



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 3

#### CORPORATE OFFENCES OF FAILURE TO PREVENT FACILITATION OF TAX EVASION

##### *Offences: general and supplementary provision*

#### **48 Offences: extra-territorial application and jurisdiction**

- (1) It is immaterial for the purposes of section 45 or 46 (except to the extent provided by section 46(2)) whether—
  - (a) any relevant conduct of a relevant body, or
  - (b) any conduct which constitutes part of a relevant UK tax evasion facilitation offence or foreign tax evasion facilitation offence, or
  - (c) any conduct which constitutes part of a relevant UK tax evasion offence or foreign tax evasion offence,takes place in the United Kingdom or elsewhere.
- (2) Proceedings for an offence under section 45 or 46 may be taken in any place in the United Kingdom.
- (3) If by virtue of subsection (2) proceedings for an offence are to be taken in Scotland, they may be taken in such sheriff court district as the Lord Advocate may determine.
- (4) In subsection (3) “sheriff court district” is to be read in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995.

#### **49 Consent to prosecution under section 46**

- (1) In this section “proceedings” means proceedings for an offence under section 46.
- (2) No proceedings may be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions or the Director of the Serious Fraud Office.

- (3) No proceedings may be instituted in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland or the Director of the Serious Fraud Office.
- (4) The Director of Public Prosecutions and the Director of the Serious Fraud Office must each exercise any function of giving consent under subsection (2) or (3) personally unless—
  - (a) the Director concerned is unavailable, and
  - (b) there is another person designated in writing by the Director concerned acting personally as the person who is authorised to exercise the function when the Director is unavailable.
- (5) In that case the other person may exercise the function but must do so personally.
- (6) No proceedings may be instituted in Northern Ireland by virtue of section 36 of the Justice (Northern Ireland) Act 2002 (delegation of functions of the DPP for Northern Ireland to persons other than the Deputy Director) except with the consent of the Director of Public Prosecutions for Northern Ireland to the institution of the proceedings.
- (7) The Director of Public Prosecutions for Northern Ireland must exercise personally any function of giving consent under subsection (3) or (6) unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of that Act.

## **50 Offences by partnerships: supplementary**

- (1) Proceedings for an offence under section 45 or 46 alleged to have been committed by a partnership must be brought in the name of the partnership (and not in the name of any of the partners).
- (2) For the purposes of such proceedings—
  - (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
  - (b) the following provisions (which concern procedure in relation to offences by bodies corporate) apply as they apply to a body corporate—
    - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980, and
    - (ii) section 18 of the [Criminal Justice Act \(Northern Ireland\) 1945 \(c. 15 \(N.I.\)\)](#) and Schedule 4 to the Magistrates’ Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#)).
- (3) A fine imposed on a partnership on its conviction for an offence under section 45 or 46 is to be paid out of the partnership assets.