

**NOWELL MELLER SOLICITORS LTD  
FAMILY LAW SERVICE**

**LEAFLET NO.12 – THE PROCEEDS OF CRIME ACT  
2002**

**Important Information for You**

The Proceeds of Crime Act 2002 creates a number of offences relating to the proceeds of crime which include making it a criminal offence for you to enter into a financial settlement with your spouse/ partner if you know that any income, capital or property of whatever nature which you and/or spouse/partner receives or retains as part of the settlement represents the proceeds of any crime.

The proceeds of crime are any money/ property/ asset which has arisen as a result of crime. The proceeds of crime include, for example, monies (however low in value) saved as a result of tax evasion or benefit fraud whether that money has been saved or spent.

In addition, if your solicitor becomes aware or suspects the existence of the proceeds of a crime in your case (whether from you or any other person), in order to enable the solicitor (or any other solicitor) to continue with your case without himself or herself committing an offence under the Act, your solicitor must report the irregularity to the Serious Organised Crime Agency (SOCA).

SOCA will then either give or withhold permission for your solicitor to continue with the case. Even if SOCA gives permission for the case to continue, it can 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.

It follows from the above that, 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. Be aware that 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 tell your solicitor the correct position about your financial affairs or those of your spouse/ partner, if your solicitor becomes aware of

such irregularities during the course of your case, he or she may be required to disclose those irregularities to SOCA. In certain circumstances, your solicitor may have to make a report to SOCA without telling you that this has been done.

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

The obligations which your solicitor has under the Act override the duty of solicitor-client confidentiality.

If any case-workers engaged in your case spend time in addressing issues arising for you from the Act, that time will be charged in the same manner as any other work undertaken in relation to your case.

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NOTE: The above is intended as a general guide for your information. It is NOT intended as a substitute for proper legal advice. Each case is different and advice cannot be given without a proper analysis of your own circumstances.

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