



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 1

#### PROCEEDS OF CRIME

### CHAPTER 2

#### MONEY LAUNDERING

#### **10 Power to extend moratorium period**

(1) Part 7 of the Proceeds of Crime Act 2002 (money laundering) is amended as follows.

(2) In section 335 (appropriate consent), after subsection (6) insert—

“(6A) Subsection (6) is subject to—

- (a) section 336A, which enables the moratorium period to be extended by court order in accordance with that section, and
- (b) section 336C, which provides for an automatic extension of the moratorium period in certain cases (period extended if it would otherwise end before determination of application or appeal proceedings etc).”

(3) In section 336 (nominated officer: consent), after subsection (8) insert—

“(8A) Subsection (8) is subject to—

- (a) section 336A, which enables the moratorium period to be extended by court order in accordance with that section, and
- (b) section 336C, which provides for an automatic extension of the moratorium period in certain cases (period extended if it would otherwise end before determination of application or appeal proceedings etc).”

(4) After section 336 insert—

**“336A Power of court to extend the moratorium period**

- (1) The court may, on an application under this section, grant an extension of a moratorium period if satisfied that—
  - (a) an investigation is being carried out in relation to a relevant disclosure (but has not been completed),
  - (b) the investigation is being conducted diligently and expeditiously,
  - (c) further time is needed for conducting the investigation, and
  - (d) it is reasonable in all the circumstances for the moratorium period to be extended.
- (2) An application under this section may be made only by a senior officer.
- (3) The application must be made before the moratorium period would otherwise end.
- (4) An extension of a moratorium period must end no later than 31 days beginning with the day after the day on which the period would otherwise end.
- (5) Where a moratorium period is extended by the court under this section, it may be further extended by the court (on one or more occasions) on the making of another application.
- (6) A moratorium period extended in accordance with subsection (2) or (4) of section 336C may also be further extended by the court on the making of an application under this section.
- (7) But the court may not grant a further extension of a moratorium period if the effect would be to extend the period by more than 186 days (in total) beginning with the day after the end of the 31 day period mentioned in section 335(6) or (as the case may be) section 336(8).
- (8) Subsections (1) to (4) apply to any further extension of a moratorium period as they apply to the first extension of the period under this section.
- (9) An application under this section may be made by an immigration officer only if the officer has reasonable grounds for suspecting that conduct constituting the prohibited act in relation to which the moratorium period in question applies—
  - (a) relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across, or be in, the United Kingdom (including conduct which relates to conditions or other controls on any such entitlement), or
  - (b) is undertaken for the purposes of, or otherwise in relation to, a relevant nationality enactment.
- (10) In subsection (9)—
 

“prohibited act” has the meaning given by section 335(8) or (as the case may be) section 336(10);

“relevant nationality enactment” means any enactment in—

  - (a) the British Nationality Act 1981,
  - (b) the Hong Kong Act 1985,
  - (c) the Hong Kong (War Wives and Widows) Act 1996,

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- (d) the British Nationality (Hong Kong) Act 1997,
- (e) the British Overseas Territories Act 2002, or
- (f) an instrument made under any of those Acts.

### **336B Proceedings under section 336A: supplementary**

- (1) This section applies to proceedings on an application under section 336A.
- (2) The court must determine the proceedings as soon as reasonably practicable.
- (3) The court may exclude from any part of the hearing—
  - (a) an interested person;
  - (b) anyone representing that person.
- (4) The person who made the application may apply to the court for an order that specified information upon which he or she intends to rely be withheld from—
  - (a) an interested person;
  - (b) anyone representing that person.
- (5) The court may make such an order only if satisfied that there are reasonable grounds to believe that if the specified information were disclosed—
  - (a) evidence of an offence would be interfered with or harmed,
  - (b) the gathering of information about the possible commission of an offence would be interfered with,
  - (c) a person would be interfered with or physically injured,
  - (d) the recovery of property under this Act would be hindered, or
  - (e) national security would be put at risk.
- (6) The court must direct that the following be excluded from the hearing of an application under subsection (4)—
  - (a) the interested person to whom that application relates;
  - (b) anyone representing that person.
- (7) Subject to this section, rules of court may make provision as to the practice and procedure to be followed in connection with proceedings in relation to applications under section 336A.
- (8) An appeal lies to the appropriate appeal court on a point of law arising from a decision made by the Crown Court in Northern Ireland or by the sheriff.
- (9) The appropriate appeal court may on such an appeal make any order that it considers appropriate (subject to the restriction mentioned in section 336A(7)).
- (10) The appropriate appeal court is—
  - (a) in the case of a decision of the Crown Court in Northern Ireland, the Court of Appeal in Northern Ireland;
  - (b) in the case of a decision of the sheriff, the Sheriff Appeal Court.
- (11) For rights of appeal in the case of decisions made by the Crown Court in England and Wales, see section 28 of the Senior Courts Act 1981 (appeals from Crown Court and inferior courts).

### **336C Extension of moratorium period pending determination of proceedings etc**

- (1) A moratorium period is extended in accordance with subsection (2) where—
  - (a) an application is made to the court under section 336A for the extension (or further extension) of the moratorium period, and
  - (b) the period would (apart from that subsection) end before the court determines the application or it is otherwise disposed of.
- (2) The moratorium period is extended from the time when it would otherwise end until the court determines the application or it is otherwise disposed of.
- (3) A moratorium period is extended in accordance with subsection (4) where—
  - (a) proceedings on an appeal in respect of a decision on an application under section 336A have been brought, and
  - (b) the period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The moratorium period is extended from the time when it would otherwise end until the proceedings are finally determined or otherwise disposed of.
- (5) But the maximum period by which the moratorium period is extended by virtue of subsection (2) or (4) is 31 days beginning with the day after the day on which the period would otherwise have ended.
- (6) A moratorium period is extended in accordance with subsection (7) where—
  - (a) an application is made to the court under section 336A for an extension of the period,
  - (b) the court refuses to grant the application, and
  - (c) the period would (apart from that subsection) end before the end of the 5 day period.
- (7) The moratorium period is extended from the time when it would otherwise end until—
  - (a) the end of the 5 day period, or
  - (b) if proceedings on an appeal against the decision are brought before the end of the 5 day period, the time when those proceedings are brought.
- (8) The “5 day period” is the period of 5 working days beginning with the day on which the court refuses to grant the application.
- (9) This restriction on the overall extension of a moratorium period mentioned in section 336A(7) applies to an extension of a moratorium period in accordance with any provision of this section as it applies to an extension under an order of the court.

### **336D Sections 336A to 336C: interpretation**

- (1) This section provides for the meaning of terms used in sections 336A to 336C (and in this section).
- (2) “The court” means—

- (a) in relation to England and Wales or Northern Ireland, the Crown Court;
  - (b) in relation to Scotland, the sheriff.
- (3) “Interested person” means—
  - (a) the person who made the relevant disclosure, and
  - (b) any other person who appears to the person making the application under section 336A to have an interest in the relevant property.
- (4) “Moratorium period” means the period of 31 days mentioned in section 335(6) or (as the case may be) section 336(8), or any such period as extended or further extended by virtue of an order under section 336A or in accordance with any provision of section 336C.
- (5) “Relevant disclosure” means—
  - (a) where the application under section 336A relates to the moratorium period mentioned in section 335(6), the authorised disclosure mentioned in section 335(2)(a);
  - (b) where the application under section 336A relates to the moratorium period mentioned in section 336(8), the disclosure mentioned in section 336(4)(a).
- (6) “Relevant property” means any property that would be the subject of the prohibited act (within the meaning of section 335(8) or (as the case may be) section 336(10)) in relation to which the moratorium period in question applies.
- (7) In the case of an application to the Crown Court, “senior officer” means—
  - (a) the Director General of the National Crime Agency,
  - (b) any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,
  - (c) a police officer of at least the rank of inspector,
  - (d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to that rank,
  - (e) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank,
  - (f) a member of staff of the Financial Conduct Authority who is not below such grade as is designated by the Treasury for the purposes of this Part,
  - (g) the Director of the Serious Fraud Office (or a member of staff of that Office authorised for the purposes of section 336A by virtue of section 2C(2)), or
  - (h) an accredited financial investigator who falls within a description specified in an order made for the purposes of section 336A by the Secretary of State under section 453.
- (8) In the case of an application to the sheriff, “senior officer” means a procurator fiscal.
- (9) “Working day” means a day other than—
  - (a) a Saturday,

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- (b) a Sunday,
- (c) Christmas Day,
- (d) Good Friday, or
- (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the application in question under section 336A is made.”

## 11 Sharing of information within the regulated sector

After section 339ZA of the Proceeds of Crime Act 2002 insert—

### “339ZB Voluntary disclosures within the regulated sector

- (1) A person (A) may disclose information to one or more other persons if conditions 1 to 4 are met.
- (2) Condition 1 is that—
  - (a) A is carrying on a business in the regulated sector as a relevant undertaking,
  - (b) the information on which the disclosure is based came to A in the course of carrying on that business, and
  - (c) the person to whom the information is to be disclosed (or each of them, where the disclosure is to more than one person) is also carrying on a business in the regulated sector as a relevant undertaking (whether or not of the same kind as A).
- (3) Condition 2 is that—
  - (a) an NCA authorised officer has requested A to make the disclosure, or
  - (b) the person to whom the information is to be disclosed (or at least one of them, where the disclosure is to more than one person) has requested A to do so.
- (4) Condition 3 is that, before A makes the disclosure, the required notification has been made to an NCA authorised officer (see section 339ZC(3) to (5)).
- (5) Condition 4 is that A is satisfied that the disclosure of the information will or may assist in determining any matter in connection with a suspicion that a person is engaged in money laundering.
- (6) A person may disclose information to A for the purposes of making a disclosure request if, and to the extent that, the person has reason to believe that A has in A’s possession information that will or may assist in determining any matter in connection with a suspicion that a person is engaged in money laundering.

### 339ZC Section 339ZB: disclosure requests and required notifications

- (1) A disclosure request must—
  - (a) state that it is made in connection with a suspicion that a person is engaged in money laundering,
  - (b) identify the person (if known),
  - (c) describe the information that is sought from A, and

- (d) specify the person or persons to whom it is requested that the information is disclosed.
- (2) Where the disclosure request is made by a person mentioned in section 339ZB(3)(b), the request must also—
  - (a) set out the grounds for the suspicion that a person is engaged in money laundering, or
  - (b) provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 339ZB(1).
- (3) A required notification must be made—
  - (a) in the case of a disclosure request made by an NCA authorised officer, by the person who is to disclose information under section 339ZB(1) as a result of the request;
  - (b) in the case of a disclosure request made by a person mentioned in section 339ZB(3)(b), by the person who made the request.
- (4) In a case within subsection (3)(a), the required notification must state that information is to be disclosed under section 339ZB(1).
- (5) In a case within subsection (3)(b), the required notification must—
  - (a) state that a disclosure request has been made,
  - (b) specify the person to whom the request was made,
  - (c) identify any person (if known) suspected of being engaged in money laundering in connection with whom the request was made, and
  - (d) provide all such other information that the person giving the notification would be required to give if making the required disclosure for the purposes of section 330 (see in particular subsection (5)(b) and (c) of that section).

### **339ZD Section 339ZB: effect on required disclosures under section 330 or 331**

- (1) This section applies if in any proceedings a question arises as to whether the required disclosure has been made for the purposes of section 330(4) or 331(4) —
  - (a) by a person (A) who discloses information under section 339ZB(1) as a result of a disclosure request,
  - (b) by a person (B) who makes a required notification in accordance with section 339ZC(3)(b) in connection with that request, or
  - (c) by any other person (C) to whom A discloses information under section 339ZB(1) as a result of that request.
- (2) The making of a required notification in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of A, B and C.  
This is subject to section 339ZE(1) to (8).
- (3) The making of a joint disclosure report in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of the persons who jointly make the report.



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This is subject to section 339ZE(10).

- (4) A joint disclosure report is a report to an NCA authorised officer that—
  - (a) is made jointly by A and B (whether or not also jointly with other persons to whom A discloses information under section 339ZB(1)),
  - (b) satisfies the requirements as to content mentioned in subsection (5),
  - (c) is prepared after the making of a disclosure by A to B under section 339ZB(1) in connection with a suspicion of a person's engagement in money laundering, and
  - (d) is sent to the NCA authorised officer before the end of the applicable period.
- (5) The requirements as to content are that the report must—
  - (a) explain the extent to which there are continuing grounds to suspect that the person mentioned in subsection (4)(c) is engaged in money laundering,
  - (b) identify the person (if known),
  - (c) set out the grounds for the suspicion, and
  - (d) provide any other information relevant to the matter.
- (6) The applicable period is—
  - (a) in a case where the disclosure under section 339ZB was made as a result of a disclosure request from an NCA authorised officer by virtue of subsection (3)(a) of that section, whatever period may be specified by the officer when making the request;
  - (b) in a case where the disclosure was made as a result of a disclosure request from another person by virtue of subsection (3)(b) of that section, the period of 84 days beginning with the day on which a required notification is made in connection with the request.
- (7) A joint disclosure report must be—
  - (a) approved by the nominated officer of each person that jointly makes the report, and
  - (b) signed by the nominated officer on behalf of each such person.

If there is no nominated officer the report must be approved and signed by another senior officer.
- (8) References in this section to A, B or C include—
  - (a) a nominated officer acting on behalf of A, B or C, and
  - (b) any other person who is an employee, officer or partner of A, B or C.

### **339ZE Limitations on application of section 339ZD(2) and (3)**

- (1) Subsections (2) and (3) apply in a case where the required notification is made by A (notification made as a result of disclosure request received from NCA authorised officer).
- (2) Section 339ZD(2) has effect in the case of A, B or C only so far as relating to—
  - (a) the suspicion in connection with which the required notification is made, and



- (b) matters known, suspected or believed as a result of the making of the disclosure request concerned.
- (3) Accordingly, section 339ZD(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the disclosure request.
- (4) Subsections (5) to (7) apply in a case where the required notification is made by B (notification made as a result of disclosure request received from another undertaking in the regulated sector).
- (5) Section 339ZD(2) has effect in the case of A or C only so far as relating to—
  - (a) the suspicion in connection with which the notification by B is made, and
  - (b) matters known, suspected or believed by A or C as a result of the making of that notification.
- (6) Accordingly, section 339ZD(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the notification.
- (7) Section 339ZD(2) has effect in the case of B only so far as relating to—
  - (a) the suspicion in connection with which the notification is made, and
  - (b) matters known, suspected or believed by B at the time of the making of the notification.
- (8) If a joint disclosure report is not made before the end of the applicable period (whether the required notification was made by A or B), section 339ZD(2)—
  - (a) has effect only so far as relating to any requirement to make the required disclosure that would have otherwise arisen within that period, and
  - (b) does not remove a requirement to make the required disclosure so far as arising after the end of that period on the part of any person in respect of matters that may become known, suspected or believed by the person after the time when the required notification was made.
- (9) If a joint disclosure report is not made before the end of the applicable period, the person who made the required notification must notify an NCA authorised officer that a report is not being made as soon as reasonably practicable after the period ends.
- (10) Section 339ZD(3) has effect only so far as relating to—
  - (a) the suspicion in connection with which the report is made, and
  - (b) matters known, suspected or believed at the time of the making of the report.
- (11) Terms used in this section have the same meanings as in section 339ZD.

**339ZF Section 339ZB: supplementary**

- (1) A relevant disclosure made in good faith does not breach—
  - (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information,

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however imposed.

- (2) But a relevant disclosure may not include information obtained from a UK law enforcement agency unless that agency consents to the disclosure.
- (3) In a case where a person is acting on behalf of another (“the undertaking”) as a nominated officer—
  - (a) a relevant disclosure by the undertaking must be made by the nominated officer on behalf of the undertaking, and
  - (b) a relevant disclosure to the undertaking must be made to that officer.
- (4) Subsection (1) applies whether or not the conditions in section 339ZB were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.
- (5) In this section—
  - “relevant disclosure” means any disclosure made in compliance, or intended compliance, with section 339ZB;
  - “UK law enforcement agency” means—
    - (a) the National Crime Agency;
    - (b) a police force in England, Scotland, Northern Ireland or Wales;
    - (c) any other person operating in England, Scotland, Northern Ireland or Wales charged with the duty of preventing, detecting, investigating or prosecuting offences.

### **339ZG Sections 339ZB to 339ZF: interpretation**

- (1) This section applies for the purposes of sections 339ZB to 339ZF.
- (2) “Disclosure request” means a request made for the purposes of condition 2 in section 339ZB(3).
- (3) “NCA authorised officer” means a person authorised for the purposes of this Part by the Director General of the National Crime Agency.
- (4) “Nominated officer” means a person nominated to receive disclosures under section 330.
- (5) “Relevant undertaking” means any of the following—
  - (a) a credit institution;
  - (b) a financial institution;
  - (c) a professional legal adviser;
  - (d) a relevant professional adviser;
  - (e) other persons (not within paragraphs (a) to (d)) whose business consists of activities listed in paragraph 1(1) of Schedule 9.
- (6) “Required disclosure” has the same meaning as in section 330(5) or (as the case may be) section 331(5).
- (7) “Required notification” means a notification made for the purposes of condition 3 in section 339ZB(4).
- (8) For the purposes of subsection (5)—
  - (a) “credit institution” has the same meaning as in Schedule 9;

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- (b) “financial institution” means an undertaking that carries on a business in the regulated sector by virtue of any of paragraphs (b) to (i) of paragraph 1(1) of that Schedule;
- (c) “relevant professional adviser” has the meaning given by section 333E(5).

(9) Schedule 9 has effect for determining what is a business in the regulated sector.”

## **12 Further information orders**

After section 339ZG of the Proceeds of Crime Act 2002 (inserted by section 11 above)  
insert—

### *“Further information orders*

#### **339ZH Further information orders**

- (1) A magistrates’ court or (in Scotland) the sheriff may, on an application made by a relevant person, make a further information order if satisfied that either condition 1 or condition 2 is met.
- (2) The application must—
  - (a) specify or describe the information sought under the order, and
  - (b) specify the person from whom the information is sought (“the respondent”).
- (3) A further information order is an order requiring the respondent to provide—
  - (a) the information specified or described in the application for the order, or
  - (b) such other information as the court or sheriff making the order thinks appropriate,so far as the information is in the possession, or under the control, of the respondent.
- (4) Condition 1 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under this Part,
  - (b) the respondent is the person who made the disclosure or is otherwise carrying on a business in the regulated sector,
  - (c) the information would assist in investigating whether a person is engaged in money laundering or in determining whether an investigation of that kind should be started, and
  - (d) it is reasonable in all the circumstances for the information to be provided.
- (5) Condition 2 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under a corresponding disclosure requirement,
  - (b) an external request has been made to the National Crime Agency for the provision of information in connection with that disclosure,

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- (c) the respondent is carrying on a business in the regulated sector,
  - (d) the information is likely to be of substantial value to the authority that made the external request in determining any matter in connection with the disclosure, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6) For the purposes of subsection (5), “external request” means a request made by an authority of a foreign country which has responsibility in that country for carrying out investigations into whether a corresponding money laundering offence has been committed.
- (7) A further information order must specify—
- (a) how the information required under the order is to be provided, and
  - (b) the date by which it is to be provided.
- (8) If a person fails to comply with a further information order made by a magistrates’ court, the magistrates’ court may order the person to pay an amount not exceeding £5,000.
- (9) The sum mentioned in subsection (8) is to be treated as adjudged to be paid by a conviction of the court for the purposes of the Magistrates’ Courts Act 1980 or (as the case may be) the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (10) In order to take account of changes in the value of money the Secretary of State may by regulations substitute another sum for the sum for the time being specified in subsection (8).
- (11) Schedule 9 has effect for the purposes of this section in determining what is a business in the regulated sector.
- (12) In this section—
- “corresponding disclosure requirement” means a requirement to make a disclosure under the law of the foreign country concerned that corresponds to a requirement imposed by virtue of this Part;
  - “corresponding money laundering offence” means an offence under the law of the foreign country concerned that would, if done in the United Kingdom, constitute an offence specified in paragraph (a), (b) or (c) of section 340(11);
  - “foreign country” means a country or territory outside the United Kingdom;
  - “relevant person” means—
    - (a) in the case of an application to a magistrates’ court, the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose, or
    - (b) in the case of an application to the sheriff, a procurator fiscal.

### **339ZI Statements**

- (1) A statement made by a person in response to a further information order may not be used in evidence against the person in criminal proceedings.

- (2) Subsection (1) does not apply—
  - (a) in the case of proceedings under this Part,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).
- (3) A statement may not be used by virtue of subsection (2)(c) unless—
  - (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In subsection (2)(b) the reference to a prosecution for perjury is—
  - (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

### **339ZJ Appeals**

- (1) An appeal from a decision on an application for a further information order lies to the relevant appeal court.
- (2) An appeal under this section lies at the instance of any person who was a party to the proceedings on the application.
- (3) The “relevant appeal court” is—
  - (a) the Crown Court, in the case of a decision made by a magistrates’ court in England and Wales;
  - (b) a county court, in the case of a decision made by a magistrates’ court in Northern Ireland;
  - (c) the Sheriff Appeal Court, in the case of a decision made by the sheriff.
- (4) On an appeal under this section the relevant appeal court may—
  - (a) make or (as the case may be) discharge a further information order, or
  - (b) vary the order.

### **339ZK Supplementary**

- (1) A further information order does not confer the right to require a person to provide privileged information.
- (2) “Privileged information” is information which a person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court or, in Scotland, legal privilege as defined by section 412.
- (3) Information provided in pursuance of a further information order is not to be taken to breach any restriction on the disclosure of information (however imposed).

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- (4) An application for a further information order may be heard and determined in private.
- (5) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to further information orders.”