

## Proceeds of Crime Act 2002

### How does this act affect you?

In addition to your obligation to give full and frank disclosure of your financial and personal circumstances, the Proceeds of Crime Act 2002 ('the Act') creates a number of offences relating to proceeds of crime. It is now a criminal offence for you to enter into a financial settlement with your husband/wife/partner if you know that any income, capital or property of whatever nature which you and/or your husband/wife/partner receives or retains as part of the settlement which represents the proceeds of crime. Proceeds of crime can be money/property/assets which arise as a result of any crime that has been committed.

This includes, for example, monies (however low in value) which have been saved as a result of tax evasion or benefit fraud regardless of whether that money has been spent.

### Reporting irregularities to SOCA

Please note that if your solicitor becomes aware of or suspects the existence of proceeds of crime whilst acting for you (whether this arises from your actions or those of any other person), to enable your solicitor to continue with your case and to avoid committing an offence under the Act your solicitor must report the irregularity to the Serious Organised Crime Agency ("SOCA"). SOCA will then give or withhold permission for your solicitor to continue with the case. While permission is being sought your solicitor must take no steps to progress your case, and this process may take up to seven working days. Even if permission is given for the case to continue, SOCA may pass the information received to

any relevant body such as the Inland Revenue and an investigation may take place at any time in the future.

### Seeking advice about your financial irregularities

In the circumstances, if you have any concerns about irregularities in your financial position or that of your spouse/partner, you may wish to seek specialist accountancy advice to correct those irregularities before the financial issues arising from the breakdown of your marriage/ relationship begin to be resolved.

**Please note:** Accountants are also required to comply with the provisions of the Act.

If your own financial irregularities or those of your spouse/partner are not corrected before you consult a solicitor and/or you do not inform your solicitor of the position regarding your financial affairs or those of your spouse/partner and your solicitor subsequently becomes aware of such irregularities during the course of the case, s/he is required by the Act to disclose those irregularities to SOCA and must do so without telling you that s/he has done so.

### Consequences

Accordingly, one consequence of not telling your solicitor about irregularities in your family's financial circumstances could be that s/he is required to inform SOCA of the correct position without discussing the matter with you. This could mean that you resolve your financial relationship with your spouse/partner only to find that you then become subject to an Inland Revenue investigation/tax liability and/or criminal proceedings.

It is also important for you to be aware that the obligations which your solicitor has under the Act can in some circumstances override the duty of the solicitor/client confidentiality.

Finally, if any lawyers engaged in your case spend time in addressing issues arising from the Act, that time will be charged in the same manner as any other work undertaken in relation to your case.