



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 2

#### TERRORIST PROPERTY

##### *Disclosures of information*

#### 35 Disclosure orders

Schedule 2 contains amendments to the Terrorism Act 2000 which enable the making of disclosure orders in connection with investigations into terrorist financing offences.

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#### **Commencement Information**

**II** S. 35 in force at Royal Assent for specified purposes, see s. 58

#### 36 Sharing of information within the regulated sector

After section 21C of the Terrorism Act 2000 insert—

##### **“21CA Voluntary disclosures within the regulated sector**

- (1) A person (A) may disclose information to one or more other persons if—
  - (a) conditions 1 to 4 are met, and
  - (b) where applicable, condition 5 is also met.
- (2) Condition 1 is that—
  - (a) A is carrying on a business in the regulated sector as a relevant undertaking,
  - (b) the information on which the disclosure is based came to A in the course of carrying on that business, and

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- (c) the person to whom the information is to be disclosed (or each of them, where the disclosure is to more than one person) is also carrying on a business in the regulated sector as a relevant undertaking (whether or not of the same kind as A).
- (3) Condition 2 is that—
    - (a) a constable has requested A to make the disclosure, or
    - (b) the person to whom the information is to be disclosed (or at least one of them, where the disclosure is to more than one person) has requested A to do so.
  - (4) Condition 3 is that, before A makes the disclosure, the required notification has been made to a constable (see section 21CB(5) to (7)).
  - (5) Condition 4 is that A is satisfied that the disclosure of the information will or may assist in determining any matter in connection with—
    - (a) a suspicion that a person is involved in the commission of a terrorist financing offence, or
    - (b) the identification of terrorist property or of its movement or use.
  - (6) Condition 5 is that, before making the disclosure request, the person making the request (or at least one of them, where the request is made by more than one person) has notified a constable that the request is to be made.
  - (7) Condition 5 does not apply where the disclosure request concerned is made by a constable.
  - (8) A person may disclose information to A for the purposes of making a disclosure request if, and to the extent that, the person has reason to believe that A has in A's possession information that will or may assist in determining any matter of the kind mentioned in paragraph (a) or (b) of subsection (5).

### **21CB Section 21CA: disclosure requests and notifications**

- (1) A disclosure request must—
  - (a) state that it is made in connection with—
    - (i) a suspicion that a person is involved in the commission of a terrorist financing offence, or
    - (ii) the identification of terrorist property or of its movement or use,
  - (b) identify the person or property (so far as known),
  - (c) describe the information that is sought from A, and
  - (d) specify the person or persons to whom it is requested that the information is disclosed.
- (2) Subsections (3) and (4) apply where the disclosure request is made by a person mentioned in section 21CA(3)(b).
- (3) If the request states that it is made in connection with a suspicion that a person is involved in the commission of a terrorist financing offence, the request must also—
  - (a) set out the grounds for the suspicion, or

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- (b) provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 21CA.
- (4) If the request states that it is made in connection with the identification of terrorist property or of its movement or use, the request must also provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 21CA.
- (5) A required notification for the purposes of section 21CA(4) must be made—
- (a) in the case of a disclosure request made by a constable, by the person who is to disclose information under section 21CA as a result of the request;
  - (b) in the case of a disclosure request made by a person mentioned in section 21CA(3)(b), by the person who made the request.
- (6) In a case within subsection (5)(a), the required notification must state that information is to be disclosed under section 21CA.
- (7) In a case within subsection (5)(b), the required notification must—
- (a) state that a disclosure request has been made;
  - (b) specify the person to whom the request was made;
  - (c) where the disclosure request to which the notification relates is made in connection with a suspicion of a person's involvement in the commission of a terrorist financing offence, identify the person (so far as known);
  - (d) where the disclosure request to which the notification relates is made in connection with the identification of terrorist property or of its movement or use, identify the property and the person who holds it (if known).
- (8) A notification for the purposes of condition 5 in subsection (6) of section 21CA must—
- (a) state that a disclosure request is to be made;
  - (b) specify the person to whom it is to be made;
  - (c) describe the information to be sought in the request;
  - (d) explain why the request is being made.

#### **21CC Section 21CA: effect on disclosures under section 21A**

- (1) This section applies if in any proceedings a question arises as to whether the required disclosure has been made—
- (a) by a person (A) who discloses information under section 21CA(1) as a result of a disclosure request,
  - (b) by a person (B) who makes a required notification in accordance with section 21CB(5)(b), or
  - (c) by any other person (C) to whom A discloses information under section 21CA(1) as a result of that request.
- (2) The making of a required notification in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of A, B and C.

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This is subject to section 21CD(1) to (8).

- (3) The making of a joint disclosure report in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of the persons who jointly make the report.

This is subject to section 21CD(10).

- (4) A joint disclosure report is a report to a constable that—
- (a) is made jointly by A and B (whether or not also jointly with other persons to whom A discloses information under section 21CA(1)),
  - (b) satisfies the requirements as to content mentioned in subsection (5) or (as the case may be) subsection (6),
  - (c) is prepared after the making of a disclosure by A to B under section 21CA(1) in connection with—
    - (i) a suspicion of a person's involvement in the commission of a terrorist financing offence, or
    - (ii) the identification of terrorist property or of its movement or use, and
  - (d) is sent to the constable before the end of the applicable period.
- (5) In the case of a joint disclosure report prepared in connection with a suspicion of a person's involvement in the commission of a terrorist financing offence, the requirements as to content are that the report must—
- (a) explain the extent to which there are continuing grounds to suspect that the person is involved in the commission of the offence,
  - (b) identify the person (if known),
  - (c) set out the grounds for the suspicion, and
  - (d) provide any other information relevant to the matter.
- (6) In the case of a joint disclosure report prepared in connection with the identification of terrorist property or of its movement or use, the requirements as to content are that the report must—
- (a) explain the extent to which there are continuing grounds to suspect that the property is terrorist property,
  - (b) identify the property and the person who holds it (if known),
  - (c) provide details of its movement or use (if known), and
  - (d) provide any other information relevant to the matter.
- (7) The applicable period is—
- (a) in a case where the disclosure under section 21CA was made as a result of a request from a constable by virtue of subsection (3)(a) of that section, whatever period may be specified by the constable when making the request;
  - (b) in a case where the disclosure was made as a result of a request from another person by virtue of subsection (3)(b) of that section, the period of 28 days beginning with the day on which the notification is made for the purposes of condition 3 in section 21CA(4).
- (8) A constable may vary the period of 28 days (whether by lengthening or shortening it) by giving written notice to the person who made the required notification.

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- (9) A joint disclosure report must be—
- (a) approved by the nominated officer of each person that jointly makes the report, and
  - (b) signed by the nominated officer on behalf of each such person.

If there is no nominated officer the report must be approved and signed by another senior officer.

- (10) References in this section to A, B or C include—
- (a) a nominated officer acting on behalf of A, B or C, and
  - (b) any other person who is an employee, officer or partner of A, B or C.

### **21CD Limitations on application of section 21CC(2) and (3)**

- (1) Subsections (2) and (3) apply in a case where the required notification is made by A (notification made as a result of disclosure request received from a constable).
- (2) Section 21CC(2) has effect in the case of A, B or C only so far as relating to—
- (a) the suspicion in connection with which the required notification is made, and
  - (b) matters known, suspected or believed as a result of the making of the disclosure request concerned.
- (3) Accordingly, section 21CC(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the disclosure request.
- (4) Subsections (5) to (8) apply in a case where the required notification is made by B (notification made as a result of disclosure request received from another undertaking in the regulated sector).
- (5) Section 21CC(2) has effect in the case of A or C only so far as relating to—
- (a) the suspicion in connection with which the notification by B is made, and
  - (b) matters known, suspected or believed by A or C as a result of the making of that notification.
- (6) Accordingly, section 21CC(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the notification.
- (7) Section 21CC(2) has effect in the case of B only so far as relating to—
- (a) the suspicion in connection with which the notification is made, and
  - (b) matters known, suspected or believed by B at the time of the making of the notification.
- (8) If a joint disclosure report is not made before the end of the applicable period (whether the required notification was made by A or B), section 21CC(2)—
- (a) has effect only so far as relating to any requirement to make the required disclosure that would have otherwise arisen within that period, and

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- (b) does not remove a requirement to make the required disclosure so far as arising after the end of that period on the part of any person in respect of matters that may become known, suspected or believed by the person after the time when the required notification was made.
- (9) If a joint disclosure report is not made before the end of the applicable period, the person who made the required notification must notify a constable that a report is not being made as soon as reasonably practicable after the period ends.
- (10) Section 21CC(3) has effect only so far as relating to—
  - (a) the suspicion in connection with which the report is made, and
  - (b) matters known, suspected or believed at the time of the making of the report.
- (11) Terms used in this section have the same meanings as in section 21CC.

### **21CE Section 21CA: supplementary**

- (1) A relevant disclosure made in good faith does not breach—
  - (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information, however imposed.
- (2) But a relevant disclosure may not include information obtained from a UK law enforcement agency unless that agency consents to the disclosure.
- (3) In a case where a person is acting on behalf of another (“the undertaking”) as a nominated officer—
  - (a) a relevant disclosure by the undertaking must be made by the nominated officer on behalf of the undertaking, and
  - (b) a relevant disclosure to the undertaking must be made to that officer.
- (4) Subsection (1) applies whether or not the conditions in section 21CA were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.
- (5) In this section—
  - “relevant disclosure” means any disclosure made in compliance, or intended compliance, with section 21CA;
  - “UK law enforcement agency” means—
    - (a) the National Crime Agency;
    - (b) a police force in England, Scotland, Northern Ireland or Wales;
    - (c) any other person operating in England, Scotland, Northern Ireland or Wales charged with the duty of preventing, detecting, investigating or prosecuting offences.

### **21CF Sections 21CA to 21CE: interpretation**

- (1) This section applies for the purposes of sections 21CA to 21CE.
- (2) References to a constable include references to a National Crime Agency officer authorised for those purposes by the Director General of that Agency.

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- (3) References to a business in the regulated sector are to be construed in accordance with Schedule 3A.
- (4) “Disclosure request” means a request made for the purposes of condition 2 in section 21CA(3).
- (5) “Nominated officer” means a person nominated to receive disclosures under section 21A.
- (6) “Relevant undertaking” means any of the following—
- (a) a credit institution;
  - (b) a financial institution;
  - (c) a professional legal adviser;
  - (d) a relevant professional adviser;
  - (e) other persons (not within paragraphs (a) to (d)) whose business consists of activities listed in paragraph 1(1) of Schedule 3A.
- (7) “Required disclosure” means a disclosure that is made—
- (a) to a constable in connection with a suspicion that a person is involved in the commission of a terrorist financing offence, and
  - (b) for the purposes of avoiding the commission of an offence under section 21A by virtue of not satisfying the third condition in subsection (4) of that section.
- (8) “Required notification” means a notification made for the purposes of condition 3 in section 21CA(4).
- (9) For the purposes of subsection (6)—
- (a) “credit institution” has the same meaning as in Schedule 3A;
  - (b) “financial institution” means an undertaking that carries on a business in the regulated sector by virtue of any of paragraphs (b) to (i) of paragraph 1(1) of that Schedule;
  - (c) “relevant professional adviser” has the meaning given by section 21H(5).
- (10) “Terrorist financing offence” means an offence under any of sections 15 to 18.”

#### Commencement Information

- I2** S. 36 in force at Royal Assent for specified purposes, see s. 58
- I3** S. 36 in force at 31.10.2017 for specified purposes by S.I. 2017/991, reg. 2(f)
- I4** S. 36 in force at 31.10.2017 for specified purposes by S.I. 2017/1028, reg. 2(b)

### 37 Further information orders

After section 22A of the Terrorism Act 2000 insert—

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### *“Further information orders*

#### **22B Further information orders**

- (1) A magistrates' court or (in Scotland) the sheriff may, on an application made by a law enforcement officer, make a further information order if satisfied that either condition 1 or condition 2 is met.
- (2) The application must—
  - (a) specify or describe the information sought under the order, and
  - (b) specify the person from whom the information is sought (“the respondent”).
- (3) A further information order is an order requiring the respondent to provide—
  - (a) the information specified or described in the application for the order, or
  - (b) such other information as the court or sheriff making the order thinks appropriate,so far as the information is in the possession, or under the control, of the respondent.
- (4) Condition 1 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under section 21A,
  - (b) the respondent is the person who made the disclosure or is otherwise carrying on a business in the regulated sector,
  - (c) the information would assist in—
    - (i) investigating whether a person is involved in the commission of an offence under any of sections 15 to 18 or in determining whether an investigation of that kind should be started, or
    - (ii) identifying terrorist property or its movement or use, and
  - (d) it is reasonable in all the circumstances for the information to be provided.
- (5) Condition 2 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under a corresponding disclosure requirement,
  - (b) an external request has been made to the National Crime Agency for the provision of information in connection with that disclosure,
  - (c) the respondent is carrying on a business in the regulated sector,
  - (d) the information is likely to be of substantial value to the authority that made the external request in determining any matter in connection with the disclosure, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6) For the purposes of subsection (5), “external request” means a request made by an authority of a foreign country which has responsibility in that country



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for carrying out investigations into whether a corresponding terrorist financing offence has been committed.

- (7) A further information order must specify—
- (a) how the information required under the order is to be provided, and
  - (b) the date by which it is to be provided.
- (8) If a person fails to comply with a further information order made by a magistrates' court, the magistrates' court may order the person to pay an amount not exceeding £5,000.
- (9) The sum mentioned in subsection (8) is to be treated as adjudged to be paid by a conviction of the court for the purposes of the Magistrates' Courts Act 1980 or (as the case may be) the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (10) In order to take account of changes in the value of money the Secretary of State may by regulations made by statutory instrument substitute another sum for the sum for the time being specified in subsection (8).
- (11) A statutory instrument containing regulations under subsection (10) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A law enforcement officer who is a constable, a National Crime Agency officer or a counter-terrorism financial investigator may not make an application under this section unless the officer is a senior law enforcement officer or is authorised to do so by a senior law enforcement officer.
- (13) Schedule 3A has effect for the purposes of this section in determining what is a business in the regulated sector.
- (14) In this section—
- “corresponding disclosure requirement” means a requirement to make a disclosure under the law of the foreign country concerned that corresponds to a requirement imposed by virtue of this Part;
  - “corresponding terrorist financing offence” means an offence under the law of the foreign country concerned that would, if done in the United Kingdom, constitute an offence under any of sections 15 to 18;
  - “foreign country” means a country or territory outside the United Kingdom;
  - “law enforcement officer” means—
    - (a) a constable,
    - (b) a National Crime Agency officer authorised for the purposes of this section by the Director General of that Agency,
    - (c) a counter-terrorism financial investigator, or
    - (d) a procurator fiscal;
  - “senior law enforcement officer” means—
    - (a) a police officer of at least the rank of superintendent;
    - (b) the Director General of the National Crime Agency;
    - (c) any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.

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### **22C Statements**

- (1) A statement made by a person in response to a further information order may not be used in evidence against the person in criminal proceedings.
- (2) Subsection (1) does not apply—
  - (a) in the case of proceedings under this Part,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).
- (3) A statement may not be used by virtue of subsection (2)(c) unless—
  - (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In subsection (2)(b) the reference to a prosecution for perjury is—
  - (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

### **22D Appeals**

- (1) An appeal from a decision on an application for a further information order lies to the relevant appeal court.
- (2) An appeal under this section lies at the instance of any person who was a party to the proceedings on the application.
- (3) The “relevant appeal court” is—
  - (a) the Crown Court, in the case of a decision made by a magistrates' court in England and Wales;
  - (b) a county court, in the case of a decision made by a magistrates' court in Northern Ireland;
  - (c) the Sheriff Appeal Court, in the case of a decision made by the sheriff.
- (4) On an appeal under this section the relevant appeal court may—
  - (a) make or (as the case may be) discharge a further information order, or
  - (b) vary the order.

### **22E Supplementary**

- (1) A further information order does not confer the right to require a person to provide privileged information.
- (2) “Privileged information” is information which a person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in

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the High Court or, in Scotland, legal privilege as defined by section 412 of the Proceeds of Crime Act 2002.

- (3) Information provided in pursuance of a further information order is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (4) An application for a further information order may be heard and determined in private.
- (5) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to further information orders.”

#### Commencement Information

**I5** S. 37 in force at Royal Assent for specified purposes, see s. 58

**I6** S. 37 in force at 31.10.2017 in so far as not already in force by S.I. 2017/991, reg. 2(g) (with reg. 3(3))

### *Civil recovery*

## **38 Forfeiture of terrorist cash**

- (1) Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash) is amended as follows.
- (2) In paragraph 1 (meaning of terrorist cash)—
  - (a) after sub-paragraph (2)(e) insert—
    - “(f) gaming vouchers,
    - (g) fixed-value casino tokens,
    - (h) betting receipts.”;
  - (b) after sub-paragraph (4) insert—
    - “(5) For the purposes of sub-paragraph (2)—
      - (a) “gaming voucher” means a voucher in physical form issued by a gaming machine that represents a right to be paid the amount stated on it;
      - (b) “fixed-value casino token” means a casino token that represents a right to be paid the amount stated on it;
      - (c) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.
- (6) In sub-paragraph (5)—
  - “bet”—
    - (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;
    - (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements

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(Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);

“betting licence”—

- (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;
- (b) in relation to Northern Ireland, means a bookmaker's licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

“gaming machine”—

- (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);
- (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).

(7) In the application of sub-paragraph (5) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).”

(3) In paragraph 3 (detention of seized cash)—

- (a) in sub-paragraph (2)(a), for “three” substitute “ 6 ”;
- (b) after sub-paragraph (8) insert—

“(9) Where an application for an order under sub-paragraph (2) relates to cash seized under paragraph 2(2), the court, sheriff or justice may make the order if satisfied that—

- (a) the condition in sub-paragraph (6), (7) or (8) is met in respect of part of the cash, and
- (b) it is not reasonably practicable to detain only that part.”

(4) After paragraph 5 insert—

## “PART 2A

### FORFEITURE OF TERRORIST CASH WITHOUT COURT ORDER

#### 5A *Cash forfeiture notice*

- (1) This paragraph applies while any cash is detained in pursuance of an order under paragraph 3(2).
- (2) A senior officer may give a notice for the purpose of forfeiting the cash or any part of it if satisfied that the cash or part is terrorist cash.
- (3) A notice given under sub-paragraph (2) is referred to in this Schedule as a cash forfeiture notice.

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- (4) A cash forfeiture notice must—
  - (a) state the amount of cash in respect of which it is given,
  - (b) state when and where the cash was seized,
  - (c) confirm that the senior officer is satisfied as mentioned in subparagraph (2),
  - (d) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - (e) explain that the cash will be forfeited unless an objection is received at that address within the period for objecting.
- (5) The period for objecting must be at least 30 days starting with the day after the notice is given.
- (6) The Secretary of State must by regulations made by statutory instrument make provision about how a cash forfeiture notice is to be given.
- (7) The regulations may (amongst other things) provide—
  - (a) for a cash forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;
  - (b) for a cash forfeiture notice to be given by publication in such manner as may be prescribed;
  - (c) for circumstances in which, and the time at which, a cash forfeiture notice is to be treated as having been given.
- (8) The regulations must ensure that where a cash forfeiture notice is given it is, if possible, given to every person to whom notice of an order under paragraph 3(2) in respect of the cash has been given.
- (9) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this Part of this Schedule—

“senior officer” means—

  - (a) a senior police officer;
  - (b) an officer of Revenue and Customs of a rank designated by the Commissioners for Her 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.

#### **5B *Effect of cash forfeiture notice***

- (1) This paragraph applies if a cash forfeiture notice is given in respect of any cash.
- (2) The cash is to be detained until—
  - (a) the cash is forfeited under this paragraph,
  - (b) the notice lapses under this paragraph, or
  - (c) the cash is released under a power conferred by this Schedule.

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- (3) If no objection is made within the period for objecting specified in the notice under paragraph 5A(4)(d), and the notice has not lapsed, the cash is forfeited (subject to paragraph 5D).
- (4) If an objection is made within the period for objecting, the notice lapses.
- (5) If an application is made for the forfeiture of the whole or any part of the cash under paragraph 6, the notice lapses.
- (6) If the cash or any part of it is released under a power conferred by this Schedule, the notice lapses or (as the case may be) lapses in relation to that part.
- (7) An objection may be made by anyone (whether a recipient of the notice or not).
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the cash under paragraph 6.
- (10) Nothing in this paragraph affects the validity of an order under paragraph 3(2).

#### **5C *Detention following lapse of cash forfeiture notice***

- (1) This paragraph applies if—
  - (a) a cash forfeiture notice is given in respect of any cash,
  - (b) the notice lapses under paragraph 5B(4), and
  - (c) the period for which detention of the cash was authorised under paragraph 3(2) has expired.
- (2) The cash may be detained for a further period of up to 48 hours (calculated in accordance with paragraph 3(1A)).
- (3) But if within that period it is decided that neither of the applications mentioned in sub-paragraph (4) is to be made, the cash must be released.
- (4) The applications are—
  - (a) an application for a further order under paragraph 3(2);
  - (b) an application for forfeiture of the cash under paragraph 6.
- (5) If within that period an application is made for a further order under paragraph 3(2), the cash may be detained until the application is determined or otherwise disposed of.

#### **5D *Application to set aside forfeiture***

- (1) A person aggrieved by the forfeiture of cash in pursuance of paragraph 5B(3) may apply to a magistrates' court or (in Scotland) the sheriff for an order setting aside the forfeiture of the cash or any part of it.
- (2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended (“the 30-day period”).

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, PART 2. (See end of Document for details)*

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- (3) But the court or sheriff may give permission for an application to be made after the 30-day period has ended if the court or sheriff thinks that there are exceptional circumstances to explain why the applicant—
  - (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (4) On an application under this paragraph the court or sheriff must consider whether the cash to which the application relates could be forfeited under paragraph 6 (ignoring the forfeiture mentioned in sub-paragraph (1)).
- (5) If the court or sheriff is satisfied that the cash to which the application relates or any part of it could not be forfeited under that paragraph the court or sheriff must set aside the forfeiture of that cash or part.
- (6) Where the court or sheriff sets aside the forfeiture of any cash—
  - (a) the court or sheriff must order the release of that cash, and
  - (b) the cash is to be treated as never having been forfeited.

**5E Release of cash subject to cash forfeiture notice**

- (1) This paragraph applies while any cash is detained under paragraph 5B or 5C.
- (2) The person from whom the cash was seized may apply to a magistrates' court or (in Scotland) the sheriff for the cash to be released.
- (3) On an application under sub-paragraph (2), the court or sheriff may direct the release of the cash or any part of it if not satisfied that the cash to be released is terrorist cash.
- (4) An authorised officer may release the cash or any part of it if satisfied that the detention of the cash to be released is no longer justified.

**5F Application of cash forfeited under cash forfeiture notice**

- (1) Cash forfeited in pursuance of paragraph 5B(3), and any accrued interest on it—
  - (a) if first detained in pursuance of an order under paragraph 3(2) made by a magistrates' court or a justice of the peace, is to be paid into the Consolidated Fund;
  - (b) if first detained in pursuance of an order under paragraph 3(2) made by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
  - (a) before the end of the period within which an application under paragraph 5D may be made (ignoring the possibility of an application by virtue of paragraph 5D(3)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.”
- (5) In paragraph 7(4) (release of cash on appeal against decision in forfeiture proceedings), after “of” insert “ the whole or any part of ”.
- (6) In paragraph 9 (victims), after sub-paragraph (3) insert—

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“(4) If sub-paragraph (5) applies, the court or sheriff may order the cash to be released to the applicant or to the person from whom it was seized.

(5) This sub-paragraph applies where—

- (a) the applicant is not the person from whom the cash claimed was seized,
- (b) it appears to the court or sheriff that the cash belongs to the applicant,
- (c) the court or sheriff is satisfied that the release condition is met in relation to the cash, and
- (d) no objection to the making of an order under sub-paragraph (4) has been made by the person from whom the cash was seized.

(6) The release condition is met—

- (a) in relation to cash detained under paragraph 3, if the conditions in that paragraph for the detention of the cash are no longer met,
- (b) in relation to cash detained under paragraph 5B or 5C, if the cash is not terrorist cash, and
- (c) in relation to cash detained pending the conclusion of proceedings in pursuance of an application under paragraph 6, if the court or sheriff decides not to make an order under that paragraph in relation to the cash.”

(7) In paragraph 19 (general interpretation), in sub-paragraph (1), at the appropriate places insert—

““cash forfeiture notice” has the meaning given by paragraph 5A(3),”;

““senior officer” (in Part 2A) has the meaning given by paragraph 5A(10),”.

#### **Commencement Information**

**I7** S. 38 in force at Royal Assent for specified purposes, see s. 58

**I8** S. 38(4) in force at 30.1.2018 for specified purposes by [S.I. 2018/78](#), **reg. 2(d)**

### **39 Forfeiture of certain personal (or moveable) property**

Schedule 3 contains amendments to the Anti-terrorism, Crime and Security Act 2001 which enable the forfeiture of certain personal (or moveable) property which—

- (a) is intended to be used for the purposes of terrorism,
- (b) consists of resources of a proscribed organisation, or
- (c) is, or represents, property obtained through terrorism.

#### **Commencement Information**

**I9** S. 39 in force at Royal Assent for specified purposes, see s. 58

**I10** S. 39 in force at 30.1.2018 for specified purposes by [S.I. 2018/78](#), **reg. 2(e)**



*Status: Point in time view as at 30/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, PART 2. (See end of Document for details)*

#### **40 Forfeiture of money held in bank and building society accounts**

Schedule 4 contains amendments to the Anti-terrorism, Crime and Security Act 2001 which enable the forfeiture of money held in a bank or building society account which—

- (a) is intended to be used for the purposes of terrorism,
- (b) consists of resources of a proscribed organisation, or
- (c) is, or represents, property obtained through terrorism.

##### **Commencement Information**

**I11** S. 40 in force at Royal Assent for specified purposes, see s. 58

**I12** S. 40 in force at 30.1.2018 for specified purposes by S.I. 2018/78, reg. 2(f)

#### *Counter-terrorism financial investigators*

#### **41 Extension of powers to financial investigators**

- (1) The Terrorism Act 2000 is amended in accordance with subsections (2) to (5).
- (2) After section 63E insert—

#### *“Counter-terrorism financial investigators*

##### **63F Counter-terrorism financial investigators**

- (1) The metropolitan police force must provide a system for the accreditation of financial investigators (“counter-terrorism financial investigators”).
- (2) The system of accreditation must include provision for—
  - (a) the monitoring of the performance of counter-terrorism financial investigators,
  - (b) the withdrawal of accreditation from any person who contravenes or fails to comply with any condition subject to which he or she was accredited, and
  - (c) securing that decisions under that system which concern—
    - (i) the grant or withdrawal of accreditations, or
    - (ii) the monitoring of the performance of counter-terrorism financial investigators,are taken without regard to their effect on operations by the metropolitan police force or any other person.
- (3) A person may be accredited if he or she is—
  - (a) a member of the civilian staff of a police force in England and Wales (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011;
  - (b) a member of staff of the City of London police force;
  - (c) a member of staff of the Police Service of Northern Ireland.
- (4) A person may be accredited—

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- (a) in relation to this Act;
  - (b) in relation to the Anti-terrorism, Crime and Security Act 2001;
  - (c) in relation to particular provisions of this Act or of the Anti-terrorism, Crime and Security Act 2001.
- (5) But the accreditation may be limited to specified purposes.
- (6) A reference in this Act or in the Anti-terrorism, Crime and Security Act 2001 to a counter-terrorism financial investigator is to be construed accordingly.
- (7) The metropolitan police force must make provision for the training of persons in—
- (a) financial investigation,
  - (b) the operation of this Act, and
  - (c) the operation of the Anti-terrorism, Crime and Security Act 2001.”
- (3) In Part 1 of Schedule 5 (terrorist investigations: information: England and Wales and Northern Ireland)—
- (a) in paragraph 5—
    - (i) in sub-paragraph (1) for “A constable” substitute “ An appropriate officer ”;
    - (ii) after sub-paragraph (1) insert—
 

“(1A) Where the appropriate officer is a counter-terrorism financial investigator, the officer may apply for an order under this paragraph only for the purposes of a terrorist investigation so far as relating to terrorist property.”;
    - (iii) in sub-paragraph (3)(a) for “a constable” substitute “ an appropriate officer ”;
    - (iv) in sub-paragraph (3)(b) for “a constable” substitute “ an appropriate officer ”;
    - (v) after sub-paragraph (5) insert—
 

“(6) “Appropriate officer” means—

      - (a) a constable, or
      - (b) a counter-terrorism financial investigator.”;
  - (b) in paragraph 6 after sub-paragraph (3) insert—
 

“(4) In the case of an order sought by a counter-terrorism financial investigator, the first condition is satisfied only to the extent that the terrorist investigation mentioned in sub-paragraph (2)(a) and (b) relates to terrorist property.”;
  - (c) in paragraph 7(2)(a) for “constable” substitute “ appropriate officer (as defined in paragraph 5(6)) ”;
  - (d) in paragraph 13 after sub-paragraph (1) insert—
 

“(1A) A counter-terrorism financial investigator may apply to a Circuit Judge or a District Judge (Magistrates' Courts) for an order under this paragraph requiring any person specified in the order to provide an explanation of any material produced or made available to a counter-terrorism financial investigator under paragraph 5.”
- (4) In paragraph 1 of Schedule 6 (financial information orders)—

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- (a) in sub-paragraph (1) after “constable” insert “ or counter-terrorism financial investigator ”;
  - (b) in sub-paragraph (2)(a) after “constable” insert “ or counter-terrorism financial investigator ”.
- (5) In Schedule 6A (account monitoring orders)—
- (a) in paragraph 1 after sub-paragraph (4)(a) insert—
    - “(aa) a counter-terrorism financial investigator, in England and Wales or Northern Ireland;”;
  - (b) after paragraph 3(3) insert—
    - “(4) If the application was made by a counter-terrorism financial investigator, the description of information specified in it may be varied by a different counter-terrorism financial investigator.”;
  - (c) after paragraph 4(2) insert—
    - “(2A) If the application for the account monitoring order was made by a counter-terrorism financial investigator, an application to discharge or vary the order may be made by a different counter-terrorism financial investigator.”
- (6) In Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash)—
- (a) after paragraph 10(7) insert—
    - “(7A) If the cash was seized by a counter-terrorism financial investigator, the compensation is to be paid as follows—
      - (a) in the case of a counter-terrorism financial investigator who was—
        - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
        - (ii) a member of staff of the City of London police force, it is to be paid out of the police fund from which the expenses of the police force are met,
      - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.”;
  - (b) in paragraph 19(1)—
    - (i) in the definition of “authorised officer”, after “constable” insert “ , a counter-terrorism financial investigator ”;
    - (ii) at the appropriate place insert—
      - ““counter-terrorism financial investigator” is to be read in accordance with section 63F of the Terrorism Act 2000,”.

#### **Commencement Information**

**I13** S. 41 in force at Royal Assent for specified purposes, see s. 58(6)

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*Status: Point in time view as at 30/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, PART 2. (See end of Document for details)*

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## 42 Offences in relation to counter-terrorism financial investigators

(1) After section 120A of the Terrorism Act 2000 insert—

### “120B Offences in relation to counter-terrorism financial investigators

- (1) A person commits an offence if the person assaults a counter-terrorism financial investigator who is acting in the exercise of a relevant power.
  - (2) A person commits an offence if the person resists or wilfully obstructs a counter-terrorism financial investigator who is acting in the exercise of a relevant power.
  - (3) A person guilty of an offence under subsection (1) is liable—
    - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;
    - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
  - (4) A person guilty of an offence under subsection (2) is liable—
    - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;
    - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.
  - (5) In this section “relevant power” means a power exercisable under Schedule 5 (terrorist investigations: information) or Part 1 of Schedule 5A (terrorist financing investigations in England and Wales and Northern Ireland: disclosure orders).
  - (6) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—
    - (a) the reference to 51 weeks in subsection (3)(a) is to be read as a reference to 6 months;
    - (b) the reference to 51 weeks in subsection (4)(a) is to be read as a reference to 1 month.”
- (2) After paragraph 10Z7 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (inserted by Schedule 4 to this Act) insert—

## “PART 4C

### OFFENCES

#### *Offences in relation to counter-terrorism financial investigators*

- 10Z8 (1) A person commits an offence if the person assaults a counter-terrorism financial investigator who is acting in the exercise of a power under this Schedule.

*Status: Point in time view as at 30/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, PART 2. (See end of Document for details)*

- (2) A person commits an offence if the person resists or wilfully obstructs a counter-terrorism financial investigator who is acting in the exercise of a power under this Schedule.
- (3) A person guilty of an offence under sub-paragraph (1) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) A person guilty of an offence under sub-paragraph (2) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—
  - (a) the reference to 51 weeks in sub-paragraph (3)(a) is to be read as a reference to 6 months;
  - (b) the reference to 51 weeks in sub-paragraph (4)(a) is to be read as a reference to 1 month.”

**Commencement Information**

**I14** S. 42 in force at Royal Assent for specified purposes, see s. 58(6)

*Enforcement in other parts of United Kingdom*

**43 Enforcement in other parts of United Kingdom**

After section 120B of the Terrorism Act 2000 (inserted by section 42 above) insert—

**“120C Enforcement of orders in other parts of United Kingdom**

- (1) Her Majesty may by Order in Council make provision for an investigatory order made in one part of the United Kingdom to be enforced in another part.
- (2) In subsection (1) “investigatory order” means any of the following kinds of order—
  - (a) an order under section 22B (further information orders);
  - (b) an order under paragraph 5 of Schedule 5 (production orders: England and Wales and Northern Ireland) that is made in connection with a terrorist investigation in relation to terrorist property;

*Status: Point in time view as at 30/01/2018.*

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- (c) an order under paragraph 13(1)(b) of that Schedule that is made in connection with material produced or made available as a result of an order within paragraph (b) of this subsection;
  - (d) an order under paragraph 22 of Schedule 5 (production orders: Scotland) that is made in connection with a terrorist investigation in relation to terrorist property;
  - (e) an order under paragraph 30(1)(b) of that Schedule that is made in connection with material produced or made available as a result of an order within paragraph (d) of this subsection;
  - (f) an order under paragraph 9 of Schedule 5A (disclosure orders: England and Wales and Northern Ireland);
  - (g) an order under paragraph 19 of that Schedule (disclosure orders: Scotland);
  - (h) an order under paragraph 1 of Schedule 6 (financial information orders);
  - (i) an order under paragraph 2 of Schedule 6A (account monitoring orders).
- (3) An Order under this section may apply (with or without modifications) any provision of or made under—
- (a) an Act (including this Act),
  - (b) an Act of the Scottish Parliament, or
  - (c) Northern Ireland legislation.
- (4) An Order under this section—
- (a) may make different provision for different purposes;
  - (b) may include supplementary, incidental, saving or transitional provisions.
- (5) Rules of court may make whatever provision is necessary or expedient to give effect to an Order under this section.
- (6) A statutory instrument containing an Order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### **Commencement Information**

**I15** S. 43 in force at Royal Assent for specified purposes, see s. 58

**I16** S. 43 in force at 31.10.2017 in so far as not already in force by S.I. 2017/991, reg. 2(h)

**Status:**

Point in time view as at 30/01/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Finances Act 2017, PART 2.