a) of the Proceeds of Crime Act 2002(1).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Administrative Forfeiture of Cash (Forfeiture Notices) (England and Wales) (Amendment) Regulations 2015, and come into force on 30th November 2015.

(2) These Regulations extend to England and Wales only.

Amendment of the Forfeiture Notices Regulations

2.—(1) The Administrative Forfeiture of Cash (Forfeiture Notices) (England and Wales) Regulations 2015(2) are amended as follows.

(2) In regulation 3(1), for “regulation 4(1)” substitute “regulation 4”.

(3) In regulation 4(1), for “A forfeiture” substitute “Subject to paragraph (3), a forfeiture”.

(4) After regulation 4(2) insert—

“(3) If regulation 8 applies, a forfeiture notice must be given in the manner set out in that regulation, but if the state in which the person resides agrees that the forfeiture notice may be sent directly to the person, the forfeiture notice must be given to the person in accordance with this regulation.”.

(5) In regulation 5(2), in item 4 of the table, for “Limited Liability Partnership Act 2000” substitute “Limited Liability Partnerships Act 2000(3)”.

(1) 2002 c. 29. Section 297A was inserted by section 65(1) of the Policing and Crime Act 2009 (c. 26), and amended by the Crime and Courts Act 2013 (c. 22), section 55(14) and Schedule 21, Pt 1, paragraphs 14 and 28.

(2) S.I. 2015/857.

(3) 2000 c. 12.

(6) After regulation 7, insert—

“Giving a forfeiture notice to a person outside the United Kingdom

8.—(1) This regulation applies if—

- (a) a forfeiture notice is to be given to a person who resides outside the United Kingdom; and
- (b) the state in which the person resides has made a relevant declaration.

(2) The forfeiture notice must be given in accordance with the terms of the relevant declaration as if it were a judicial document mentioned in that declaration.

(3) In this rule, “relevant declaration” means—

- (a) a declaration made in accordance with Article 31(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism agreed at Warsaw on 16th May 2005⁽⁴⁾ that judicial documents may not be sent directly to persons abroad by postal channels; or
- (b) a declaration made in accordance with Article 21(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime agreed at Strasbourg on 8th November 1990⁽⁵⁾ that judicial documents may not be sent directly to persons abroad by postal channels.”.

Home Office
29th October 2015

Mike Penning
Minister of State

⁽⁴⁾ Council of Europe Treaty Series 198.
⁽⁵⁾ European Treaty Series 141.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Administrative Forfeiture of Cash (Forfeiture Notices) (England and Wales) Regulations 2015 (S.I. 2015/857) to provide for the manner in which a forfeiture notice under section 297A of the Proceeds of Crime Act 2002 (c. 29) is to be given to a person who resides outside the United Kingdom if the state in which the person resides has made a relevant declaration. The forfeiture notice is to be given in the same manner that a judicial document is to be given under a relevant declaration unless the state in which the person resides agrees that the forfeiture notice may be sent directly to the person. In that case, the forfeiture notice must be given to the person in accordance with regulation 4.

For the purpose of these Regulations, a relevant declaration is—

- (a) a declaration made in accordance with Article 31(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism agreed at Warsaw on 16th May 2005 (CETS 198) that judicial documents may not be sent directly to persons abroad by postal channels; or
- (b) a declaration made in accordance with Article 21(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime agreed at Strasbourg on 8th November 1990 (ETS 141) that judicial documents may not be sent directly to persons abroad by postal channels.

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