

2016 No. 148 (C. 12)

PROCEEDS OF CRIME

SERIOUS CRIME PREVENTION ORDERS

**The Serious Crime Act 2015 (Commencement No. 5 and
Transitional Provisions and Savings) Regulations 2016**

Made - - - -

7th February 2016

The Secretary of State makes these Regulations in exercise of the powers conferred by section 88(1) and (9) of the Serious Crime Act 2015(a).

The Secretary of State has consulted the Scottish Ministers in accordance with section 88(6)(a), (b), (d) and (e) of that Act, and has consulted the Department of Justice in Northern Ireland in accordance with section 88(7)(a) and (c) of that Act.

Citation and interpretation

1. These Regulations may be cited as The Serious Crime Act 2015 (Commencement No. 5 and Transitional Provisions and Savings) Regulations 2016.

2. In these Regulations “appropriate court” and “serious crime prevention order” have the same meanings as in the Serious Crime Act 2007(b).

Provisions coming into force on 1st March 2016

3. The following provisions of the Serious Crime Act 2015 come into force on 1st March 2016—

- (a) section 13 (conditions for exercise of search and seizure powers);
- (b) section 23 (prohibitory property orders: PPO receivers);
- (c) section 38(1) and (2) (confiscation investigations);
- (d) section 46 (extension of Part 1 of Serious Crime Act 2007 to Scotland);
- (e) section 50(1)(b) (serious crime prevention orders and financial reporting etc);
- (f) section 85(1) (minor and consequential amendments), so far as it relates to paragraphs 14, 15, 55, 71 and 73 of Schedule 4 (minor and consequential amendments);
- (g) Schedule 1 (amendments of Serious Crime Act 2007: Scotland); and
- (h) Paragraphs 14, 15, 55, 71 and 73 of Schedule 4 so far as not already commenced.

(a) 2015 c. 9.

(b) 2007 c. 27. See section 1(5) for the definition of “appropriate court” and “serious crime prevention order”. Section 1(5) is inserted by section 46 of, and paragraphs 1 and 2 of Schedule 1 to, the Serious Crime Act 2015.

Transitional provisions and savings

4. In deciding for the purposes of section 1(1A)(a) of the Serious Crime Act 2007(**a**) whether a person has been involved in serious crime, the appropriate court may take account of conduct before 1st March 2016 as well as conduct on or after that date.

5.—(1) Section 22A, 22B or 22C of the Serious Crime Act 2007(**b**) does not apply to a person who is being dealt with on or after 1st March 2016 in relation to an offence of which the person was convicted before that date.

(2) Paragraph (1) does not prevent an application to the appropriate court for a serious crime prevention order in connection with the offence concerned.

Home Office
7th February 2016

John Hayes
Minister of State

(a) Section 1(1A) is inserted by section 46 of, and paragraphs 1 and 2 of Schedule 1 to, the Serious Crime Act 2015.
(b) Sections 22A, 22B and 22C are inserted by section 46 of, and paragraphs 1 and 17 of Schedule 1 to, the Serious Crime Act 2015.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the fifth commencement regulations made by the Secretary of State under section 88(1) of the Serious Crime Act 2015 (c. 9) (“the 2015 Act”).

Regulation 3 brings into force on 1st March 2016 sections 13, 23, 38(1) and (2), 46, 50(1)(b) of, and section 85(1) insofar as it relates to paragraphs 14, 15, 55, 71 and 73 of Schedule 4 to, the 2015 Act. Regulation 3 also brings into force Schedule 1 and paragraphs 14, 15, 55, 71 and 73 of Schedule 4 to the 2015 Act.

Section 13(1) amends section 47B of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) to require an appropriate officer, before exercising the power under section 47C of the 2002 Act, to have “reasonable grounds to suspect” rather than “reasonable cause to believe” that a person has benefited from criminal conduct.

Section 13(2) amends the definition of “senior officer” in section 47G of the 2002 Act in relation to the exercise of a power by a National Crime Agency officer under sections 47C to 47F of the 2002 Act.

Section 23 inserts provisions into the 2002 Act relating to receivers appointed in connection with prohibitory property orders under section 255A of that Act.

Section 38(1) amends section 341(1) of the 2002 Act to provide that an investigation into the extent or whereabouts of realisable property available for satisfying a confiscation order is a confiscation investigation for the purposes of Part 8 of that Act. Paragraph 55 of Schedule 4 makes a consequential amendment to section 341 of the 2002 Act.

Section 38(2) amends subsection (6) of section 353 of the 2002 Act to provide that material falls within that subsection for the purposes of an application for a search and seizure warrant if the material relates to the extent or whereabouts of realisable property available for satisfying a confiscation order.

Section 46 gives effect to Schedule 1 of the 2015 Act. This inserts provisions into the Serious Crime Act 2007 (c. 27) (“the 2007 Act”) enabling courts in Scotland to make serious crime prevention orders, and makes consequential amendments to the 2007 Act. Paragraphs 14 and 15 of Schedule 4 make consequential amendments to the Criminal Procedure (Scotland) Act 1995 (c. 46) concerning appeals relating to serious crime prevention orders (“SCPOs”) in Scotland.

Section 50(1)(b) omits section 77 of the Serious Organised Crime and Police Act 2005 (c. 15) (“the 2005 Act”), which relates to making financial reporting orders in Scotland. Paragraph 71 of Schedule 4 to the 2015 Act omits sections 79 to 81 of the 2005 Act, which relate to financial reporting orders. Paragraph 73 of Schedule 4 to the 2015 Act makes consequential amendments to section 179 of the 2005 Act.

Regulations 4 and 5 make transitional provisions and savings in respect of SCPOs in Scotland, and are similar to the transitional provisions at paragraphs 1 and 2 of Schedule 13 to the 2007 Act for SCPOs in England, Wales and Northern Ireland. Regulation 4 provides that the court may take account of a person’s conduct before the coming into force of section 1(1A) of the 2007 Act when deciding whether a person has been involved in serious crime for the purposes of that section. Regulation 5(1) provides that sections 22A to 22C of the 2007 Act do not apply where, on or after the date of coming into force of those sections, the court is dealing with a person who was convicted before that date. Regulation 5(2) clarifies that regulation 5(1) does not prevent an application being made to the appropriate court for a serious crime prevention order in connection with the offence concerned.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Act have been brought into force to their fullest extent (unless indicated otherwise) by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No. or S.R. No.</i>
Sections 1 to 12	01.06.2015	S.I. 2015/820 (C. 52)
Section 14	01.06.2015	S.I. 2015/820 (C. 52)
Sections 24 to 36	01.06.2015	S.R. 2015/190 (C. 11)
Section 37	01.06.2015	S.I. 2015/820 (C. 52)
Sections 39 and 40	01.06.2015	S.I. 2015/820 (C. 52)
Sections 41 to 45	03.05.2015	S.I. 2015/820 (C. 52)
Sections 47 to 49	03.05.2015	S.I. 2015/820 (C. 52)
Section 50 (partially)	03.05.2015	S.I. 2015/820 (C. 52)
Section 51	01.06.2015	S.I. 2015/820 (C. 52)
Sections 52 to 66	03.05.2015	S.I. 2015/820 (C. 52)
Sections 68 and 69	03.05.2015	S.I. 2015/820 (C. 52)
Section 73	17.07.2015	S.I. 2015/1428 (C. 80)
Sections 74 and 75	31.10.2015	S.I. 2015/1809 (C. 112)
Sections 76 and 77	29.12.2015	S.I. 2015/1976 (C. 122)
Section 78	01.06.2015	S.I. 2015/820 (C. 52)
Section 79	10.11.2015	S.I. 2015/1809 (C. 112)
Section 84	03.05.2015	S.I. 2015/820 (C. 52)
Section 85(1)(partially)	03.05.2015	S.I. 2015/820 (C. 52)
	01.06.2015	S.I. 2015/820 (C. 52)
	17.07.2015	S.I. 2015/1428 (C. 80)
	03.05.2015	S.R. 2015/190 (C. 11)
	01.06.2015	S.R. 2015/190 (C. 11)
	31.10.2015	S.I. 2015/1809 (C. 112)
Schedules 2 and 3	03.05.2015	S.I. 2015/820 (C. 52)
Schedule 4 (partially)	03.05.2015	S.I. 2015/820 (C. 52)
	03.05.2015	S.R. 2015/190 (C. 11)
	01.06.2015	S.R. 2015/190 (C. 11)
	17.07.2015	S.I. 2015/1428 (C. 80)
	31.10.2015	S.I. 2015/1809 (C. 112)

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