

*Status: Point in time view as at 31/01/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Finances Act 2017, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 39

#### FORFEITURE OF CERTAIN PERSONAL (OR MOVEABLE) PROPERTY

- 1 Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash) is amended as follows.

#### Commencement Information

- I1** Sch. 3 para. 1 in force at Royal Assent for specified purposes, see s. 58  
**I2** Sch. 3 para. 1 in force at 30.1.2018 for specified purposes by S.I. 2018/78, reg. 2(e)  
**I3** Sch. 3 para. 1 in force at 31.1.2018 in so far as not already in force by S.I. 2018/78, reg. 3(cc)

- 2 After paragraph 10 insert—

#### “PART 4A

#### FORFEITURE OF TERRORIST ASSETS

##### *Definition of “listed asset”*

- 10A(1) In this Part of this Schedule, a “listed asset” means an item of property that falls within one of the following descriptions of property—
- (a) precious metals;
  - (b) precious stones;
  - (c) watches;
  - (d) artistic works;
  - (e) face-value vouchers;
  - (f) postage stamps.
- (2) The Secretary of State may by regulations made by statutory instrument amend sub-paragraph (1)—
- (a) by removing a description of property;
  - (b) by adding a description of tangible personal (or corporeal moveable) property.
- (3) 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.
- (4) In this paragraph—
- (a) “precious metal” means gold, silver or platinum (whether in an unmanufactured or a manufactured state);

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- (b) “artistic work” means a piece of work falling within section 4(1)(a) of the Copyright, Designs and Patents Act 1988;
- (c) “face-value voucher” means a voucher in physical form that represents a right to receive goods or services to the value of an amount stated on it.

*Seizure of listed assets*

- 10B (1) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that—
- (a) it is a listed asset, and
  - (b) it is within subsection (1)(a) or (b) of section 1 or it is property earmarked as terrorist property.
- (2) An authorised officer may also seize any item of property if—
- (a) the authorised officer has reasonable grounds for suspecting the item to be a listed asset,
  - (b) the authorised officer has reasonable grounds for suspecting that part of the item is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
  - (c) it is not reasonably practicable to seize only that part.

*Initial detention of seized property*

- 10C (1) Property seized under paragraph 10B 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 10B(1) or (2) (as the case may be).
- (3) In calculating a period of hours for the purposes of this paragraph, no account shall 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 under 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 seized property*

- 10D (1) The period for which property seized under paragraph 10B, or any part of that property, 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.

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- (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.
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1) extending a particular period of detention.
- (4) 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.
- (5) An application for an order under sub-paragraph (1) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for Her Majesty's Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (6) The court, sheriff or justice may make the order if satisfied, in relation to the item of property to be further detained, that—
  - (a) it is a listed asset, and
  - (b) condition 1, condition 2 or condition 3 is met.
- (7) Condition 1 is that there are reasonable grounds for suspecting that the property is intended to be used for the purposes of terrorism and that either—
  - (a) its continued detention is justified while its 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 property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (8) Condition 2 is that there are reasonable grounds for suspecting that the property consists of resources of an organisation which is a proscribed organisation and that either—
  - (a) its continued detention is justified while investigation is made into whether or not it consists 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 property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.

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- (9) Condition 3 is that there are reasonable grounds for suspecting that the property is property earmarked as terrorist property and that either—
- (a) its continued detention is justified while its 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 property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (10) Where an application for an order under sub-paragraph (1) relates to an item of property seized under paragraph 10B(2), the court, sheriff or justice may make the order if satisfied that—
- (a) the item of property is a listed asset,
  - (b) condition 1, 2 or 3 is met in respect of part of the item, and
  - (c) it is not reasonably practicable to detain only that part.
- (11) An order under sub-paragraph (1) must provide for notice to be given to persons affected by it.

*Testing and safekeeping of property seized under paragraph 10B*

- 10E (1) An authorised officer may carry out (or arrange for the carrying out of) tests on any item of property seized under paragraph 10B for the purpose of establishing whether it is a listed asset.
- (2) An authorised officer must arrange for any item of property seized under paragraph 10B to be safely stored throughout the period during which it is detained under this Part of this Schedule.

*Release of detained property*

- 10F (1) This paragraph applies while any property is detained under this Part of this Schedule.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the property if satisfied, on an application by the person from whom the property was seized, that the conditions in paragraph 10C or 10D (as the case may be) for the detention of the property are no longer met in relation to the property to be released.
- (3) An authorised officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of it if satisfied that the detention of the property to be released is no longer justified.
- (4) But property is not to be released under this paragraph—
- (a) if an application for its release under paragraph 10O is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, until the proceedings are concluded.

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See also paragraph 10G(7).

### *Forfeiture*

- 10G(1) While property is detained under this Part of this Schedule, an application for the forfeiture of the whole or any part of it may be made—
- (a) to a magistrates' court, by the Commissioners for Her Majesty's Revenue and Customs or an authorised officer;
  - (b) to the sheriff, by the Scottish Ministers.
- (2) The court or sheriff may order the forfeiture of the property or any part of it if satisfied that—
- (a) the property is a listed asset, and
  - (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (3) An order under sub-paragraph (2) made by a magistrates' court may provide for payment under paragraph 10N of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
- (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.
- (4) A sum in respect of a relevant item of expenditure is not payable under paragraph 10N in pursuance of provision under sub-paragraph (3) unless—
- (a) the person who applied for the order under sub-paragraph (2) agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (5) For the purposes of sub-paragraph (4)—
- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (2) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
  - (c) if the person who applied for the order under sub-paragraph (2) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (6) Sub-paragraph (2) ceases to apply on the transfer of an application made under this paragraph in accordance with paragraph 10J(1)(a) or (b).
- (7) Where an application for the forfeiture of any property is made under this paragraph, the property is to be detained (and may not be released under any power conferred by this Part of this Schedule) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.
- (8) Where the property to which the application relates is being detained under this Part of this Schedule as part of an item of property, having been seized

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under paragraph 10B(2), sub-paragraph (7) is to be read as if it required the continued detention of the whole of the item of property.

- (9) For the purposes of sub-paragraph (5)(c), a “senior officer” means—
- (a) in relation to an application made by a constable or a counter-terrorism financial investigator, a senior police officer;
  - (b) in relation to an application made by an officer of Revenue and Customs, such an officer of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;
  - (c) in relation to an application made by an immigration officer, such an officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer.
- (10) In sub-paragraph (9), a “senior police officer” means a police officer of at least the rank of superintendent.

*Associated and joint property*

10H(1) Paragraphs 10I and 10J apply if—

- (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court or sheriff is satisfied that the property is a listed asset,
  - (c) the court or sheriff is satisfied that all or part of the property is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
  - (d) there exists property that is associated with the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c).
- (2) Paragraphs 10I and 10J also apply in England and Wales and Northern Ireland if—
- (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court is satisfied that the property is a listed asset,
  - (c) the court is satisfied that all or part of the property is property earmarked as terrorist property, and
  - (d) the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c) belongs to joint tenants and one of the tenants is an excepted joint owner.
- (3) In this paragraph and paragraphs 10I and 10J “associated property” means property of any of the following descriptions that is not itself the forfeitable property—
- (a) any interest in the forfeitable property;
  - (b) any other interest in the property in which the forfeitable property subsists;
  - (c) if the forfeitable property is a tenancy in common, the tenancy of the other tenant;
  - (d) if (in Scotland) the forfeitable property is owned in common, the interest of the other owner;

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- (e) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

- (4) In this paragraph and paragraphs 10I and 10J the “forfeitable property” means the property in relation to which the court or sheriff is satisfied as mentioned in sub-paragraph (1)(c) or (2)(c) (as the case may be).
- (5) For the purposes of this paragraph and paragraphs 10I and 10J—
  - (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him or her) be earmarked, and
  - (b) references to the excepted joint owner's share of property are to so much of the property as would have been his or hers if the joint tenancy had been severed.

*Agreements about associated and joint property*

10I (1) Where—

- (a) this paragraph applies, and
  - (b) the person who applied for the order under paragraph 10G (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,  
the magistrates' court or sheriff may, instead of making an order under paragraph 10G(2), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.
- (2) The amount of the payment is (subject to sub-paragraph (3)) to be the amount which the persons referred to in sub-paragraph (1)(b) agree represents—
    - (a) in a case where this paragraph applies by virtue of paragraph 10H(1), the value of the forfeitable property;
    - (b) in a case where this paragraph applies by virtue of paragraph 10H(2), the value of the forfeitable property less the value of the excepted joint owner's share.
  - (3) The amount of the payment may be reduced if the person who applied for the order under paragraph 10G agrees that the other party to the agreement has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention.
  - (4) The reduction that is permissible by virtue of sub-paragraph (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.
  - (5) An order under sub-paragraph (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.
  - (6) An order under sub-paragraph (1) made by a magistrates' court may provide for payment under sub-paragraph (11) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—

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- (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.
- (7) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (11) in pursuance of provision under sub-paragraph (6) unless—
- (a) the person who applied for the order under paragraph 10G agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (8) For the purposes of sub-paragraph (7)—
- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.
- (9) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under sub-paragraph (1), and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under paragraph 10G.
- (10) If the person who applied for the order under paragraph 10G was an authorised officer, that person may enter into an agreement for the purposes of any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.
- (11) An amount received under an order under sub-paragraph (1) must be applied as follows—
- (a) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (7), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (6);
  - (b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Part of this Schedule;
  - (c) third, it must be paid—
    - (i) if the order was made by a magistrates' court, into the Consolidated Fund;
    - (ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

*Associated and joint property: default of agreement*

- 10J (1) Where this paragraph applies and there is no agreement under paragraph 10I, the magistrates' court or sheriff—



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- (a) must transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is £10,000 or more;
  - (b) may transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is less than £10,000.
- (2) The “relevant court” is—
  - (a) the High Court, where the application under paragraph 10G was made to a magistrates' court;
  - (b) the Court of Session, where the application under paragraph 10G was made to the sheriff.
- (3) Where (under sub-paragraph (1)(a) or (b)) an application made under paragraph 10G is transferred to the relevant court, the relevant court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that—
  - (a) the property is a listed asset, and
  - (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (4) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10G(2) made by a magistrates' court by virtue of paragraph 10G(3).
- (5) If provision is included in an order of the High Court by virtue of sub-paragraph (4) of this paragraph, paragraph 10G(4) and (5) apply with the necessary modifications.
- (6) The relevant court may, as well as making an order under sub-paragraph (3), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.
- (7) Where (under sub-paragraph (1)(b)) the magistrates' court or sheriff decides not to transfer an application made under paragraph 10G to the relevant court, the magistrates' court or sheriff may, as well as making an order under paragraph 10G(2), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.
- (8) An order under sub-paragraph (6) or (7) may be made only if the relevant court, the magistrates' court or the sheriff (as the case may be) thinks it just and equitable to do so.
- (9) An order under sub-paragraph (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.
- (10) In making an order under sub-paragraph (6) or (7), and including provision in it by virtue of sub-paragraph (9), the relevant court, the magistrates' court or the sheriff (as the case may be) must have regard to—

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- (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may) of that person's share (including any value that cannot be assessed in terms of money), and
  - (b) the interest of the person who applied for the order under paragraph 10G in realising the value of the forfeitable property.
- (11) If the relevant court, the magistrates' court or the sheriff (as the case may be) is satisfied that—
- (a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention, and
  - (b) the circumstances are exceptional,
- an order under sub-paragraph (6) or (7) may require the payment of compensation to that person.
- (12) The amount of compensation to be paid by virtue of sub-paragraph (11) is the amount the relevant court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (13) Compensation to be paid by virtue of sub-paragraph (11) is to be paid in the same way that compensation is to be paid under paragraph 10P.

*Paragraphs 10G to 10J: appeals*

- 10K(1) Any party to proceedings for an order for the forfeiture of property under paragraph 10G may appeal against—
- (a) the making of an order under paragraph 10G;
  - (b) the making of an order under paragraph 10J(7);
  - (c) a decision not to make an order under paragraph 10G unless the reason that no order was made is that an order was instead made under paragraph 10I;
  - (d) a decision not to make an order under paragraph 10J(7).

Paragraphs (c) and (d) do not apply if the application for the order under paragraph 10G was transferred in accordance with paragraph 10J(1)(a) or (b).

- (2) Where an order under paragraph 10I is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10G that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under sub-paragraph (6) of paragraph 10I.
- (3) An appeal under this paragraph lies—
  - (a) in relation to England and Wales, to the Crown Court;
  - (b) in relation to Scotland, to the Sheriff Appeal Court;
  - (c) in relation to Northern Ireland, to a county court.
- (4) An appeal under this paragraph must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.

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- (5) Sub-paragraph (4) is subject to paragraph 10L.
- (6) The court hearing the appeal may make any order it thinks appropriate.
- (7) If the court upholds an appeal against an order forfeiting property, it may order the release of the whole or any part of the property.

*Extended time for appealing in certain cases where deproscription order made*

- 10L (1) This paragraph applies where—
- (a) a successful application for an order under paragraph 10G relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,
  - (c) the property forfeited by the order under paragraph 10G was seized under this Part of this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a deproscription order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10K against the making of an order under paragraph 10G, and against the making (in addition) of any order under paragraph 10J(7), may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

*Realisation of forfeited property*

- 10M(1) If property is forfeited under paragraph 10G or 10J, an authorised officer must realise the property or make arrangements for its realisation.
- (2) But the property is not to be realised—
- (a) before the end of the period within which an appeal may be made (whether under paragraph 10K or otherwise), or
  - (b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (3) The realisation of property under sub-paragraph (1) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.

*Proceeds of realisation*

- 10N(1) The proceeds of property realised under paragraph 10M must be applied as follows—

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- (a) first, they must be applied in making any payment required to be made by virtue of paragraph 10J(9);
  - (b) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10G(4) (including as applied by paragraph 10J(5)), are payable under this sub-paragraph in pursuance of provision under paragraph 10G(3) or, as the case may be, 10J(4);
  - (c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Part of this Schedule and in realising the property;
  - (d) fourth, they must be paid—
    - (i) if the property was forfeited by a magistrates' court or the High Court, into the Consolidated Fund;
    - (ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.
- (2) If what is realised under paragraph 10M represents part only of an item of property seized under paragraph 10B and detained under this Part of this Schedule, the reference in sub-paragraph (1)(c) to costs incurred in storing or insuring the property is to be read as a reference to costs incurred in storing or insuring the whole of the item of property.

#### *Victims*

- 10O(1) A person who claims that any property detained under this Part of this Schedule, or any part of it, belongs to him or her may apply for the property or part to be released.
- (2) An application under sub-paragraph (1) is to be made—
    - (a) in England and Wales or Northern Ireland, to a magistrates' court;
    - (b) in Scotland, to the sheriff.
  - (3) The application may be made in the course of proceedings under paragraph 10D or 10G or at any other time.
  - (4) The court or sheriff may order the property to which the application relates to be released to the applicant if it appears to the court or sheriff that—
    - (a) the applicant was deprived of the property to which the application relates, or of property which it represents, by criminal conduct,
    - (b) the property the applicant was deprived of was not, immediately before the applicant was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
    - (c) the property belongs to the applicant.
  - (5) If sub-paragraph (6) applies, the court or sheriff may order the property to which the application relates to be released to the applicant or to the person from whom it was seized.
  - (6) This sub-paragraph applies where—
    - (a) the applicant is not the person from whom the property to which the application relates was seized,

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- (b) it appears to the court or sheriff that the property belongs to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to the property, and
  - (d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom the property was seized.
- (7) The release condition is met—
- (a) in relation to property detained under paragraph 10C or 10D, if the conditions in paragraph 10C or (as the case may be) 10D for the detention of the property are no longer met, and
  - (b) in relation to property detained under paragraph 10G, if the court or sheriff decides not to make an order under that paragraph in relation to the property.

### *Compensation*

- 10P (1) If no order under paragraph 10G, 10I or 10J is made in respect of any property detained under this Part of this Schedule, the person to whom the property belongs or from whom it was seized may make an application for compensation.
- (2) An application under sub-paragraph (1) is to be made—
- (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) If the court or sheriff is satisfied that the applicant has suffered loss as a result of the detention of the property and that the circumstances are exceptional, the court or sheriff may order compensation to be paid to the applicant.
- (4) The amount of compensation to be paid is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) If the property was seized by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for Her Majesty's Revenue and Customs.
- (6) If the property was seized by a constable, the compensation is to be paid as follows—
- (a) in the case of a constable of a police force in England and Wales, 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 constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (7) If the property 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—

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- (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.
- (8) If the property was seized by an immigration officer, the compensation is to be paid by the Secretary of State.
- (9) If an order under paragraph 10G, 10I or 10J is made in respect only of a part of any property detained under this Part, this paragraph has effect in relation to the other part.
- (10) This paragraph does not apply if the court or sheriff makes an order under paragraph 10O.”

**Commencement Information**

- I4** Sch. 3 para. 2 in force at Royal Assent for specified purposes, see s. 58
- I5** Sch. 3 para. 2 in force at 30.1.2018 for specified purposes by S.I. 2018/78, reg. 2(h)
- I6** Sch. 3 para. 2 in force at 31.1.2018 in so far as not already in force by S.I. 2018/78, reg. 3(cc)

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

““listed asset” has the meaning given by paragraph 10A.”.

**Commencement Information**

- I7** Sch. 3 para. 3 in force at Royal Assent for specified purposes, see s. 58
- I8** Sch. 3 para. 3 in force at 31.1.2018 in so far as not already in force by S.I. 2018/78, reg. 3(cc)

**Status:**

Point in time view as at 31/01/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Finances Act 2017, SCHEDULE 3.