
STATUTORY INSTRUMENTS

2003 No. 3074

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Business in the Regulated Sector and Supervisory Authorities) Order 2003

Made - - - - 28th November 2003
Laid before Parliament 28th November 2003
Coming into force in accordance with article 1

The Treasury, in exercise of the powers conferred on them by section 459(2) of, and paragraph 5 of Schedule 9 to, the Proceeds of Crime Act 2002⁽¹⁾, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Business in the Regulated Sector and Supervisory Authorities) Order 2003 and comes into force on 1st March 2004.

(2) Despite paragraph (1) above—

- (a) paragraph 2(g) of Schedule 9 (as inserted by this Order) and the reference to it in paragraph 3(2) have no effect until 31st October 2004;
- (b) paragraph 2(h) of that Schedule and the reference to it in paragraph 3(2) have no effect until 14th January 2005.

(3) In this Order—

“the Act” means the Proceeds of Crime Act 2002; and

“Schedule 9” means Schedule 9 to the Act.

Amendment of Part 1 of Schedule 9

2. For Part 1 of Schedule 9 (regulated sector), substitute the text set out in the Schedule to this Order.

Amendment of Part 2 of Schedule 9

3. In Part 2 of Schedule 9 (supervisory authorities), in paragraph 4 insert after sub-paragraph (1) (e)—

(1) 2002 c. 29.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“;

- (f) the Occupational Pensions Regulatory Authority;
- (g) the Gaming Board for Great Britain”.

Transitional provision

4. Sections 330 and 331 of the Act shall not have effect in relation to a person who engages in any of the activities mentioned in paragraph 1(1)(f) to (n) of Schedule 9 (as substituted by article 2 above) where the information or other matter on which knowledge or suspicion that another person is engaged in money laundering is based, or which gives reasonable grounds for such knowledge or suspicion, came to that person before 1st March 2004.

28 November 2003

John Heppell
Nick Ainger
Two of the Lords Commissioners of Her
Majesty’s Treasury

SCHEDULE

Article 2

“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 in the United Kingdom—

- (a) a regulated activity specified in sub-paragraph (2);
 - (b) the activities of the National Savings Bank;
 - (c) 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;
 - (d) the business 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;
 - (e) any of the activities in points 1 to 12 or 14 of Annex 1 to the Banking Consolidation Directive when carried on by way of business, ignoring an activity falling within any of paragraphs (a) to (d);
 - (f) estate agency work;
 - (g) operating a casino by way of business;
 - (h) the activities of a person appointed to act as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (c. 45) or Article 3 of the Insolvency (Northern Ireland) Order 1989 (S.I.1989/2405 (N.I. 19));
 - (i) the provision by way of business of advice about the tax affairs of another person by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual;
 - (j) the provision by way of business of accountancy services by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual;
 - (k) the provision by way of business of audit services by a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 (c. 40) or Article 28 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5));
 - (l) the provision by way of business of legal services by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual and which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
 - (m) the provision by way of business of services in relation to the formation, operation or management of a company or a trust;
 - (n) the activity of dealing in goods of any description by way of business (including dealing as an auctioneer) whenever a transaction involves accepting a total cash payment of 15,000 euro or more.
- (2) These are the regulated activities—
- (a) accepting deposits;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) effecting or carrying out contracts of long-term insurance when carried on by a person who has received official authorisation pursuant to Article 4 or 51 of the Life Assurance Consolidation Directive;
- (c) dealing in investments as principal or as agent;
- (d) arranging deals in investments;
- (e) managing investments;
- (f) safeguarding and administering investments;
- (g) sending dematerialised instructions;
- (h) establishing (and taking other steps in relation to) collective investment schemes;
- (i) advising on investments;
- (j) issuing electronic money.

Excluded activities

2. 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 (c. 24 (N.I.)) 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;
- (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;
- (g) the regulated activities of arranging deals in investments or advising on investments, in so far as the investment consists of rights under a regulated mortgage contract;
- (h) the regulated activities of dealing in investments as agent, arranging deals in investments, managing investments or advising on investments, in so far as the investment consists of rights under, or any right to or interest in, a contract of insurance which is not a qualifying contract of insurance.

3.—(1) This paragraph has effect for the purposes of paragraphs 1 and 2.

(2) Paragraphs 1(1)(a) and 2(g) and (h) must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

(3) 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), as amended.

(4) The Life Assurance Consolidation Directive is the Directive of the European Parliament and Council concerning life assurance (No. 2002/83/EC).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) “Estate agency work” has the meaning given by section 1 of the Estate Agents Act 1979 (c. 38) save for the omission of the words “(including a business in which he is employed)” in subsection (1) and includes a case where, in relation to a disposal or acquisition, the person acts as principal.

(6) References to amounts in euro include references to equivalent amounts in another currency.

(7) “Cash” means notes, coins or travellers' cheques in any currency.

(8) For the purpose of the application of this Part to Scotland, “real property” means “heritable property”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the meaning of a business in the regulated sector in Part 1 of Schedule 9 to the Proceeds of Crime Act 2002 (c. 29) to take into account Directive 2001/97/EC of the European Parliament and of the Council amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering. This Order also adds two bodies to the list of supervisory authorities in Part 2 of that Schedule.