

2017 No. 876

CRIMINAL LAW

**The Facilitation of Tax Evasion Offences (Guidance About
Prevention) Regulations 2017**

<i>Made</i>	- - - -	<i>4th September 2017</i>
<i>Laid before Parliament</i>		<i>6th September 2017</i>
<i>Coming into force</i>	- -	<i>30th September 2017</i>

The Chancellor of the Exchequer, in exercise of the power conferred by section 47(1) and (4) of the Criminal Finances Act 2017(a) (“the Act”), and having, in accordance with section 47(3) of the Act, consulted the Scottish Ministers, the Welsh Ministers, and the Department of Justice in Northern Ireland in preparing the guidance mentioned in regulation 2, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Facilitation of Tax Evasion Offences (Guidance About Prevention) Regulations 2017 and come into force on 30th September 2017.

Guidance about preventing facilitation of tax evasion offences

2. The guidance titled “Tackling tax evasion: Government guidance for the corporate offence of failure to prevent the criminal facilitation of tax evasion” dated 1st September 2017 comes into operation on 30th September 2017.

Philip Hammond
Chancellor of the Exchequer

4th September 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into operation guidance prepared by the Chancellor of the Exchequer relating to the procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing UK tax evasion facilitation offences or foreign tax evasion facilitation offences.

Sections 45 and 46 of the Criminal Finances Act 2017 create offences of corporate failure to prevent facilitation of UK tax evasion offences and corporate failure to prevent facilitation of foreign tax evasion offences. These offences can only be committed by a “relevant body”, defined

(a) 2017 c. 22. Section 47(1) is cited for the meaning of the term “the Chancellor” used in section 47(4).

in section 44 of the Act as a body corporate or partnership (wherever incorporated or formed). These offences cannot be committed by individuals. The offences are committed when a person acting in the capacity of a person associated with the relevant body commits a tax evasion offence. Section 44 of the Act defines when a person acts in the capacity of a person associated with a relevant body. This includes an employee of the relevant body who is acting in the capacity of an employee, an agent of the relevant body who is acting in the capacity of an agent, or any other person who performs services for or on behalf of the relevant body who is acting in the capacity of a person performing such services.

The offences are each subject to a defence of having in place reasonable prevention procedures to prevent persons who act in the capacity of a person associated with the relevant body from committing tax evasion offences (there will also be a defence where it is not reasonable to expect the relevant body to have any prevention procedures in place).

A copy of the guidance can be found on the internet at www.gov.uk^(a) or by writing to the Centre for Offshore Evasion Strategy, HMRC, 100 Parliament Street, London SW1A 2BQ.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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(a) <https://www.gov.uk/government/consultations/tackling-tax-evasion-a-new-corporate-offence-of-failure-to-prevent-the-criminal-facilitation-of-tax-evasion>.

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