
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first commencement regulations made by the Scottish Ministers under the Serious Crime Act 2015 (“the Act”).

Regulation 2 brings into force, on 1st March 2016, sections 16 to 22 and 38(3) of the Act. Those sections make various amendments to the Proceeds of Crime Act 2002 as it applies in relation to confiscation proceedings in Scotland. The amendments create a new court order for the purpose of securing compliance with a confiscation order (sections 16 and 17); section 86(3) of the Act provides that such a “compliance order” may be made in respect of any confiscation order made on or after 1st March 2016. The amendments also make new provision regarding accused persons unlawfully at large (section 18), enforcement of confiscation orders (section 19), conditions for the exercise of restraint order powers (section 20), continuation of a restraint order after a conviction is quashed or a verdict is set aside (section 21), conditions for the exercise of search and seizure powers (section 22), and confiscation investigations (section 38(3)). In addition, regulation 2 brings into force the minor and consequential amendments in Schedule 4 to the Act which relate to those provisions (and section 85(1) so far as it gives effect to those amendments).

Regulation 3 makes a saving provision in relation to section 19 of, and paragraphs 42 and 45 of Schedule 4 to, the Act. Those provisions increase the maximum periods of imprisonment that may be imposed in default of payment of a confiscation order, and bring to an end the rule that a person is relieved of the obligation to pay the sum due under a confiscation order once he or she has served a default sentence. Regulation 3 provides that these new enforcement provisions do not apply to a default of payment of a sum due under a confiscation order made in respect of any offence committed before 1st March 2016.

The Bill for the Act received Royal Assent on 3rd March 2015. The following provisions of the Act came into force on that day: sections 80, 81 (and the corresponding consequential provisions in paragraph 74 of Schedule 4 and section 85(1) so far as relating to that paragraph), 82, 83, 85(2) to (7) and 86 to 89. Sections 70 to 72 of the Act came into force on 3rd May 2015.