

# Proceeds of Crime Act 2002 (POCA) money laundering provisions

This guidance is based on the Proceeds of Crime Act 2002 (POCA)

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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### About this guidance

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This guidance tells criminal investigation officers in immigration enforcement about money laundering provisions under the Proceeds of Crime Act 2002 (POCA).</p> <p>This guidance is based on POCA. See related link: Proceeds of Crime Act 2002.</p> <p>It includes:</p> <ul style="list-style-type: none"><li>• What is money laundering?</li><li>• Appropriate officers</li><li>• Criminal property</li><li>• Statutory defences to money laundering</li><li>• Suspicious activity reports (SARs)</li><li>• Failure to disclose</li><li>• Consent</li><li>• Tipping off.</li></ul> <p>Changes to this guidance - This page lists changes to the Proceeds of Crime Act 2002 (POCA) money laundering provisions guidance with the most recent at the top.</p> <p>Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Proceeds of Crime Act 2002</a></p>
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### Changes to this guidance

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Date of the change	Details of the change					
19 July 2013	Completely revised by the modernised guidance team.					

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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### What is money laundering?

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This section tells you the definition of money laundering and about money laundering offences.</p> <p><b>Definition of ‘money laundering’</b> ‘Money laundering’ is the process of hiding illegal sources of money.</p> <p>Under the Proceeds of Crime Act 2002 (POCA) money laundering offences are committed when a person:</p> <ul style="list-style-type: none"><li>• conceals criminal property (POCA section 327)</li><li>• enters into an arrangement regarding criminal property (POCA section 328)</li><li>• acquires, uses or possesses criminal property (POCA section 329).</li></ul> <p>These are serious offences that carry a maximum 14 year sentence. For more information on concealing, arranging and acquiring, see related links.</p> <p>For information on officers who can investigate potential money laundering offences, see related link: Appropriate officers.</p> <p><b>Scope of POCA</b> POCA can be used to prosecute both:</p> <ul style="list-style-type: none"><li>• criminals laundering their own proceeds, and</li><li>• those several stages removed from the original crime or offender.</li></ul> <p>It does not matter who was responsible for the criminal conduct or what it was, as long as the offender knew or suspected that the property involved was ‘criminal property’.</p> <p>For a definition of criminal property, see related link.</p>	<p><b>In this section</b> <a href="#">Concealing</a> <a href="#">Arrangements</a> <a href="#">Acquisition, use or possession</a></p> <p><b>Related links</b> <a href="#">Criminal property</a> <a href="#">Appropriate officers</a> Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Proceeds of Crime Act 2002</a></p>
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	<p>Money laundering includes:</p> <ul style="list-style-type: none"><li>• conspiracies (agreements between people to break the law)</li><li>• attempts to commit these offences</li><li>• counselling (advising someone to break the law)</li><li>• aiding or abetting (helping), and</li><li>• procuring (getting goods or service by illegal means).</li></ul> <p><b>Criminal lifestyle offences</b></p> <p>Money laundering offences under sections 327 and 328 of POCA are criminal lifestyle offences.</p> <p>Criminal lifestyle is defined in POCA in sections:</p> <ul style="list-style-type: none"><li>• 75 (England and Wales)</li><li>• 142 (Scotland), and</li><li>• 223 (Northern Ireland).</li></ul> <p>For more information see related link: <a href="#">Criminal lifestyle</a>.</p>	
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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Concealing

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This page tells you about concealing offences under section 327 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person commits an offence under section 327 if criminal property is:</p> <ul style="list-style-type: none"><li>• concealed</li><li>• disguised</li><li>• converted</li><li>• transferred, or</li><li>• removed from the jurisdiction or area of authority under which the law applies (for example, it is moved overseas).</li></ul> <p>Concealing or disguising criminal property includes concealing or disguising its:</p> <ul style="list-style-type: none"><li>• nature</li><li>• source</li><li>• location</li><li>• disposition</li><li>• movement, or</li><li>• ownership of any rights with respect to it.</li></ul> <p>This offence is committed by the person being investigated in relation to the proceeds of either:</p> <ul style="list-style-type: none"><li>• their own criminal activity, or</li><li>• that of someone else.</li></ul> <p>For more information on concealing and statutory defences to concealing offences, see related links:</p>	<p><b>In this section</b> <a href="#">Arrangements</a> <a href="#">Acquisition, use or possession</a></p> <p><b>Related links</b> <a href="#">Statutory defences to money laundering</a></p> <p><b>External links</b> <a href="#">Section 327 Proceeds of Crime Act 2002</a></p>
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- Section 327 Proceeds of Crime Act 2002
- Statutory defences to money laundering.

**Examples of concealing**

Examples of concealing, disguising, converting or transferring under section 327 of POCA include:

- taking or transferring criminal property out of the country
- buying a house with stolen money
- giving criminal property to someone else
- registering a car bought with the proceeds of crime in someone else's name
- exchanging the proceeds of crime into another currency.

## Proceeds of Crime Act 2002 (POCA) Money Laundering Provisions

### Arrangements

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This page tells you about arrangement offences under section 328 of the Proceeds of Crime Act 2002 (POCA).</p> <p>Arrangement is when a person helps someone else to keep the proceeds of crime. A person commits an offence under section 328 when they know or suspect they are helping someone to:</p> <ul style="list-style-type: none"><li>• acquire</li><li>• retain</li><li>• use, or</li><li>• control criminal property.</li></ul> <p>For more information on arrangements and statutory defences to arrangement offences, see related links:</p> <ul style="list-style-type: none"><li>• Section 328 Proceeds of Crime Act 2002</li><li>• Statutory defences to money laundering.</li></ul> <p><b>Examples of arrangements</b></p> <p>Examples of arrangements under section 328 of POCA include:</p> <ul style="list-style-type: none"><li>• a lawyer who knowingly helps a person buy a house with criminal money</li><li>• a person who arranges for their partner or parent to put a vehicle which is criminal property in their name.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Concealing</a> <a href="#">Acquisition, use or possession</a></p> <p><b>Related links</b></p> <p><a href="#">Statutory defences to money laundering</a></p> <p><b>External links</b></p> <p><a href="#">Section 328 Proceeds of Crime Act 2002</a></p>
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### Acquisition, use and possession

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This page tells you about acquisition, use and possession offences under section 329 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person commits an offence under section 329 of POCA when they:</p> <ul style="list-style-type: none"><li>• acquire</li><li>• possess, or</li><li>• use criminal property.</li></ul> <p>For more information on acquisition and statutory defences to acquisition offences, see related links:</p> <ul style="list-style-type: none"><li>• Section 329 Proceeds of Crime Act 2002</li><li>• Statutory defences to money laundering.</li></ul> <p><b>Examples of acquisition, use and possession</b></p> <p>Examples of acquisition, use and possession under section 329 of POCA include when a person:</p> <ul style="list-style-type: none"><li>• carries</li><li>• holds</li><li>• looks after criminal property (for example cash), or</li><li>• acquires criminal property for 'inadequate consideration'. This means an item is bought for significantly less than the market value (for example a car worth £50,000 is bought for £5,000).</li></ul>	<p><b>In this section</b></p> <p><a href="#">Concealing Arrangements</a></p> <p><b>Related links</b></p> <p><a href="#">Statutory defences to money laundering</a></p> <p><b>External links</b></p> <p><a href="#">Section 329 Proceeds of Crime Act 2002</a></p>
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### Appropriate officers

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	For more information see related link: <a href="#">Crime and Courts Act 2013</a> .	
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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Criminal property

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This page tells you the definitions of 'criminal property' under the Proceeds of Crime Act 2002 (POCA).

#### **Criminal property**

Under section 340 of POCA, criminal property is that which:

- was gained from criminal conduct either in:
  - whole
  - part
  - directly, or
  - indirectly
- the alleged offender knows or suspects was gained from criminal conduct.

For more information on criminal conduct and criminal property, see related link: Section 340 Proceeds of Crime Act 2002.

Such, 'criminal property' may include:

- money
- all forms of possession or real estate, and
- any other intangible or incorporeal property (not existing in physical form, for example copyright, trademarks, or patents).

#### **Conspiracy cases**

To make a money laundering conspiracy case successful, you must prove the conspirators had knowledge the property was gained from criminal conduct rather than just suspecting this to be the case.

**External links**  
[Section 340 Proceeds of Crime Act 2002](#)

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### Statutory defences to money laundering

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<p>This page tells you about the legal defences to money laundering under section 338 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person does not commit an offence under POCA sections 327 (concealing offences), 328 (arrangement offences), or 329 (acquisition offences) if they:</p> <ul style="list-style-type: none"><li>• Make an authorised disclosure under section 338 of POCA:<ul style="list-style-type: none"><li>◦ before they do the act, and</li><li>◦ have the appropriate consent .</li></ul></li><li>• Intended to make such a disclosure but had a reasonable excuse for not doing so.</li><li>• Are carrying out a job relating to the enforcement of any:<ul style="list-style-type: none"><li>◦ part of POCA, or</li><li>◦ other criminal conduct or benefit from criminal conduct .</li></ul></li><li>• Acquired, used or had possession of the property for adequate consideration. This means it was bought at market value (this defence applies to section 329 offences only).</li></ul> <p>For more information on statutory defence and concealing, arrangement and acquisition offences, see related links:</p> <ul style="list-style-type: none"><li>• Section 338 of the Proceeds of Crime Act 2002</li><li>• Concealing</li><li>• Arrangement</li><li>• Acquisition, use and possession.</li></ul>	<p><b>Related links</b></p> <p><a href="#">Concealing Arrangements</a> <a href="#">Acquisition, use or possession</a></p> <p><b>External links</b></p> <p><a href="#">Section 338 of the Proceeds of Crime Act 2002</a></p>
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### Suspicious activity reports (SARs)

<a href="#">About this guidance</a> <a href="#">What is money laundering?</a> <a href="#">Appropriate officers</a> <a href="#">Criminal property</a> <a href="#">Statutory defences to money laundering</a> <a href="#">Suspicious activity reports (SARs)</a> <a href="#">Failure to disclose</a> <a href="#">Consent</a> <a href="#">Tipping off</a>	<div><b>Restricted information – do not disclose – start of section</b></div> <p>The information in this page has been removed as it is restricted for internal Home Office staff only.</p>	<b>Related links</b>  <a href="#">Failure to disclose</a>  <b>External links</b> <a href="#">Section 15 of the Terrorism Act 2000</a> <a href="#">Section 16 of the Terrorism Act 2000</a> <a href="#">Section 17 of the Terrorism Act 2000</a> <a href="#">Section 18 of the Terrorism Act 2000</a> <a href="#">Section 19 of the Terrorism Act 2000</a> <a href="#">HOC 53/2005</a>
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	<b>Restricted information – do not disclose – end of section</b>	



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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Failure to disclose

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	<p>This reflects the policy that people employed in the regulated sector are expected to be more diligent when handling transactions than those employed in other businesses.</p> <p><b>The non-regulated sector – nominated officers</b> Under POCA, section 332 offences only apply to people:</p> <ul style="list-style-type: none"> <li>• employed in the non-regulated sector, who</li> <li>• have been nominated by their organisations to receive authorised disclosures as defined in section 338 of POCA (a ‘nominated officer’).</li> </ul> <p>For further information see section 338 of the related link: Proceeds of Crime Act 2002.</p> <p>You must remember that the reasonable grounds for knowing or suspecting test defined in section 331(2)(a) does not apply to nominated officers working in the non-regulated sector.</p> <p><b>Amendments to the disclosure regime by the Serious Organised Crime and Police Act 2005 (SOCPA)</b> The failure to disclose offences in sections 330, 331 and 332 of POCA have been amended by section 104 of the Serious Organised Crime and Police Act 2005 (SOCPA). This adds a condition that the person must also:</p> <ul style="list-style-type: none"> <li>• know the: <ul style="list-style-type: none"> <li>○ identity of the person engaged in money laundering</li> <li>○ whereabouts of the criminal property</li> </ul> </li> <li>• believe, or it is reasonable to expect them to believe, the information may assist in identifying the: <ul style="list-style-type: none"> <li>○ person, or</li> <li>○ the criminal property.</li> </ul> </li> </ul> <p>Please note a person does not have to make a disclosure if they do not have this information.</p> <p>For more information see section 104 of related link: Serious Organised Crime and Police</p>	
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	<p>Act 2005.</p> <p><b>Exceptions for nominated officers' disclosure</b></p> <p>Section 106 of SOCPA excuses nominated officers from disclosing knowledge or suspicion of money laundering to the National Crime Agency (NCA) (formerly known as the Serious Organised Crime Agency (SOCA)) if the person making the disclosure is:</p> <ul style="list-style-type: none"><li>• a professional legal advisor who is:<ul style="list-style-type: none"><li>○ seeking advice on whether information that has come to them in privileged circumstances should be disclosed.</li></ul></li></ul> <p>If this is used as a potential defence you must seek legal guidance as soon as possible.</p> <p>For more information see section 106 of related link: <a href="#">Serious Organised Crime and Police Act 2005</a>.</p>	
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### Consent

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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Tipping off

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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Contact

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This page tells you who to contact for more help with the Proceeds of Crime Act 2002 (POCA) money laundering provisions.

If you have read this guidance and still need more help with this category, you must first ask your line manager.

#### **Restricted information – do not disclose – start of section**

The information in this page has been removed as it is restricted for internal Home Office staff only.

#### **Restricted information – do not disclose – end of section**

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the policy team, using the related link: Email CI Inbox, who will ask the modernised guidance team (MGT) to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: modernised guidance team.

### Related links

[Changes to this guidance](#)  
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Links to staff intranet removed

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## Proceeds of Crime Act 2002 (POCA) money laundering provisions

### Information owner

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Policy owner	Patricia Fitzmaurice
Cleared by director	David Pennant and Sonia Dower
Director's role	Crime Directorate and Strategy and Intelligence Directorate
Clearance date	18 July 2013

Changes to this guidance can only be made by the modernised guidance team. If you think the policy content needs amending you must contact the policy team, using the related link: CI inbox, who will ask the modernised guidance team (MGT) to update the guidance, if appropriate.

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