

THE PROCEEDS OF CRIME ACT 2002 (AS AMENDED)
[EXTRACT]
PART 7

MONEY LAUNDERING

Offences

327 Concealing etc

(1) A person commits an offence if he--

- (a) conceals criminal property;
- (b) disguises criminal property;
- (c) converts criminal property;
- (d) transfers criminal property;
- (e) removes criminal property from England and Wales or from Scotland or from Northern Ireland.

(2) But a person does not commit such an offence if--

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

[(2A) Nor does a person commit an offence under subsection (1) if--

- (a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and
- (b) the relevant criminal conduct--
 - (i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and
 - (ii) is not of a description prescribed by an order made by the Secretary of State.

(2B) In subsection (2A) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property.]

[(2C) A deposit-taking body that does an act mentioned in paragraph (c) or (d) of subsection (1) does not commit an offence under that subsection if--

- (a) it does the act in operating an account maintained with it, and

(b) the value of the criminal property concerned is less than the threshold amount determined under section 339A for the act.]

(3) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

328 Arrangements

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if--

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

[(3) Nor does a person commit an offence under subsection (1) if--

- (a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and
- (b) the relevant criminal conduct--
 - (i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and
 - (ii) is not of a description prescribed by an order made by the Secretary of State.

(4) In subsection (3) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property.]

[(5) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if--

- (a) it does the act in operating an account maintained with it, and
- (b) the arrangement facilitates the acquisition, retention, use or control of criminal property of a value that is less than the threshold amount determined under section 339A for the act.]

329 Acquisition, use and possession

(1) A person commits an offence if he--

- (a) acquires criminal property;
- (b) uses criminal property;
- (c) has possession of criminal property.

(2) But a person does not commit such an offence if--

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) he acquired or used or had possession of the property for adequate consideration;
- (d) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

[(2A) Nor does a person commit an offence under subsection (1) if--

- (a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and
- (b) the relevant criminal conduct--
 - (i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and
 - (ii) is not of a description prescribed by an order made by the Secretary of State.

(2B) In subsection (2A) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property.]

[(2C) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if--

- (a) it does the act in operating an account maintained with it, and
- (b) the value of the criminal property concerned is less than the threshold amount determined under section 339A for the act.]

(3) For the purposes of this section--

- (a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property;
- (b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of the use or possession;
- (c) the provision by a person of goods or services which he knows or suspects may help another to carry out criminal conduct is not consideration.

330 Failure to disclose: regulated sector

(1) A person commits an offence if [the conditions in subsections (2) to (4) are satisfied].

(2) The first condition is that he--

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(3) The second condition is that the information or other matter--

- (a) on which his knowledge or suspicion is based, or
- (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of a business in the regulated sector.

[(3A) The third condition is--

- (a) that he can identify the other person mentioned in subsection (2) or the whereabouts of any of the laundered property, or
- (b) that he believes, or it is reasonable to expect him to believe, that the information or other matter mentioned in subsection (3) will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(4) The fourth condition is that he does not make the required disclosure to--

- (a) a nominated officer, or
- (b) a person authorised for the purposes of this Part by the Director General of [SOCA],

as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.

(5) The required disclosure is a disclosure of--

- (a) the identity of the other person mentioned in subsection (2), if he knows it,
- (b) the whereabouts of the laundered property, so far as he knows it, and
- (c) the information or other matter mentioned in subsection (3).

(5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.

(6) But he does not commit an offence under this section if--

- (a) he has a reasonable excuse for not making the required disclosure,
- (b) he is a professional legal adviser [or . . . relevant professional adviser] and--
 - (i) if he knows either of the things mentioned in subsection (5)(a) and (b), he knows the thing because of information or other matter that came to him in privileged circumstances, or
 - (ii) the information or other matter mentioned in subsection (3) came to him in privileged circumstances, or
- (c) subsection (7) [or (7B)] applies to him.]

(7) This subsection applies to a person if--

- (a) he does not know or suspect that another person is engaged in money laundering, and
- (b) he has not been provided by his employer with such training as is specified by the Secretary of State by order for the purposes of this section.

[(7A) Nor does a person commit an offence under this section if--

- (a) he knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the United Kingdom, and
- (b) the money laundering--
 - (i) is not unlawful under the criminal law applying in that country or territory, and

(ii) is not of a description prescribed in an order made by the Secretary of State.]

[(7B) This subsection applies to a person if--

- (a) he is employed by, or is in partnership with, a professional legal adviser or a relevant professional adviser to provide the adviser with assistance or support,
- (b) the information or other matter mentioned in subsection (3) comes to the person in connection with the provision of such assistance or support, and
- (c) the information or other matter came to the adviser in privileged circumstances.]

(8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned--

- (a) issued by a supervisory authority or any other appropriate body,
- (b) approved by the Treasury, and
- (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.

(9) A disclosure to a nominated officer is a disclosure which--

- (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and
- (b) is made in the course of the alleged offender's employment . . .

[(9A) But a disclosure which satisfies paragraphs (a) and (b) of subsection (9) is not to be taken as a disclosure to a nominated officer if the person making the disclosure--

- (a) is a professional legal adviser [or . . . relevant professional adviser],
- (b) makes it for the purpose of obtaining advice about making a disclosure under this section, and
- (c) does not intend it to be a disclosure under this section.]

(10) Information or other matter comes to a professional legal adviser [or . . . relevant professional adviser] in privileged circumstances if it is communicated or given to him--

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(11) But subsection (10) does not apply to information or other matter which is communicated or given with the intention of furthering a criminal purpose.

(12) Schedule 9 has effect for the purpose of determining what is--

- (a) a business in the regulated sector;
- (b) a supervisory authority.

(13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

[(14) A relevant professional adviser is an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for--

- (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
- (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.]

331 Failure to disclose: nominated officers in the regulated sector

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332 Failure to disclose: other nominated officers

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[333A Tipping off: regulated sector]

[(1) A person commits an offence if--

- (a) the person discloses any matter within subsection (2);
- (b) the disclosure is likely to prejudice any investigation that might be conducted following the disclosure referred to in that subsection; and
- (c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.

(2) The matters are that the person or another person has made a disclosure under this Part--

- (a) to a constable,
- (b) to an officer of Revenue and Customs,
- (c) to a nominated officer, or
- (d) to a member of staff of the Serious Organised Crime Agency authorised for the purposes of this Part by the Director General of that Agency,

of information that came to that person in the course of a business in the regulated sector.

(3) A person commits an offence if--

- (a) the person discloses that an investigation into allegations that an offence under this Part has been committed is being contemplated or is being carried out;
- (b) the disclosure is likely to prejudice that investigation; and
- (c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.

(4) A person guilty of an offence under this section is liable--

- (a) on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 5 on the standard scale, or to both;

(b) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both.

(5) This section is subject to--

- (a) section 333B (disclosures within an undertaking or group etc),
- (b) section 333C (other permitted disclosures between institutions etc), and
- (c) section 333D (other permitted disclosures etc).]

[333B Disclosures within an undertaking or group etc]

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[333C Other permitted disclosures between institutions etc]

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[333D Other permitted disclosures etc]

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[(1) A person does not commit an offence under section 333A if the disclosure is--

[333E Interpretation of sections 333A to 333D]

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334 Penalties

(1) A person guilty of an offence under section 327, 328 or 329 is liable--

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years or to a fine or to both.

(2) A person guilty of an offence under section 330, 331 [or 332] is liable--

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

[(3) A person guilty of an offence under section 339(1A) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of his trade, profession, business or employment.

(3) The second condition is that the information or other matter--

- (a) causes the discloser to know or suspect, or
- (b) gives him reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(4) The third condition is that the disclosure is made to a constable, a customs officer or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.

[(4A) Where a disclosure consists of a disclosure protected under subsection (1) and a disclosure of either or both of--

- (a) the identity of the other person mentioned in subsection (3), and
- (b) the whereabouts of property forming the subject-matter of the money laundering that the discloser knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in,

the disclosure of the thing mentioned in paragraph (a) or (b) (as well as the disclosure protected under subsection (1)) is not to be taken to breach any restriction on the disclosure of information (however imposed).]

(5) A disclosure to a nominated officer is a disclosure which--

- (a) is made to a person nominated by the discloser's employer to receive disclosures under [section 330 or] this section, and
- (b) is made in the course of the discloser's employment . . .

338 Authorised disclosures

(1) For the purposes of this Part a disclosure is authorised if--

- (a) it is a disclosure to a constable, a customs officer or a nominated officer by the alleged offender that property is criminal property,
- (b) . . . and
- (c) the first[, second or third] condition set out below is satisfied.

(2) The first condition is that the disclosure is made before the alleged offender does the prohibited act.

[(2A) The second condition is that--

- (a) the disclosure is made while the alleged offender is doing the prohibited act,
- (b) he began to do the act at a time when, because he did not then know or suspect that the property constituted or represented a person's benefit from criminal conduct, the act was not a prohibited act, and
- (c) the disclosure is made on his own initiative and as soon as is practicable after he first knows or suspects that the property constitutes or represents a person's benefit from criminal conduct.]

(3) The [third] condition is that--

- (a) the disclosure is made after the alleged offender does the prohibited act,

- (b) [he has a reasonable excuse] for his failure to make the disclosure before he did the act, and
 - (c) the disclosure is made on his own initiative and as soon as it is practicable for him to make it.
- (4) An authorised disclosure is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (5) A disclosure to a nominated officer is a disclosure which--
- (a) is made to a person nominated by the alleged offender's employer to receive authorised disclosures, and
 - (b) is made in the course of the alleged offender's employment . . .
- (6) References to the prohibited act are to an act mentioned in section 327(1), 328(1) or 329(1) (as the case may be).

339 Form and manner of disclosures

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[339ZA Disclosures to SOCA]

[339A Threshold amounts]

- [(1) This section applies for the purposes of sections 327(2C), 328(5) and 329(2C).
- (2) The threshold amount for acts done by a deposit-taking body in operating an account is £250 unless a higher amount is specified under the following provisions of this section (in which event it is that higher amount).
- (3) An officer of Revenue and Customs, or a constable, may specify the threshold amount for acts done by a deposit-taking body in operating an account--
- (a) when he gives consent, or gives notice refusing consent, to the deposit-taking body's doing of an act mentioned in section 327(1), 328(1) or 329(1) in opening, or operating, the account or a related account, or
 - (b) on a request from the deposit-taking body.
- (4) Where the threshold amount for acts done in operating an account is specified under subsection (3) or this subsection, an officer of Revenue and Customs, or a constable, may vary the amount (whether on a request from the deposit-taking body or otherwise) by specifying a different amount.
- (5) Different threshold amounts may be specified under subsections (3) and (4) for different acts done in operating the same account.
- (6) The amount specified under subsection (3) or (4) as the threshold amount for acts done in operating an account must, when specified, not be less than the amount specified in subsection (2).
- (7) The Secretary of State may by order vary the amount for the time being specified in subsection (2).
- (8) For the purposes of this section, an account is related to another if each is maintained with the same deposit-taking body and there is a person who, in relation to each account, is the person or one of the persons entitled to instruct the body as respects the operation of the account.]

Interpretation

340 Interpretation

- (1) This section applies for the purposes of this Part.
- (2) Criminal conduct is conduct which--
 - (a) constitutes an offence in any part of the United Kingdom, or
 - (b) would constitute an offence in any part of the United Kingdom if it occurred there.
- (3) Property is criminal property if--
 - (a) it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly), and
 - (b) the alleged offender knows or suspects that it constitutes or represents such a benefit.
- (4) It is immaterial--
 - (a) who carried out the conduct;
 - (b) who benefited from it;
 - (c) whether the conduct occurred before or after the passing of this Act.
- (5) A person benefits from conduct if he obtains property as a result of or in connection with the conduct.
- (6) If a person obtains a pecuniary advantage as a result of or in connection with conduct, he is to be taken to obtain as a result of or in connection with the conduct a sum of money equal to the value of the pecuniary advantage.
- (7) References to property or a pecuniary advantage obtained in connection with conduct include references to property or a pecuniary advantage obtained in both that connection and some other.
- (8) If a person benefits from conduct his benefit is the property obtained as a result of or in connection with the conduct.
- (9) Property is all property wherever situated and includes--
 - (a) money;
 - (b) all forms of property, real or personal, heritable or moveable;
 - (c) things in action and other intangible or incorporeal property.
- (10) The following rules apply in relation to property--
 - (a) property is obtained by a person if he obtains an interest in it;
 - (b) references to an interest, in relation to land in England and Wales or Northern Ireland, are to any legal estate or equitable interest or power;
 - (c) references to an interest, in relation to land in Scotland, are to any estate, interest, servitude or other heritable right in or over land, including a heritable security;
 - (d) references to an interest, in relation to property other than land, include references to a right (including a right to possession).

- (11) Money laundering is an act which--
- (a) constitutes an offence under section 327, 328 or 329,
 - (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),
 - (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a), or
 - (d) would constitute an offence specified in paragraph (a), (b) or (c) if done in the United Kingdom.
- (12) For the purposes of a disclosure to a nominated officer--
- (a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in connection with whose activities the person exercises a function (whether or not for gain or reward), and
 - (b) references to employment must be construed accordingly.
- (13) References to a constable include references to a person authorised for the purposes of this Part by [the Director General of [SOCA]].
- [(14) "Deposit-taking body" means--
- (a) a business which engages in the activity of accepting deposits, or
 - (b) the National Savings Bank.]