

# PROCEEDS OF CRIME ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 7: Money Laundering

##### Offences

##### *Section 327: Concealing etc.*

469. *Section 327* creates one of three principal money laundering offences. The other two are to be found in *sections 328* and *329*. Because of the definition of criminal property at *section 340*, all three principal money laundering offences now apply to the laundering of an offender's own proceeds of crime as well as those of someone else.
470. *Section 327* simplifies and replaces section 49 of the Drug Trafficking Act 1994 and section 93C of the Criminal Justice Act 1988 and the corresponding provisions in Scotland & Northern Ireland (section 14 of the Criminal Justice (International Co-operation) Act 1990 and Article 47 of the Proceeds of Crime (Northern Ireland) Order 1996). Along with *sections 328* and *329*, *section 327* replaces the parallel drug and non-drug crime money laundering offences with single offences that do not distinguish between the proceeds of drug trafficking and the proceeds of other crimes.
471. The *section 327* offence would be committed where a person concealed, disguised, converted, transferred or removed from the jurisdiction criminal property. Criminal property is defined at *section 340(3)* as being property which the alleged offender knows or suspects constitutes or represents benefit from any criminal conduct as defined in *section 340(2)*.
472. The section contains defences against committing the offence. For example, the offence is not committed if an authorised disclosure is made under *section 338* as soon as possible after the transaction has taken place, or if the disclosure is made before the act has taken place and the discloser has obtained the appropriate consent, or there was a reasonable excuse for not making such a disclosure. Additionally, it is not uncommon for the police or other enforcement authorities to take possession of criminal property in the course of their official duties and to convert or transfer it, for example into an interest bearing account pending further investigation. Therefore *subsection (2)(c)* gives them the necessary exemption from the offence.
473. The maximum penalty for the *section 327* offence, and for the other two principal money laundering offences at *sections 328* and *329*, is 14 years imprisonment, as set out at *section 334*.