

2017 No. 991 (C. 92)

PROCEEDS OF CRIME

PREVENTION AND SUPPRESSION OF TERRORISM

**The Criminal Finances Act 2017 (Commencement No. 2 and
Transitional Provisions) Regulations 2017**

Made - - - -

12th October 2017

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 58(1), (7) and (8) of the Criminal Finances Act 2017(a):

Citation, interpretation and extent

1.—(1) These Regulations may be cited as the Criminal Finances Act 2017 (Commencement No. 2 and Transitional Provisions) Regulations 2017.

(2) In these Regulations—

“TACT” means the Terrorism Act 2000(b);

“POCA” means the Proceeds of Crime Act 2002(c);

“the Act” means the Criminal Finances Act 2017.

(3) Regulations 2(a), (d), (l), (t) and (v) do not extend to Northern Ireland.

(4) In regulation 2(r), the commencement of paragraph 37 of Schedule 5 to the Act does not extend to Northern Ireland so far as it relates to section 333D(1)(aa) and (1A) of POCA.

Provisions of the Act coming into force on 31st October 2017

2. The following provisions of the Act come into force on 31st October 2017—

(a) section 10 (power to extend moratorium period);

(a) 2017 c. 22

(b) 2000 c. 11. Section 21G of the Terrorism Act 2000 (“TACT”) was inserted by S.I. 2007/3398 and amended by S.I. 2017/692. Section 120C was inserted by section 43 of the Criminal Finances Act 2017 (c. 22) (“the Act”), and is in force for certain purposes (see section 58(6)(d) of the Act). Paragraph 6 of Schedule 14 to TACT was amended by section 2(4) and (6) of the Anti-terrorism, Crime and Security Act 2001 (c. 24).

(c) 2002 c. 29. Section 47S was inserted by section 55(1) and (2) of the Policing and Crime Act 2009 (c.26). Section 292 was amended by paragraph 5 of Schedule 11 to the Serious Crime Act 2007 (c. 27), paragraph 5 of Schedule 48 to the Finance Act 2013 (c. 29) and S.I. 2010/976. Section 333D was inserted by S.I. 2007/3398. Section 340 was amended by section 103(1) and (6) of, and paragraphs 168 and 174 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and by paragraphs 108 and 135 of Part 2 of Schedule 8 to the Crime and Courts Act 2013 (c. 22). Section 377 was amended by paragraphs 103 and 114(1) and (2) of Part 4 of Schedule 8 to the Serious Crime Act 2007 (c. 27), and by paragraphs 108 and 143 of Part 2 of Schedule 8, and paragraphs 14 and 37(1) to (3) of Part 1 of Schedule 21 to, the Crime and Courts Act 2013, and by paragraphs 1 and 17 of Schedule 48 to the Finance Act 2013, and by S.I. 2010/976. Section 377A was inserted by paragraphs 103 and 115 of Part 4 of Schedule 8 to the Serious Crime Act 2007 and amended by S.I. 2014/834. Section 443 was amended by paragraphs 121 and 137 of Part 6 of Schedule 8 to the Serious Crime Act 2007 and by paragraphs 108 and 148 of Part 2 of Schedule 8 to the Crime and Courts Act 2013.

- (b) section 11 (sharing of information within the regulated sector) so far as it applies to relevant undertakings within section 339ZG(5)(b)(a) of POCA;
- (c) section 12 (further information orders);
- (d) section 15 (forfeiture of certain personal (or moveable) property) so far as it inserts sections 303G and 303H into POCA and so far as not already in force;
- (e) section 17 (Serious Fraud Office) so far as relevant to paragraphs (j) to (l) below;
- (f) section 36 (sharing of information within the regulated sector) so far as it applies to relevant undertakings within section 21CF(6)(b)(b) of TACT;
- (g) section 37 (further information orders);
- (h) section 43 (enforcement in other parts of the United Kingdom) so far as not already in force;
- (i) section 53 (minor and consequential amendments) so far as relevant to paragraphs (m) to (y) below;
- (j) paragraph 1 of Schedule 1 (powers of members of staff of Serious Fraud Office) so far as relevant to paragraphs (k) and (l) below;
- (k) paragraph 6 of Schedule 1;
- (l) paragraphs 14 and 24 of Schedule 1;
- (m) paragraphs 6 to 8 of Schedule 5 (minor and consequential amendments);
- (n) paragraph 9 of Schedule 5 so far as relevant to paragraphs (o) and (p) below;
- (o) paragraphs 10 to 12 of Schedule 5;
- (p) paragraph 13 of Schedule 5 for the purpose of issuing a code of practice under paragraph 6 of Schedule 14 to TACT;
- (q) paragraph 17 of Schedule 5 so far as relevant to paragraphs (r) to (v) below;
- (r) paragraph 37 of Schedule 5;
- (s) paragraph 38 of Schedule 5;
- (t) paragraph 58 of Schedule 5;
- (u) paragraph 83 of Schedule 5 so far as not already in force;
- (v) paragraphs 87(3) to (6) of Schedule 5 so far as they relate to section 303G(5) or 303H(4);
- (w) paragraph 89 of Schedule 5;
- (x) paragraph 90 of Schedule 5 so far as relevant to paragraph (y) below;
- (y) paragraph 91 of Schedule 5 so far as necessary for enabling an Act of Sederunt (court rules) to be made under section 215 of the Bankruptcy and Diligence etc. (Scotland) Act 2007(c) in relation to a decree of removing or warrant for ejection granted under section 266(8ZA) of POCA(d).

Transitional provisions

3.—(1) Section 10 of the Act applies only in relation to a relevant disclosure (“relevant disclosure” is defined in section 336D(5) of POCA) made on or after 31st October 2017.

(2) An order under section 339ZH of POCA (further information orders) (as inserted by section 12 of the Act) 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 31st October 2017(e).

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- (a) Section 339ZG is inserted into POCA by section 12 of the Act and is commenced in accordance with these regulations.
 - (b) Section 21CF is inserted into TACT by section 36 of the Act and is commenced in accordance with these regulations.
 - (c) 2007 Asp 3.
 - (d) Section 266(8ZA) is inserted into POCA by section 29 of the Act.
 - (e) The types of disclosure to which an order under section 339ZH of POCA can relate are specified in section 339ZH(4) and (5) of that Act.

(3) An order under section 22B(1) of TACT (further information orders) (as inserted by section 37 of the Act) 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 31st October 2017(a).

Ben Wallace
Minister of State
Home Office

12th October 2017

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

(a) The types of disclosure to which an order under section 22B(1) of TACT can relate are specified in section 22B(4) and (5) of that Act.

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 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.

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>
Section 47	17/07/2017	S.I. 2017/739
Part 3 (so far as not already commenced)	30/09/2017	S.I. 2017/739

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