
Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 2

TERRORIST PROPERTY: AMENDMENTS

PART 3

DISCLOSURE OF INFORMATION

- 5 (1) The Terrorism Act 2000 (c. 11) is amended as follows.
- (2) The following sections are inserted after section 21—

“21A Failure to disclose: regulated sector

- (1) A person commits an offence if each of the following three conditions is satisfied.
- (2) The first condition is that he—
- (a) knows or suspects, or
 - (b) has reasonable grounds for knowing or suspecting,
- that another person has committed an offence under any of sections 15 to 18.
- (3) The second condition is that the information or other matter—
- (a) on which his knowledge or suspicion is based, or
 - (b) which gives reasonable grounds for such knowledge or suspicion,
- came to him in the course of a business in the regulated sector.
- (4) The third condition is that he does not disclose the information or other matter to a constable or a nominated officer as soon as is practicable after it comes to him.
- (5) But a person does not commit an offence under this section if—
- (a) he has a reasonable excuse for not disclosing the information or other matter;
 - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.
- (6) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned—
- (a) issued by a supervisory authority or any other appropriate body,
 - (b) approved by the Treasury, and
 - (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.

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- (7) A disclosure to a nominated officer is a disclosure which—
- (a) is made to a person nominated by the alleged offender’s employer to receive disclosures under this section, and
 - (b) is made in the course of the alleged offender’s employment and in accordance with the procedure established by the employer for the purpose.
- (8) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him—
- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
 - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
 - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (9) But subsection (8) does not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.
- (10) Schedule 3A has effect for the purpose of determining what is—
- (a) a business in the regulated sector;
 - (b) a supervisory authority.
- (11) For the purposes of subsection (2) a person is to be taken to have committed an offence there mentioned if—
- (a) he has taken an action or been in possession of a thing, and
 - (b) he would have committed the offence if he had been in the United Kingdom at the time when he took the action or was in possession of the thing.
- (12) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.
- (14) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.

21B Protected disclosures

- (1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.

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- (3) The second condition is that the information or other matter—
 - (a) causes the discloser to know or suspect, or
 - (b) gives him reasonable grounds for knowing or suspecting, that another person has committed an offence under any of sections 15 to 18.
 - (4) The third condition is that the disclosure is made to a constable or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.
 - (5) A disclosure to a nominated officer is a disclosure which—
 - (a) is made to a person nominated by the discloser’s employer to receive disclosures under this section, and
 - (b) is made in the course of the discloser’s employment and in accordance with the procedure established by the employer for the purpose.
 - (6) The reference to a business in the regulated sector must be construed in accordance with Schedule 3A.
 - (7) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.”
- (3) In section 19 after subsection (1) insert—

“(1A) But this section does not apply if the information came to the person in the course of a business in the regulated sector.”
 - (4) In section 19 after subsection (7) insert—

“(7A) The reference to a business in the regulated sector must be construed in accordance with Schedule 3A.

(7B) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.”
 - (5) In section 20 after subsection (4) insert—

“(5) References to a constable include references to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.”
 - (6) The following Schedule is inserted after Schedule 3—

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“SCHEDULE
3A

REGULATED SECTOR AND SUPERVISORY AUTHORITIES

PART 1

REGULATED SECTOR

Business in the regulated sector

- 1 (1) A business is in the regulated sector to the extent that it engages in any of the following activities—
- (a) accepting deposits by a person with permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits (including, in the case of a building society, the raising of money from members of the society by the issue of shares);
 - (b) the business of the National Savings Bank;
 - (c) business carried on by a credit union;
 - (d) any home-regulated activity carried on by a European institution in respect of which the establishment conditions in paragraph 13 of Schedule 3 to the Financial Services and Markets Act 2000, or the service conditions in paragraph 14 of that Schedule, are satisfied;
 - (e) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 (c. 13) under the auspices of the Director of Savings;
 - (f) the activity of operating a bureau de change, transmitting money (or any representation of monetary value) by any means or cashing cheques which are made payable to customers;
 - (g) any activity falling within sub-paragraph (2);
 - (h) any of the activities in points 1 to 12 or 14 of Annex 1 to the Banking Consolidation Directive, ignoring an activity described in any of paragraphs (a) to (g) above;
 - (i) business which consists of effecting or carrying out contracts of long term insurance by a person who has received official authorisation pursuant to Article 6 or 27 of the First Life Directive.
- (2) An activity falls within this sub-paragraph if it constitutes any of the following kinds of regulated activity in the United Kingdom—
- (a) dealing in investments as principal or as agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions;
 - (f) establishing (and taking other steps in relation to) collective investment schemes;
 - (g) advising on investments.

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- (3) Paragraphs (a) and (i) of sub-paragraph (1) and sub-paragraph (2) must be read with section 22 of the Financial Services and Markets Act 2000 (c. 8), any relevant order under that section and Schedule 2 to that Act.
- 2 (1) This paragraph has effect for the purposes of paragraph 1.
- (2) “Building society” has the meaning given by the Building Societies Act 1986.
- (3) “Credit union” has the meaning given by the Credit Unions Act 1979 (c. 34) or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)).
- (4) “European institution” means an EEA firm of the kind mentioned in paragraph 5(b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000 which qualifies for authorisation for the purposes of that Act under paragraph 12 of that Schedule.
- (5) “Home-regulated activity” in relation to a European institution, means an activity—
- (a) which is specified in Annex 1 to the Banking Consolidation Directive and in respect of which a supervisory authority in the home State of the institution has regulatory functions, and
 - (b) if the institution is an EEA firm of the kind mentioned in paragraph 5(c) of Schedule 3 to the Financial Services and Markets Act 2000, which the institution carries on in its home State.
- (6) “Home State”, in relation to a person incorporated in or formed under the law of another member State, means that State.
- (7) The Banking Consolidation Directive is the Directive of the European Parliament and Council relating to the taking up and pursuit of the business of credit institutions (No. 2000/12 EC).
- (8) The First Life Directive is the First Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (No. [79/267/EEC](#)).

Excluded activities

- 3 A business is not in the regulated sector to the extent that it engages in any of the following activities—
- (a) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act 1965 (c. 12) by a society registered under that Act;
 - (b) the acceptance of deposits from the public within the limit set by section 7(3) of that Act by such a society;
 - (c) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (N.I. c. 24) by a society registered under that Act;
 - (d) the acceptance of deposits from the public within the limit set by section 7(3) of that Act by such a society;
 - (e) activities carried on by the Bank of England;

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- (f) any activity in respect of which an exemption order under section 38 of the Financial Services and Markets Act 2000 (c. 8) has effect if it is carried on by a person who is for the time being specified in the order or falls within a class of persons so specified .

PART 2

SUPERVISORY AUTHORITIES

- 4 (1) Each of the following is a supervisory authority—
 - (a) the Bank of England;
 - (b) the Financial Services Authority;
 - (c) the Council of Lloyd’s;
 - (d) the Director General of Fair Trading;
 - (e) a body which is a designated professional body for the purposes of Part 20 of the Financial Services and Markets Act 2000.
- (2) The Secretary of State is also a supervisory authority in the exercise, in relation to a person carrying on a business in the regulated sector, of his functions under the enactments relating to companies or insolvency or under the Financial Services and Markets Act 2000.
- (3) The Treasury are also a supervisory authority in the exercise, in relation to a person carrying on a business in the regulated sector, of their functions under the enactments relating to companies or insolvency or under the Financial Services and Markets Act 2000.

PART 3

POWER TO AMEND

- 5 (1) The Treasury may by order amend Part 1 or 2 of this Schedule.
- (2) An order under sub-paragraph (1) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

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