

SCHEDULES

SCHEDULE 7

Section 45

BANK ACCOUNTS

- 1 The Immigration Act 2014 is amended as follows.
- 2 After section 40 (prohibition on opening current accounts for disqualified persons) insert—

“40A Requirement to carry out immigration checks in relation to current accounts

- (1) A bank or building society must, at such times or with such frequency as is specified in regulations made by the Treasury, carry out an immigration check in relation to each current account held with it that is not an excluded account.
- (2) For the purposes of this section carrying out an “immigration check” in relation to a current account means checking whether, according to information supplied by the Secretary of State to a specified anti-fraud organisation or a specified data-matching authority, the account is operated by or for a disqualified person.
- (3) A “disqualified person” is a person—
 - (a) who is in the United Kingdom,
 - (b) who requires leave to enter or remain in the United Kingdom but does not have it, and
 - (c) for whom the Secretary of State considers that a current account should not be provided by a bank or building society.
- (4) A current account is an excluded account for the purposes of subsection (1) if the account is operated by or for a person or body of a description specified in regulations made by the Treasury.
- (5) An account is operated by or for a person or body if the person or body is an account holder or a signatory or identified as a beneficiary in relation to the account.
- (6) A bank or building society must—
 - (a) make arrangements with a specified anti-fraud organisation or a specified data-matching authority for the purpose of enabling the bank or building society to carry out immigration checks in relation to current accounts, and
 - (b) pay any reasonable fee required to be paid under those arrangements.
- (7) In this section “specified anti-fraud organisation” and “specified data-matching authority” have the same meaning as in section 40(3)(a).

Status: This is the original version (as it was originally enacted).

40B Requirement to notify existence of current accounts for disqualified persons

- (1) This section applies where, as a result of an immigration check carried out under section 40A, a bank or building society identifies a current account that is operated by or for a person who the bank or building society believes to be a disqualified person.
- (2) Where this section applies, the bank or building society (as the case may be) must as soon as reasonably practicable—
 - (a) notify the Secretary of State that a current account held with it is operated by or for a person who it believes to be a disqualified person, and
 - (b) provide the Secretary of State with such other information as may be prescribed.
- (3) A notification made, or information provided, under subsection (2) must be made or provided in the prescribed form and manner.
- (4) In subsections (2) and (3) “prescribed” means prescribed in regulations made by the Treasury.
- (5) Regulations under subsection (2) may (in particular) require the provision of information relating to any accounts held with the bank or building society that are operated by or for the person who is believed to be a disqualified person.

40C Action to be taken by Secretary of State following section 40B notification

- (1) Where the Secretary of State receives a notification from a bank or building society under section 40B(2) in relation to a person, the Secretary of State must check whether the person is a disqualified person.
- (2) If the Secretary of State determines that the person is a disqualified person, the Secretary of State may apply under section 40D for a freezing order in respect of one or more of the accounts held with the bank or building society that are operated by or for the disqualified person.
- (3) If the Secretary of State decides not to apply for a freezing order under subsection (2), or decides to apply for a freezing order in respect of one or more but not all of the accounts held with the bank or building society that are operated by or for the disqualified person, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person.
- (4) A notification made under subsection (3) must contain the prescribed information and be made in the prescribed form and manner.
- (5) In subsection (4) “prescribed” means prescribed in regulations made by the Treasury.
- (6) If the Secretary of State determines that the person is not a disqualified person, the Secretary of State must notify the bank or building society accordingly.

40D Freezing orders

- (1) On an application by the Secretary of State under section 40C(2), the court may make a freezing order in respect of any account specified in the application.
- (2) A freezing order in respect of an account is an order that prohibits each person and body by or for whom the account is operated from making withdrawals or payments from the account.
- (3) A freezing order may be made subject to exceptions.
- (4) An exception may (in particular)—
 - (a) make provision for the disqualified person to meet his or her reasonable living expenses and reasonable legal expenses;
 - (b) allow another person or body by or for whom the account is operated to make withdrawals or payments from the account.
- (5) An application for a freezing order may be made without notice.
- (6) The court may vary or discharge a freezing order made in respect of an account (whether made under this section or on an appeal under section 40E) on an application made by—
 - (a) the Secretary of State, or
 - (b) a person or body by or for whom the account is operated.
- (7) If the Secretary of State applies for a freezing order in respect of an account and the order is not made, or the order is made but subsequently discharged, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person.
- (8) A notification made under subsection (7) must contain the information and be in the form and manner prescribed in regulations made under subsection (4) of section 40C for the purposes of subsection (3) of that section.
- (9) In this section—

“the court” means—

 - (a) in England and Wales, a magistrates’ court;
 - (b) in Scotland, the sheriff;
 - (c) in Northern Ireland, a court of summary jurisdiction;

“the disqualified person” means the person who, following a check under section 40C(1), was determined to be a disqualified person, resulting in the application for the freezing order.

40E Freezing orders: appeals

- (1) An appeal may be made to the relevant appeal court against a decision of a court under section 40D.
- (2) The right of appeal under subsection (1) is exercisable by—
 - (a) the Secretary of State, and

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- (b) if the decision relates to a freezing order that is in force in respect of an account, a person or body by or for whom the account is operated.
- (3) On an appeal under this section the relevant appeal court may make—
 - (a) whatever orders are necessary to give effect to its determination of the appeal;
 - (b) whatever incidental or consequential orders appear to it to be just.
- (4) In this section “the relevant appeal court” means—
 - (a) the Crown Court, where the decision appealed against is a decision of a magistrates’ court;
 - (b) the Sheriff Appeal Court, where the decision appealed against is a decision of the sheriff;
 - (c) a county court, where the decision appealed against is a decision of a court of summary jurisdiction.

40F Freezing orders: code of practice

- (1) The Secretary of State must issue a code of practice—
 - (a) specifying the factors that the Secretary of State will consider when deciding whether to apply for a freezing order under section 40C(2),
 - (b) outlining the arrangements for keeping a freezing order under review for the purpose of deciding whether to apply under section 40D(6) for its variation or discharge, and
 - (c) specifying the factors that the Secretary of State will consider when deciding whether to make such an application.
- (2) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.
- (3) The code (or revised code)—
 - (a) may not be issued unless a draft has been laid before Parliament, and
 - (b) comes into force in accordance with provision contained in regulations made by the Secretary of State.

40G Closure of accounts not subject to freezing order

- (1) This section applies where—
 - (a) a bank or building society makes a notification under section 40B(2) in relation to a person,
 - (b) the person is determined by the Secretary of State (following a check under section 40C(1)) to be a disqualified person, and
 - (c) the bank or building society receives a notification under section 40C(3) or 40D(7) in relation to the disqualified person.
- (2) Where this section applies the bank or building society must as soon as reasonably practicable close each account held with it that—
 - (a) in the case of a notification under section 40C(3), is operated by or for the disqualified person and is not the subject of an application for a freezing order;

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- (b) in the case of a notification under section 40D(7), is operated by or for the disqualified person and in respect of which a freezing order is not in force.
- (3) The bank or building society may delay closing an account which it would otherwise be required to close under subsection (2) if at the time at which it would otherwise be required to close it—
 - (a) the account is overdrawn, or
 - (b) where the account is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society considers that closing the account would significantly adversely affect the interests of any of those other bodies or persons.
- (4) Where subsection (3) applies, closure of the account may be delayed for such period as is reasonable (but not indefinitely).
- (5) If an account falling within subsection (2) is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society is to be treated as having complied with that subsection in relation to that account if, as soon as reasonably practicable, it takes all such steps as are necessary to prevent the account from being operated by or for the disqualified person (instead of closing the account).
- (6) Where the bank or building society closes an account in compliance with this section, it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has closed the account.
- (7) Where the bank or building society prevents an account from being operated by or for the disqualified person by virtue of subsection (5), it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has prevented the account from being operated by or for the disqualified person.
- (8) The bank or building society must provide the Secretary of State with information about the steps that it has taken to comply with this section.
- (9) Information provided under subsection (8) must be provided in the prescribed form and manner and at the prescribed times or with the prescribed frequency.
- (10) In subsection (9) “prescribed” means prescribed in regulations made by the Treasury.

40H Sections 40A to 40G: interpretation

- (1) This section applies for the purposes of sections 40A to 40G.
- (2) “Account” includes a financial product by means of which a payment may be made.
- (3) “Freezing order” has the meaning given by section 40D(2).
- (4) “Disqualified person” has the meaning given by section 40A(3).
- (5) References to an account being operated by or for a person or body are to be read in accordance with section 40A(5).”

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- 3 (1) Section 41 (regulation by Financial Conduct Authority) is amended as follows.
- (2) In subsection (1), at the end insert “and the requirements imposed on them by sections 40A, 40B and 40G”.
- (3) In subsection (2)(a), at the end insert “or immigration checks under section 40A”.
- 4 In section 42 (meaning of “bank” and “building society”), in subsections (1) and (5), for “and 41” substitute “to 41”.
- 5 (1) Section 43 (power to amend) is amended as follows.
- (2) In subsection (1)(b), after “40(1)” insert “or the requirement in section 40A(1)”.
- (3) In subsection (1)(c), for “that section” substitute “section 40 or 40A”.
- 6 In section 74 (orders and regulations), in subsection (2) (statutory instruments to which the affirmative resolution procedure applies), after paragraph (b) insert—
- “(ba) regulations under section 40A(4);
(bb) regulations under section 40B;”.
- 7 (1) Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.
- (2) In subsection (3), for “subsection (4)” substitute “subsections (4) and (4ZA)”.
- (3) After subsection (4) insert—
- “(4ZA) This section applies to a freezing order made under section 40D of the Immigration Act 2014 by a magistrates’ court in England and Wales or a court of summary jurisdiction in Northern Ireland.”