

Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc. (2002:444)

Issued on 30 May, 2002

In accordance with the decision of the Riksdag, the following is enacted:

Purpose of this Act

Section 1 This Act contains provisions for the implementation of the International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999 (54/109).

Particularly serious crime

Section 2 In this Act particularly serious crime refers to

1. murder, manslaughter, gross assault, kidnapping, unlawful deprivation of liberty, gross unlawful coercion, arson, gross arson, devastation endangering the public, sabotage and spreading poison or a contagious substance if the purpose of the act is to intimidate a population or a group of population or to compel a government or an international organisation to perform an act or abstain from acting,
2. terrorist offences according to section 2 of the Act on Criminal Responsibility for Terrorist Offences (2003:148), gross sabotage, hijacking, maritime or air traffic sabotage and airport sabotage,
3. such offences as set forth in article 1 of the International Convention of 17 December, 1979, Against the Taking of Hostages, article 7 of the Convention of 3 March, 1980, on the Physical Protection of Nuclear Material and article 2 of the International Convention of 15 December, 1997, for the Suppression of Terrorist Bombings,
4. murder, manslaughter, assault, gross assault, kidnapping, unlawful deprivation of liberty, gross infliction of damage, arson, gross arson as well as threats of such offences, if the act is committed against internationally protected persons as referred to under the Convention of 14 December, 1973, on the Prevention and Punishment of Crimes Against Internationally Protected Persons.

Criminal Responsibility

Section 3 A person who collects, provides or receives funds or other assets with the intention that they should be used or in the knowledge that they are to be used in order to commit particularly serious crime shall be sentenced to imprisonment for at most two years.

If the offence under the first paragraph is regarded as gross, imprisonment for at least six months and at most six years shall be imposed. In assessing whether the offence is gross, special consideration shall be given to whether the offence was part of an activity carried out on a large scale or otherwise was of a particularly dangerous kind.

Punishment shall not be imposed in petty cases.

Section 4 Attempts to commit an offence as set forth in section 3 are punishable in accordance with the provisions of Chapter 23, section 1 of the Penal Code.

Section 5 If the act is punishable with the same or a more severe penalty under the Penal Code or the Act (2003:148) on Criminal Responsibility for Terrorist Offences, punishment under sections 3 and 4 of this Act shall not be imposed.

Jurisdiction

Section 6 A Swedish citizen or an alien who is present in the Realm and who has committed an offence under section 3 or 4 of this Act shall be adjudged by a Swedish court even if Chapter 2, section 2 or 3 of the Penal Code does not stipulate jurisdiction. This applies also when, in accordance with section 5 of this Act, punishment for the offence shall be imposed under the Penal Code or the Act (2003:148) on Criminal Responsibility for Terrorist Offences.

Provisions on requirements for authorisation to institute prosecution in some cases are set out in Chapter 2, section 5 of the Penal Code.

Forfeiture

Section 7 Assets subject to an offence under this Act shall be declared forfeited unless this is manifestly unreasonable. The value of the assets may be declared forfeited instead of the assets themselves. Also the proceeds of offences under this Act shall be declared forfeited, unless this is manifestly unreasonable.

Certain obligations of financial companies, etc.**Obligation to examine and submit information on transactions**

[Articles 8 - 22 were abolished on 15 March 2009 following the enactment of law 2009:73]

[Section 8 Companies referred to in section 2, first paragraph, of the Act (1993:768) on Measures against Money Laundering must examine all transactions that may reasonably be assumed to involve assets subject to an offence under this Act.

In doing so, the company must submit information to the National Police Board, or the police authority appointed by the Government, on all circumstances indicating that a transaction involves assets subject to an offence under this Act. Having submitted this information, the company must, upon request by the relevant authority, submit all further information necessary for the investigation of offences under this Act.

When information has been submitted in accordance with the second paragraph, also other companies referred to in section 2, first paragraph, of the Act on Measures against Money Laundering must submit the information requested by the relevant authority for the investigation of offences under this Act.

Prohibition against taking part in certain transactions

Section 9 A company referred to in section 2, first paragraph, of the Act (1993:768) on Measures against Money Laundering must not knowingly take part in transactions that may be assumed to involve assets subject to an offence under this Act.

Prohibition against disclosing information

Section 10 A company referred to in section 2, first paragraph, of the Act (1993:768) on Measures against Money Laundering, its board of directors or its employees must not disclose to the customer or an outsider that an examination has been made, that information has been submitted to the police pursuant to section 8 or that a matter is being investigated by the police.

Other applicable provisions

Section 11 The provisions of sections 4-8, 10 and section 13, first paragraph, of the Act (1993:768) on Measures against Money Laundering shall apply correspondingly to transactions referred to in section 8.

Criminal responsibility

Section 12 A person who intentionally or by gross negligence

1. neglects the obligation to examine or to submit information as set out in section 8, or
 2. breaches the prohibition against disclosing information under section 10
- shall be sentenced to a fine.

The notification duty of the Financial Supervisory Authority

Section 13 If the Financial Supervisory Authority, in the course of an inspection of a company or otherwise, becomes aware of transactions that may be assumed to concern assets subject to an offence under this Act, it must notify the National Police Board, or a police authority appointed by the Government, of these transactions.

Authorisation

Section 14 The Government or, by authorisation of the Government, the Financial Supervisory Authority may issue further provisions regarding the procedures to be followed by the companies referred to in section 2, first paragraph, of the Act (1993:768) on Measures against Money Laundering to prevent them from being used for transactions involving assets subject to an offence under this Act, as well as regarding the information and training to be provided for this purpose to the employees of these companies.

Records issues

Scope

Section 15 The provisions of sections 16-22 shall apply in addition to the Personal Data Act (1998:204) to the processing of personal data in relation to such transactions as referred to in section 8.

Purpose

Section 16 Companies referred to in section 8, first paragraph, may keep a record of information submitted by the company by virtue of section 8, second paragraph, in order to

1. prevent the company from taking part in transactions involving assets subject to an offence under this Act, and
2. enable the company to comply with the obligation to submit information referred to in section 8, second paragraph.

Contents

Section 17 A record referred to in section 16 may contain only

1. name, personal identity number or classification number or organisation registration number and address,
2. account number or similar, and
3. other information submitted by virtue of section 8, second paragraph.

Information to the registered person

Section 18 Information from a record referred to in section 16 must not be disclosed to the registered person.

Expungement

Section 19 Information in a record referred to in section 16 must be expunged

1. if the authority referred to in section 8, second paragraph decides not to initiate or to discontinue an investigation of an offence referred to in this Act,
2. if an investigation is concluded without prosecution being instituted on the grounds of the information submitted,
3. if a court has pronounced a judgement or made a decision that has become legally binding on the grounds of the information submitted, or
4. no later than one year following the date on which information was submitted by virtue of section 8, second paragraph.

Linkage of records

Section 20 A company record as referred to in section 16 must not be linked with a corresponding record kept by another company.

Rectification and damages

Section 21 The provisions of the Personal Data Act (1998:204) on rectification and damages apply to the processing of personal data pursuant to this Act.

Obligation of secrecy

Section 22 A person active in a company referred to in section 8 must not unauthorizedly disclose information in a record referred to in section 16.

Criminal responsibility pursuant to Chapter 20, section 3 of the Penal Code shall not apply to a person who breaks the prohibition in the first paragraph.]

This Act shall enter into force on 1 July, 2002.