

**Changes to legislation:** There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, PART 4BB. (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 4BB

##### TERRORIST CRYPTOASSETS: CRYPTO WALLET FREEZING ORDERS

##### 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

10Z7B(1) In this Part—

- (a) “cryptoasset exchange provider” means a firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—
- (i) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,
  - (ii) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or
  - (iii) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;
- (b) “custodian wallet provider” means a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer—
- (i) cryptoassets on behalf of its customers, or
  - (ii) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets;
- (c) “cryptoasset service provider” includes cryptoasset exchange provider and custodian wallet provider.

(2) In the definition of “cryptoasset exchange provider” in sub-paragraph (1)—

- (a) “cryptoasset” includes a right to, or interest in, a cryptoasset;

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- (b) “money” means—
- (i) money in sterling,
  - (ii) money in any other currency, or
  - (iii) money in any other medium of exchange,
- but does not include a cryptoasset.
- (3) The Secretary of State may by regulations made by statutory instrument amend the definitions in sub-paragraphs (1) and (2).
- (4) Regulations under sub-paragraph (3)—
- (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (5) A statutory instrument containing regulations under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) For the purposes of this Part—
- (a) a crypto wallet freezing order is an order that, subject to any exclusions (see paragraph 10Z7BD), prohibits each person by or for whom the crypto wallet to which the order applies is administered from—
    - (i) making withdrawals or payments from the crypto wallet, or
    - (ii) using the crypto wallet in any other way;
  - (b) a crypto wallet is administered by or for a person if the person is the person to whom services are being provided by a cryptoasset service provider in relation to that crypto wallet.
- (7) In this Part—
- “enforcement officer” means—
- (a) a constable, or
  - (b) a counter-terrorism financial investigator;
- “relevant court” means—
- (a) in England and Wales and Northern Ireland, a magistrates’ court, and
  - (b) in Scotland, the sheriff;
- “senior officer” means a police officer of at least the rank of superintendent;
- “UK-connected cryptoasset service provider” means a cryptoasset service provider which—
- (a) is acting in the course of business carried on by it in the United Kingdom,
  - (b) has terms and conditions with the persons to whom it provides services which provide for a legal dispute to be litigated in the courts of a part of the United Kingdom,
  - (c) holds, in the United Kingdom, any data relating to the persons to whom it provides services, or
  - (d) meets the condition in sub-paragraph (8).
- (8) The condition in this sub-paragraph is that—
- (a) the cryptoasset service provider has its registered office, or if it does not have one, its head office in the United Kingdom, and

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- (b) the day-to-day management of the provider's business is the responsibility of that office or another establishment maintained by it in the United Kingdom.

#### *Application for crypto wallet freezing order*

10Z7B(A) This paragraph applies if an enforcement officer has reasonable grounds for suspecting that cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider are terrorist cryptoassets.

- (2) Where this paragraph applies the enforcement officer may apply to the relevant court for a crypto wallet freezing order in relation to the crypto wallet in which the cryptoassets are held.
- (3) But—
  - (a) an enforcement officer may not apply for a crypto wallet freezing order unless the officer is a senior officer or is authorised to do so by a senior officer, and
  - (b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.
- (4) An application for a crypto wallet freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.
- (5) An application for a crypto wallet freezing order under this paragraph may be combined with an application for an account freezing order under paragraph 10Q where a single entity—
  - (a) is both a relevant financial institution for the purposes of paragraph 10Q and a cryptoasset service provider for the purposes of this Part, and
  - (b) operates or administers, for the same person, both an account holding money and a crypto wallet.

#### *Making of crypto wallet freezing order*

10Z7B(B) This paragraph applies where an application for a crypto wallet freezing order is made under paragraph 10Z7BA in relation to a crypto wallet.

- (2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that some or all of the cryptoassets held in the crypto wallet are terrorist cryptoassets.
- (3) A crypto wallet freezing order ceases to have effect at the end of the period specified in the order (which may be varied under paragraph 10Z7BC) unless it ceases to have effect at an earlier or later time in accordance with this Part or Part 4BC or 4BD.
- (4) The period specified by the relevant court for the purposes of sub-paragraph (3) (whether when the order is first made or on a variation under paragraph 10Z7BC) may not exceed the period of 2 years, beginning with the day on which the crypto wallet freezing order is (or was) made; but this is subject to sub-paragraph (5).
- (5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the day on which the crypto wallet freezing order is (or was) made.

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- (6) The relevant court may make an order under sub-paragraph (5) if satisfied that a request for assistance is outstanding in relation to some or all of the cryptoassets held in the crypto wallet.
- (7) A “request for assistance” in sub-paragraph (6) means a request for assistance in obtaining evidence (including information in any form or article) in connection with some or all of the cryptoassets held in the crypto wallet, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an enforcement 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).
- (8) A crypto wallet freezing order must provide for notice to be given to persons affected by the order.

*Variation and setting aside of crypto wallet freezing order*

- 10Z7B(1) The relevant court may at any time vary or set aside a crypto wallet freezing order on an application made by—
  - (a) an enforcement officer, or
  - (b) any person affected by the order.
- (2) But an enforcement officer may not make an application under sub-paragraph (1) unless the officer is a senior officer or is authorised to do so by a senior officer.
- (3) Before varying or setting aside a crypto wallet freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.
- (4) In relation to Scotland, the references in this paragraph to setting aside an order are to be read as references to recalling it.

*Exclusions*

- 10Z7B(1) The power to vary a crypto wallet freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the crypto wallet to which the order applies.
- (2) Exclusions from the prohibition may also be made when the order is made.
- (3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the crypto wallet is administered—
  - (a) to meet the person’s reasonable living expenses, or
  - (b) to carry on any trade, business, profession or occupation.
- (4) An exclusion may be made subject to conditions.

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- (5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Schedule, it must ensure that the exclusion—
- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,
  - (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
  - (c) is made subject to the same conditions as would be the required conditions (see section 286A of the Proceeds of Crime Act 2002) if the order had been made under section 245A of that Act (in addition to any conditions imposed under sub-paragraph (4)).
- (6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Schedule—
- (a) must have regard to the desirability of the person being represented in any proceedings under this Schedule in which the person is a participant, and
  - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—
    - (i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
    - (ii) be funded by the Department of Justice in Northern Ireland.
- (7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Schedule.
- (8) The power to make exclusions must, subject to sub-paragraph (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.

#### *Restriction on proceedings and remedies*

- 10Z7B(E) If a court in which proceedings are pending in respect of a crypto wallet administered by a UK-connected cryptoasset service provider is satisfied that a crypto wallet freezing order has been applied for or made in respect of the crypto wallet, it may either stay the proceedings or allow them to continue on any terms it thinks fit.
- (2) Before exercising the power conferred by sub-paragraph (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.
  - (3) In relation to Scotland, the reference in sub-paragraph (1) to staying the proceedings is to be read as a reference to sisting the proceedings.]

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