



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—

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“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—

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- (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.”