
STATUTORY INSTRUMENTS

2018 No. 78 (C. 11)

**PROCEEDS OF CRIME
PREVENTION AND
SUPPRESSION OF TERRORISM**

The Criminal Finances Act 2017
(Commencement No. 4) Regulations 2018

Made - - - - 20th January 2018

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 58(1) and (7) of the Criminal Finances Act 2017⁽¹⁾.

The Secretary of State has consulted the Scottish Ministers in accordance with section 58(12) of that Act.

Citation, interpretation and extent

1.—(1) These Regulations may be cited as the Criminal Finances Act 2017 (Commencement No. 4) Regulations 2018.

(2) In these Regulations—

“ATCSA” means the Anti-terrorism, Crime and Security Act 2001⁽²⁾;

“POCA” means the Proceeds of Crime Act 2002⁽³⁾;

“the Act” means the Criminal Finances Act 2017.

(3) The following provisions in these Regulations do not extend to Northern Ireland—

(a) regulation 2(a) to (c), (g) and (j);

(b) regulation 3(a) to (j), (l) to (n), (q) and (x) to (z);

(c) regulation 3(r) and (s) so far as it relates to section 34(5) to (11) of the Act;

(d) regulation 3(w) except so far as it relates to regulation 5(1)(c) and (3)(d);

(e) regulation 3(aa) so far as it relates to paragraphs 11 to 26 of Schedule 1 to the Act;

(f) regulation 4;

(1) 2017 c. 22.

(2) 2001 c. 24. Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 was amended by section 38 of, and Schedules 3 and 4 to, the Criminal Finances Act 2017 (“the Act”).

(3) 2002 c. 29. Parts 1 to 5, 7, 8 and 10 to 12 of the Proceeds of Crime Act 2002 (“POCA”) were amended by the Act.

- (g) regulation 5(1)(b), (d) and (e);
- (h) regulation 5(2);
- (i) regulation 5(3)(a) to (c).

Provisions of the Act coming into force on 30th January 2018

2. The following provisions of the Act come into force on 30th January 2018—
- (a) section 15 (forfeiture of certain personal (or moveable) property) so far as it inserts section 303E(4) into POCA;
 - (b) section 16 (forfeiture of money held in bank and building society accounts) so far as it inserts sections 303Z2(4) and 303Z10 into POCA and so far as section 303Z10 is not already in force;
 - (c) section 21(5) (immigration officers);
 - (d) section 38(4) (forfeiture of terrorist cash) so far as it inserts paragraph 5A(10) into Schedule 1 to ATCSA;
 - (e) section 39 and paragraph 1 of Schedule 3 (forfeiture of certain personal (or moveable) property) so far as they are relevant to paragraph (h);
 - (f) section 40 and paragraph 1 of Schedule 4 (forfeiture of money held in bank and building society accounts) so far as they are relevant to paragraph (i);
 - (g) section 53 and paragraph 17 of Schedule 5 (minor and consequential amendments) so far as they are relevant to paragraph (j);
 - (h) paragraph 2 of Schedule 3 so far as it inserts paragraph 10G(9) into Schedule 1 to ATCSA;
 - (i) paragraph 2 of Schedule 4 so far as it inserts paragraph 10X into Schedule 1 to ATCSA and so far as not already in force;
 - (j) paragraph 49 of Schedule 5 so far as not already in force.

Provisions of the Act coming into force on 31st January 2018

3. The following provisions of the Act come into force on 31st January 2018—
- (a) sections 1 to 6 (unexplained wealth orders);
 - (b) sections 7 and 8 (disclosure orders);
 - (c) section 13 (unlawful conduct: gross human rights abuses or violations);
 - (d) section 16 (forfeiture of money held in bank and building society accounts) so far as not already in force;
 - (e) section 17 (Serious Fraud Office) so far as it relates to paragraphs (x) to (aa);
 - (f) sections 19 to 21 (extension of powers) so far as section 21 is not already in force;
 - (g) section 22 (search and seizure warrants: assault and obstruction offences) except so far as it inserts section 356A(3)(b) and (4)(b) into POCA;
 - (h) section 23 (assault and obstruction offence in relation to SFO officers) except so far as it inserts section 453B(3)(b) and (4)(b) into POCA;
 - (i) section 24 (external requests, orders and investigations);
 - (j) section 25 (obstruction offence in relation to immigration officers) except so far as it inserts section 453C(2)(c) into POCA;
 - (k) section 26 (seized money: England and Wales);
 - (l) section 29 (recovery orders relating to heritable property) so far as not already in force;

- (m) section 31(1) (accredited financial investigators) so far as it is relevant to paragraph (n);
- (n) section 31(2) and (4);
- (o) section 32(1) and (7) (reconsideration of discharged orders) so far as it is relevant to paragraph (p) and section 32(4) of the Act;
- (p) section 32(2) and (3);
- (q) section 33 (confiscation investigations: determination of the available amount);
- (r) section 34(1) (confiscation orders and civil recovery: minor amendments) so far as it is relevant to paragraph (s) and section 34(3) of the Act;
- (s) section 34(2) and (5) to (11);
- (t) section 35 (disclosure orders);
- (u) section 38 (forfeiture of terrorist cash) so far as not already in force;
- (v) sections 39 (forfeiture of certain personal (or moveable) property) and 40 (forfeiture of money held in bank and building society accounts) so far as not already in force;
- (w) section 53 and paragraph 17 of Schedule 5 (minor and consequential amendments) so far as they are relevant to provisions coming into force on 31st January 2018 as provided for by regulation 5;
- (x) paragraph 1 of Schedule 1 (powers of members of staff of the Serious Fraud Office) so far as it is relevant to paragraphs (y) to (aa);
- (y) paragraph 2(1) of Schedule 1 so far as it is relevant to paragraph (z);
- (z) paragraph 2(2) and (3) of Schedule 1 so far as it inserts references to Part 2 of POCA;
- (aa) paragraphs 3 to 6 and 11 to 26 of Schedule 1;
- (bb) Schedule 2 (disclosure orders);
- (cc) Schedule 3 (forfeiture of certain personal (or moveable) property) so far as not already in force;
- (dd) Schedule 4 (forfeiture of money held in bank and building society accounts) so far as not already in force.

Provisions of the Act coming into force on 16th April 2018

4. The following provisions of the Act come into force on 16th April 2018—
- (a) section 14 (forfeiture of cash);
 - (b) section 15 (forfeiture of certain personal (or moveable) property) so far as not already in force;
 - (c) section 53 and paragraph 17 of Schedule 5 so far as they are relevant to provisions coming into force on 16th April 2018 as provided for by regulation 5.

Commencement of Schedule 5 to the Act

- 5.—(1) The following provisions in Schedule 5 to the Act come into force on 31st January 2018—
- (a) paragraphs 1 and 2;
 - (b) paragraph 4;
 - (c) paragraphs 9 and 13 so far as not already in force and paragraphs 14 to 16;
 - (d) paragraph 19(1) (so far as it relates to paragraph 19(2)) and paragraph 19(2);
 - (e) paragraphs 18, 21, 28, 29, 31, 33, 46, 50, 53, 55, 73 to 82, 84 and 88;

- (f) paragraphs 90 and 91 so far as not already in force;
 - (g) paragraphs 92 and 93.
- (2) Paragraph 86 of Schedule 5 to the Act comes into force on 16th April 2018.
- (3) The following provisions in Schedule 5 to the Act come into force as specified below—
- (a) paragraphs 3, 22, 24, 30, 32, 34, 36, 40 to 45, 47, 48, 51, 52, 54, 56, 57, 59 to 72, 85 and 87 (so far as paragraph 87 is not already in force) come into force—
 - (i) on 31st January 2018 for all purposes except as provided in sub-paragraph (ii); and
 - (ii) on 16th April 2018 so far as they relate to provisions within Chapter 3A of Part 5 of POCA (forfeiture of certain personal (or moveable) property)(4) or to detained property investigations (as defined in section 341(3B) of POCA)(5);
 - (b) paragraphs 20(a), (c) and (d), 23(a), (c) and (d), 35 and 39 come into force—
 - (i) on 31st January 2018 so far as they relate to provisions within Chapter 3B of Part 5 of POCA; and
 - (ii) on 16th April 2018 for all remaining purposes;
 - (c) paragraphs 20(b) and 23(b) come into force on 16th April 2018;
 - (d) paragraphs 25 and 27 come into force—
 - (i) on 31st January 2018 for all purposes except as provided in sub-paragraph (ii); and
 - (ii) on 16th April 2018 so far as they relate to provisions within Chapter 3A of Part 5 of POCA.

20th January 2018

Ben Wallace
Minister of State
Home Office

(4) Chapter 3A was inserted into Part 5 of POCA by section 15 of the Act.

(5) Section 341(3B) of POCA was inserted by paragraph 39(3) of Schedule 5 to the Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the fourth commencement regulations made under the Criminal Finances Act 2017 (c.22) (“the Act”), which amends the Proceeds of Crime Act 2002 (c. 29) (“POCA”), the Terrorism Act 2000 (c. 11) (“TACT”) and the Anti-terrorism, Crime and Security Act 2001 (c. 24) (“ATCSA”).

Regulation 2 brings into force on 30th January 2018 certain powers for the Secretary of State to make regulations concerning the manner in which administrative forfeiture notices (see below) are to be given, and the power to designate particular ranks of immigration officer as “senior officers” for certain specific purposes. These provisions are being brought fully into force before the main powers to which they relate to allow the relevant regulations and designations to be made and come into force at the same time as the main powers.

Regulation 3 brings into force on 31st January 2018 several provisions in the Act which amend POCA. These provisions introduce a new investigatory order (the unexplained wealth order) and a new procedure by which money in bank and building society accounts can be frozen and forfeited (this includes a power to forfeit the funds without court order, by giving an administrative forfeiture notice). The provisions also give access to POCA powers by law enforcement agencies, and allow certain law enforcement agencies greater access to the powers in POCA (including the Serious Fraud Office and Her Majesty’s Revenue and Customs). In addition, the provisions create new criminal offences concerning assaulting or obstructing law enforcement agents when carrying out POCA functions. The provisions also make technical amendments to the confiscation procedure, including extending the scope of an existing power of the court to order that seized money be paid over to satisfy a confiscation order, expanding the definition of a confiscation investigation, and allowing for the reconsideration of discharged confiscation orders. In addition, regulation 3 commences provisions which make certain technical amendments which apply in Scotland relating to recovery orders which involve heritable property and money received by administrators.

Regulation 3 also brings into force some amendments to TACT concerning disclosure orders and to ATCSA which relate to the recovery of terrorist property (“the terrorist financing provisions”). These include changes to the existing power to forfeit terrorist cash, which is amended to change the definition of “cash” to include gaming vouchers, fixed-value casino tokens and betting receipts, and to include a power to forfeit cash by giving an administrative forfeiture notice (as above). In addition, new powers to forfeit certain listed terrorist assets, and to forfeit terrorist funds in bank and building society accounts are introduced, which are equivalent to the powers in POCA commenced by regulations 3 and 4. These powers are available where the property is intended for use in terrorism, constitutes the proceeds of a proscribed organisation, or is “earmarked for terrorism” (meaning that it was derived from terrorism).

Regulation 4 provides that amendments to the definition of cash in POCA (as above) will come into force on 16th April 2018, along with a new procedure to seize, detain and forfeit certain listed items of property, which derives from, or is intended for use in, unlawful conduct.

Regulation 5 brings into force the minor and technical provisions in Schedule 5 to the Act which are consequent on the various substantive measure set out above. Many of these make technical amendments relating to the new procedures for forfeiting funds in bank or building society accounts, and for forfeiting certain listed items of property. As set out above, these main provisions are commencing on different dates, and accordingly regulation 5 ensures that these provisions will commence in tandem with the main powers to which they relate.

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

The provisions listed in regulation 1(3) are not being commenced in Northern Ireland. The regulations which are being commenced in Northern Ireland bring the terrorist financing provisions and paragraphs 25 and 27 of Schedule 5 to the Act into force.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Criminal Finances Act 2017 (c. 22) have been brought into force to their fullest extent (unless indicated otherwise) by commencement regulations made before the date of these Regulations.

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No. or S.R. No.</i> |
|---|-----------------------------|---------------------------------|
| Section 10 (partially) | 31/10/2017 | S.I. 2017/991 |
| Section 11 (partially) | 31/10/2017 | S.I. 2017/991 |
| Section 11 (partially) | 31/10/2017 | S.I. 2017/1028 |
| Section 12 | 31/10/2017 | S.I. 2017/991 |
| Section 15 (partially) | 31/10/2017 | S.I. 2017/991 |
| Section 17 (partially) | 31/10/2017 | S.I. 2017/991 |
| Section 28 | 31/01/2018 | S.S.I. 2017/456 |
| Section 30 | 31/01/2018 | S.S.I. 2017/456 |
| Section 32(4) | 31/01/2018 | S.S.I. 2017/456 |
| Section 34(3) | 31/01/2018 | S.S.I. 2017/456 |
| Section 36 (partially) | 31/10/2017 | S.I. 2017/991 |
| Section 36 (partially) | 31/10/2017 | S.I. 2017/1028 |
| Section 37 | 31/10/2017 | S.I. 2017/991 |
| Section 43 (so far as not already in force) | 31/10/2017 | S.I. 2017/991 |
| Section 47 | 17/07/2017 | S.I. 2017/739 |
| Part 3 (so far as not already in force) | 30/09/2017 | S.I. 2017/739 |
| Section 53 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 1, paragraph 1 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 1, paragraph 6 | 31/10/2017 | S.I. 2017/991 |
| Schedule 1, paragraph 14 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 1, paragraph 24 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraphs 6 to 8 | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 9 (partially) | 31/10/2017 | S.I. 2017/991 |

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| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No. or S.R. No.</i> |
|---|-----------------------------|-------------------------------|
| Schedule 5, paragraphs 10 to 12 | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 13 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 17 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 37 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 38 | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 58 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 83 (so far as not already in force) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 87(3) to (6) (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 89 | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 90 (partially) | 31/10/2017 | S.I. 2017/991 |
| Schedule 5, paragraph 91 (partially) | 31/10/2017 | S.I. 2017/991 |