STATUTORY INSTRUMENTS

2015 No. 868

PROCEEDS OF CRIME, ENGLAND AND WALES
LEGAL AID, ENGLAND AND WALES

The Restraint Orders (Legal Aid Exception and Relevant Legal Aid Payments) Regulations 2015

Made - - - - 23rd March 2015

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by section 41(5A) and (10) of the Proceeds of Crime Act 2002(**1**) and section 47 of the Crime and Courts Act 2013(**2**), makes the following Regulations.

In accordance with section 459(6)(a) of the Proceeds of Crime Act 2002(**3**); and section 58(4)(i) of the Crime and Courts Act 2013, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Restraint Orders (Legal Aid Exception and Relevant Legal Aid Payments) Regulations 2015 and, (subject to paragraphs (2) and (3)) they come into force on 1st June 2015.

(2) Regulation 5(3) and (4) comes into force on the day on which section 55 of the 2009 Act(**4**), so far as it inserts sections 47B and 47C into the 2002 Act, comes into force.

(3) Regulation 5(7) comes into force on the day on which section 58 of the 2009 Act, so far as it inserts section 67D into the 2002 Act, comes into force.

(**1**) 2002 c. 29. Subsections (5A) and (10) were inserted by section 46 of the Crime and Courts Act 2013 (c. 22). Section 46 will come into force at the same time as these Regulations. 'Prescribed' for the purposes of subsection (5A) is defined in subsection (10) to mean prescribed by regulations made by the Secretary of State.
(**2**) 2013 c. 22. Section 47 will come into force shortly before these Regulations are made.
(**3**) Section 459(6)(a) was amended by section 46 of the Crime and Courts Act 2013.
(**4**) 2009 c. 26.

(4) In these Regulations—

"the 2002 Act" means the Proceeds of Crime Act 2002;

"the 2009 Act" means the Policing and Crime Act 2009;

"confiscation order" means a confiscation order made under Part 2 of the 2002 Act (confiscation: England and Wales);

"legal aid exception" has the meaning given in section 41(2A) of the 2002 Act (restraint orders)(**5**);

"realisable property" has the meaning given in section 83 of the 2002 Act (realisable property);

"relevant legal aid payment" has the meaning given in section 41(2B) of the 2002 Act(**6**);

"restraint order" means a restraint order made under Part 2 of the 2002 Act.

PART 2

Legal aid exception

Prescribed restriction

2.—(1) A person specified in a restraint order may not deal with realisable property that is subject to the restraint order for the purpose of making a relevant legal aid payment unless—

(a) a confiscation order has been made against the person in proceedings for an offence to which the relevant legal aid payment relates, and

(b) the confiscation order has been discharged or satisfied.

(2) For the purposes of this regulation, a relevant legal aid payment relates to an offence if the person specified in the restraint order is obliged to make the payment in connection with services provided entirely or partly in relation to the offence.

PART 3

Relevant legal aid payments: continuation of restraint

Interpretation

3. In this Part "the relevant offence" and "the specified person" have the meaning given in regulation 4.

Application of modifications of the 2002 Act in relation to restraint orders and relevant legal aid payments

4.—(1) Regulation 5 (which modifies Part 2 of the 2002 Act) has effect in relation to cases where all of the following conditions are satisfied.

(2) The first condition is that a restraint order has been made and contains a legal aid exception.

(3) The second condition is that, after that restraint order was made but before its discharge—

(a) a confiscation order was made against the person specified in the restraint order ("the specified person"), and

(**5**) Sub-section (2A) was inserted by section 46 of the Crime and Courts Act 2013.
(**6**) Sub-section (2B) was inserted by section 46 of the Crime and Courts Act 2013.