

Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, PART 4BA. (See end of Document for details)

SCHEDULES

SCHEDULE 1

FORFEITURE OF TERRORIST ^[F1]PROPERTY]

Textual Amendments

- F1** Word in Sch. 1 heading substituted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(2\)](#); S.I. 2018/78, reg. 5(1)(c)

^[F1]PART 4BA

SEIZURE AND DETENTION OF TERRORIST CRYPTOASSETS

Textual Amendments

- F1** [Sch. 1 Pts. 4BA-4BD](#) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 10 para. 2](#)

Interpretation

10Z7A(1) In this Schedule—

“cryptoasset” means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;

“crypto wallet” means—

- (a) software,
- (b) hardware,
- (c) a physical item, or
- (d) any combination of the things mentioned in paragraphs (a) to (c),

which is used to store the cryptographic private key that allows cryptoassets to be accessed;

“terrorist cryptoasset” means a cryptoasset which—

- (a) is within subsection (1)(a) or (b) of section 1, or
- (b) is earmarked as terrorist property.

(2) The Secretary of State may by regulations made by statutory instrument amend the definitions of “cryptoasset” and “crypto wallet” in sub-paragraph (1).

(3) Regulations under sub-paragraph (2)—

- (a) may make different provision for different purposes;

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- (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) In this Part—
 - “cryptoasset-related item” means an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under this Part of terrorist cryptoassets;
 - “senior officer” means—
 - (a) a senior police officer;
 - (b) an officer of Revenue and Customs of a rank designated by the Commissioners for His Majesty’s Revenue and Customs as equivalent to that of a senior police officer;
 - (c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;
 - “senior police officer” means a police officer of at least the rank of superintendent.

Seizure of cryptoasset-related items

- 10Z7A(A) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that the item is a cryptoasset-related item.
- (2) If an authorised officer is lawfully on any premises, the officer may, for the purpose of—
 - (a) determining whether any property is a cryptoasset-related item, or
 - (b) enabling or facilitating the seizure under this Part of any terrorist cryptoasset,
 require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.
 - (3) But sub-paragraph (2) does not authorise an authorised officer to require a person to produce privileged information.
 - (4) In this paragraph “privileged information” means information which a person would be entitled to refuse to provide—
 - (a) in England and Wales and Northern Ireland, on grounds of legal professional privilege in proceedings in the High Court;
 - (b) in Scotland, on grounds of confidentiality of communications in proceedings in the Court of Session.
 - (5) Where an authorised officer has seized a cryptoasset-related item under sub-paragraph (1), the officer may use any information obtained from the item for the purpose of—
 - (a) identifying or gaining access to a crypto wallet, and
 - (b) by doing so, enabling or facilitating the seizure under this Part of any cryptoassets.

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Initial detention of cryptoasset-related items

10Z7A(B) Property seized under paragraph 10Z7AA may be detained for an initial period of 48 hours.

- (2) Sub-paragraph (1) authorises the detention of property only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to that property as described in paragraph 10Z7AA(1).
- (3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—
 - (a) any Saturday or Sunday,
 - (b) Christmas Day,
 - (c) Good Friday,
 - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
 - (e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

Further detention of cryptoasset-related items

10Z7A(C) The period for which property seized under paragraph 10Z7AA may be detained may be extended by an order made—

- (a) in England and Wales or Northern Ireland, by a magistrates' court;
 - (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any property—
 - (a) beyond the end of the period of 6 months beginning with the date of the order, and
 - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).
- (4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2) (b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—
 - (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and
 - (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (6) An application for an order under sub-paragraph (1) or (4) may be made—
 - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

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- (b) in relation to Scotland, by a procurator fiscal.
- (7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the item of property to be further detained, that—
 - (a) there are reasonable grounds for suspecting that it is a cryptoasset-related item, and
 - (b) its continuing detention is justified.
- (8) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the item of property to be further detained.
- (9) A “request for assistance” in sub-paragraph (8) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —
 - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
 - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,
 - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
 - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).
- (10) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

Seizure of cryptoassets

- 10Z7A(D) An authorised officer may seize cryptoassets if the authorised officer has reasonable grounds for suspecting that the cryptoassets are terrorist cryptoassets.
- (2) The circumstances in which a cryptoasset is “seized” for the purposes of sub-paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the authorised officer.

Prior authorisation for detention of cryptoassets

- 10Z7A(E) Where an order is made under paragraph 10Z7AC in respect of a cryptoasset-related item, the court, sheriff or justice making the order may, at the same time, make an order to authorise the detention of any cryptoassets that may be seized as a result of information obtained from that item.
- (2) An application for an order under this paragraph may be made, by a person mentioned in paragraph 10Z7AC(6), at the same time as an application for an order under paragraph 10Z7AC is made by that person.
 - (3) The court, sheriff or justice may make an order under this paragraph if satisfied that there are reasonable grounds for suspecting that the cryptoassets that may be seized are terrorist cryptoassets.

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- (4) An order under this paragraph authorises detention of the cryptoassets for the same period of time as the order under paragraph 10Z7AC authorises detention in respect of the cryptoasset-related item to which those cryptoassets relate.

Initial detention of cryptoassets

10Z7A(H) Cryptoassets seized under paragraph 10Z7AD may be detained for an initial period of 48 hours.

- (2) Sub-paragraph (1) authorises the detention of cryptoassets only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to those cryptoassets as described in paragraph 10Z7AD(1).
- (3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—
- (a) any Saturday or Sunday,
 - (b) Christmas Day,
 - (c) Good Friday,
 - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
 - (e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.
- (4) This paragraph is subject to paragraph 10Z7AE.

Further detention of cryptoassets

10Z7A(G) The period for which cryptoassets seized under paragraph 10Z7AD may be detained may be extended by an order made—

- (a) in England and Wales or Northern Ireland, by a magistrates' court;
 - (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any cryptoassets—
- (a) beyond the end of the period of 6 months beginning with the date of the order, and
 - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).
- (4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2) (b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—
- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and

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- (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (6) An application for an order under sub-paragraph (1) or (4) may be made—
 - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer;
 - (b) in relation to Scotland, by a procurator fiscal.
- (7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the cryptoassets to be further detained, that condition 1, condition 2 or condition 3 is met.
- (8) Condition 1 is that there are reasonable grounds for suspecting that the cryptoassets are intended to be used for the purposes of terrorism and that either—
 - (a) their continued detention is justified while their intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
 - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (9) Condition 2 is that there are reasonable grounds for suspecting that the cryptoassets consist of resources of an organisation which is a proscribed organisation and that either—
 - (a) their continued detention is justified while investigation is made into whether or not they consist of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
 - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (10) Condition 3 is that there are reasonable grounds for suspecting that the cryptoassets are property earmarked as terrorist property and that either—
 - (a) their continued detention is justified while their derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
 - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (11) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the cryptoassets to be further detained.
- (12) A “request for assistance” in sub-paragraph (11) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —
 - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
 - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,

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- (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
 - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).
- (13) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

Safekeeping of cryptoasset-related items and cryptoassets

10Z7A(H) An authorised officer must arrange for any item of property seized under paragraph 10Z7AA to be safely stored throughout the period during which it is detained under this Part.

- (2) An authorised officer must arrange for any cryptoassets seized under paragraph 10Z7AD to be safely stored throughout the period during which they are detained under this Part.

Release of cryptoasset-related items and cryptoassets

10Z7A(I) This paragraph applies while any cryptoasset or other item of property is detained under this Part.

- (2) A magistrates' court or (in Scotland) the sheriff may, subject to sub-paragraph (9), direct the release of the whole or any part of the property if the following condition is met.
- (3) The condition is that the court or sheriff is satisfied, on an application by the person from whom the property was seized, that the conditions for the detention of the property in this Part are no longer met in relation to the property to be released.
- (4) A person within sub-paragraph (5) may, subject to sub-paragraph (9) and after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of the property if satisfied that the detention of the property to be released is no longer justified.
- (5) The following persons are within this sub-paragraph—
 - (a) in relation to England and Wales and Northern Ireland, an authorised officer;
 - (b) in relation to Scotland, a procurator fiscal.
- (6) If any cryptoasset-related item which has been released is not claimed within the period of a year beginning with the date on which it was released, an authorised officer may—
 - (a) retain the item and deal with it as they see fit,
 - (b) dispose of the item, or
 - (c) destroy the item.
- (7) The powers in sub-paragraph (6) may be exercised only—
 - (a) where the authorised officer has taken reasonable steps to notify—
 - (i) the person from whom the item was seized, and
 - (ii) any other persons who the authorised officer has reasonable grounds to believe have an interest in the item,that the item has been released, and

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- (b) with the approval of a senior officer.
- (8) Any proceeds of a disposal of the item are to be paid—
- (a) into the Consolidated Fund if—
 - (i) the item was directed to be released by a magistrates’ court, or
 - (ii) a magistrates’ court or justice was notified under sub-paragraph (4) of the release;
 - (b) into the Scottish Consolidated Fund if—
 - (i) the item was directed to be released by the sheriff, or
 - (ii) the sheriff was notified under sub-paragraph (4) of the release.
- (9) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, the property is not to be released under this paragraph (and so is to continue to be detained) until the proceedings are concluded.]

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