

THE PROCEEDS OF CRIME ACT

The Proceeds of Crime Act 2002 came into force on 24th February 2003. The Act requires solicitors, accountants and certain financial advisers to report any suspicion of money laundering, tax evasion or other illegal activities, by which a person benefits from criminal conduct, to the relevant authority – the National Criminal Intelligence Service (NCIS).

A person commits an offence if:

- 1) S/he conceals, disguises, converts, transfers or removes from the country criminal property.
- 2) S/he enters into or becomes concerned in an arrangement which s/he suspects or knew would make it easier for another person to acquire, retain, use or control criminal property.
- 3) S/he acquires, uses or has possession of criminal property.

Please note that the term “criminal property” covers any activity whereby a person obtains a benefit from an illegal dealing. Therefore in addition to money laundering, robbery, burglary etc, the law regards such activities as tax evasion, whereby a person gives incorrect information for the assessment of income, corporation, capital gains or inheritance tax, as constituting an illegal activity. This list is not exhaustive but only by way of illustration.

If any such information comes to our attention and you instruct us to act on your behalf so that we are put in a position whereby we could commit one of the offences listed above, we are bound to notify NCIS. This includes information received from you in relation to the illegal activities of a third party. The penalties for us in not notifying NCIS include a prison sentence of up to 14 years imprisonment and/or a fine.

Once such a notification has been made we are prevented from continuing to act on your behalf until we obtain the consent of NCIS to do so. Normally such consent will be given within 8 working days, but in some circumstance may be extended by a further 31 days.

It is a central element of advising and representing clients that we keep you informed. However, in the context of the Act we cannot do so until we have made the notification to NCIS. Please note that we cannot do any act that may amount to tipping you, or a third party, off so that it may prejudice any investigation conducted by NCIS.

We ask our clients to understand the sometimes difficult position this Act puts us in. For example, we may now have to ask clients for whom we have acted for many years to identify themselves by producing a passport etc. And some transactions may now be more difficult, or may not proceed at all.