
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the second commencement regulations made under the Criminal Finances Act 2017 (c.22) (“the Act”), which amends the Proceeds of Crime Act 2002 (c. 29) (“POCA”) and the Terrorism Act 2000 (c.11) (“TACT”).

They bring the provisions listed in regulation 2 into force on 31st October 2017. Those provisions relate to the following matters:

- section 10 of the Act amends the provisions in POCA which apply where an entity in the regulated sector has reported a suspicion of money laundering, and has sought consent from a nominated officer, a constable or a customs officer to carry out a particular transaction. Where that consent is refused, the entity is currently prohibited from carrying out the transaction for a period of 31 days (“the moratorium period”). Section 10 of the Act introduces a new power for a senior officer to apply to the court for an order extending the moratorium period.
- section 11 of the Act introduces a new procedure in POCA for entities within the regulated sector to share information relating to suspicion that a person is engaged in money laundering, for the purpose of developing a joint disclosure report to the National Crime Agency (“NCA”). Section 36 introduces a similar procedure into TACT.
- section 12 of the Act introduces a power for NCA (or, in Scotland, the procurator fiscal) to apply to the court for an order requiring the respondent to provide further information relating to a disclosure made under Part 7 of POCA. Section 37 introduces a similar power into TACT.
- section 15 of the Act introduces a new chapter 3A into Part 5 of POCA, which includes power for law enforcement agencies to seize and forfeit certain listed items of property. These Regulations commence new sections 303G and 303H only, so far as they are not already commenced by virtue of section 58(6)(d) of the Act.
- Section 53 of the Act gives effect to Schedule 5, which contains a number of minor and technical amendments. These Regulations commence certain paragraphs of Schedule 5 which relate to the provisions above. In addition, paragraph 89 of Schedule 5 makes an amendment to section 11 of the Homelessness etc. (Scotland) Act 2003 (asp 10), to allow regulations to be made in Scotland under that section concerning the required form of a notice under section 245ZA(2) of POCA (notice to local authority of application for decree of removing and warrant of ejection) and the manner in which it is to be given. Section 245ZA of POCA is inserted by section 29 of the Act. Paragraphs 90 and 91 of Schedule 5 to the Act amend section 214 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“BD(S)A”) to include a decree of removing and warrant for ejection granted under section 266(8ZA) of POCA within the definition of “a decree for removing from heritable property” for the purposes of Part 15 of the BD(S)A. These Regulations commence the amendment in paragraph 91 so far as is necessary to allow court rules to be made under section 215 of the BD(S)A in respect of decrees and warrants granted under section 266(8ZA) of POCA. Section 266(8ZA) of POCA is inserted by section 29 of the Act.

Regulations 1(3) and (4) provide that certain provisions are commenced in England and Wales and Scotland only.

Regulation 3(1) provides that the commencement of section 10 of the Act from 31st October 2017 is limited to relevant disclosures made under POCA on or after that date. Regulations 3(2) and (3) provide that a further information order made under sections 339ZH of POCA or 22B(1) of TACT

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respectively can only be made where the information required to be given under that order relates to a matter arising from a disclosure made on or after that date.