



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 2

INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

CHAPTER 6

PROCEEDS OF CRIME

104 Money laundering: disclosures to identify persons and property

- (1) In the Proceeds of Crime Act 2002 (c. 29), Part 7 (money laundering) is amended as follows.
- (2) In section 330(1) (regulated sector: failure to disclose: offence committed if three conditions satisfied), for “each of the following three conditions is satisfied” substitute “ the conditions in subsections (2) to (4) are satisfied ”.
- (3) For section 330(4) to (6) (the required disclosure) substitute—
 - “(3A) The third condition is—
 - (a) that he can identify the other person mentioned in subsection (2) or the whereabouts of any of the laundered property, or
 - (b) that he believes, or it is reasonable to expect him to believe, that the information or other matter mentioned in subsection (3) will or may assist in identifying that other person or the whereabouts of any of the laundered property.
 - (4) The fourth condition is that he does not make the required disclosure to—
 - (a) a nominated officer, or

Status: Point in time view as at 08/05/2006.

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- (b) a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency, as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.
- (5) The required disclosure is a disclosure of—
 - (a) the identity of the other person mentioned in subsection (2), if he knows it,
 - (b) the whereabouts of the laundered property, so far as he knows it, and
 - (c) the information or other matter mentioned in subsection (3).
- (5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.
- (6) But he does not commit an offence under this section if—
 - (a) he has a reasonable excuse for not making the required disclosure,
 - (b) he is a professional legal adviser and—
 - (i) if he knows either of the things mentioned in subsection (5)(a) and (b), he knows the thing because of information or other matter that came to him in privileged circumstances, or
 - (ii) the information or other matter mentioned in subsection (3) came to him in privileged circumstances, or
 - (c) subsection (7) applies to him.”
- (4) For section 331(4) to (6) (failure to disclose: nominated officers in the regulated sector: the required disclosure) substitute—
 - “(3A) The third condition is—
 - (a) that he knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under section 330,
 - (b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3), or
 - (c) that he believes, or it is reasonable to expect him to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.
 - (4) The fourth condition is that he does not make the required disclosure to a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.
 - (5) The required disclosure is a disclosure of—
 - (a) the identity of the other person mentioned in subsection (2), if disclosed to him under section 330,
 - (b) the whereabouts of the laundered property, so far as disclosed to him under section 330, and
 - (c) the information or other matter mentioned in subsection (3).

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- (5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.
- (6) But he does not commit an offence under this section if he has a reasonable excuse for not making the required disclosure.”
- (5) In section 332(3) (failure to disclose: other nominated officers: the second condition), for “section 337 or 338” substitute “ the applicable section ”.
- (6) For section 332(4) to (6) (the required disclosure) substitute—
- “(3A) The third condition is—
- (a) that he knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under the applicable section,
 - (b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3), or
 - (c) that he believes, or it is reasonable to expect him to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.
- (4) The fourth condition is that he does not make the required disclosure to a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.
- (5) The required disclosure is a disclosure of—
- (a) the identity of the other person mentioned in subsection (2), if disclosed to him under the applicable section,
 - (b) the whereabouts of the laundered property, so far as disclosed to him under the applicable section, and
 - (c) the information or other matter mentioned in subsection (3).
- (5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects that other person to be engaged in.
- (5B) The applicable section is section 337 or, as the case may be, section 338.
- (6) But he does not commit an offence under this section if he has a reasonable excuse for not making the required disclosure.”
- (7) In section 337 (protected disclosures), after subsection (4) insert—
- “(4A) Where a disclosure consists of a disclosure protected under subsection (1) and a disclosure of either or both of—
- (a) the identity of the other person mentioned in subsection (3), and
 - (b) the whereabouts of property forming the subject-matter of the money laundering that the discloser knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in,

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the disclosure of the thing mentioned in paragraph (a) or (b) (as well as the disclosure protected under subsection (1)) is not to be taken to breach any restriction on the disclosure of information (however imposed).”

Commencement Information

II S. 104 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(c)** (with **art. 3(4)**)

Status:

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