



OFFENCES AND PENALTIES

Pursuant to the **Proceeds of Crime Act 2013**, as amended by the Proceeds of Crime Amendment Act, No. 18 of 2017 (POCA) and the **Anti-Money Laundering and Terrorist Financing Regulations 2014**, as amended by Act No.25 of 2017 (AMLTFR) the following is a summary of the AML/CFT offences relevant to Non-Regulated Service Providers (NRSPs).

ABBREVIATIONS

POCA – Proceeds of Crime Act

AMLTFR – Anti-Money Laundering and Terrorist Financing Regulations

AML – Anti-Money Laundering

CFT – Countering the Financing of Terrorism

ML – Money Laundering

	OFFENCE	SECTION(S)	PENALTY
1.	Failure to report knowledge or suspicion of money laundering to the Money Laundering Reporting Officer (Compliance Officer)	Section 126 (1)&(3) of POCA	Section 126 (9) of POCA 5 years imprisonment or a fine of \$500,000 or both upon summary conviction 10 years imprisonment or a fine without limit or both on conviction on indictment
2.	Failure of the Money Laundering Reporting Officer (Compliance Officer) to disclose knowledge or suspicion of money laundering to the Financial Intelligence Unit	Section 127(1) of POCA	Section 127(5) of POCA 5 years imprisonment or a fine of \$500,000 or both upon summary conviction 10 years imprisonment or a fine without limit or both on conviction on indictment



	OFFENCE	SECTION(S)	PENALTY
3.	Prejudicing an Investigation ¹	Section 128 (1) of POCA	Section 128 (2) of POCA 5 years imprisonment or a fine of \$500,000 or both upon summary conviction 10 years imprisonment or a fine without limit or both on conviction on indictment
4.	Tipping Off ²	Section 129 (2) of POCA	Section 129 (4) of POCA 5 years imprisonment or a fine of \$500,000 or both upon summary conviction 10 years imprisonment or a fine without limit or both on conviction on indictment
5.	Failure to Register	Section 155 (1) of POCA	Section 155 (3) of POCA 12 months or a fine of \$20,000 or both upon summary conviction 5 years imprisonment or a fine of \$100,000 or both on conviction on indictment
6.	Failure to comply with a notice to provide or produce specified documents / information	Schedule 4 paragraph 3 of POCA	Schedule 4 paragraph 9(4) of POCA 2 years imprisonment or a fine of \$30,000 or both upon summary conviction

¹ A person is guilty of this offence if he knows that the Financial Intelligence Unit, law enforcement officer, the Civil Recovery Authority or any other authorized person acting, or is proposing to act, in connection with a criminal recovery investigation, a civil recovery investigation or a money laundering investigation and he makes a disclosure that is likely to prejudice that investigation, or proposed investigation or falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.

² A person is guilty of this offence if he knows or suspects that a relevant disclosure is being or has been made (whether by himself or another person), discloses the fact that a relevant disclosure is being or has been made, his disclosure is likely to prejudice any investigation conducted and the information concerning the relevant disclosure came to him in the course of a relevant business.



			5 years imprisonment or a fine of \$100,000 or both on conviction on indictment
	OFFENCE	SECTION(S)	PENALTY
7	Provides or recklessly provides false or misleading information	Schedule 4 paragraph 9(2) of POCA	Schedule 4 paragraph 9(4) of POCA 2 years imprisonment or a fine of \$30,000 or both upon summary conviction 5 years imprisonment or a fine of \$100,000 or both on conviction on indictment
8.	Destroys, mutilates, defaces, hides or removes a document	Schedule 4 paragraph 9(3) of POCA	Schedule 4 paragraph 9(4) of POCA 2 years imprisonment or a fine of \$30,000 or both upon summary conviction 5 years imprisonment or a fine of \$100,000 or both on conviction on indictment
9.	Failure to permit the Supervisory Authority to enter the premises to conduct compliance visits	Schedule 4 paragraph 5(1) of POCA	Schedule 4 paragraph 5 (5) of POCA 12 months imprisonment or a fine of \$25,000 or both upon summary conviction 3 years imprisonment or a fine of \$50,000 or both on conviction on indictment
10.	Failure to comply with a directive	Schedule 4 paragraph 11(1) &(2) of POCA	Schedule 4 paragraph 11(6) of POCA 12 months imprisonment or a fine of \$25,000 or both upon summary conviction



	OFFENCE	SECTION(S)	PENALTY
11.	Failure to provide all assistance reasonably required by an investigator appointed by a supervisory authority	Schedule 4 paragraph 12(1) & (2) of POCA	Schedule 4 paragraph 12(8) of POCA 2 years imprisonment or a fine of \$30,000 or both upon summary conviction 5 years imprisonment or a fine of \$100,000 or both on conviction on indictment
12.	Failure to carry out effective customer due diligence measures	Regulation 11(1) & (2) of the AMLTFR	Regulation 11(6) of the AMLTFR Liable on summary conviction to a fine of \$100,000
13.	Failure to conduct ongoing monitoring	Regulation 11(5) of the AMLTFR	Regulation 11(6) of the AMLTFR Liable on summary conviction to a fine of \$100,000
14.	Failure to cease transaction or terminate business relationship	Regulation 12 (1), (2), (3) & (4) of the AMLTFR	Regulation 11(7) of the AMLTFR Liable on summary conviction to a fine of \$100,000
15.	Failure to engage in enhanced customer due diligence or enhanced ongoing monitoring where necessary	Regulation 14 (2) of the AMLTFR	Regulation 14 (3) of the AMLTFR Liable on summary conviction to a fine of \$100,000
16.	Setting up or maintaining an anonymous account or an account in a name which it knows or has reasonable grounds to suspect is fictitious	Regulation 19 (1) of AMLTFR	Regulation 19 (1) of AMLTFR Liable on summary conviction to a fine of \$100,000



	OFFENCE	SECTION(S)	PENALTY
17.	Failure to establish, maintain and implement appropriate risk-sensitive policies, procedures, systems and controls	Regulation 20 (1) of the AMLTFR	Regulation 20 (7) of the AMLTFR Liable on summary conviction to a fine of \$100,000
18	Failure to communicate the policies and procedures maintained to any subsidiary or branch, whether inside or outside the state	Regulation 20 (3) of the AMLTFR	Regulation 20 (7) of the AMLTFR Liable on summary conviction to a fine of \$100,000
19.	Failure to maintain adequate procedures for monitoring and testing effectiveness of policies and procedures maintained as well as any training provided	Regulation 20 (4) of the AMLTFR	Regulation 20 (7) of the AMLTFR Liable on summary conviction to a fine of \$100,000
20.	Failure to keep records for at least the minimum retention period or in a readily available format	Regulation 21(1) & (2) of the AMLTFR	Regulation 21(6) of the AMLTFR 2 years or a fine of \$100,000 or both upon summary conviction
21	Failure to make records available to a second service provider while acting as an introducer or intermediary.	Regulation 21 (3) of the AMLTFR	Regulation 21(6) of the AMLTFR 2 years or a fine of \$100,000 or both upon summary conviction
22.	Failure to train employees	Regulation 24 (1), (2) & (3) of the AMLTFR	Regulation 24 (4) of the AMLTFR Liable on summary conviction to a fine of \$100,000
23.	Failure to appoint an AML/CFT Reporting Officer / Compliance Officer	Regulation 25(1) & 26 (1) of the AMLTFR respectively	Regulation 25 (6) & 26 (7) of the AMLTFR respectively Liable on summary conviction to a fine of \$100,000