
STATUTORY INSTRUMENTS

2017 No. 692

**The Money Laundering, Terrorist Financing and Transfer
of Funds (Information on the Payer) Regulations 2017**

PART 9

Enforcement

CHAPTER 3

Criminal offences, penalties and proceedings etc.

Criminal offence

86.—(1) A person who contravenes a relevant requirement imposed on that person is guilty of an offence and liable—

(a) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding three months, to a fine or to both;

(ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both;

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

(2) In deciding whether a person has committed an offence under paragraph (1), the court must decide whether that person followed—

(a) any guidelines issued by the European Supervisory Authorities in accordance with Article 17, 18.4 and 48.10 of the fourth money laundering directive or Article 25 of the funds transfer regulation; and

(b) any relevant guidance which was at the time—

(i) issued by the FCA; or

(ii) issued by any other supervisory authority or appropriate body and approved by the Treasury.

(3) A person is not guilty of an offence under this regulation if that person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where a person has been convicted of an offence under this regulation, that person is not also to be liable to a sanction under Chapter 2 of this Part.

Offences of prejudicing investigations

87.—(1) This regulation applies if a person (“P”) knows or suspects that an appropriate officer is acting (or proposing to act) in connection with an investigation into a potential contravention of a relevant requirement which is being or is about to be conducted.

Status: Point in time view as at 26/06/2017.

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- (2) P commits an offence if—
- (a) P makes a disclosure which is likely to prejudice the investigation; or
 - (b) P falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.
- (3) P does not commit an offence under paragraph (2)(a) if—
- (a) P does not know or suspect that the disclosure is likely to prejudice the investigation;
 - (b) the disclosure is made in the exercise of a function under these Regulations, or in compliance with a requirement imposed by or under these Regulations;
 - (c) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, by or under the Terrorism Act 2000 ^{M1};
 - (d) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, by or under the Proceeds of Crime Act 2002 ^{M2};
 - (e) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, under any Act relating to criminal conduct or benefit from criminal conduct; or
 - (f) P is a professional legal adviser and the disclosure falls within paragraph (6).
- (4) 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.
- (5) A person benefits from conduct if that person obtains property as a result of or in connection with the conduct.
- (6) Subject to paragraph (7), a disclosure falls within this paragraph if it is a disclosure—
- (a) to (or to a representative of) a client of the professional legal adviser in connection with the giving by the adviser of legal advice to the client; or
 - (b) to any person in connection with legal proceedings or contemplated legal proceedings.
- (7) A disclosure does not fall within paragraph (6) if it is made with the intention of furthering a criminal purpose.
- (8) P does not commit an offence under paragraph (2)(b) if—
- (a) P does not know or suspect that the documents are relevant in connection with the investigation; or
 - (b) P does not intend to conceal any facts disclosed by the documents from any appropriate officer acting in connection with the investigation.
- (9) A person guilty of an offence under paragraph (2) is liable—
- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding three months, to a fine or to both,
 - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (10) For the purposes of this regulation—
- “appropriate officer” means—
- (a) an officer of the FCA, including a member of the FCA's staff or an agent of the FCA;

- (b) an officer of Revenue and Customs;
 - (c) an employee or agent of a professional body listed in Schedule 1 who is authorised by the body to act on behalf of the body for the purposes of this Part; or
 - (d) a relevant officer;
- “relevant officer” means—
- (a) in Great Britain, an officer of a local weights and measures authority;
 - (b) in Northern Ireland, an officer of the Department for the Economy;
- acting pursuant to arrangements made with the FCA or with the Commissioners for the purposes of these Regulations.

Marginal Citations

- M1 2000 c.11.
- M2 2002 c. 29.

Information offences

88.—(1) A person (“P”) commits an offence if, in purported compliance with a requirement imposed on P by or under these Regulations, P provides information to any person which is false or misleading in a material particular, and—

- (a) P knows that the information is false or misleading; or
- (b) P is reckless as to whether the information is false or misleading.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding three months, to a fine or to both,
 - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(3) A person who discloses information in contravention of a relevant requirement is guilty of an offence and liable—

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding three months, to a fine or to both,
 - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(4) It is a defence for a person charged with an offence under paragraph (3) of disclosing information to prove that they reasonably believed—

- (a) that the disclosure was lawful; or
- (b) that the information had already and lawfully been made available to the public.

Proceedings: general

89.—(1) Proceedings for an offence under these Regulations may be instituted by—

- (a) order of the Commissioners;
- (b) a local weights and measures authority;
- (c) the Department for the Economy;
- (d) the Director of Public Prosecutions; or
- (e) the Director of Public Prosecutions for Northern Ireland.

(2) Where proceedings under paragraph (1) are instituted by order of the Commissioners, the proceedings must be brought in the name of an officer of Revenue and Customs.

(3) A local weights and measures authority must, whenever the FCA or (where the authority is acting pursuant to arrangements made with the Commissioners) the Commissioners require, report in such form and with such particulars as the FCA or the Commissioners require on the exercise of its functions under these Regulations.

(4) 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; or
- (b) whether a person should be prosecuted for such an offence,

that matter is to be treated as an assigned matter within the meaning of section 1(1) of the Customs and Excise Management Act 1979 (interpretation)^{M3}.

(5) Paragraphs (1) and (3) do not extend to Scotland.

(6) In its application to the Commissioners acting in Scotland, paragraph (4)(b) is to be read as referring to the Commissioners determining whether to refer the matter to the Crown Office and Procurator Fiscal Service with a view to the Procurator Fiscal determining whether a person should be prosecuted for such an offence.

Marginal Citations

M3 1979 c.2. The definition of “assigned matter” was substituted by paragraph 22 of Schedule 4 to the [Commissioners of Revenue and Customs Act 2006 \(c.11\)](#) and amended by section 24(7) of the [Scotland Act 2012 \(c.11\)](#) and section 7 of the [Wales Act 2014 \(c.29\)](#).

Proceedings: jurisdiction

90.—(1) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) Proceedings against any person for an offence under these Regulations which cannot be taken under paragraph (1) may be taken at any appropriate court in the United Kingdom.

(3) An offence falling under these Regulations which is committed wholly or partly outside the United Kingdom may for all incidental purposes be treated as having been committed within the jurisdiction of the court where proceedings were taken.

Proceedings: partnership or unincorporated association

91.—(1) Proceedings for an offence alleged to have been committed by—

- (a) a partnership must be brought in the name of the partnership; or
 - (b) an unincorporated association must be brought in the name of the association,
- and not in that of its members.
- (2) A fine imposed on—
 - (a) a partnership on its conviction of an offence is to be paid out of the funds of the partnership; and
 - (b) an unincorporated association on its conviction of an offence is to be paid out of the funds of the association.
 - (3) Rules of court relating to the service of documents are to have effect as if a partnership or unincorporated association were a body corporate.
 - (4) In proceedings for an offence brought against a partnership or an unincorporated association—
 - (a) section 33 of the Criminal Justice Act 1925 ^{M4} (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates' Courts Act 1980 ^{M5} (corporations) apply as they do in relation to a body corporate; and
 - (b) section 18 of the Criminal Justice (Northern Ireland) Act 1945 ^{M6} (procedure on charge) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 ^{M7} (corporations) apply as they do in relation to a body corporate.

Marginal Citations

- M4** 1995 c.86. Section 33 was amended by Schedule 6 to the [Magistrates' Court Act 1952 \(c.55\)](#) and paragraph 19 of Schedule 8 to the [Courts Act 1971 \(c.23\)](#).
- M5** 1980 c.43. Schedule 3 was amended by sections 25 and 101 and Schedule 13 to the Criminal Justice Act 1991; [paragraph 51](#) of Schedule 3 and by Schedule 37 to the [Criminal Justice Act 2003 \(c.44\)](#).
- M6** 1945 c.15 (N.I.1). Section 18 was amended by paragraph 1 of Schedule 12 to the [Justice \(Northern Ireland\) Act 2002 \(c.26\)](#) and by S.I 1972/538 (N.I.1).
- M7** S.I. 1981/1675 (N.I. 26).

Offence by bodies corporate, partnership or unincorporated association

- 92.**—(1) If an offence under this Part committed by a body corporate is shown—
- (a) to have been committed with the consent or the connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on the part of an officer,
- the officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with their functions of management as if the member was a director of the body.
- (3) If an offence under this Part committed by a partnership is shown—
- (a) to have been committed with the consent or the connivance of an officer; or
 - (b) to be attributable to any neglect on the part of an officer,
- that officer (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (4) If an offence under this Part committed by an unincorporated association (other than a partnership) is shown—

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- (a) to have been committed with the consent or the connivance of an officer of the association;
or
 - (b) to be attributable to any neglect on the part of an officer,
- that officer (as well as the association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

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