



Criminal Finances Act 2017

2017 CHAPTER 22

PART 1

PROCEEDS OF CRIME

CHAPTER 3

CIVIL RECOVERY

Meaning of “unlawful conduct”: gross human rights abuses or violations

13 Unlawful conduct: gross human rights abuses or violations

(1) Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.

(2) In section 241 (meaning of “unlawful conduct”), after subsection (2) insert—

“(2A) Conduct which—

- (a) occurs in a country or territory outside the United Kingdom,
- (b) constitutes, or is connected with, the commission of a gross human rights abuse or violation (see section 241A), and
- (c) if it occurred in a part of the United Kingdom, would be an offence triable under the criminal law of that part on indictment only or either on indictment or summarily,

is also unlawful conduct.”

(3) After that section insert—

“241A Gross human rights abuse or violation”

(1) Conduct constitutes the commission of a gross human rights abuse or violation if each of the following three conditions is met.

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- (2) The first condition is that—
- (a) the conduct constitutes the torture of a person who has sought—
 - (i) to expose illegal activity carried out by a public official or a person acting in an official capacity, or
 - (ii) to obtain, exercise, defend or promote human rights and fundamental freedoms, or
 - (b) the conduct otherwise involves the cruel, inhuman or degrading treatment or punishment of such a person.
- (3) The second condition is that the conduct is carried out in consequence of that person having sought to do anything falling within subsection (2)(a)(i) or (ii).
- (4) The third condition is that the conduct is carried out—
- (a) by a public official, or a person acting in an official capacity, in the performance or purported performance of his or her official duties, or
 - (b) by a person not falling within paragraph (a) at the instigation or with the consent or acquiescence—
 - (i) of a public official, or
 - (ii) of a person acting in an official capacity,
 who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties.
- (5) Conduct is connected with the commission of a gross human rights abuse or violation if it is conduct by a person that involves—
- (a) acting as an agent for another in connection with activities relating to conduct constituting the commission of a gross human rights abuse or violation,
 - (b) directing, or sponsoring, such activities,
 - (c) profiting from such activities, or
 - (d) materially assisting such activities.
- (6) Conduct that involves the intentional infliction of severe pain or suffering on another person is conduct that constitutes torture for the purposes of subsection (2)(a).
- (7) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission.
- (8) The cases in which a person materially assists activities for the purposes of subsection (5)(d) include those where the person—
- (a) provides goods or services in support of the carrying out of the activities, or
 - (b) otherwise provides any financial or technological support in connection with their carrying out.”
- (4) The amendments made by this section—
- (a) apply in relation to conduct, so far as that conduct constitutes or is connected with the torture of a person (see section 241A(2)(a) of the Proceeds of Crime Act 2002 as inserted by subsection (3) above), whether the conduct occurs before or after the coming into force of this section;

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- (b) apply in relation to property obtained through such conduct whether the property is obtained before or after the coming into force of this section;
- (c) apply in relation to conduct, so far as that conduct involves or is connected with the cruel, inhuman or degrading treatment or punishment of a person (see section 241A(2)(b) of that Act as inserted by subsection (3) above), only if the conduct occurs after the coming into force of this section.

This is subject to subsection (5).

(5) Proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 may not be brought in respect of property obtained through unlawful conduct of the kind mentioned in section 241(2A) of the Proceeds of Crime Act 2002 (as inserted by subsection (2) above) after the end of the period of 20 years from the date on which the conduct constituting the commission of the gross human rights abuse or violation concerned occurs.

(6) Proceedings under that Chapter are brought in England and Wales or Northern Ireland when—

- (a) a claim form is issued,
- (b) an application is made for a property freezing order under section 245A of that Act, or
- (c) an application is made for an interim receiving order under section 246 of that Act,

whichever is the earliest.

(7) Proceedings under that Chapter are brought in Scotland when—

- (a) the proceedings are served,
- (b) an application is made for a prohibitory property order under section 255A of that Act, or
- (c) an application is made for an interim administration order under section 256 of that Act,

whichever is the earliest.

Commencement Information

I1 S. 13 in force at Royal Assent for specified purposes, see s. 58

I2 S. 13 in force at 31.1.2018 for E.W.S. in so far as not already in force by S.I. 2018/78, reg. 3(c)

I3 S. 13 in force at 28.6.2021 for N.I. in so far as not already in force by S.I. 2021/724, reg. 2(1)(d)

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