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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Finances Act 2017, Paragraph 48. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 5

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Proceeds of Crime Act 2002 (c. 29)*

48 (1) Section 353 (requirements where production order not available) is amended as follows.

(2) In subsection (2), after paragraph (bb) insert—

- “(bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bd) in the case of a detained property investigation into the intended use of property, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;
- (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.

(3) In subsection (5)(a), after “(7B)” insert “, (7C), (7D), (7E), (7F) ”.

(4) After subsection (7B) insert—

“(7C) In the case of a detained property investigation into the derivation of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7D) In the case of a detained property investigation into the intended use of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and

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- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
  - (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
  - (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”
- (5) In subsection (10)—
  - (a) at the beginning of paragraph (b) insert “ a Financial Conduct Authority officer, ”;
  - (b) in that paragraph, after “National Crime Agency officer” insert “ , an officer of Revenue and Customs ”;
  - (c) in paragraph (c), after “constable,” insert “ an SFO officer, ”;
  - (d) after paragraph (c) insert—
    - “(ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;
    - (cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;”.
- (6) In subsection (11), for “paragraph (c)” substitute “ paragraphs (c), (ca) and (cb) ”.

#### **Commencement Information**

- I1** Sch. 5 para. 48 in force at Royal Assent for specified purposes, see s. 58
- I2** Sch. 5 para. 48 in force at 31.1.2018 for specified purposes for E.W.S. by S.I. 2018/78, reg. 5(3)(a)(i)
- I3** Sch. 5 para. 48 in force at 16.4.2018 for E.W.S. in so far as not already in force by S.I. 2018/78, reg. 5(3)(a)(ii)
- I4** Sch. 5 para. 48 in force at 28.6.2021 for N.I. in so far as not already in force by S.I. 2021/724, reg. 4(i)

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