

2018 No. 521

PREVENTION AND SUPPRESSION OF TERRORISM

**The Terrorism Act 2000 (Enforcement in Different Parts of the
United Kingdom) Order 2018**

<i>Made</i> - - - -	<i>24th April 2018</i>
<i>Laid before Parliament</i>	<i>1st May 2018</i>
<i>Coming into force</i> - -	<i>1st June 2018</i>

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At the Court at Windsor Castle, the 24th day of April 2018

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 120C(1), (3)(a) and (4)(a) of the Terrorism Act 2000(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 and comes into force on 1st June 2018.

Interpretation

2.—(1) In this Order—

(a) 2000 c. 11. Section 120C is inserted by section 43 of the Criminal Finances Act 2017 (c. 22).

“English or Welsh account monitoring order” means an order made in England and Wales under paragraph 2 of Schedule 6A (account monitoring orders)(a);

“English or Welsh appropriate officer” means—

- (a) in relation to an account monitoring order, an English or Welsh police officer or counter-terrorism financial investigator;
- (b) in relation to a disclosure order, an English or Welsh constable or counter-terrorism financial investigator;
- (c) in relation to a production order, an English or Welsh constable or counter-terrorism financial investigator;

“English or Welsh disclosure order” means an order made in England and Wales under paragraph 9 of Schedule 5A (disclosure orders)(b);

“English or Welsh explanation order” means an order made in England and Wales under paragraph 13(1)(b) of Schedule 5 (explanations);

“English or Welsh financial information order” means an order made in England and Wales under paragraph 1 of Schedule 6 (orders);

“English or Welsh further information order” means an order made in England and Wales under section 22B (further information orders)(c);

“English or Welsh law enforcement officer” means, in relation to a further information order, a constable or counter-terrorism financial investigator of a police force in England or Wales or a National Crime Agency officer authorised by the Director General of that Agency;

“English or Welsh production order” means an order made in England and Wales in connection with a terrorist investigation in relation to terrorist property under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access);

“Northern Ireland account monitoring order” means an order made in Northern Ireland under paragraph 2 of Schedule 6A (account monitoring orders);

“Northern Ireland appropriate officer” means—

- (a) in relation to a production order a constable or counter-terrorism financial investigator of the Police Service of Northern Ireland;
- (b) in relation to a disclosure order, a constable or counter-terrorism financial investigator of the Police Service of Northern Ireland;
- (c) in relation to account monitoring orders, a police officer or counter-terrorism financial investigator of the Police Service of Northern Ireland;

“Northern Ireland disclosure order” means an order made in Northern Ireland under paragraph 9 of Schedule 5A (disclosure orders);

“Northern Ireland explanation order” means an order made in Northern Ireland under paragraph 13(1)(b) of Schedule 5 (explanations);

“Northern Ireland financial information order” means an order made in Northern Ireland under paragraph 1 of Schedule 6 (orders);

“Northern Ireland further information order” means an order made in Northern Ireland under section 22B (further information orders);

“Northern Ireland law enforcement officer” means, in relation to a further information order, a constable or counter-terrorism financial investigator of the Police Service of Northern Ireland or a National Crime Agency officer authorised by the Director General of that Agency;

“Northern Ireland production order” means an order made in Northern Ireland in connection with a terrorist investigation in relation to terrorist property under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access);

(a) Schedule 6A is inserted by paragraph 1(3) of Schedule 2 to the Anti-terrorism, Crime and Security Act 2001 (c. 24)

(b) Schedule 5A is inserted by paragraphs 3 and 4 of Schedule 2 to the Criminal Finances Act 2017.

(c) Section 22B is inserted by section 37 of the Criminal Finances Act 2017.

“Scottish account monitoring order” means an order made in Scotland under paragraph 2 of Schedule 6A (account monitoring orders);

“Scottish disclosure order” means an order made in Scotland under paragraph 19 of Schedule 5A (disclosure orders);

“Scottish explanation order” means an order made in Scotland under paragraph 30(1)(b) of Schedule 5 (explanations);

“Scottish financial information order” means an order made in Scotland under paragraph 1 of Schedule 6 (orders);

“Scottish further information order” means an order made in Scotland under section 22B (further information orders);

“Scottish law enforcement officer” means, in relation to further information orders, a constable of the Police Service of Scotland or a National Crime Agency officer authorised by the Director General of that Agency;

“Scottish production order” means an order made in Scotland in connection with a terrorist investigation in relation to terrorist property under paragraph 22 of Schedule 5 (order for production of material).

(2) References in this Order to a section or Schedule are to a section of, or Schedule to, the Terrorism Act 2000 unless the context otherwise requires.

PART 2

Enforcement in England and Wales of Northern Ireland Orders and Scottish Orders

Northern Ireland Account Monitoring Orders

3.—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in England and Wales.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and Northern Ireland appropriate officer acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in England and Wales.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Northern Ireland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were an English or Welsh account monitoring order.

Scottish Account Monitoring Orders

4.—(1) This article applies where a Scottish account monitoring order is made in respect of a financial institution in England and Wales.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and the Summary Jurisdiction (Process) Act 1881^(a), any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in England and Wales.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were an English or Welsh account monitoring order.

Northern Ireland Disclosure Orders

5.—(1) Paragraphs (2) to (5) apply where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in England and Wales to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(2) Paragraph 9(3) of Schedule 5A (disclosure orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and Northern Ireland appropriate officer acting together the order specifies”.

(3) Proceedings for an offence under paragraph 11 of Schedule 5A (offences) may be brought in England and Wales.

(4) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Northern Ireland.

(5) Paragraph 13 of Schedule 5A (further provisions) applies as if the order were an English or Welsh disclosure order.

(6) Paragraph (7) applies where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in England and Wales to—

- (a) answer questions in Northern Ireland; or
- (b) provide information or produce documents in Northern Ireland.

(7) Proceedings for an offence under paragraph 11 of Schedule 5A (offences) may be brought in England and Wales as well as in Northern Ireland.

Scottish Disclosure Orders

6.—(1) Paragraphs (2) to (6) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in England and Wales to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(a) 1881 c. 24.

(2) Paragraph 21 of Schedule 5A (offences) does not apply and paragraph 11 of Schedule 5A (offences) applies as if the order were an English or Welsh disclosure order.

(3) Paragraph 22 of Schedule 5A (statements) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Scotland, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

- (a) in paragraph (a), after “paragraph 21(1) or (3)” there is inserted “or an offence under paragraph 11(1) or (3)”;
- (b) in paragraph (b), after “perjury” there is inserted “or an offence under section 5 of the Perjury Act 1911”.

(5) Paragraph 23 of Schedule 5A (further provisions) does not apply and paragraph 13 of Schedule 5A (further provisions) applies as if the order were an English or Welsh disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

- (a) in sub-paragraph (5), for “An appropriate officer” there is substituted “The Lord Advocate”; and
- (b) in sub-paragraph (7), for “an appropriate officer” there is substituted “the Lord Advocate”.

(7) Paragraphs (8) and (9) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in England and Wales to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(8) Paragraph 11 of Schedule 5A (offences) applies as if the order were an English or Welsh disclosure order, as well as paragraph 21 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 13 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 11(1) or (3) of Schedule 5A (offences).

(9) Paragraph 22 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in England and Wales for an offence under paragraph 11(1) or (3) of Schedule 5A (offences).

Northern Ireland Explanation Orders

7.—(1) This article applies where a Northern Ireland explanation order requires a person in England and Wales to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The explanation order has effect as if it were an order of the Crown Court in England and Wales.

(4) Paragraph 13(2) of Schedule 5 (explanations) applies as if the explanation order were an English or Welsh explanation order.

(5) Paragraph 13(4)(b) of Schedule 5 (explanations) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Northern Ireland.

(6) Proceedings for an offence under paragraph 14 (explanations) of Schedule 5 may be brought in England and Wales.

Scottish Explanation Orders

8.—(1) This article applies where a Scottish explanation order requires a person in England and Wales to provide an explanation of any material produced or made available under paragraph 22 of Schedule 5 (order for production of material).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and the Summary Jurisdiction (Process) Act 1881, any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The explanation order has effect as if it were an order of the Crown Court in England and Wales.

(4) Paragraph 33(1) of Schedule 5 (supplementary) does not apply and paragraph 13(2) of Schedule 5 (explanations) applies as if the explanation order were an English or Welsh explanation order.

(5) In relation to criminal proceedings brought in England and Wales—

- (a) paragraph 30(3) of Schedule 5 (explanations) does not apply, and
- (b) paragraph 13(4)(b) of Schedule 5 (explanations) applies.

Northern Ireland Financial Information Orders

9.—(1) This article applies where a constable or counter-terrorism financial investigator of the Police Service of Northern Ireland requires a financial institution in England and Wales to provide customer information under a Northern Ireland financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in England and Wales as well as in Northern Ireland.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Northern Ireland.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were an English or Welsh financial information order.

Scottish Financial Information Orders

10.—(1) This article applies where a constable of the Police Service of Scotland requires a financial institution in England and Wales to provide customer information under a Scottish financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in England and Wales as well as in Scotland.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were an English or Welsh financial information order.

Northern Ireland Further Information Orders

11.—(1) This article applies where a Northern Ireland further information order requires a person in England and Wales to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh law enforcement officer or a Northern Ireland law enforcement officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements)(a) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Northern Ireland

Scottish Further Information Orders

12.—(1) This article applies where a Scottish further information order requires a person in England and Wales to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh law enforcement officer or a Scottish law enforcement officer serving the order personally,

and the Summary Jurisdiction (Process) Act 1881, any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

Northern Ireland Production Orders

13.—(1) This article applies where—

- (a) a Northern Ireland production order requires a person in England and Wales in possession or control of material in England and Wales to produce the material or give access to the material; or
- (b) an order to grant entry to premises in England and Wales is made in respect of a Northern Ireland production order under paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access).

(2) Subject to paragraph (11), the production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)(b) has effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” there is substituted—

- (a) in sub-paragraph (a), “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and a Northern Ireland appropriate officer acting together the order specifies”, and
- (b) in sub-paragraph (b), “such officer or officers”.

(a) Section 22C is inserted by section 37 of the Criminal Finances Act 2017.

(b) Paragraph 5(3) is amended by section 41(2) of the Criminal Finances Act 2017.

(5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access)(a) has effect with the modification in paragraph (6).

(6) The modification is that for “a constable” there is substituted “an officer or officers specified in such order”.

(7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production & access)(b) has effect with the modification in paragraph (8).

(8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))”, there is substituted “whichever of a named English or Welsh appropriate officer, a named Northern Ireland appropriate officer or a named English or Welsh appropriate officer and a named Northern Ireland appropriate officer acting together the order specifies”.

(9) The production order, including an order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in England and Wales.

(10) Paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) has effect as if the production order were an English or Welsh production order.

(11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) has effect as if the production order were an English or Welsh production order and in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)) the person on whom it is served must report the reasons for the failure to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in England and Wales.

Scottish Production Orders

14.—(1) This article applies where—

- (a) a Scottish production order requires a person in England and Wales in possession or control of material in England and Wales to produce the material or give access to the material; or
- (b) an order to grant entry to premises in England and Wales is made in respect of a Scottish production order under paragraph 22(5) of Schedule 5 (order for production of material).

(2) Subject to paragraph (9), the production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and the Summary Jurisdiction (Process) Act 1881, any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 22(3) of Schedule 5 (order for production of material) has effect with the modifications in paragraph (4).

(4) The modifications are that for “a constable” there is substituted—

- (a) in sub-paragraph (a), “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(a) Paragraph 5(5) is amended by paragraph 9(a) of Schedule 4 to the Courts Act 2003 (c. 39).

(b) Paragraph 7(2) is amended by section 41(2) of the Criminal Finances Act 2017.

(5) Paragraph 24(2)(a) of Schedule 5 (order for production of material) has effect with the modifications in paragraph (6).

(6) The modifications are that for “a named constable”, there is substituted “whichever of a named English or Welsh appropriate officer, a named constable of the Police Service of Scotland or a named English or Welsh appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.

(7) The production order, including an order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in England and Wales.

(8) Paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 do not apply and paragraph 8 of Schedule 5 has effect as if the production order were an English or Welsh production order.

(9) Paragraph 26 of Schedule 5 (order for production of material) does not apply and paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) has effect as if the production order were an English or Welsh production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 22(3) of Schedule 5 (order for production of material)) the person on whom it is served must report the reasons for the failure to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in England and Wales.

PART 3

Enforcement in Northern Ireland of English or Welsh Orders and Scottish Orders

English or Welsh Account Monitoring Orders

15.—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Northern Ireland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or an English or Welsh appropriate officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and Northern Ireland appropriate officer acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in Northern Ireland.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in England and Wales.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Northern Ireland account monitoring order.

Scottish Account Monitoring Orders

16.—(1) This article applies where a Scottish account monitoring order is made in respect of a financial institution in Northern Ireland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of a Northern Ireland appropriate officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in Northern Ireland.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Northern Ireland account monitoring order.

English or Welsh Disclosure Orders

17.—(1) Paragraphs (2) to (5) apply where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Northern Ireland to—

- (a) answer questions in Northern Ireland; or
- (b) provide information or produce documents in Northern Ireland.

(2) Paragraph 9(3) of Schedule 5A (disclosure orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and Northern Ireland appropriate officer acting together the order specifies”.

(3) Proceedings for an offence under paragraph 11 of Schedule 5A (offences) may be brought in Northern Ireland.

(4) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in England and Wales.

(5) Paragraph 13 of Schedule 5A (further provisions) applies as if the order were a Northern Ireland disclosure order.

(6) Paragraph (7) applies where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Northern Ireland to—

- (a) answer questions in England or Wales; or
- (b) provide information or produce documents in England or Wales.

(7) Proceedings for an offence under paragraph 11 of Schedule 5A (offences) may be brought in Northern Ireland as well as in England and Wales.

Scottish Disclosure Orders

18.—(1) Paragraphs (2) to (6) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in Northern Ireland to—

- (a) answer questions in Northern Ireland; or
- (b) provide information or produce documents in Northern Ireland.

(2) Paragraph 21 of Schedule 5A (offences) does not apply and paragraph 11 of Schedule 5A (offences) applies as if the order were a Northern Ireland disclosure order.

(3) Paragraph 22 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in Scotland, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

- (a) in paragraph (a), after “paragraph 21(1) or (3)” there is inserted “or an offence under paragraph 11(1) or (3)”;
- (b) in paragraph (b), after “perjury” there is inserted “or an offence under article 10 of the Perjury (Northern Ireland) Order 1979”.

(5) Paragraph 23 of Schedule 5A (further provisions) does not apply and paragraph 13 of Schedule 5A (further provisions) applies as if the order were a Northern Ireland disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

- (a) in sub-paragraph (5), for “An appropriate officer” there is substituted “The Lord Advocate”; and
- (b) in sub-paragraph (7), for “an appropriate officer” there is substituted “the Lord Advocate”.

(7) Paragraphs (8) and (9) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in Northern Ireland to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(8) Paragraph 11 of Schedule 5A (offences) applies as if the order were a Northern Ireland disclosure order, as well as paragraph 21 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 13 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 11(1) or (3) of Schedule 5A (offences).

(9) Paragraph 22 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Northern Ireland for an offence under paragraph 11(1) or (3) of Schedule 5A (offences).

English or Welsh Explanation Orders

19.—(1) This article applies where an English or Welsh explanation order requires a person in Northern Ireland to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The explanation order has effect as if it were an order of the Crown Court in Northern Ireland.

(4) Paragraph 13(2) of Schedule 5 (explanations) applies as if the explanation order were a Northern Ireland explanation order.

(5) Paragraph 13(4)(b) of Schedule 5 (explanations) applies in relation to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in England and Wales.

(6) Proceedings for an offence under paragraph 14 of Schedule 5 (explanations) may be brought in Northern Ireland.

Scottish Explanation Orders

20.—(1) This article applies where a Scottish explanation order requires a person in Northern Ireland to provide an explanation of any material produced or made available under paragraph 22 of Schedule 5 (order for production of material).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The explanation order has effect as if it were an order of the Crown Court in Northern Ireland.

(4) Paragraph 33(1) of Schedule 5 (supplementary) does not apply and paragraph 13(2) of Schedule 5 (explanations) applies as if the explanation order were a Northern Ireland explanation order.

(5) In relation to criminal proceedings brought in Northern Ireland—

- (a) paragraph 30(3) of Schedule 5 (explanations) does not apply, and
- (b) paragraph 13(4)(b) of Schedule 5 (explanations) applies.

English or Welsh Financial Information Orders

21.—(1) This article applies where a constable or counter-terrorism financial investigator of an English or Welsh police force requires a financial institution in Northern Ireland to provide customer information under an English or Welsh financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Northern Ireland as well as in England and Wales.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in England and Wales.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Northern Ireland financial information order.

Scottish Financial Information Orders

22.—(1) This article applies where a constable of the Police Service of Scotland requires a financial institution in Northern Ireland to provide customer information under a Scottish financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Northern Ireland as well as in Scotland.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Northern Ireland financial information order.

English or Welsh Further Information Orders

23.—(1) This article applies where an English or Welsh further information order requires a person in Northern Ireland to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

- (b) by a Northern Ireland law enforcement officer or an English or Welsh law enforcement officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in England and Wales

Scottish Further Information Orders

24.—(1) This article applies where a Scottish further information order requires a person in Northern Ireland to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland law enforcement officer or a Scottish law enforcement officer serving the order personally;

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in Scotland.

English or Welsh Production Orders

25.—(1) This article applies where—

- (a) an English or Welsh production order requires a person in Northern Ireland in possession or control of material in Northern Ireland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Northern Ireland is made in respect of an English or Welsh production order under paragraph 5(5) of Schedule 5 .

(2) Subject to paragraph (11), the production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or an English or Welsh appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production and access) has effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” there is substituted—

- (a) in sub-paragraph (a), “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and a Northern Ireland appropriate officer acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production and access) has effect with the modification in paragraph (6).

(6) The modification is that for “a constable”, there is substituted “an officer or officers specified in such order”.

(7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production and access) has effect with the modification in paragraph (8).

(8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))” there is substituted “whichever of a named English or Welsh appropriate officer, a named Northern Ireland appropriate officer or a named English or Welsh appropriate officer and a named Northern Ireland appropriate officer acting together the order specifies”.

(9) The production order, including an order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in Northern Ireland.

(10) Paragraph 8(1) of Schedule 5 (excluded and special procedure material: production and access) has effect as if the production order were a Northern Ireland production order.

(11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production and access) has effect as if the production order were a Northern Ireland production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production and access)) the person on whom it is served must report the reasons for the failure to a Crown Court judge in Northern Ireland; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in Northern Ireland.

Scottish Production Orders

26.—(1) This article applies where—

- (a) a Scottish production order requires a person in Northern Ireland in possession or control of material in Northern Ireland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Northern Ireland is made in respect of a Scottish production order under paragraph 22(5) of Schedule 5 (order for production of material).

(2) Subject to paragraph (9), the production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 22(3) of Schedule 5 (order for production of material) has effect with the modifications in paragraph (4).

(4) The modifications are that for “a constable” there is substituted—

- (a) in sub-paragraph (a), “whichever of a Northern Ireland appropriate officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(5) Paragraph 24(2)(a) of Schedule 5 (order for production of material) has effect with the modification in paragraph (6).

(6) The modification is that for “a named constable” there is substituted “whichever of a named Northern Ireland appropriate officer, a named constable of the Police Service of Scotland or a named Northern Ireland appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.

(7) The production order, including an order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in a Northern Ireland.

(8) Paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 do not apply and paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) has effect as if the production order were a Northern Ireland production order.

(9) Paragraph 26 of Schedule 5 (order for production of material) does not apply and paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) has effect as if the production order were a Northern Ireland production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 22(3) of Schedule 5 (order for production of material)) the person on whom it is served must report the reasons for the failure to a Crown Court judge in Northern Ireland; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in a Northern Ireland.

PART 4

Enforcement in Scotland of English or Welsh Orders and Northern Ireland Orders

English or Welsh Account Monitoring Orders

27.—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The sheriff is to be regarded, for the purpose of enforcing the account monitoring order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Scottish account monitoring order.

Northern Ireland Account Monitoring Orders

28.—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of a Northern Ireland appropriate

officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The sheriff is to be regarded, for the purpose of enforcing the account monitoring order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Scottish account monitoring order.

English or Welsh Disclosure Orders

29.—(1) Paragraphs (2) to (6) apply where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(2) Paragraph 11 of Schedule 5A (offences) does not apply and paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order.

(3) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

- (a) in paragraph (a), after “paragraph 11(1) or (3)” there is inserted “or an offence under paragraph 21(1) or (3)”;
- (b) in paragraph (b), after “(false statements)” there is inserted “or perjury”.

(5) Paragraph 13 of Schedule 5A (further provisions) does not apply and paragraph 23 of Schedule 5A (further provisions) applies as if the order were a Scottish disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

- (a) in sub-paragraph (3), for “The Lord Advocate” there is substituted “An English or Welsh appropriate officer”; and
- (b) in sub-paragraph (5), for “the Lord Advocate” there is substituted “an English or Welsh appropriate officer”.

(7) Paragraphs (8) and (9) apply where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(8) Paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order, as well as paragraph 11 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 23 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

(9) Paragraph 12 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

Northern Ireland Disclosure Orders

30.—(1) Paragraphs (2) to (6) apply where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

- (a) answer questions in Scotland; or

(b) provide information or produce documents in Scotland.

(2) Paragraph 11 of Schedule 5A (offences) does not apply and paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order.

(3) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

(a) in paragraph (a), after “paragraph 11(1) or (3)” there is inserted “or an offence under paragraph 21(1) or (3)”;

(b) in paragraph (b), after “(false statements)” there is inserted “or perjury”.

(5) Paragraph 13 of Schedule 5A (further provisions) does not apply and paragraph 23 of Schedule 5A (further provisions) applies as if the order were a Scottish disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

(a) in sub-paragraph (3), for “The Lord Advocate” there is substituted “A Northern Ireland appropriate officer”; and

(b) in sub-paragraph (5), for “the Lord Advocate” there is substituted “a Northern Ireland appropriate officer”.

(7) Paragraphs (8) and (9) apply where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

(a) answer questions in Northern Ireland; or

(b) provide information or produce documents in Northern Ireland.

(8) Paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order, as well as paragraph 11 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 23 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

(9) Paragraph 12 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

English or Welsh Explanation Orders

31.—(1) This article applies where an English or Welsh explanation order requires a person in Scotland to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

(a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

(b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The sheriff is to be regarded, for the purpose of enforcing the explanation order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(4) Paragraph 13(2) of Schedule 5 (explanations) does not apply and paragraph 33(1) (supplementary) of Schedule 5 applies as if the explanation order were a Scottish explanation order.

(5) In relation to criminal proceedings brought in Scotland—

(a) paragraph 13(4)(b) of Schedule 5 (explanations) does not apply, and

- (b) paragraph 30(3) of Schedule 5 (explanations) applies.

Northern Ireland Explanation Orders

32.—(1) This article applies where a Northern Ireland explanation order requires a person in Scotland to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The sheriff is to be regarded, for the purpose of enforcing the explanation order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(4) Paragraph 13(2) of Schedule 5 (explanations) does not apply and paragraph 33(1) (supplementary) of Schedule 5 applies as if the explanation order were a Scottish explanation order.

(5) In relation to criminal proceedings brought in Scotland—

- (a) paragraph 13(4)(b) of Schedule 5 (explanations) does not apply, and
- (b) paragraph 30(3) of Schedule 5 (explanations) applies.

English or Welsh Financial Information Orders

33.—(1) This article applies where an English or Welsh police officer or counter-terrorism financial investigator requires a financial institution in Scotland to provide customer information under an English or Welsh financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Scotland as well as in England and Wales.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Scotland as well as criminal proceedings brought in England and Wales.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Scottish financial information order.

Northern Ireland Financial Information Orders

34.—(1) This article applies where a Northern Ireland police officer or counter-terrorism financial investigator requires a financial institution in Scotland to provide customer information under a Northern Ireland financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Northern Ireland as well as in Scotland.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Scottish financial information order.

English or Welsh Further Information Orders

35.—(1) This article applies where an English or Welsh further information order requires a person in Scotland to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Scottish law enforcement officer or an English or Welsh law enforcement officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(4) Section 22E (supplementary) has effect as if the order were a Scottish further information order.

Northern Ireland Further Information Orders

36.—(1) This article applies where a Northern Ireland further information order requires a person in Scotland to provide information.

(2) The further information order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Scottish law enforcement officer or a Northern Ireland law enforcement officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in Scotland.

(4) Section 22E (supplementary) has effect as if the order were a Scottish further information order.

English or Welsh Production Orders

37.—(1) This article applies where—

- (a) an English or Welsh production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Scotland is made in respect of an English or Welsh production order under paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access).

(2) The production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a constable of the Police Service of Scotland or an English or Welsh appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” there is substituted—

- (a) in sub-paragraph (a), “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (6).

(6) The modification is that for “a constable” there is substituted “an officer or officers specified in such order”.

(7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (8).

(8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))”, there is substituted “whichever of a named English or Welsh appropriate officer, a named constable of the Police Service of Scotland or a named English or Welsh appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.

(9) The sheriff is to be regarded, for the purpose of enforcing the production order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(10) Paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 have effect as if the production order were a Scottish production order.

(11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraph 26 of Schedule 5 (order for production of material: production & access) has effect as if the production order were a Scottish production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)) the person on whom it is served must report the reasons for the failure to the sheriff; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in Scotland.

Northern Ireland Production Orders

38.—(1) This article applies where—

- (a) a Northern Ireland production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Scotland is made in respect of a Northern Ireland production order under paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access).

(2) The production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a constable of the Police Service of Scotland or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and other requirements in law as to the service of documents do not apply.

(3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” there is substituted—

- (a) in sub-paragraph (a), “whichever of a Northern Ireland appropriate officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (6).

(6) The modification is that for “a constable” there is substituted “an officer or officers specified in such order”.

(7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (8).

(8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))”, there is substituted “whichever of a named Northern Ireland appropriate officer, a named constable of the Police Service of Scotland or a named Northern Ireland appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.

(9) The sheriff is to be regarded, for the purpose of enforcing the production order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(10) Paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 have effect as if the production order were a Scottish production order.

(11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraph 26 of Schedule 5 (order for production of material) has effect as if the production order were a Scottish production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)) the person on whom it is served must report the reasons for the failure to the sheriff; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in Scotland.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for orders made under the Terrorism Act 2000 (c. 11) (“the Act”) in one part of the United Kingdom to be enforced in another part of the United Kingdom. The Act provides for various orders to be issued in relation to a terrorist investigation.

Part 2 makes provision for orders made or issued in Northern Ireland or Scotland to be enforced in England and Wales.

Articles 3 and 4 make provision for the enforcement in England and Wales of account monitoring orders made in Scotland or Northern Ireland for the purposes of a terrorist investigation. The order may be enforced by the authorities in England and Wales, or the authorities of the jurisdiction which made the order, or by the authorities of both jurisdictions acting together. The English law as to exclusions applies. The order has effect as an order of the Crown Court in England and Wales so that contempt proceedings can be brought for non-compliance.

Articles 5 and 6 make provision for the enforcement in England and Wales of disclosure orders made in Northern Ireland or Scotland for the purposes of a terrorist financing investigation. Two regimes apply. The first regime deals with the situation where an officer travels to England and Wales to execute the disclosure order. In this case, the English law as to exclusions from the disclosure order applies, if the disclosure order is breached then the offender commits an offence under English law. The second regime deals with the situation where an officer requires a person in England and Wales to travel to the jurisdiction in which he is situated in order to execute a disclosure order. In this case, the law of the jurisdiction in which the officer is situated applies but

a person who fails to comply commits an offence under English law, as well as the law of that jurisdiction.

Articles 7 and 8 make provision for the enforcement in England and Wales of explanation orders made in Northern Ireland or Scotland for the purposes of a terrorist investigation.

Articles 9 and 10 make provision for the enforcement in England and Wales of financial information orders made in Northern Ireland or Scotland for the purposes of a terrorist investigation. The English law as to exclusions applies and if the financial information order is breached then the offender commits an offence under English law, as well as the law of the jurisdiction in which the order was made.

Articles 11 and 12 make provision for the enforcement in England and Wales of further information orders made in Northern Ireland or Scotland for the purposes of a terrorist investigation.

Articles 13 and 14 make provision for the enforcement in England and Wales of production orders made in Northern Ireland or Scotland for the purposes of a terrorist investigation. The order may be enforced by the authorities in England and Wales, or the authorities of the jurisdiction which made the order, or by the authorities of both jurisdictions acting together. The rules for England and Wales as to material which does not need to be produced in relation to production orders apply. The order has effect as an order of the Crown Court in England and Wales so that contempt proceedings can be brought for non-compliance.

Part 3 makes corresponding provision for orders made or issued in England and Wales or Scotland to be enforced in Northern Ireland.

Part 4 makes corresponding provision for orders made or issued in England and Wales or Northern Ireland to be enforced in Scotland.

A full impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sectors is foreseen.

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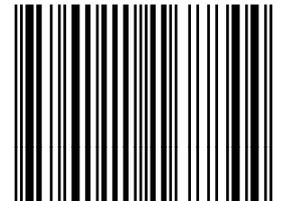
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