Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 7

MONEY LAUNDERING

Disclosures

338 Authorised disclosures

(1) For the purposes of this Part a disclosure is authorised if—

(a) it is a disclosure to a constable, a customs officer or a nominated officer by the alleged offender that property is criminal property,

(b) [F1]... and

(c) the first **[**[F2], second or third**]** condition set out below is satisfied.

(2) The first condition is that the disclosure is made before the alleged offender does the prohibited act.

[[F3](2A) The second condition is that—

(a) the disclosure is made while the alleged offender is doing the prohibited act,

(b) he began to do the act at a time when, because he did not then know or suspect that the property constituted or represented a person's benefit from criminal conduct, the act was not a prohibited act, and

(c) the disclosure is made on his own initiative and as soon as is practicable after he first knows or suspects that the property constitutes or represents a person's benefit from criminal conduct.**]**

(3) The **[**[F4] third **]** condition is that—

(a) the disclosure is made after the alleged offender does the prohibited act,

(b) **[**[F5]he has a reasonable excuse**]** for his failure to make the disclosure before he did the act, and

(c) the disclosure is made on his own initiative and as soon as it is practicable for him to make it.

Changes to legislation: *Proceeds of Crime Act 2002, Section 338 is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) An authorised disclosure is not to be taken to breach any restriction on the disclosure of information (however imposed).

[[F6](4A) Where an authorised disclosure is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.**]**

(5) 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 authorised disclosures, and

(b) is made in the course of the alleged offender's employment [F7]....

(6) References to the prohibited act are to an act mentioned in section 327(1), 328(1) or 329(1) (as the case may be).

Textual Amendments

F1 S. 338(1)(b) repealed (1.7.2005) by virtue of Serious Organised Crime and Police Act 2005 (c. 15), **ss. 105(4)**, 178(8), Sch. 17 Pt. 2; S.I. 2005/1521, art. 3(1)(c)(ee)

F2 Words in s. 338(1)(c) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 106(4)**, 178(8); S.I. 2005/1521, art. 3(1)(c)

F3 S. 338(2A) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 106(5)**, 178(8); S.I. 2005/1521, art. 3(1)(c)

F4 Word in s. 338(3) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 106(6)**, 178(8); S.I. 2005/1521, art. 3(1)(c)

F5 Words in s. 338(3)(b) substituted (26.12.2007) by Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 1(2), **Sch. 2 para. 6**

F6 S. 338(4A) inserted (1.6.2015) by Serious Crime Act 2015 (c. 9), **ss. 37**, 88(1); S.I. 2015/820, reg. 3(k)

F7 Words in s. 338(5)(b) repealed (1.7.2005) by virtue of Serious Organised Crime and Police Act 2005 (c. 15), **ss. 105(2)**, 178(8), Sch. 17 Pt. 2; S.I. 2005/1521, art. 3(1)(c)(ee)

Modifications etc. (not altering text)

C1 Pt. 7 applied (24.2.2003) by Proceeds of Crime Act 2002 (Crown Servants) Regulations 2003 (S.I. 2003/173), regs. 1, **3**

Commencement Information

I1 S. 338 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Changes to legislation:
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View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by 2015 c. 30 Sch. 5 para. 15(3)(d)
- s. 323(1)(hc) inserted by 2023 c. 20 Sch. para. 45(2)
- s. 323(4)(ec) inserted by 2023 c. 20 Sch. para. 45(3)
- s. 323(5)(ec) inserted by 2023 c. 20 Sch. para. 45(4)