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STATUTORY INSTRUMENTS

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**2003 No. 3075**

**The Money Laundering Regulations 2003**

**PART III**

**MONEY SERVICE OPERATORS AND HIGH VALUE DEALERS**

*Registration*

**Registers of money service operators and high value dealers**

- 9.**—(1) The Commissioners must maintain a register of operators.
- (2) The Commissioners must allocate to every registered operator a number, which is to be known as his registered number.
- (3) The Commissioners must maintain a register of high value dealers.
- (4) The Commissioners may keep the registers in any form they think fit.

**Requirement to be registered**

- 10.**—(1) A person who acts as an operator or as a high value dealer must first be registered by the Commissioners.
- (2) An applicant for registration must—
- (a) make an application to be registered in such manner as the Commissioners may direct; and
  - (b) furnish the following information to the Commissioners—
    - (i) his name and (if different) the name of the business;
    - (ii) his VAT registration number or, if he is not registered for VAT, any other reference number issued to him by the Commissioners;
    - (iii) the nature of the business;
    - (iv) the address of each of the premises at which he proposes to carry on the business;
    - (v) any agency or franchise agreement relating to the business, and the names and addresses of all relevant principals, agents, franchisors or franchisees;
    - (vi) the name of the nominated officer (if any); and
    - (vii) whether any person concerned (or proposed to be concerned) in the management, control or operation of the business has been convicted of money laundering or an offence under these Regulations.
- (3) At any time after receiving an application for registration and before determining it, the Commissioners may require the applicant for registration to furnish them, within 21 days beginning with the date of being requested to do so, with such further information as they reasonably consider necessary to enable them to determine the application.

(4) Any information to be furnished to the Commissioners under this regulation must be in such form or verified in such manner as they may specify.

(5) In this regulation, “the business” means money service business (or, in the case of a high value dealer, the business of dealing in goods) which the applicant for registration carries on or proposes to carry on.

(6) In paragraph (2)(b)(vii), the reference to “money laundering or an offence under these Regulations” includes an offence referred to in regulation 2(3) of the Money Laundering Regulations 1993 or an offence under regulation 5 of those Regulations.

### **Supplementary information**

**11.**—(1) If at any time after a person has furnished the Commissioners with any information under regulation 10—

- (a) there is a change affecting any matter contained in that information; or
- (b) it becomes apparent to that person that the information contains an inaccuracy;

he must supply the Commissioners with details of the change or, as the case may be, a correction of the inaccuracy (hereafter “supplementary information”) within 30 days beginning with the date of the occurrence of the change (or the discovery of the inaccuracy) or within such later time as may be agreed with the Commissioners.

(2) The supplementary information must be supplied in such manner as the Commissioners may direct.

(3) The obligation in paragraph (1) applies also to changes affecting any matter contained in any supplementary information supplied pursuant to this regulation.

### **Determination of application to register**

**12.**—(1) The Commissioners may refuse to register an applicant for registration if, and only if—

- (a) any requirement of—
  - (i) paragraphs (2) to (4) of regulation 10 (requirement to be registered);
  - (ii) regulation 11 (supplementary information); or
  - (iii) regulation 14 (fees);
 has not been complied with; or
- (b) it appears to them that any information furnished pursuant to regulation 10 or 11 is false or misleading in a material particular.

(2) The Commissioners must, by the end of the period of 45 days beginning with the date on which they receive the application or, where applicable, the date on which they receive any further information required under regulation 10(3), give notice in writing to the applicant for registration of—

- (a) their decision to register him and, in the case of an applicant for registration as an operator, his registered number; or
- (b) the following matters—
  - (i) their decision not to register him;
  - (ii) the reasons for their decision;
  - (iii) the review procedure; and
  - (iv) the right to appeal to a tribunal.

### **Cancellation of registration**

**13.**—(1) The Commissioners may cancel the registration of an operator or high value dealer if, at any time after registration, it appears to them that they would have had grounds to refuse registration under paragraph (1) of regulation 12 (determination of application to register).

(2) Where the Commissioners decide to cancel the registration of an operator or high value dealer, they must forthwith inform him, in writing, of—

- (a) their decision and the date from which the cancellation takes effect;
- (b) the reasons for their decision;
- (c) the review procedure; and
- (d) the right to appeal to a tribunal.

### **Fees**

**14.**—(1) The Commissioners may charge a fee—

- (a) to an applicant for registration; and
- (b) to an operator or high value dealer annually on the anniversary of his registration by them under these Regulations.

(2) The Commissioners may charge under paragraph (1) such fees as they consider will enable them to meet any expenses incurred by them in carrying out any of their functions under these Regulations or for any incidental purpose.

(3) Without prejudice to the generality of paragraph (2), a fee may be charged in respect of each of the premises at which the operator, high value dealer or applicant for registration carries on (or proposes to carry on) money service business or relevant business falling within regulation 2(2)(n).

### *Powers of the Commissioners*

### **Entry, inspection etc.**

**15.**—(1) Where an officer has reasonable cause to believe that any premises are used in connection with money service business or relevant business falling within regulation 2(2)(n), he may at any reasonable time enter and inspect the premises and inspect any recorded information or currency found on the premises.

(2) An operator or high value dealer must—

- (a) furnish to an officer, within such time and in such form as the officer may reasonably require, such information relating to the business as the officer may reasonably specify; and
- (b) upon demand made by the officer, produce or cause to be produced for inspection by the officer at such place, and at such time, as the officer may reasonably require, any recorded information relating to the business.

(3) An officer may take copies of, or make extracts from, any recorded information produced under paragraph (2).

### **Order for access to recorded information**

**16.**—(1) Where, on an application by an officer, a justice is satisfied that there are reasonable grounds for believing—

- (a) that an offence under these Regulations is being, has been or is about to be committed by an operator or high value dealer; and

- (b) that any recorded information which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person;

he may make an order under this regulation.

(2) An order under this regulation is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates must—

- (a) give an officer access to it;
- (b) permit an officer to take copies of, or make extracts from, any information produced; or
- (c) permit an officer to remove and take away any of it which he reasonably considers necessary;

not later than the end of the period of 7 days beginning with the date of the order or the end of such longer period as the order may specify.

(3) Where the recorded information consists of information stored in any electronic form, an order under this regulation has effect as an order to produce the information in a form in which it is visible and legible, or from which it can readily be produced in a visible and legible form, and, if the officer wishes to remove it, in a form in which it can be removed.

#### **Procedure where recorded information is removed**

**17.**—(1) An officer who removes any recorded information in the exercise of a power conferred by regulation 16 must, if so requested by a person showing himself—

- (a) to be the occupier of premises from which the information was removed; or
- (b) to have had custody or control of the information immediately before the removal;

provide that person with a record of what he has removed.

(2) The officer must provide the record within a reasonable time from the making of the request for it.

(3) Subject to paragraph (7), if a request for permission to be granted access to anything which—

- (a) has been removed by an officer; and
- (b) is retained by the Commissioners for the purposes of investigating an offence;

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, that officer must allow the person who made the request access to it under the supervision of an officer.

(4) Subject to paragraph (7), if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, that officer must—

- (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) Where anything is photographed or copied under paragraph (4)(b), the photograph or copy must be supplied to the person who made the request.

(6) The photograph or copy must be supplied within a reasonable time from the making of the request.

(7) There is no duty under this regulation to grant access to, or supply a photograph or a copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;

- (b) the investigation of an offence other than the offence for the purposes of the investigation of which the recorded information was removed; or
- (c) any criminal proceedings which may be brought as a result of—
  - (i) the investigation of which he is in charge; or
  - (ii) any such investigation as is mentioned in sub-paragraph (b).

### **Failure to comply with requirements under regulation 17**

**18.**—(1) Where, on an application made as mentioned in paragraph (2), the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by regulation 17, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

- (2) An application under paragraph (1) may only be made—
  - (a) in the case of a failure to comply with any of the requirements imposed by regulation 17(1) and (2), by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed;
  - (b) in any other case, by the person who had such custody or control.

(3) In England and Wales and Northern Ireland, an application for an order under this regulation is to be made by complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954(1) apply as if any reference in those provisions to any enactment included a reference to this regulation.

### **Entry, search etc.**

**19.**—(1) Where a justice is satisfied on information on oath that there is reasonable ground for suspecting that an offence under these Regulations is being, has been or is about to be committed by an operator or high value dealer on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any officer to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and search them.

- (2) A person who enters the premises under the authority of the warrant may—
  - (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under these Regulations; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things; but no woman or girl may be searched except by a woman.

- (3) The powers conferred by a warrant under this regulation may not be exercised—
  - (a) outside such times of day as may be specified in the warrant; or
  - (b) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(4) An officer seeking to exercise the powers conferred by a warrant under this regulation or, if there is more than one such officer, that one of them who is in charge of the search must provide a copy of the warrant endorsed with his name as follows—

- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy must be supplied to the occupier;

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(1) 1954 c. 33 (N.I.).

- (b) if at that time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy must be supplied to that person;
- (c) if neither sub-paragraph (a) nor (b) applies, the copy must be left in a prominent place on the premises.

### *Penalties, review and appeals*

#### **Power to impose penalties**

**20.**—(1) The Commissioners may impose a penalty of such amount as they consider appropriate, not exceeding £5,000, on a person to whom regulation 10 (requirement to be registered) applies, where that person fails to comply with any requirement in regulation 3 (systems and training etc. to prevent money laundering), 10, 11 (supplementary information), 14 (fees) or 15 (entry, inspection etc.).

(2) The Commissioners must not impose a penalty on a person where there are reasonable grounds for them to be satisfied that the person took all reasonable steps for securing that the requirement would be complied with.

(3) Where the Commissioners decide to impose a penalty under this regulation, they must forthwith inform the person, in writing, of—

- (a) their decision to impose the penalty and its amount;
- (b) their reasons for imposing the penalty;
- (c) the review procedure; and
- (d) the right to appeal to a tribunal.

(4) Where a person is liable to a penalty under this regulation, the Commissioners may reduce the penalty to such amount (including nil) as they think proper.

#### **Review procedure**

**21.**—(1) This regulation applies to the following decisions of the Commissioners—

- (a) a decision under regulation 12 to refuse to register an applicant;
- (b) a decision under regulation 13 to cancel the registration of an operator or high value dealer;
- (c) a decision under regulation 20 to impose a penalty.

(2) Any person who is the subject of a decision as mentioned in paragraph (1) may by notice in writing to the Commissioners require them to review that decision.

(3) The Commissioners need not review any decision unless the notice requiring the review is given before the end of the period of 45 days beginning with the date on which written notification of the decision was first given to the person requiring the review.

(4) A person may give a notice under this regulation to require a decision to be reviewed for a second or subsequent time only if—

- (a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters; and
- (b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

(5) Where the Commissioners are required under this regulation to review any decision they must either—

- (a) confirm the decision; or

(b) withdraw or vary the decision and take such further steps (if any) in consequence of the withdrawal or variation as they consider appropriate.

(6) Where the Commissioners do not, within 45 days beginning with the date on which the review was required by a person, give notice to that person of their determination of the review, they are to be assumed for the purposes of these Regulations to have confirmed the decision.

### **Appeals to a VAT and duties tribunal**

**22.** On an appeal from any decision by the Commissioners on a review under regulation 21, the tribunal have the power to—

- (a) quash or vary any decision of the Commissioners, including the power to reduce any penalty to such amount (including nil) as they think proper; and
- (b) substitute their own decision for any decision quashed on appeal.

### *Miscellaneous*

### **Prosecution of offences by the Commissioners**

**23.**—(1) Proceedings for an offence under these Regulations may be instituted by order of the Commissioners.

(2) Such proceedings may be instituted only against an operator or high value dealer or, where such a person is a body corporate, a partnership or an unincorporated association, against any person who is liable to be proceeded against under regulation 27 (offences by bodies corporate etc.).

(3) Any such proceedings which are so instituted must be commenced in the name of an officer.

(4) In the case of the death, removal, discharge or absence of the officer in whose name any such proceedings were commenced, those proceedings may be continued by another officer.

(5) Where the Commissioners investigate, or propose to investigate, any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed by any person mentioned in paragraph (2); or
- (b) whether such a person should be prosecuted for such an offence;

that matter is to be treated as an assigned matter within the meaning of the Customs and Excise Management Act 1979.

(6) In exercising their power to institute proceedings for an offence under these Regulations, the Commissioners must comply with any conditions or restrictions imposed in writing by the Treasury.

(7) Conditions or restrictions may be imposed under paragraph (6) in relation to—

- (a) proceedings generally; or
- (b) such proceedings, or categories of proceedings, as the Treasury may direct.

### **Recovery of fees and penalties through the court**

**24.** Where any fee is charged, or any penalty is imposed, by virtue of these Regulations—

- (a) if the person from whom it is recoverable resides in England and Wales or Northern Ireland, it is recoverable as a civil debt; and
- (b) if that person resides in Scotland, it may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

**Authorised persons operating a bureau de change**

**25.**—(1) No authorised person may, as from 1st April 2004, carry on the business of operating a bureau de change unless he has first informed the Authority that he proposes to do so.

(2) Where an authorised person ceases to carry on that business, he must inform the Authority forthwith.

(3) Any information to be supplied to the Authority under this regulation must be in such form or verified in such manner as the Authority may specify.

(4) Any requirement imposed by this regulation is to be treated as if it were a requirement imposed by or under the 2000 Act.

(5) Any function of the Authority under this regulation is to be treated as if it were a function of the Authority under the 2000 Act.