



NOTES ON 2017 FINAL MONEY LAUNDERING 2017 REGULATIONS (AND COMPARISON WITH DRAFT REGULATIONS)

This document highlights some of the key changes in the areas relevant to the accountancy sector between the draft and final regulations. This is of relevance to members who recently attended the ICAS Practice Management Course and who received an update on the draft regulations at the time of their course.

Regulation	Change
1. Overall Contents a. Reg 26 title change b. New R.36 c. Part 7 – various section changes d. New R.74 e. Old R76 to new R.78 f. New R.79 g. Old R.85 new R.88	<p>Now Prohibitions and Approvals PEPs –other duties Irrelevant to our sector</p> <p>Powers of relevant officers</p> <p>Prohibitions on management Imposition of civil penalties Title change</p>
2. R.3 General interpretation	<ul style="list-style-type: none"> • New definition of “appropriate body”.
	<ul style="list-style-type: none"> • Small tweak to definitions of auditor, external accountant and tax advisor.
	<ul style="list-style-type: none"> • Definition of BO for trust changed to take out estates of deceased persons to reflect commentary in Con Doc response.
	<ul style="list-style-type: none"> • More specific definition of body corporate.
	<ul style="list-style-type: none"> • New definition of ‘eligible Scottish partnership’.
	<ul style="list-style-type: none"> • New definition of ‘enactment’.
	<ul style="list-style-type: none"> • Excluded material definition has been removed.
	<ul style="list-style-type: none"> • Definition of manager removes words ‘one or more aspects’ from draft and talks only of managing the business.
	<ul style="list-style-type: none"> • Tweak to definition of officer as regards as partnership now to include secretary or manager acting as a partner.
	<ul style="list-style-type: none"> • New definition of relevant requirement as per R.75.
	<ul style="list-style-type: none"> • Definition of senior management.
3. R.6(2) Control of Trusts	<ul style="list-style-type: none"> • Draft provision re approving trust distribution, agents, and resolving disputes removed.
4. New insert at R.19(1)(b) and extension of 19(1)(c) and similar changes in S.20 for group level entities	<ul style="list-style-type: none"> • Requires regular review & update of policies & communication to the business. Records of review, changes and communications to staff.
5. R 21 MBLP	<ul style="list-style-type: none"> • BSMLP: this now includes senior management so now “Board or Senior Management Level Person”.

6. R.21 Internal audit	<ul style="list-style-type: none"> There is no further clarification of the term independent audit function in relation to review of policies and internal controls.
7. R.21(4) extended	<ul style="list-style-type: none"> Now imposes a 14 day period to notify supervisor of appointment or change of MLRO.
8. R21 (9) disclosure requests	<ul style="list-style-type: none"> HMRC now removed from listing but arguably because covered as an 'other law enforcement agency' as they have power to prosecute.
9. R.26 – Prohibitions and approvals	<ul style="list-style-type: none"> Sole practitioner (SP) added to R26(1) to clarify definition of relevant firm.
	<ul style="list-style-type: none"> Consequential amendments to other sections to repeat e.g. approval requirements for SPs.
	<ul style="list-style-type: none"> Limited time approval new – R26.8(b).
	<ul style="list-style-type: none"> New R26 (9) (9) An approval given is not valid if the “approved person”) has been convicted of a relevant offence; ceases to be valid if the approved person is subsequently convicted of a relevant offence.
	<ul style="list-style-type: none"> R26.10 introduces new requirement for notification to supervisor by an approved person subsequently convicted and by his firm each within 30 days of being aware of conviction.
9. R28	<ul style="list-style-type: none"> New sub-section 18 added offering a definition of what 'verify' means in context of CDD.
10. R33 (8)	<ul style="list-style-type: none"> New sub section highlighting that if there is more than one risk factor it doesn't necessarily follow that there is a higher risk of ML/CTF.
11. R.39(2)(b)	<ul style="list-style-type: none"> The two day time limit for reliance response has been removed. It is now immediately on request.
12. R.41 Data protection	<ul style="list-style-type: none"> Tweak to disclosure by firm to new customers. DP reg. no. not now required only statement re identity of data controller and purposes.
13. R.51(3)	<ul style="list-style-type: none"> Now introduces statutory backing for the annual return to HMT to be published in consolidated form.
14. Schedule 3	<ul style="list-style-type: none"> Additional relevant offences added to list - now number 35.