# Terrorism Act 2000

**2000 CHAPTER 11**

An Act to make provision about terrorism; and to make temporary provision for Northern Ireland about the prosecution and punishment of certain offences, the preservation of peace and the maintenance of order. [20th July 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Modifications etc. (not altering text)**

**C1** Act modified (21.2.2009) by The Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009 (S.I. 2009/317), art. 3, **Sch.**

**C2** Act modified (1.12.1997 as notified in the London Gazette issue number 55144) by S.I. 1994/1405, **art. 7** (as amended: (26.10.2006) by S.I. 2006/2627, **art. 2**; (14.11.2007) by S.I. 2007/2908, **art. 2(4)**; (2.1.2008) by S.I. 2007/3579, **art. 3**; and (16.4.2015) by S.I. 2015/856, arts. 1, **6**)

## PART I

### INTRODUCTORY

**1 Terrorism: interpretation.**

(1) In this Act "terrorism" means the use or threat of action where—

(a) the action falls within subsection (2),

(b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and

(c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

(2) Action falls within this subsection if it—

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(a) involves serious violence against a person,
(b) involves serious damage to property,
(c) endangers a person's life, other than that of the person committing the action,
(d) creates a serious risk to the health or safety of the public or a section of the public, or
(e) is designed seriously to interfere with or seriously to disrupt an electronic system.

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

(4) In this section—
(a) "action" includes action outside the United Kingdom,
(b) a reference to any person or to property is a reference to any person, or to property, wherever situated,
(c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and
(d) "the government" means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom.

(5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

**2 Temporary legislation.**

(1) The following shall cease to have effect—
(a) the [M1]Prevention of Terrorism (Temporary Provisions) Act 1989, and
(b) the [M2]Northern Ireland (Emergency Provisions) Act 1996.

(2) Schedule 1 (which preserves certain provisions of the 1996 Act, in some cases with amendment, for a transitional period) shall have effect.

**Commencement Information**

**I1** S. 2 wholly in force at 19.2.2001; s. 2(1)(b)(2) in force at 20.7.2000 see s. 128; s. 2(1)(a) in force at 19.2.2001 by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M1** 1989 c. 4.
**M2** 1996 c. 22.

## PART II

## PROSCRIBED ORGANISATIONS

### *Procedure*

**3 Proscription.**

(1) For the purposes of this Act an organisation is proscribed if—

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(a) it is listed in Schedule 2, or
(b) it operates under the same name as an organisation listed in that Schedule.

(2) Subsection (1)(b) shall not apply in relation to an organisation listed in Schedule 2 if its entry is the subject of a note in that Schedule.

(3) The Secretary of State may by order—
(a) add an organisation to Schedule 2;
(b) remove an organisation from that Schedule;
(c) amend that Schedule in some other way.

(4) The Secretary of State may exercise his power under subsection (3)(a) in respect of an organisation only if he believes that it is concerned in terrorism.

(5) For the purposes of subsection (4) an organisation is concerned in terrorism if it—
(a) commits or participates in acts of terrorism,
(b) prepares for terrorism,
(c) promotes or encourages terrorism, or
(d) is otherwise concerned in terrorism.

## 4 Deproscription: application.

(1) An application may be made to the Secretary of State for the exercise of his power under section 3(3)(b) to remove an organisation from Schedule 2.

(2) An application may be made by—
(a) the organisation, or
(b) any person affected by the organisation's proscription.

(3) The Secretary of State shall make regulations prescribing the procedure for applications under this section.

(4) The regulations shall, in particular—
(a) require the Secretary of State to determine an application within a specified period of time, and
(b) require an application to state the grounds on which it is made.

**Commencement Information**

**I2** S. 4 wholly in force at 19.2.2001; s. 4 not in force at Royal Assent see s. 128; s. 4(3)(4) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(a)**; s. 4 in force at 19.2.2002 in so far as not already in force by S.I. 2001/421, **art. 2**

## 5 Deproscription: appeal.

(1) There shall be a commission, to be known as the Proscribed Organisations Appeal Commission.

(2) Where an application under section 4 has been refused, the applicant may appeal to the Commission.

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(3) The Commission shall allow an appeal against a refusal to deproscribe an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review.

(4) Where the Commission allows an appeal under this section by or in respect of an organisation, it may make an order under this subsection.

(5) Where an order is made under subsection (4) the Secretary of State shall as soon as is reasonably practicable—

(a) lay before Parliament, in accordance with section 123(4), the draft of an order under section 3(3)(b) removing the organisation from the list in Schedule 2, or

(b) make an order removing the organisation from the list in Schedule 2 in pursuance of section 123(5).

(6) Schedule 3 (constitution of the Commission and procedure) shall have effect.

**Commencement Information**

**I3** S. 5 wholly in force at 19.2.2001; s. 5 not in force at Royal Assent see s. 128; s. 5(1) wholly in force and s. 5(6) in force for certain purposes at 31.10.2000 by S.I. 2000/2944, **art. 2(b)**; s. 5 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

## 6 Further appeal.

(1) A party to an appeal under section 5 which the Proscribed Organisations Appeal Commission has determined may bring a further appeal on a question of law to—

(a) the Court of Appeal, if the first appeal was heard in England and Wales,

(b) the Court of Session, if the first appeal was heard in Scotland, or

(c) the Court of Appeal in Northern Ireland, if the first appeal was heard in Northern Ireland.

(2) An appeal under subsection (1) may be brought only with the permission—

(a) of the Commission, or

(b) where the Commission refuses permission, of the court to which the appeal would be brought.

(3) An order under section 5(4) shall not require the Secretary of State to take any action until the final determination or disposal of an appeal under this section (including any appeal to the House of Lords).

## 7 Appeal: effect on conviction, &c.

(1) This section applies where—

(a) an appeal under section 5 has been allowed in respect of an organisation,

(b) an order has been made under section 3(3)(b) in respect of the organisation in accordance with an order of the Commission under section 5(4) (and, if the order was made in reliance on section 123(5), a resolution has been passed by each House of Parliament under section 123(5)(b)),

(c) a person has been convicted of an offence in respect of the organisation under any of sections 11 to 13, 15 to 19 and 56, and

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(d) the activity to which the charge referred took place on or after the date of the refusal to deproscribe against which the appeal under section 5 was brought.

(2) If the person mentioned in subsection (1)(c) was convicted on indictment—
(a) he may appeal against the conviction to the Court of Appeal, and
(b) the Court of Appeal shall allow the appeal.

(3) A person may appeal against a conviction by virtue of subsection (2) whether or not he has already appealed against the conviction.

(4) An appeal by virtue of subsection (2)—
(a) must be brought within the period of 28 days beginning with the date on which the order mentioned in subsection (1)(b) comes into force, and
(b) shall be treated as an appeal under section 1 of the [M3]Criminal Appeal Act 1968 (but does not require leave).

(5) If the person mentioned in subsection (1)(c) was convicted by a magistrates' court—
(a) he may appeal against the conviction to the Crown Court, and
(b) the Crown Court shall allow the appeal.

(6) A person may appeal against a conviction by virtue of subsection (5)—
(a) whether or not he pleaded guilty,
(b) whether or not he has already appealed against the conviction, and
(c) whether or not he has made an application in respect of the conviction under section 111 of the [M4]Magistrates' Courts Act 1980 (case stated).

(7) An appeal by virtue of subsection (5)—
(a) must be brought within the period of 21 days beginning with the date on which the order mentioned in subsection (1)(b) comes into force, and
(b) shall be treated as an appeal under section 108(1)(b) of the [M5]Magistrates' Courts Act 1980.

(8) In section 133(5) of the [M6]Criminal Justice Act 1988 (compensation for miscarriage of justice) after paragraph (b) there shall be inserted—

"or
(c) on an appeal under section 7 of the Terrorism Act 2000".

**Marginal Citations**
**M3** 1968 c. 19.
**M4** 1980 c. 43.
**M5** 1980 c. 43.
**M6** 1988 c. 33.

## 8 Section 7: Scotland and Northern Ireland.

(1) In the application of section 7 to Scotland—
(a) for every reference to the Court of Appeal or the Crown Court substitute a reference to the High Court of Justiciary,
(b) in subsection (2)(b), at the end insert " and quash the conviction ",
(c) in subsection (4)—

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(i) in paragraph (a), for "28 days" substitute " two weeks ", and

(ii) in paragraph (b), for "section 1 of the Criminal Appeal Act 1968" substitute " section 106 of the Criminal Procedure (Scotland) Act 1995 ",

(d) in subsection (5)—

(i) for "by a magistrates' court" substitute " in summary proceedings ", and

(ii) in paragraph (b), at the end insert " and quash the conviction ",

(e) in subsection (6), paragraph (c) is omitted, and

(f) in subsection (7)—

(i) in paragraph (a) for "21 days" substitute " two weeks ", and

(ii) for paragraph (b) substitute—

"(b) shall be by note of appeal, which shall state the ground of appeal,

(c) shall not require leave under any provision of Part X of the Criminal Procedure (Scotland) Act 1995, and

(d) shall be in accordance with such procedure as the High Court of Justiciary may, by Act of Adjournal, determine.".

(2) In the application of section 7 to Northern Ireland—

(a) the reference in subsection (4) to section 1 of the [M7]Criminal Appeal Act 1968 shall be taken as a reference to section 1 of the [M8]Criminal Appeal (Northern Ireland) Act 1980,

(b) references in subsection (5) to the Crown Court shall be taken as references to the county court,

(c) the reference in subsection (6) to section 111 of the [M9]Magistrates' Courts Act 1980 shall be taken as a reference to Article 146 of the [M10]Magistrates' Courts (Northern Ireland) Order 1981, and

(d) the reference in subsection (7) to section 108(1)(b) of the [M11]Magistrates' Courts Act 1980 shall be taken as a reference to Article 140(1)(b) of the [M12]Magistrates' Courts (Northern Ireland) Order 1981.

**Marginal Citations**

**M7** 1968 c. 19.
**M8** 1980 c. 47.
**M9** 1980 c. 43.
**M10** S.I. 1981/1675 (N.I. 26).
**M11** 1980 c. 43.
**M12** S.I. 1981/1675 (N.I. 26).

## 9 Human Rights Act 1998.

(1) This section applies where rules (within the meaning of section 7 of the [M13]Human Rights Act 1998 (jurisdiction)) provide for proceedings under section 7(1) of that Act to be brought before the Proscribed Organisations Appeal Commission.

(2) The following provisions of this Act shall apply in relation to proceedings under section 7(1) of that Act as they apply to appeals under section 5 of this Act—

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(a) section 5(4) and (5),
(b) section 6,
(c) section 7, and
(d) paragraphs 4 to **[**[F1]7**]** of Schedule 3.

(3) The Commission shall decide proceedings in accordance with the principles applicable on an application for judicial review.

(4) In the application of the provisions mentioned in subsection (2)—
(a) a reference to the Commission allowing an appeal shall be taken as a reference to the Commission determining that an action of the Secretary of State is incompatible with a Convention right, and
(b) a reference to the refusal to deproscribe against which an appeal was brought shall be taken as a reference to the action of the Secretary of State which is found to be incompatible with a Convention right.

**Textual Amendments**

**F1** Words in s. 9(2)(d) substituted (2.10.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 12(1)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

**Marginal Citations**

**M13** 1998 c. 42.

## 10 Immunity.

(1) The following shall not be admissible as evidence in proceedings for an offence under any of sections 11 to 13, 15 to 19 and 56—
(a) evidence of anything done in relation to an application to the Secretary of State under section 4,
(b) evidence of anything done in relation to proceedings before the Proscribed Organisations Appeal Commission under section 5 above or section 7(1) of the [M14]Human Rights Act 1998,
(c) evidence of anything done in relation to proceedings under section 6 (including that section as applied by section 9(2)), and
(d) any document submitted for the purposes of proceedings mentioned in any of paragraphs (a) to (c).

(2) But subsection (1) does not prevent evidence from being adduced on behalf of the accused.

**Marginal Citations**

**M14** 1998 c. 42.

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*Offences*

## 11 Membership.

(1) A person commits an offence if he belongs or professes to belong to a proscribed organisation.

(2) It is a defence for a person charged with an offence under subsection (1) to prove—
- (a) that the organisation was not proscribed on the last (or only) occasion on which he became a member or began to profess to be a member, and
- (b) that he has not taken part in the activities of the organisation at any time while it was proscribed.

(3) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(4) In subsection (2) "proscribed" means proscribed for the purposes of any of the following—
- (a) this Act;
- (b) the [M15]Northern Ireland (Emergency Provisions) Act 1996;
- (c) the [M16]Northern Ireland (Emergency Provisions) Act 1991;
- (d) the [M17]Prevention of Terrorism (Temporary Provisions) Act 1989;
- (e) the [M18]Prevention of Terrorism (Temporary Provisions) Act 1984;
- (f) the [M19]Northern Ireland (Emergency Provisions) Act 1978;
- (g) the [M20]Prevention of Terrorism (Temporary Provisions) Act 1976;
- (h) the [M21]Prevention of Terrorism (Temporary Provisions) Act 1974;
- (i) the [M22]Northern Ireland (Emergency Provisions) Act 1973.

**Marginal Citations**

**M15** 1996 c. 22.
**M16** 1991 c. 24.
**M17** 1989 c. 4.
**M18** 1984 c. 8.
**M19** 1978 c. 5.
**M20** 1976 c. 8.
**M21** 1974 c. 56.
**M22** 1973 c. 53.

## 12 Support.

(1) A person commits an offence if—
- (a) he invites support for a proscribed organisation, and
- (b) the support is not, or is not restricted to, the provision of money or other property (within the meaning of section 15).

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(2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is—
  (a) to support a proscribed organisation,
  (b) to further the activities of a proscribed organisation, or
  (c) to be addressed by a person who belongs or professes to belong to a proscribed organisation.

(3) A person commits an offence if he addresses a meeting and the purpose of his address is to encourage support for a proscribed organisation or to further its activities.

(4) Where a person is charged with an offence under subsection (2)(c) in respect of a private meeting it is a defence for him to prove that he had no reasonable cause to believe that the address mentioned in subsection (2)(c) would support a proscribed organisation or further its activities.

(5) In subsections (2) to (4)—
  (a) "meeting" means a meeting of three or more persons, whether or not the public are admitted, and
  (b) a meeting is private if the public are not admitted.

(6) A person guilty of an offence under this section shall be liable—
  (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both, or
  (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

**13 Uniform.**

(1) A person in a public place commits an offence if he—
  (a) wears an item of clothing, or
  (b) wears, carries or displays an article,

  in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation.

(2) A constable in Scotland may arrest a person without a warrant if he has reasonable grounds to suspect that the person is guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable on summary conviction to—
  (a) imprisonment for a term not exceeding six months,
  (b) a fine not exceeding level 5 on the standard scale, or
  (c) both.

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## PART III

## TERRORIST PROPERTY

### *Interpretation*

### 14 Terrorist property.

(1) In this Act "terrorist property" means—

(a) money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation),

(b) proceeds of the commission of acts of terrorism, and

(c) proceeds of acts carried out for the purposes of terrorism.

(2) In subsection (1)—

(a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission), and

(b) the reference to an organisation's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

### *Offences*

### 15 Fund-raising.

(1) A person commits an offence if he—

(a) invites another to provide money or other property, and

(b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

(2) A person commits an offence if he—

(a) receives money or other property, and

(b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

(3) A person commits an offence if he—

(a) provides money or other property, and

(b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

(4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

**Modifications etc. (not altering text)**

**C3** S. 15 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

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## 16 Use and possession.

(1) A person commits an offence if he uses money or other property for the purposes of terrorism.

(2) A person commits an offence if he—
- (a) possesses money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

**Modifications etc. (not altering text)**
**C4** S. 16 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

## 17 Funding arrangements.

A person commits an offence if—
- (a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

**Modifications etc. (not altering text)**
**C5** S. 17 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

## 18 Money laundering.

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property—
- (a) by concealment,
- (b) by removal from the jurisdiction,
- (c) by transfer to nominees, or
- (d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

**Modifications etc. (not altering text)**
**C6** S. 18 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

## 19 Disclosure of information: duty.

(1) This section applies where a person—

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(a) believes or suspects that another person has committed an offence under any of sections 15 to 18, and

(b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment.

(2) The person commits an offence if he does not disclose to a constable as soon as is reasonably practicable—

(a) his belief or suspicion, and

(b) the information on which it is based.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

(4) Where—

(a) a person is in employment,

(b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (2), and

(c) he is charged with an offence under that subsection,

it is a defence for him to prove that he disclosed the matters specified in that subsection in accordance with the procedure.

(5) Subsection (2) does not require disclosure by a professional legal adviser of—

(a) information which he obtains in privileged circumstances, or

(b) a belief or suspicion based on information which he obtains in privileged circumstances.

(6) For the purpose of subsection (5) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose—

(a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client,

(b) from a person seeking legal advice from the adviser, or from the person's representative, or

(c) from any person, for the purpose of actual or contemplated legal proceedings.

(7) For the purposes of subsection (1)(a) a person shall be treated as having committed an offence under one of sections 15 to 18 if—

(a) he has taken an action or been in possession of a thing, and

(b) he would have committed an offence under one of those sections if he had been in the United Kingdom at the time when he took the action or was in possession of the thing.

(8) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum or to both.

**Modifications etc. (not altering text)**

**C7** S. 19 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

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S. 19 restricted (19.2.2001) by S.I. 2001/192, **reg. 4**

## 20 Disclosure of information: permission.

(1) A person may disclose to a constable—

(a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property;

(b) any matter on which the suspicion or belief is based.

(2) A person may make a disclosure to a constable in the circumstances mentioned in section 19(1) and (2).

(3) Subsections (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(4) Where—

(a) a person is in employment, and

(b) his employer has established a procedure for the making of disclosures of the kinds mentioned in subsection (1) and section 19(2),

subsections (1) and (2) shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

**Modifications etc. (not altering text)**

**C8** S. 20 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

## 21 Cooperation with police.

(1) A person does not commit an offence under any of sections 15 to 18 if he is acting with the express consent of a constable.

(2) Subject to subsections (3) and (4), a person does not commit an offence under any of sections 15 to 18 by involvement in a transaction or arrangement relating to money or other property if he discloses to a constable—

(a) his suspicion or belief that the money or other property is terrorist property, and

(b) the information on which his suspicion or belief is based.

(3) Subsection (2) applies only where a person makes a disclosure—

(a) after he becomes concerned in the transaction concerned,

(b) on his own initiative, and

(c) as soon as is reasonably practicable.

(4) Subsection (2) does not apply to a person if—

(a) a constable forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and

(b) he continues his involvement.

(5) It is a defence for a person charged with an offence under any of sections 15(2) and (3) and 16 to 18 to prove that—

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***Changes to legislation:*** *Terrorism Act 2000 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3), and

(b) there is reasonable excuse for his failure to do so.

(6) Where—

(a) a person is in employment, and

(b) his employer has established a procedure for the making of disclosures of the same kind as may be made to a constable under subsection (2),

this section shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

(7) A reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

**Modifications etc. (not altering text)**

**C9** S. 21 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

**C10** S. 21(3) modified (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 77(4)**, 100(5) (with s. 101(2)); S.I. 2009/58, **art. 2(e)**

VALID FROM 26/12/2007

### [F2 21ZA Arrangements with prior consent

(1) A person does not commit an offence under any of sections 15 to 18 by involvement in a transaction or an arrangement relating to money or other property if, before becoming involved, the person—

(a) discloses to an authorised officer the person's suspicion or belief that the money or other property is terrorist property and the information on which the suspicion or belief is based, and

(b) has the authorised officer's consent to becoming involved in the transaction or arrangement.

(2) A person is treated as having an authorised officer's consent if before the end of the notice period the person does not receive notice from an authorised officer that consent is refused.

(3) The notice period is the period of 7 working days starting with the first working day after the person makes the disclosure.

(4) A working day is a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 (c.80) in the part of the United Kingdom in which the person is when making the disclosure.

(5) In this section "authorised officer" means a member of the staff of the Serious Organised Crime Agency authorised for the purposes of this section by the Director General of that Agency.

(6) The reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

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**Textual Amendments**

**F2** Ss. 21ZA-21ZC inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 2**

VALID FROM 26/12/2007

### 21ZB Disclosure after entering into arrangements

(1) A person does not commit an offence under any of sections 15 to 18 by involvement in a transaction or an arrangement relating to money or other property if, after becoming involved, the person discloses to an authorised officer—

(a) the person's suspicion or belief that the money or other property is terrorist property, and

(b) the information on which the suspicion or belief is based.

(2) This section applies only where—

(a) there is a reasonable excuse for the person's failure to make the disclosure before becoming involved in the transaction or arrangement, and

(b) the disclosure is made on the person's own initiative and as soon as it is reasonably practicable for the person to make it.

(3) This section does not apply to a person if—

(a) an authorised officer forbids the person to continue involvement in the transaction or arrangement to which the disclosure relates, and

(b) the person continues that involvement.

(4) In this section "authorised officer" means a member of the staff of the Serious Organised Crime Agency authorised for the purposes of this section by the Director General of that Agency.

(5) The reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

**Textual Amendments**

**F2** Ss. 21ZA-21ZC inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 2**

VALID FROM 26/12/2007

### 21ZC Reasonable excuse for failure to disclose

It is a defence for a person charged with an offence under any of sections 15 to 18 to prove that—

(a) the person intended to make a disclosure of the kind mentioned in section 21ZA or 21ZB, and

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(b) there is a reasonable excuse for the person's failure to do so.]

**Textual Amendments**

**F2** Ss. 21ZA-21ZC inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 2**

VALID FROM 20/12/2001

### [F3 21A Failure to disclose: regulated sector

(1) A person commits an offence if each of the following three conditions is satisfied.

(2) The first condition is that he—
- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that another person has committed an offence under any of sections 15 to 18.

(3) The second condition is that the information or other matter—
- (a) on which his knowledge or suspicion is based, or
- (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of a business in the regulated sector.

(4) The third condition is that he does not disclose the information or other matter to a constable or a nominated officer as soon as is practicable after it comes to him.

(5) But a person does not commit an offence under this section if—
- (a) he has a reasonable excuse for not disclosing the information or other matter;
- (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(6) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned—
- (a) issued by a supervisory authority or any other appropriate body,
- (b) approved by the Treasury, and
- (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.

(7) A disclosure to a nominated officer is a disclosure which—
- (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and
- (b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(8) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him—
- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,

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(b) by (or by a representative of) a person seeking legal advice from the adviser, or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(9) But subsection (8) does not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.

(10) Schedule 3A has effect for the purpose of determining what is—

(a) a business in the regulated sector;

(b) a supervisory authority.

(11) For the purposes of subsection (2) a person is to be taken to have committed an offence there mentioned if—

(a) he has taken an action or been in possession of a thing, and

(b) he would have committed the offence if he had been in the United Kingdom at the time when he took the action or was in possession of the thing.

(12) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(14) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.**]**

**Textual Amendments**

**F3** S. 21A inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 3 para. 5(2)**; S.I. 2001/4019, **art. 2(1)(c)**

VALID FROM 20/12/2001

### [[F4]21B Protected disclosures

(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).

(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.

(3) The second condition is that the information or other matter—

(a) causes the discloser to know or suspect, or

(b) gives him reasonable grounds for knowing or suspecting,

that another person has committed an offence under any of sections 15 to 18.

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(4) The third condition is that the disclosure is made to a constable or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.

(5) A disclosure to a nominated officer is a disclosure which—

(a) is made to a person nominated by the discloser's employer to receive disclosures under this section, and

(b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for the purpose.

(6) The reference to a business in the regulated sector must be construed in accordance with Schedule 3A.

(7) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Director General of the National Criminal Intelligence Service.**]**

**Textual Amendments**

**F4** S. 21B inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 3 para. 5(2)**; S.I. 2001/4019, **art. 2(1)(c)**

VALID FROM 26/12/2007

### [[F5]21C Disclosures to SOCA

(1) Where a disclosure is made under a provision of this Part to a constable, the constable must disclose it in full as soon as practicable after it has been made to a member of staff of the Serious Organised Crime Agency authorised for the purposes of that provision by the Director General of that Agency.

(2) Where a disclosure is made under section 21 (cooperation with police) to a constable, the constable must disclose it in full as soon as practicable after it has been made to a member of staff of the Serious Organised Crime Agency authorised for the purposes of this subsection by the Director General of that Agency.

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

VALID FROM 26/12/2007

### 21D Tipping off: regulated sector

(1) A person commits an offence if—

(a) the person discloses any matter within subsection (2);

(b) the disclosure is likely to prejudice any investigation that might be conducted following the disclosure referred to in that subsection; and

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(c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.

(2) The matters are that the person or another person has made a disclosure under a provision of this Part—

(a) to a constable,

(b) in accordance with a procedure established by that person's employer for the making of disclosures under that provision,

(c) to a nominated officer, or

(d) to a member of staff of the Serious Organised Crime Agency authorised for the purposes of that provision by the Director General of that Agency,

of information that came to that person in the course of a business in the regulated sector.

(3) A person commits an offence if—

(a) the person discloses that an investigation into allegations that an offence under this Part has been committed is being contemplated or is being carried out;

(b) the disclosure is likely to prejudice that investigation; and

(c) the information on which the disclosure is based came to the person in the course of a business in the regulated sector.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 5 on the standard scale, or to both;

(b) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both.

(5) This section is subject to—

(a) section 21E (disclosures within an undertaking or group etc),

(b) section 21F (other permitted disclosures between institutions etc), and

(c) section 21G (other permitted disclosures etc).

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

VALID FROM 26/12/2007

### 21E Disclosures within an undertaking or group etc

(1) An employee, officer or partner of an undertaking does not commit an offence under section 21D if the disclosure is to an employee, officer or partner of the same undertaking.

(2) A person does not commit an offence under section 21D in respect of a disclosure by a credit institution or a financial institution if—

(a) the disclosure is to a credit institution or a financial institution,

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(b) the institution to whom the disclosure is made is situated in an EEA State or in a country or territory imposing equivalent money laundering requirements, and

(c) both the institution making the disclosure and the institution to whom it is made belong to the same group.

(3) In subsection (2) "group" has the same meaning as in Directive 2002/87/EC of the European Parliament and of the Council of 16th December 2002 [F6] on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate.

(4) A professional legal adviser or a relevant professional adviser does not commit an offence under section 21D if—

(a) the disclosure is to a professional legal adviser or a relevant professional adviser,

(b) both the person making the disclosure and the person to whom it is made carry on business in an EEA state or in a country or territory imposing equivalent money laundering requirements, and

(c) those persons perform their professional activities within different undertakings that share common ownership, management or control.

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

**F6** OJ L 35, 11.2.2003, p.1.

VALID FROM 26/12/2007

### 21F Other permitted disclosures between institutions etc

(1) This section applies to a disclosure—

(a) by a credit institution to another credit institution,

(b) by a financial institution to another financial institution,

(c) by a professional legal adviser to another professional legal adviser, or

(d) by a relevant professional adviser of a particular kind to another relevant professional adviser of the same kind.

(2) A person does not commit an offence under section 21D in respect of a disclosure to which this section applies if—

(a) the disclosure relates to—

(i) a client or former client of the institution or adviser making the disclosure and the institution or adviser to whom it is made,

(ii) a transaction involving them both, or

(iii) the provision of a service involving them both;

(b) the disclosure is for the purpose only of preventing an offence under this Part of this Act;

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(c) the institution or adviser to whom the disclosure is made is situated in an EEA State or in a country or territory imposing equivalent money laundering requirements; and

(d) the institution or adviser making the disclosure and the institution or adviser to whom it is made are subject to equivalent duties of professional confidentiality and the protection of personal data (within the meaning of section 1 of the Data Protection Act 1998 [F7]).

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

**F7** 1998 c.29.

VALID FROM 26/12/2007

### 21G Other permitted disclosures etc

(1) A person does not commit an offence under section 21D if the disclosure is—

(a) to the authority that is the supervisory authority for that person by virtue of the Money Laundering Regulations 2007 (S.I. 2007/2157); or

(b) for the purpose of—

(i) the detection, investigation or prosecution of a criminal offence (whether in the United Kingdom or elsewhere),

(ii) an investigation under the Proceeds of Crime Act 2002 [F8], or

(iii) the enforcement of any order of a court under that Act.

(2) A professional legal adviser or a relevant professional adviser does not commit an offence under section 21D if the disclosure—

(a) is to the adviser's client, and

(b) is made for the purpose of dissuading the client from engaging in conduct amounting to an offence.

(3) A person does not commit an offence under section 21D(1) if the person does not know or suspect that the disclosure is likely to have the effect mentioned in section 21D(1)(b).

(4) A person does not commit an offence under section 21D(3) if the person does not know or suspect that the disclosure is likely to have the effect mentioned in section 21D(3)(b).

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

**F8** 2002 c.29.

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VALID FROM 26/12/2007

**21H Interpretation of sections 21D to 21G**

(1) The references in sections 21D to 21G—

(a) to a business in the regulated sector, and

(b) to a supervisory authority,

are to be construed in accordance with Schedule 3A.

(2) In those sections—

"credit institution" has the same meaning as in Schedule 3A;

"financial institution" means an undertaking that carries on a business in the regulated sector by virtue of any of paragraphs (b) to (i) of paragraph 1(1) of that Schedule.

(3) References in those sections to a disclosure by or to a credit institution or a financial institution include disclosure by or to an employee, officer or partner of the institution acting on its behalf.

(4) For the purposes of those sections a country or territory imposes "equivalent money laundering requirements" if it imposes requirements equivalent to those laid down in Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 [F9] on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

(5) In those sections "relevant professional adviser" means an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for—

(a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and

(b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.**]**

**Textual Amendments**

**F5** Ss. 21C-21H inserted (26.12.2007) by The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007 (S.I. 2007/3398), reg. 2, **Sch. 1 para. 5**

**F9** OJ L 309, 25.11.2005, p.15.

**22 Penalties.**

A person guilty of an offence under any of sections 15 to 18 shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

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**Modifications etc. (not altering text)**

**C11** S. 22 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

VALID FROM 16/02/2009

### [F10 22A Meaning of "employment"

In sections 19 to 21B—

(a) "employment" means any employment (whether paid or unpaid) and includes—

(i) work under a contract for services or as an office-holder,

(ii) work experience provided pursuant to a training course or programme or in the course of training for employment, and

(iii) voluntary work;

(b) "employer" has a corresponding meaning.]

**Textual Amendments**

**F10** S. 22A inserted (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 77(3)(4)**, 100(5) (with s. 101(2)); S.I. 2009/58, **art. 2(e)**

### X1F11 23 Forfeiture.

(1) The court by or before which a person is convicted of an offence under any of sections 15 to 18 may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 15(1) or (2) or 16 the court may order the forfeiture of any money or other property—

(a) which, at the time of the offence, he had in his possession or under his control, and

(b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(3) Where a person is convicted of an offence under section 15(3) the court may order the forfeiture of any money or other property—

(a) which, at the time of the offence, he had in his possession or under his control, and

(b) which, at that time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under section 17 the court may order the forfeiture of the money or other property—

(a) to which the arrangement in question related, and

(b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

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(5) Where a person is convicted of an offence under section 18 the court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of sections 15 to 18, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(7) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

(8) A court in Scotland shall not make an order under this section except on the application of the prosecutor—

(a) in proceedings on indictment, when he moves for sentence, and

(b) in summary proceedings, before the court convicts the accused,

and for the purposes of any appeal or review, an order under this section made by a court in Scotland is a sentence.

(9) Schedule 4 (which makes further provision in relation to forfeiture orders under this section) shall have effect.

**Editorial Information**

**X1** The insertion of the new heading "Forfeiture" in Pt. III on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

**Textual Amendments**

**F11** S. 23 and cross-heading substituted (18.6.2009) for s. 23 by Counter-Terrorism Act 2008 (c. 28), **ss. 34**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

**Modifications etc. (not altering text)**

**C12** S. 23 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

VALID FROM 18/06/2009

*[F12 Forfeiture*

**Textual Amendments**

**F12** S. 23 and preceding cross-heading substituted (18.6.2009) for s. 23 by Counter-Terrorism Act 2008 (c. 28), **ss. 34**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

**[F13 23A Forfeiture: other terrorism offences and offences with a terrorist connection**

(1) The court by or before which a person is convicted of an offence to which this section applies may order the forfeiture of any money or other property in relation to which the following conditions are met—

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(a) that it was, at the time of the offence, in the possession or control of the person convicted; and

(b) that—

(i) it had been used for the purposes of terrorism,

(ii) it was intended by that person that it should be used for the purposes of terrorism, or

(iii) the court believes that it will be used for the purposes of terrorism unless forfeited.

(2) This section applies to an offence under—

(a) any of the following provisions of this Act—

section 54 (weapons training);

section 57, 58 or 58A (possessing things and collecting information for the purposes of terrorism);

section 59, 60 or 61 (inciting terrorism outside the United Kingdom);

(b) any of the following provisions of Part 1 of the Terrorism Act 2006 (c. 11)—

section 2 (dissemination of terrorist publications);

section 5 (preparation of terrorist acts);

section 6 (training for terrorism);

sections 9 to 11 (offences involving radioactive devices or materials).

(3) This section applies to any ancillary offence (as defined in section 94 of the Counter-Terrorism Act 2008) in relation to an offence listed in subsection (2).

(4) This section also applies to an offence specified in Schedule 2 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered) as to which—

(a) in England and Wales, the court dealing with the offence has determined, in accordance with section 30 of that Act, that the offence has a terrorist connection;

(b) in Scotland, it has been proved, in accordance with section 31 of that Act, that the offence has a terrorist connection.

(5) The Secretary of State may by order amend subsection (2).

(6) An order adding an offence to subsection (2) applies only in relation to offences committed after the order comes into force.**]**

**Textual Amendments**

**F13** S. 23A inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 35(1)**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

**[F14 23B Forfeiture: supplementary provisions**

(1) Before making an order under section 23 or 23A, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under that section.

(2) In considering whether to make an order under section 23 or 23A in respect of any property, a court shall have regard to—

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(a) the value of the property, and
(b) the likely financial and other effects on the convicted person of the making of the order (taken together with any other order that the court contemplates making).

(3) A court in Scotland must not make an order under section 23 or 23A except on the application of the prosecutor—
(a) in proceedings on indictment, when the prosecutor moves for sentence, and
(b) in summary proceedings, before the court sentences the accused;
and for the purposes of any appeal or review, an order under either of those sections made by a court in Scotland is a sentence.

(4) Schedule 4 makes further provision in relation to forfeiture orders under section 23 or 23A.**]]**

**Textual Amendments**

**F14** S. 23B inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 36**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

*Seizure of terrorist cash*

## 24 Interpretation.

(1) In sections 25 to 31 "authorised officer" means any of the following—
(a) a constable,
(b) a customs officer, and
(c) an immigration officer.

(2) In sections 25 to 31 "cash" means—
(a) coins and notes in any currency,
(b) postal orders,
(c) travellers' cheques,
(d) bankers' drafts, and
(e) such other kinds of monetary instrument as the Secretary of State may specify by order.

**Commencement Information**

**I4** S. 24 wholly in force at 19.2.2001; s. 24 not in force at Royal Assent see s. 128; s. 24(2)(e) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(c)**; s. 24 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

## 25 Seizure and detention.

(1) An authorised officer may seize and detain any cash to which this section applies if he has reasonable grounds for suspecting that—
(a) it is intended to be used for the purposes of terrorism,

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(b) it forms the whole or part of the resources of a proscribed organisation, or

(c) it is terrorist property within the meaning given in section 14(1)(b) or (c).

(2) In subsection (1)(b) the reference to an organisation's resources includes a reference to any cash which is applied or made available, or is to be applied or made available, for use by the organisation.

(3) This section applies to cash which—

(a) is being imported into or exported from the United Kingdom,

(b) is being brought to any place in the United Kingdom for the purpose of being exported from the United Kingdom,

(c) is being brought to Northern Ireland from Great Britain, or to Great Britain from Northern Ireland,

(d) is being brought to any place in Northern Ireland for the purpose of being brought to Great Britain, or

(e) is being brought to any place in Great Britain for the purpose of being brought to Northern Ireland.

(4) Subject to subsection (5), cash seized under this section shall be released not later than the end of the period of 48 hours beginning with the time when it is seized.

(5) Where an order is made under section 26 in relation to cash seized, it may be detained during the period specified in the order.

**26 Continued detention.**

(1) An authorised officer or the Commissioners of Customs and Excise may apply to a magistrates' court for an order under this section in relation to cash seized under section 25.

(2) An order under this section—

(a) shall authorise the further detention under section 25 of the cash to which it relates for a period specified in the order,

(b) shall specify a period which ends not later than the end of the period of three months beginning with the date of the order, and

(c) shall require notice to be given to the person from whom the cash was seized and to any other person who is affected by and specified in the order.

(3) An application for an order under this section may be granted only if the court is satisfied—

(a) that there are reasonable grounds to suspect that the cash is cash of a kind mentioned in section 25(1)(a), (b) or (c), and

(b) that the continued detention of the cash is justified pending completion of an investigation of its origin or derivation or pending a determination whether to institute criminal proceedings (whether in the United Kingdom or elsewhere) which relate to the cash.

(4) More than one order may be made under this section in relation to particular cash; but cash shall not be detained by virtue of an order under this section after the end of the period of two years beginning with the date when the first order under this section was made in relation to it.

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(5) In Scotland, any application under this section shall be made by the procurator fiscal to the sheriff; and in this section a reference to a magistrates' court shall be taken as a reference to the sheriff.

**27 Detained cash.**

(1) Cash detained under section 25 by virtue of an order under section 26 shall, unless required as evidence of an offence, be held in an interest bearing account; and the interest accruing on the cash shall be added to it on its release or forfeiture.

(2) Any person may apply to a magistrates' court, or in Scotland to the sheriff, for a direction that cash detained under section 25 be released.

(3) A magistrates' court or the sheriff shall grant an application under subsection (2) if satisfied—
   (a) that section 26(3)(a) or (b) no longer applies, or
   (b) that the detention of the cash is for any other reason no longer justified.

(4) An authorised officer, or in Scotland the procurator fiscal, may release cash detained under section 25 if—
   (a) he is satisfied that its detention is no longer justified, and
   (b) he has notified the magistrates' court or sheriff who made the order by virtue of which the cash is being detained under section 25.

(5) Cash detained under section 25 shall not be released under this section—
   (a) while proceedings on an application for its forfeiture under section 28 have not been concluded, or
   (b) while proceedings, whether in the United Kingdom or elsewhere, which relate to the cash have not been concluded.

**28 Forfeiture.**

(1) An authorised officer or the Commissioners of Customs and Excise may apply to a magistrates' court, or in Scotland the procurator fiscal may apply to the sheriff, for an order forfeiting cash being detained under section 25.

(2) A magistrates' court or the sheriff may grant an application only if satisfied on the balance of probabilities that the cash is cash of a kind mentioned in section 25(1)(a), (b) or (c).

(3) Before making an order under this section, a magistrates' court or the sheriff must give an opportunity to be heard to any person—
   (a) who is not a party to the proceedings, and
   (b) who claims to be the owner of or otherwise interested in any of the cash which can be forfeited under this section.

(4) An order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash is connected.

(5) Proceedings on an application under this section to the sheriff shall be civil proceedings.

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**29 Forfeiture: appeal.**

(1) Subject to subsection (2), any party to proceedings in which a forfeiture order is made under section 28 may appeal—
- (a) where the order is made by a magistrates' court in England and Wales, to the Crown Court,
- (b) where the order is made by the sheriff in Scotland, to the Court of Session, or
- (c) where the order is made by a magistrates' court in Northern Ireland, to the county court.

(2) An appeal under subsection (1)—
- (a) must be brought before the end of the period of 30 days beginning with the date on which the forfeiture order was made, and
- (b) may not be brought by the applicant for the forfeiture order.

(3) On an application by the appellant, a magistrates' court or the sheriff may order the release of so much of the cash to which the forfeiture order applies as it considers appropriate to enable him to meet his reasonable legal expenses in connection with the appeal.

(4) An appeal under subsection (1) shall be by way of a rehearing.

(5) If the court allows the appeal, it may order the release of—
- (a) the cash to which the forfeiture order applies together with any interest which has accrued, or
- (b) where an order has been made under subsection (3), the remaining cash to which the forfeiture order applies together with any interest which has accrued.

(6) Subsection (7) applies where a successful application for a forfeiture order relies (in whole or in part) on the fact that an organisation is proscribed, and—
- (a) a deproscription appeal under section 5 is allowed in respect of the organisation,
- (b) an order is made under section 3(3)(b) in respect of the organisation in accordance with an order of the Proscribed Organisations Appeal Commission under section 5(4) (and, if the order is made in reliance on section 123(5), a resolution is passed by each House of Parliament under section 123(5)(b)), and
- (c) the forfeited cash was seized under section 25 on or after the date of the refusal to deproscribe against which the appeal under section 5 was brought.

(7) Where this subsection applies an appeal under subsection (1) may be brought at any time before the end of the period of 30 days beginning with the date on which the order under section 3(3)(b) comes into force.

**30 Treatment of forfeited cash.**

Any cash to which a forfeiture order under section 28 applies or accrued interest thereon shall be paid into the Consolidated Fund—
- (a) after the end of the period within which an appeal may be brought under section 29(1), or
- (b) where an appeal is brought under section 29(1), after the appeal is determined or otherwise disposed of.

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### 31 Rules of court.

Provision may be made by rules of court about the procedure on applications or appeals to any court under sections 26 to 29, and in particular as to—

(a) the giving of notice to persons affected by an application or appeal under those provisions;

(b) the joinder, or in Scotland the sisting, of those persons as parties to the proceedings.

## PART IV

## TERRORIST INVESTIGATIONS

*Interpretation*

### 32 Terrorist investigation.

In this Act "terrorist investigation" means an investigation of—

(a) the commission, preparation or instigation of acts of terrorism,

(b) an act which appears to have been done for the purposes of terrorism,

(c) the resources of a proscribed organisation,

(d) the possibility of making an order under section 3(3), or

(e) the commission, preparation or instigation of an offence under this Act.

*Cordons*

### 33 Cordoned areas.

(1) An area is a cordoned area for the purposes of this Act if it is designated under this section.

(2) A designation may be made only if the person making it considers it expedient for the purposes of a terrorist investigation.

(3) If a designation is made orally, the person making it shall confirm it in writing as soon as is reasonably practicable.

(4) The person making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable—

(a) by means of tape marked with the word "police", or

(b) in such other manner as a constable considers appropriate.

### 34 Power to designate.

(1) Subject to subsection (2), a designation under section 33 may only be made—

(a) where the area is outside Northern Ireland and is wholly or partly within a police area, by an officer for the police area who is of at least the rank of superintendent, and

(b) where the area is in Northern Ireland, by a member of the Royal Ulster Constabulary who is of at least the rank of superintendent.

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(2) A constable who is not of the rank required by subsection (1) may make a designation if he considers it necessary by reason of urgency.

(3) Where a constable makes a designation in reliance on subsection (2) he shall as soon as is reasonably practicable—
  (a) make a written record of the time at which the designation was made, and
  (b) ensure that a police officer of at least the rank of superintendent is informed.

(4) An officer who is informed of a designation in accordance with subsection (3)(b)—
  (a) shall confirm the designation or cancel it with effect from such time as he may direct, and
  (b) shall, if he cancels the designation, make a written record of the cancellation and the reason for it.

**35 Duration.**

(1) A designation under section 33 has effect, subject to subsections (2) to (5), during the period—
  (a) beginning at the time when it is made, and
  (b) ending with a date or at a time specified in the designation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 14 days beginning with the day on which the designation is made.

(3) The period during which a designation has effect may be extended in writing from time to time by—
  (a) the person who made it, or
  (b) a person who could have made it (otherwise than by virtue of section 34(2)).

(4) An extension shall specify the additional period during which the designation is to have effect.

(5) A designation shall not have effect after the end of the period of 28 days beginning with the day on which it is made.

**36 Police powers.**

(1) A constable in uniform may—
  (a) order a person in a cordoned area to leave it immediately;
  (b) order a person immediately to leave premises which are wholly or partly in or adjacent to a cordoned area;
  (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately;
  (d) arrange for the removal of a vehicle from a cordoned area;
  (e) arrange for the movement of a vehicle within a cordoned area;
  (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles.

(2) A person commits an offence if he fails to comply with an order, prohibition or restriction imposed by virtue of subsection (1).

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for his failure.

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(4) A person guilty of an offence under subsection (2) shall be liable on summary conviction to—
  (a) imprisonment for a term not exceeding three months,
  (b) a fine not exceeding level 4 on the standard scale, or
  (c) both.

**Modifications etc. (not altering text)**

**C13** S. 36 extended (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. I para. 14**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

**C14** S. 36 extended (N.I.) (21.4.2007) by 2003 c. 6, Sch. 2A para. 15 (as inserted by The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(2)(3), 7, **Sch. 5**)

*Information and evidence*

### 37 Powers.

Schedule 5 (power to obtain information, &c.) shall have effect.

### 38 Financial information.

Schedule 6 (financial information) shall have effect.

VALID FROM 20/12/2001

### [F15 38A Account monitoring orders

Schedule 6A (account monitoring orders) shall have effect.]

**Textual Amendments**

**F15** S. 38A inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 1 para. 1(2)**; S.I. 2001/4019, **art. 2(1)(c)**

VALID FROM 14/12/2001

### [F16 38B Information about acts of terrorism

(1) This section applies where a person has information which he knows or believes might be of material assistance—
  (a) in preventing the commission by another person of an act of terrorism, or
  (b) in securing the apprehension, prosecution or conviction of another person, in the United Kingdom, for an offence involving the commission, preparation or instigation of an act of terrorism.

(2) The person commits an offence if he does not disclose the information as soon as reasonably practicable in accordance with subsection (3).

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(3) Disclosure is in accordance with this subsection if it is made—
- (a) in England and Wales, to a constable,
- (b) in Scotland, to a constable, or
- (c) in Northern Ireland, to a constable or a member of Her Majesty's forces.

(4) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

(5) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum or to both.

(6) Proceedings for an offence under this section may be taken, and the offence may for the purposes of those proceedings be treated as having been committed, in any place where the person to be charged is or has at any time been since he first knew or believed that the information might be of material assistance as mentioned in subsection (1).**]**

**Textual Amendments**

**F16** S. 38B inserted (14.12.2001) by 2001 c. 24, **s. 117(2)**

## 39 Disclosure of information, &c.

(1) Subsection (2) applies where a person knows or has reasonable cause to suspect that a constable is conducting or proposes to conduct a terrorist investigation.

(2) The person commits an offence if he—
- (a) discloses to another anything which is likely to prejudice the investigation, or
- (b) interferes with material which is likely to be relevant to the investigation.

(3) Subsection (4) applies where a person knows or has reasonable cause to suspect that a disclosure has been or will be made under any of sections 19 to 21.

(4) The person commits an offence if he—
- (a) discloses to another anything which is likely to prejudice an investigation resulting from the disclosure under that section, or
- (b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section.

(5) It is a defence for a person charged with an offence under subsection (2) or (4) to prove—
- (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation, or
- (b) that he had a reasonable excuse for the disclosure or interference.

(6) Subsections (2) and (4) do not apply to a disclosure which is made by a professional legal adviser—

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(a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose, or

(b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.

(7) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(8) For the purposes of this section—

(a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation, and

(b) a person interferes with material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.

**Modifications etc. (not altering text)**

**C15** S. 39 applied (19.2.2001) by S.I. 2001/192, **reg. 3**

## PART V

## COUNTER-TERRORIST POWERS

*Suspected terrorists*

### 40 Terrorist: interpretation.

(1) In this Part "terrorist" means a person who—

(a) has committed an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63, or

(b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.

(2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

### 41 Arrest without warrant.

(1) A constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist.

(2) Where a person is arrested under this section the provisions of Schedule 8 (detention: treatment, review and extension) shall apply.

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(3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the end of the period of 48 hours beginning—
   (a) with the time of his arrest under this section, or
   (b) if he was being detained under Schedule 7 when he was arrested under this section, with the time when his examination under that Schedule began.

(4) If on a review of a person's detention under Part II of Schedule 8 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.

(5) Where a police officer intends to make an application for a warrant under paragraph 29 of Schedule 8 extending a person's detention, the person may be detained pending the making of the application.

(6) Where an application has been made under paragraph 29 or 36 of Schedule 8 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.

(7) Where an application under paragraph 29 or 36 of Schedule 8 is granted in respect of a person's detention, he may be detained, subject to paragraph 37 of that Schedule, during the period specified in the warrant.

(8) The refusal of an application in respect of a person's detention under paragraph 29 or 36 of Schedule 8 shall not prevent his continued detention in accordance with this section.

(9) A person who has the powers of a constable in one Part of the United Kingdom may exercise the power under subsection (1) in any Part of the United Kingdom.

**42 Search of premises.**

(1) A justice of the peace may on the application of a constable issue a warrant in relation to specified premises if he is satisfied that there are reasonable grounds for suspecting that a person whom the constable reasonably suspects to be a person falling within section 40(1)(b) is to be found there.

(2) A warrant under this section shall authorise any constable to enter and search the specified premises for the purpose of arresting the person referred to in subsection (1) under section 41.

(3) In the application of subsection (1) to Scotland—
   (a) "justice of the peace" includes the sheriff, and
   (b) the justice of the peace or sheriff can be satisfied as mentioned in that subsection only by having heard evidence on oath.

**43 Search of persons.**

(1) A constable may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(2) A constable may search a person arrested under section 41 to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

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(3) A search of a person under this section must be carried out by someone of the same sex.

(4) A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.

(5) A person who has the powers of a constable in one Part of the United Kingdom may exercise a power under this section in any Part of the United Kingdom.

**Modifications etc. (not altering text)**

**C16** S. 43(4): power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 82; S.I. 2003/708, **art. 2**

*Power to stop and search*

## 44 Authorisations.

(1) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in an area or at a place specified in the authorisation and to search—
- (a) the vehicle;
- (b) the driver of the vehicle;
- (c) a passenger in the vehicle;
- (d) anything in or on the vehicle or carried by the driver or a passenger.

(2) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in an area or at a place specified in the authorisation and to search—
- (a) the pedestrian;
- (b) anything carried by him.

(3) An authorisation under subsection (1) or (2) may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.

(4) An authorisation may be given—
- (a) where the specified area or place is the whole or part of a police area outside Northern Ireland other than one mentioned in paragraph (b) or (c), by a police officer for the area who is of at least the rank of assistant chief constable;
- (b) where the specified area or place is the whole or part of the metropolitan police district, by a police officer for the district who is of at least the rank of commander of the metropolitan police;
- (c) where the specified area or place is the whole or part of the City of London, by a police officer for the City who is of at least the rank of commander in the City of London police force;
- (d) where the specified area or place is the whole or part of Northern Ireland, by a member of the Royal Ulster Constabulary who is of at least the rank of assistant chief constable.

(5) If an authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

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## 45 Exercise of power.

(1) The power conferred by an authorisation under section 44(1) or (2)—

(a) may be exercised only for the purpose of searching for articles of a kind which could be used in connection with terrorism, and

(b) may be exercised whether or not the constable has grounds for suspecting the presence of articles of that kind.

(2) A constable may seize and retain an article which he discovers in the course of a search by virtue of section 44(1) or (2) and which he reasonably suspects is intended to be used in connection with terrorism.

(3) A constable exercising the power conferred by an authorisation may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(4) Where a constable proposes to search a person or vehicle by virtue of section 44(1) or (2) he may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

(5) Where—

(a) a vehicle or pedestrian is stopped by virtue of section 44(1) or (2), and

(b) the driver of the vehicle or the pedestrian applies for a written statement that the vehicle was stopped, or that he was stopped, by virtue of section 44(1) or (2),

the written statement shall be provided.

(6) An application under subsection (5) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

**Modifications etc. (not altering text)**

**C17** S. 45(1)(4) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 1 para. 15(1)(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

**C18** S. 45(2) extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 1 para. 15(1)(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

## 46 Duration of authorisation.

(1) An authorisation under section 44 has effect, subject to subsections (2) to (7), during the period—

(a) beginning at the time when the authorisation is given, and

(b) ending with a date or at a time specified in the authorisation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 28 days beginning with the day on which the authorisation is given.

(3) The person who gives an authorisation shall inform the Secretary of State as soon as is reasonably practicable.

(4) If an authorisation is not confirmed by the Secretary of State before the end of the period of 48 hours beginning with the time when it is given—

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(a) it shall cease to have effect at the end of that period, but

(b) its ceasing to have effect shall not affect the lawfulness of anything done in reliance on it before the end of that period.

(5) Where the Secretary of State confirms an authorisation he may substitute an earlier date or time for the date or time specified under subsection (1)(b).

(6) The Secretary of State may cancel an authorisation with effect from a specified time.

(7) An authorisation may be renewed in writing by the person who gave it or by a person who could have given it; and subsections (1) to (6) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

**47 Offences.**

(1) A person commits an offence if he—

(a) fails to stop a vehicle when required to do so by a constable in the exercise of the power conferred by an authorisation under section 44(1);

(b) fails to stop when required to do so by a constable in the exercise of the power conferred by an authorisation under section 44(2);

(c) wilfully obstructs a constable in the exercise of the power conferred by an authorisation under section 44(1) or (2).

(2) A person guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding six months,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

*Parking*

**48 Authorisations.**

(1) An authorisation under this section authorises any constable in uniform to prohibit or restrict the parking of vehicles on a road specified in the authorisation.

(2) An authorisation may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.

(3) An authorisation may be given—

(a) where the road specified is outside Northern Ireland and is wholly or partly within a police area other than one mentioned in paragraphs (b) or (c), by a police officer for the area who is of at least the rank of assistant chief constable;

(b) where the road specified is wholly or partly in the metropolitan police district, by a police officer for the district who is of at least the rank of commander of the metropolitan police;

(c) where the road specified is wholly or partly in the City of London, by a police officer for the City who is of at least the rank of commander in the City of London police force;

(d) where the road specified is in Northern Ireland, by a member of the Royal Ulster Constabulary who is of at least the rank of assistant chief constable.

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(4) If an authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

**49 Exercise of power.**

(1) The power conferred by an authorisation under section 48 shall be exercised by placing a traffic sign on the road concerned.

(2) A constable exercising the power conferred by an authorisation under section 48 may suspend a parking place.

(3) Where a parking place is suspended under subsection (2), the suspension shall be treated as a restriction imposed by virtue of section 48—
   (a) for the purposes of section 99 of the [M23]Road Traffic Regulation Act 1984 (removal of vehicles illegally parked, &c.) and of any regulations in force under that section, and
   (b) for the purposes of Articles 47 and 48 of the [M24]Road Traffic Regulation (Northern Ireland) Order 1997 (in relation to Northern Ireland).

**Marginal Citations**
**M23** 1984 c. 27.
**M24** S.I. 1997/276 (N.I. 2).

**50 Duration of authorisation.**

(1) An authorisation under section 48 has effect, subject to subsections (2) and (3), during the period specified in the authorisation.

(2) The period specified shall not exceed 28 days.

(3) An authorisation may be renewed in writing by the person who gave it or by a person who could have given it; and subsections (1) and (2) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

**51 Offences.**

(1) A person commits an offence if he parks a vehicle in contravention of a prohibition or restriction imposed by virtue of section 48.

(2) A person commits an offence if—
   (a) he is the driver or other person in charge of a vehicle which has been permitted to remain at rest in contravention of any prohibition or restriction imposed by virtue of section 48, and
   (b) he fails to move the vehicle when ordered to do so by a constable in uniform.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for the act or omission in question.

(4) Possession of a current disabled person's badge shall not itself constitute a reasonable excuse for the purposes of subsection (3).

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(5) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) A person guilty of an offence under subsection (2) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding three months,

(b) a fine not exceeding level 4 on the standard scale, or

(c) both.

## 52 Interpretation.

In sections 48 to 51—

"disabled person's badge" means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the [M25]Chronically Sick and Disabled Persons Act 1970 (in relation to England and Wales and Scotland) or section 14 of the [M26]Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (in relation to Northern Ireland);

"driver" means, in relation to a vehicle which has been left on any road, the person who was driving it when it was left there;

"parking" means leaving a vehicle or permitting it to remain at rest;

"traffic sign" has the meaning given in section 142(1) of the [M27]Road Traffic Regulation Act 1984 (in relation to England and Wales and Scotland) and in Article 28 of the [M28]Road Traffic Regulation (Northern Ireland) Order 1997 (in relation to Northern Ireland);

"vehicle" has the same meaning as in section 99(5) of the [M29]Road Traffic Regulation Act 1984 (in relation to England and Wales and Scotland) and Article 47(4) of the [M30]Road Traffic Regulation (Northern Ireland) Order 1997 (in relation to Northern Ireland).

**Marginal Citations**

**M25** 1970 c. 44.
**M26** 1978 c. 53 (N.I.).
**M27** 1984 c. 27.
**M28** S.I. 1997/276 (N.I. 2).
**M29** 1984 c. 27.
**M30** S.I. 1997/276 (N.I. 2).

*Port and border controls*

## 53 Port and border controls.

(1) Schedule 7 (port and border controls) shall have effect.

(2) The Secretary of State may by order repeal paragraph 16 of Schedule 7.

(3) The powers conferred by Schedule 7 shall be exercisable notwithstanding the rights conferred by section 1 of the [M31]Immigration Act 1971 (general principles regulating entry into and staying in the United Kingdom).

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**Marginal Citations**
**M31** 1971 c. 77.

## PART VI

MISCELLANEOUS

*Terrorist offences*

### 54 Weapons training.

(1) A person commits an offence if he provides instruction or training in the making or use of—
- (a) firearms,
- (b) explosives, or
- (c) chemical, biological or nuclear weapons.

(2) A person commits an offence if he receives instruction or training in the making or use of—
- (a) firearms,
- (b) explosives, or
- (c) chemical, biological or nuclear weapons.

(3) A person commits an offence if he invites another to receive instruction or training and the receipt—
- (a) would constitute an offence under subsection (2), or
- (b) would constitute an offence under subsection (2) but for the fact that it is to take place outside the United Kingdom.

(4) For the purpose of subsections (1) and (3)—
- (a) a reference to the provision of instruction includes a reference to making it available either generally or to one or more specific persons, and
- (b) an invitation to receive instruction or training may be either general or addressed to one or more specific persons.

(5) It is a defence for a person charged with an offence under this section in relation to instruction or training to prove that his action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.

(6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(7) A court by or before which a person is convicted of an offence under this section may order the forfeiture of anything which the court considers to have been in the person's possession for purposes connected with the offence.

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(8) Before making an order under subsection (7) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(9) An order under subsection (7) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

### 55 Weapons training: interpretation.

In section 54—

"biological weapon" means anything to which section 1(1)(b) of the [M32]Biological Weapons Act 1974 applies,

"chemical weapon" has the meaning given by section 1 of the [M33]Chemical Weapons Act 1996, and

"nuclear weapon" means a weapon which contains nuclear material within the meaning of Article 1(a) and (b) of the Convention on the Physical Protection of Nuclear Material opened for signature at Vienna and New York on 3rd March 1980 (set out in the Schedule to the [M34]Nuclear Material (Offences) Act 1983).

**Marginal Citations**

**M32** 1974 c. 6.
**M33** 1996 c. 6.
**M34** 1983 c. 18.

### 56 Directing terrorist organisation.

(1) A person commits an offence if he directs, at any level, the activities of an organisation which is concerned in the commission of acts of terrorism.

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

### 57 Possession for terrorist purposes.

(1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(3) In proceedings for an offence under this section, if it is proved that an article—

(a) was on any premises at the same time as the accused, or

(b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

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(4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

**58 Collection of information.**

(1) A person commits an offence if—
- (a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) he possesses a document or record containing information of that kind.

(2) In this section "record" includes a photographic or electronic record.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession.

(4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(5) A court by or before which a person is convicted of an offence under this section may order the forfeiture of any document or record containing information of the kind mentioned in subsection (1)(a).

(6) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(7) An order under subsection (5) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

VALID FROM 16/02/2009

**[F17 58A Eliciting, publishing or communicating information about members of armed forces etc**

(1) A person commits an offence who—
- (a) elicits or attempts to elicit information about an individual who is or has been—
  - (i) a member of Her Majesty's forces,
  - (ii) a member of any of the intelligence services, or
  - (iii) a constable,

  which is of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) publishes or communicates any such information.

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(2) It is a defence for a person charged with an offence under this section to prove that they had a reasonable excuse for their action.

(3) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both;

(b) on summary conviction—

(i) in England and Wales or Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(ii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.

(4) In this section "the intelligence services" means the Security Service, the Secret Intelligence Service and GCHQ (within the meaning of section 3 of the Intelligence Services Act 1994 (c. 13)).

(5) Schedule 8A to this Act contains supplementary provisions relating to the offence under this section.**]**

**Textual Amendments**

**F17** S. 58A inserted (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 76(1)(2)**, 100(5) (with s. 101(2)); S.I. 2009/58, **art. 2(d)**

*Inciting terrorism overseas*

**59 England and Wales.**

(1) A person commits an offence if—

(a) he incites another person to commit an act of terrorism wholly or partly outside the United Kingdom, and

(b) the act would, if committed in England and Wales, constitute one of the offences listed in subsection (2).

(2) Those offences are—

(a) murder,

(b) an offence under section 18 of the Offences against the [M35]Person Act 1861 (wounding with intent),

(c) an offence under section 23 or 24 of that Act (poison),

(d) an offence under section 28 or 29 of that Act (explosions), and

(e) an offence under section 1(2) of the [M36]Criminal Damage Act 1971 (endangering life by damaging property).

(3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.

(4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the United Kingdom at the time of the incitement.

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(5) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

**Marginal Citations**
**M35** 1861 c. 100.
**M36** 1971 c. 48.

## 60 Northern Ireland.

(1) A person commits an offence if—
- (a) he incites another person to commit an act of terrorism wholly or partly outside the United Kingdom, and
- (b) the act would, if committed in Northern Ireland, constitute one of the offences listed in subsection (2).

(2) Those offences are—
- (a) murder,
- (b) an offence under section 18 of the Offences against the [M37]Person Act 1861 (wounding with intent),
- (c) an offence under section 23 or 24 of that Act (poison),
- (d) an offence under section 28 or 29 of that Act (explosions), and
- (e) an offence under Article 3(2) of the [M38]Criminal Damage (Northern Ireland) Order 1977 (endangering life by damaging property).

(3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.

(4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the United Kingdom at the time of the incitement.

(5) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

**Marginal Citations**
**M37** 1861 c. 100.
**M38** S.I. 1977/426 (N.I. 4).

## 61 Scotland.

(1) A person commits an offence if—
- (a) he incites another person to commit an act of terrorism wholly or partly outside the United Kingdom, and
- (b) the act would, if committed in Scotland, constitute one of the offences listed in subsection (2).

(2) Those offences are—
- (a) murder,

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(b) assault to severe injury, and

(c) reckless conduct which causes actual injury.

(3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.

(4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the United Kingdom at the time of the incitement.

(5) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

*Terrorist bombing and finance offences*

**62 Terrorist bombing: jurisdiction.**

(1) If—

(a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism, and

(b) his action would have constituted the commission of one of the offences listed in subsection (2) if it had been done in the United Kingdom,

he shall be guilty of the offence.

(2) The offences referred to in subsection (1)(b) are—

(a) an offence under section 2, 3 or 5 of the [M39]Explosive Substances Act 1883 (causing explosions, &c.),

(b) an offence under section 1 of the [M40]Biological Weapons Act 1974 (biological weapons), and

(c) an offence under section 2 of the [M41]Chemical Weapons Act 1996 (chemical weapons).

**Marginal Citations**

**M39** 1883 c. 3.

**M40** 1974 c. 6.

**M41** 1996 c. 6.

**63 Terrorist finance: jurisdiction.**

(1) If—

(a) a person does anything outside the United Kingdom, and

(b) his action would have constituted the commission of an offence under any of sections 15 to 18 if it had been done in the United Kingdom,

he shall be guilty of the offence.

(2) For the purposes of subsection (1)(b), section 18(1)(b) shall be read as if for “the jurisdiction” there were substituted “ a jurisdiction ”.

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**64 Extradition.**

(1) The [M42]Extradition Act 1989 shall be amended as follows.

(2) In section 22(2) (international conventions) after paragraph (l) insert—

"(m) the Convention for the Suppression of Terrorist Bombings, which was opened for signature at New York on 12th January 1998 ("the Terrorist Bombings Convention");

(n) the Convention for the Suppression of the Financing of Terrorism which was opened for signature at New York on 10th January 2000 ("the Terrorist Finance Convention")."

(3) In section 22(4) (relevant offences) after paragraph (l) insert—

"(m) in relation to the Terrorist Bombings Convention, an offence, committed as an act of terrorism or for the purposes of terrorism, under—

(i) section 2, 3 or 5 of the [M43]Explosive Substances Act 1883 (causing explosions, &c.),

(ii) section 1 of the [M44]Biological Weapons Act 1974 (biological weapons), or

(iii) section 2 of the [M45]Chemical Weapons Act 1996 (chemical weapons);

(n) in relation to the Terrorist Finance Convention, an offence under any of sections 15 to 18 of the Terrorism Act 2000 (terrorist property: offences)."

(4) After section 24(4) (suppression of terrorism) insert—

"(5) Subsections (1) and (2) above shall have effect in relation to an offence to which section 22(4)(m) or (n) above applies as they have effect in relation to an offence to which section 1 of the Suppression of Terrorism Act 1978 applies.

(6) For that purpose subsection (2) applies to a country which is a party to—

(a) the Convention for the Suppression of Terrorist Bombings mentioned in section 22(2)(m) above, or

(b) the Convention for the Suppression of the Financing of Terrorism mentioned in section 22(2)(n) above."

(5) The offences to which an Order in Council under section 2 of the [M46]Extradition Act 1870 (arrangements with foreign states) can apply shall include—

(a) offences under the provisions mentioned in sections 62(2) and 63(1)(b),

(b) conspiracy to commit any of those offences, and

(c) attempt to commit any of those offences.

**Marginal Citations**

**M42** 1989 c. 33.
**M43** 1883 c. 3.
**M44** 1974 c. 6.
**M45** 1996 c. 6.
**M46** 1870 c. 52.

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 26/04/2004

*[F18 Extra-territorial jurisdiction for other terrorist offences etc.*

**Textual Amendments**

**F18** Ss. 63A-63E and preceding cross-heading inserted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), **s. 52**; S.I. 2004/786, **art. 3**

### 63A Other terrorist offences under this Act: jurisdiction

(1) If—

(a) a United Kingdom national or a United Kingdom resident does anything outside the United Kingdom, and

(b) his action, if done in any part of the United Kingdom, would have constituted an offence under section 54 or any of sections 56 to 61,

he shall be guilty in that part of the United Kingdom of the offence.

(2) For the purposes of this section and sections 63B and 63C a "United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act.

(3) For the purposes of this section and sections 63B and 63C a "United Kingdom resident" means an individual who is resident in the United Kingdom.

### 63B Terrorist attacks abroad by UK nationals or residents: jurisdiction

(1) If—

(a) a United Kingdom national or a United Kingdom resident does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism, and

(b) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),

he shall be guilty in that part of the United Kingdom of the offence.

(2) These are the offences—

(a) murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment,

(b) an offence under section 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences against the Person Act 1861,

(c) an offence under any of sections 1 to 5 of the Forgery and Counterfeiting Act 1981,

(d) the uttering of a forged document or an offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995,

(e) an offence under section 1 or 2 of the Criminal Damage Act 1971,

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(f) an offence under Article 3 or 4 of the Criminal Damage (Northern Ireland) Order 1977,
(g) malicious mischief,
(h) wilful fire-raising.

**63C Terrorist attacks abroad on UK nationals, residents and diplomatic staff etc: jurisdiction**

(1) If—
(a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,
(b) his action is done to, or in relation to, a United Kingdom national, a United Kingdom resident or a protected person, and
(c) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),

he shall be guilty in that part of the United Kingdom of the offence.

(2) These are the offences—
(a) murder, manslaughter, culpable homicide, rape, assault causing injury, assault to injury, kidnapping, abduction or false imprisonment,
(b) an offence under section 4, 16, 18, 20, 21, 22, 23, 24, 28, 29, 30 or 64 of the Offences against the Person Act 1861,
(c) an offence under section 1, 2, 3, 4 or 5(1) or (3) of the Forgery and Counterfeiting Act 1981,
(d) the uttering of a forged document or an offence under section 46A(1) of the Criminal Law (Consolidation) (Scotland) Act 1995.

(3) For the purposes of this section and section 63D a person is a protected person if—
(a) he is a member of a United Kingdom diplomatic mission within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations signed in 1961 (as that Article has effect in the United Kingdom by virtue of section 2 of and Schedule 1 to the Diplomatic Privileges Act 1964),
(b) he is a member of a United Kingdom consular post within the meaning of Article 1(g) of the Vienna Convention on Consular Relations signed in 1963 (as that Article has effect in the United Kingdom by virtue of section 1 of and Schedule 1 to the Consular Relations Act 1968),
(c) he carries out any functions for the purposes of the European Agency for the Evaluation of Medicinal Products, or
(d) he carries out any functions for the purposes of a body specified in an order made by the Secretary of State.

(4) The Secretary of State may specify a body under subsection (3)(d) only if—
(a) it is established by or under the Treaty establishing the European Community or the Treaty on European Union, and
(b) the principal place in which its functions are carried out is a place in the United Kingdom.

(5) If in any proceedings a question arises as to whether a person is or was a protected person, a certificate—
(a) issued by or under the authority of the Secretary of State, and
(b) stating any fact relating to the question,

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is to be conclusive evidence of that fact.

**63D Terrorist attacks or threats abroad in connection with UK diplomatic premises etc: jurisdiction**

(1) If—

(a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,

(b) his action is done in connection with an attack on relevant premises or on a vehicle ordinarily used by a protected person,

(c) the attack is made when a protected person is on or in the premises or vehicle, and

(d) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (2),

he shall be guilty in that part of the United Kingdom of the offence.

(2) These are the offences—

(a) an offence under section 1 of the Criminal Damage Act 1971,

(b) an offence under Article 3 of the Criminal Damage (Northern Ireland) Order 1977,

(c) malicious mischief,

(d) wilful fire-raising.

(3) If—

(a) a person does anything outside the United Kingdom as an act of terrorism or for the purposes of terrorism,

(b) his action consists of a threat of an attack on relevant premises or on a vehicle ordinarily used by a protected person,

(c) the attack is threatened to be made when a protected person is, or is likely to be, on or in the premises or vehicle, and

(d) his action, if done in any part of the United Kingdom, would have constituted an offence listed in subsection (4),

he shall be guilty in that part of the United Kingdom of the offence.

(4) These are the offences—

(a) an offence under section 2 of the Criminal Damage Act 1971,

(b) an offence under Article 4 of the Criminal Damage (Northern Ireland) Order 1977,

(c) breach of the peace (in relation to Scotland only).

(5) "Relevant premises" means—

(a) premises at which a protected person resides or is staying, or

(b) premises which a protected person uses for the purpose of carrying out his functions as such a person.

**63E Sections 63B to 63D: supplementary**

(1) Proceedings for an offence which (disregarding the Acts listed in subsection (2)) would not be an offence apart from section 63B, 63C or 63D are not to be started—

(a) in England and Wales, except by or with the consent of the Attorney General,

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(b) in Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland.

(2) These are the Acts—

(a) the Internationally Protected Persons Act 1978,

(b) the Suppression of Terrorism Act 1978,

(c) the Nuclear Material (Offences) Act 1983,

(d) the United Nations Personnel Act 1997.

(3) For the purposes of sections 63C and 63D it is immaterial whether a person knows that another person is a United Kingdom national, a United Kingdom resident or a protected person.

(4) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in subsection (1)(b) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.**]**

## PART VII

### NORTHERN IRELAND

**Modifications etc. (not altering text)**

**C19** Pt. VII (ss. 65-113): for the duration of Pt. VII see ss. 112, 113 by virtue of 2000 c. 11, **ss. 112(1)(4)**, 128

Pt. VII (ss. 65-113) continued ( *temp.* from 19.2.2002 until 18.2.2003) by S.I. 2002/365, **art. 2**

Pt. VII (ss. 65-113) continued (temp. from 19.2.2003 until 18.2.2004) by The Terrorism Act 2000 (Continuance of Part VII) Order 2003 (S.I. 2003/427), **art. 2**

Pt. VII (ss. 65-113) continued (temp. from 19.2.2004 until 18.2.2005) by The Terrorism Act 2000 (Continuance of Part VII) Order 2004 (S.I. 2004/431), **art. 2**

Pt. VII (ss. 65-113) continued (temp. from 19.2.2005 until 18.2.2006) by The Terrorism Act 2000 (Continuance of Part VII) Order 2005 (S.I. 2005/350), **art. 2**

Pt. VII (except s. 78) continued (temp. from 19.2.2006 until 31.7.2007) by Terrorism (Northern Ireland) Act 2006 (c. 4), **s. 1(1)(2)**

Pt. VII: power to continue specified provisions conferred (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {1(3)}, 2(1)(2)

**C20** Pt. VII: saving (at the end of 31.7.2007 in accordance with art. 1(3)) for effect of Terrorism (Northern Ireland) Act 2006 (c. 6), s. 1(2)(b) with transitional provisions and savings in The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 (S.I. 2007/2259), **arts. 3**, 5, Sch.

*Scheduled offences*

### 65 Scheduled offence: interpretation.

(1) In this Part "scheduled offence" means, subject to any relevant note in Part I or III of Schedule 9, an offence specified in either of those Parts.

(2) Part II of that Schedule shall have effect in respect of offences related to those specified in Part I.

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(3) The Secretary of State may by order—
- (a) add an offence to Part I or II of Schedule 9;
- (b) remove an offence from Part I or II of that Schedule;
- (c) amend Part I or II of that Schedule in some other way.

## 66 Preliminary inquiry.

(1) In proceedings before a magistrates' court for a scheduled offence, if the prosecution requests the court to conduct a preliminary inquiry into the offence the court shall grant the request.

(2) In subsection (1) "preliminary inquiry" means a preliminary inquiry under the [M47]Magistrates' Courts (Northern Ireland) Order 1981.

(3) Subsection (1)—
- (a) shall apply notwithstanding anything in Article 31 of that Order,
- (b) shall not apply in respect of an offence where the court considers that in the interests of justice a preliminary investigation should be conducted into the offence under that Order, and
- (c) shall not apply in respect of an extra-territorial offence (as defined in section 1(3) of the [M48]Criminal Jurisdiction Act 1975)).

(4) Where a person charged with a scheduled offence is also charged with a non-scheduled offence, the non-scheduled offence shall be treated as a scheduled offence for the purposes of this section.

**Marginal Citations**

**M47** S.I. 1981/1675 (N.I. 26).

**M48** 1975 c. 59.

## 67 Limitation of power to grant bail.

(1) This section applies to a person who—
- (a) has attained the age of fourteen, and
- (b) is charged with a scheduled offence which is neither being tried summarily nor certified by the Director of Public Prosecutions for Northern Ireland as suitable for summary trial.

(2) Subject to subsections (6) and (7), a person to whom this section applies shall not be admitted to bail except—
- (a) by a judge of the High Court or the Court of Appeal, or
- (b) by the judge of the court of trial on adjourning the trial of a person charged with a scheduled offence.

(3) A judge may, in his discretion, admit a person to whom this section applies to bail unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would—
- (a) fail to surrender to custody,
- (b) commit an offence while on bail,

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(c) interfere with a witness,
(d) otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person, or
(e) fail to comply with conditions of release (if any).

(4) In exercising his discretion in relation to a person under subsection (3) a judge shall have regard to such of the following considerations as he considers relevant (as well as to any others which he considers relevant)—
(a) the nature and seriousness of the offence with which the person is charged,
(b) the character, antecedents, associations and community ties of the person,
(c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail, and
(d) the strength of the evidence of his having committed the offence.

(5) Without prejudice to any other power to impose conditions on admission to bail, a judge admitting a person to bail under this section may impose such conditions as he considers—
(a) likely to result in the person's appearance at the time and place required, or
(b) necessary in the interests of justice or for the prevention of crime.

(6) Subsection (7) applies where a person to whom this section applies is a serving member of—
(a) any of Her Majesty's forces, or
(b) the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

(7) Where this subsection applies to a person he may be admitted to bail on condition that he is held in military or police custody if the person granting bail is satisfied that suitable arrangements have been made; and—
(a) bail on that condition may be granted by a judge or a resident magistrate, and
(b) it shall be lawful for the person to be held in military or police custody in accordance with the conditions of his bail.

**68 Bail: legal aid.**

(1) Where it appears to a judge of the High Court or the Court of Appeal—
(a) that a person charged with a scheduled offence intends to apply to be admitted to bail,
(b) that it is desirable in the interests of justice that he should have legal aid, and
(c) that he has not sufficient means to enable him to obtain that aid,

the judge may assign to him a solicitor and counsel, or counsel only, in the application for bail.

(2) If on a question of granting a person free legal aid under this section there is a doubt—
(a) whether his means are sufficient to enable him to obtain legal aid, or
(b) whether it is desirable in the interests of justice that he should have free legal aid,

the doubt shall be resolved in favour of granting him free legal aid.

(3) Articles 32, 36 and 40 of the [M49]Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (statements, payments, rules and stamp duty) shall apply in relation to legal aid under this section as they apply in relation to legal aid under Part III of that Order

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as if legal aid under this section were given in pursuance of a criminal aid certificate under Article 29 of that Order.

**Marginal Citations**

**M49** S.I. 1981/228 (N.I. 8).

### 69 Maximum period of remand in custody.

(1) The period for which a person charged with a scheduled offence may be remanded in custody by a magistrates' court shall be a period of not more than 28 days beginning with the day following that on which he is remanded.

(2) Subsection (1) has effect—

(a) notwithstanding Article 47(2) and (3) of the [M50]Magistrates' Courts (Northern Ireland) Order 1981, and

(b) whether or not a person is also charged with a non-scheduled offence.

**Marginal Citations**

**M50** S.I. 1981/1675 (N.I. 26).

### 70 Young persons: custody on remand, &c.

(1) While a young person charged with a scheduled offence is remanded or committed for trial and not released on bail, he may be held in custody in such prison or other place as may be specified in a direction given by the Secretary of State under this section.

(2) Subsection (1) shall have effect in respect of a person—

(a) notwithstanding the provisions of any enactment, and

(b) whether or not he was remanded or committed for trial at a time when this section was not in force.

(3) The Secretary of State may give a direction under this section in respect of a person if he considers it necessary to make special arrangements as to the place at which the person is to be held in order—

(a) to prevent his escape, or

(b) to ensure his safety or the safety of others.

(4) The Secretary of State may give a direction under this section at any time after the person to whom it relates has been charged.

(5) In this section "young person" means a person who—

(a) has attained the age of fourteen, and

(b) has not attained the age of seventeen.

### 71 Directions under section 70.

(1) A direction under section 70 shall cease to have effect at the expiry of the period specified in the direction unless—

(a) it has previously ceased to have effect, or

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(b) it is continued in force by a further direction.

(2) The specified period shall not end after the end of the period of two months beginning with the date of the direction.

(3) Where—

(a) a person is held in custody in a prison or other place by virtue of a direction, and

(b) the direction ceases to have effect (whether or not by reason of the expiry or cesser of section 70),

it shall be lawful for him to continue to be held in custody in that prison or place until arrangements can be made for him to be held in custody in accordance with the law then applicable to his case.

(4) Nothing in subsection (3) shall be taken as permitting the holding in custody of a person who is entitled to be released from custody.

**72 Time limits for preliminary proceedings.**

(1) The Secretary of State may by regulations make provision, in respect of a specified preliminary stage of proceedings for a scheduled offence, as to the maximum period—

(a) to be allowed to the prosecution to complete the stage;

(b) during which the accused may, while awaiting completion of the stage, be in the custody of a magistrates' court or the Crown Court in relation to the offence.

(2) The regulations may, in particular—

(a) provide for a specified law about bail to apply in relation to cases to which custody or overall time limits apply (subject to any modifications which the Secretary of State considers it necessary to specify in the regulations);

(b) provide for time limits to cease to have effect in cases where the Attorney General for Northern Ireland certifies after the institution of proceedings that an offence is not to be treated as a scheduled offence;

(c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of another provision of the regulations;

(d) make provision which has effect in relation to a non-scheduled offence where separate counts of an indictment allege a scheduled offence and a non-scheduled offence;

(e) enable the Crown Court in specified circumstances to extend or further extend a time limit at any time before it expires.

(3) Subject to subsection (4), where an overall time limit expires before the completion of the stage of proceedings to which the limit applies, the accused shall be treated for all purposes as having been acquitted of the offence to which the proceedings relate.

(4) Regulations under this section which provide for a custody time limit in relation to a preliminary stage shall have no effect where—

(a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of the custody time limit,

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(b) a person who has been released on bail in consequence of the expiry of a custody time limit fails to surrender himself into the custody of the court at the appointed time, or

(c) a person who has been released on bail in consequence of the expiry of a custody time limit is arrested by a constable in connection with a breach or apprehended breach of a condition of his bail.

(5) If a person escapes from the custody of a magistrates' court or the Crown Court, the overall time limit which applies to the stage which proceedings relating to the person have reached at the time of the escape shall cease to have effect in relation to those proceedings.

(6) If a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time, the overall time limit which applies to the stage which proceedings relating to the person have reached at the time of the failure shall cease to have effect in relation to those proceedings.

**73 Time limits: supplementary.**

(1) Where a person is convicted of an offence, the exercise of power conferred by virtue of section 72(2)(e) in relation to proceedings for the offence shall not be called into question on an appeal against the conviction.

(2) In the application of section 72 in relation to proceedings on indictment, "preliminary stage" does not include a stage—

(a) after the time when the case for the prosecution is opened, or

(b) if the court accepts a plea of guilty before the case for the prosecution is opened, after the plea is accepted.

(3) In the application of section 72 in relation to summary proceedings, "preliminary stage" does not include a stage—

(a) after the court begins to hear evidence for the prosecution at the trial,

(b) if the court accepts a plea of guilty before it has begun to hear evidence for the prosecution, after the plea is accepted, or

(c) after the court begins to consider whether to exercise its power under Article 44(4) of the [M51]Mental Health (Northern Ireland) Order 1986 (power to make hospital order without conviction).

(4) In this section and section 72—

"custody of the Crown Court" includes custody to which a person is committed in pursuance of—

(a) Article 37 or 40(4) of the [M52]Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' court committing accused for trial), or

(b) section 51(8) of the [M53]Judicature (Northern Ireland) Act 1978 (magistrates' court dealing with a person arrested under Crown Court warrant),

"custody of a magistrates' court" means custody to which a person is committed in pursuance of Article 47 or 49 of the [M54]Magistrates' Courts (Northern Ireland) Order 1981 (remand),

"custody time limit" means a time limit imposed by regulations in pursuance of section 72(1)(b) or, where a limit has been extended by the Crown Court by virtue of section 72(2)(e), the limit as extended,

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"law about bail" means—

(a) the [M55]Magistrates' Courts (Northern Ireland) Order 1981,

(b) section 67 of this Act,

(c) any other enactment relating to bail, and

(d) any rule of law relating to bail, and

"overall time limit" means a time limit imposed by regulations in pursuance of section 72(1)(a) or, where a limit has been extended by the Crown Court by virtue of section 72(2)(e), the limit as extended.

(5) For the purposes of the application of a custody time limit in relation to a person who is in the custody of a magistrates' court or the Crown Court—

(a) all periods during which he is in the custody of a magistrates' court in respect of the same offence shall be aggregated and treated as a single continuous period; and

(b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated as a single continuous period.

**Marginal Citations**

**M51** S.I. 1986/595 (N.I. 4).
**M52** S.I. 1981/1675 (N.I. 26).
**M53** 1978 c. 23.
**M54** S.I. 1981/1675 (N.I. 26).
**M55** S.I. 1981/1675 (N.I. 26).

## 74 Court for trial.

(1) A trial on indictment of a scheduled offence shall be held only at the Crown Court sitting in Belfast, unless—

(a) the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland directs that the trial, or a class of trials within which it falls, shall be held at the Crown Court sitting elsewhere, or

(b) the Lord Chief Justice of Northern Ireland directs that the trial, or part of it, shall be held at the Crown Court sitting elsewhere.

(2) A person committed for trial for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, shall be committed—

(a) to the Crown Court sitting in Belfast, or

(b) where a direction has been given under subsection (1) which concerns the trial, to the Crown Court sitting at the place specified in the direction;

and section 48 of the [M56]Judicature (Northern Ireland) Act 1978 (committal for trial on indictment) shall have effect accordingly.

(3) Where—

(a) a person is committed for trial to the Crown Court sitting in Belfast in accordance with subsection (2), and

(b) a direction is subsequently given under subsection (1), before the commencement of the trial, altering the place of trial,

the person shall be treated as having been committed for trial to the Crown Court sitting at the place specified in the direction.

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**Marginal Citations**

**M56** 1978 c. 23.

## 75 Mode of trial on indictment.

(1) A trial on indictment of a scheduled offence shall be conducted by the court without a jury.

(2) The court trying a scheduled offence on indictment under this section shall have all the powers, authorities and jurisdiction which the court would have had if it had been sitting with a jury (including power to determine any question and to make any finding which would, apart from this section, be required to be determined or made by a jury).

(3) A reference in an enactment to a jury, the verdict of a jury or the finding of a jury shall, in relation to a trial under this section, be construed as a reference to the court, the verdict of the court or the finding of the court.

(4) Where separate counts of an indictment allege a scheduled offence and a non-scheduled offence, the trial on indictment shall be conducted as if all the offences alleged in the indictment were scheduled offences.

(5) Subsection (4) is without prejudice to section 5 of the [M57]Indictments Act (Northern Ireland) 1945 (orders for amendment of indictment, separate trial and postponement of trial).

(6) Without prejudice to subsection (2), where the court trying a scheduled offence on indictment—

(a) is not satisfied that the accused is guilty of the offence, but

(b) is satisfied that he is guilty of a non-scheduled offence of which a jury could have found him guilty on a trial for the scheduled offence,

the court may convict him of the non-scheduled offence.

(7) Where the court trying a scheduled offence convicts the accused of that or some other offence, it shall give a judgment stating the reasons for the conviction at or as soon as is reasonably practicable after the time of conviction.

(8) A person convicted of an offence on a trial under this section without a jury may, notwithstanding anything in sections 1 and 10(1) of the [M58]Criminal Appeal (Northern Ireland) Act 1980, appeal to the Court of Appeal under Part I of that Act—

(a) against his conviction, on any ground, without the leave of the Court of Appeal or a certificate of the judge of the court of trial;

(b) against sentence passed on conviction, without that leave, unless the sentence is fixed by law.

(9) Where a person is convicted of an offence on a trial under this section, the time for giving notice of appeal under section 16(1) of that Act shall run from the date of judgment if later than the date from which it would run under that subsection.

**Marginal Citations**

**M57** 1945 c. 16(N.I.).

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**M58** 1980 c. 47.

## 76 Admission in trial on indictment.

(1) This section applies to a trial on indictment for—
- (a) a scheduled offence, or
- (b) two or more offences at least one of which is a scheduled offence.

(2) A statement made by the accused may be given in evidence by the prosecution in so far as—
- (a) it is relevant to a matter in issue in the proceedings, and
- (b) it is not excluded or inadmissible (whether by virtue of subsections (3) to (5) or otherwise).

(3) Subsections (4) and (5) apply if in proceedings to which this section applies—
- (a) the prosecution gives or proposes to give a statement made by the accused in evidence,
- (b) prima facie evidence is adduced that the accused was subjected to torture, inhuman or degrading treatment, violence or the threat of violence in order to induce him to make the statement, and
- (c) the prosecution does not satisfy the court that the statement was not obtained in the manner mentioned in paragraph (b).

(4) If the statement has not yet been given in evidence, the court shall—
- (a) exclude the statement, or
- (b) direct that the trial be restarted before a differently constituted court (before which the statement shall be inadmissible).

(5) If the statement has been given in evidence, the court shall—
- (a) disregard it, or
- (b) direct that the trial be restarted before a differently constituted court (before which the statement shall be inadmissible).

(6) This section is without prejudice to any discretion of a court to—
- (a) exclude or ignore a statement, or
- (b) direct a trial to be restarted,

where the court considers it appropriate in order to avoid unfairness to the accused or otherwise in the interests of justice.

## 77 Possession: onus of proof.

(1) This section applies to a trial on indictment for a scheduled offence where the accused is charged with possessing an article in such circumstances as to constitute an offence under any of the enactments listed in subsection (3).

(2) If it is proved that the article—
- (a) was on any premises at the same time as the accused, or
- (b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

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the court may assume that the accused possessed (and, if relevant, knowingly possessed) the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

(3) The following are the offences mentioned in subsection (1)—

*The [M59]Explosive Substances Act 1883*

Section 3, so far as relating to subsection (1)(b) thereof (possessing explosive with intent to endanger life or cause serious damage to property).

Section 4 (possessing explosive in suspicious circumstances).

*The [M60]Protection of the Person and Property Act (Northern Ireland) 1969*

Section 2 (possessing petrol bomb, &c. in suspicious circumstances).

*The [M61]Firearms (Northern Ireland) Order 1981*

Article 6(1) (manufacturing, dealing in or possessing certain weapons, &c.).

Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property).

Article 18(2) (possessing firearm or imitation firearm at time of committing, or being arrested for, a specified offence).

Article 22(1), (2) or (4) (possession of a firearm or ammunition by a person who has been sentenced to imprisonment, &c.).

Article 23 (possessing firearm or ammunition in suspicious circumstances).

**Marginal Citations**

**M59** 1883 c. 3.
**M60** 1969 c. 29 (N.I.).
**M61** S.I. 1981/155 (N.I. 2)

## 78 Children: sentence.

(1) This section applies where a child is convicted on indictment of a scheduled offence committed while this section is in force.

(2) Article 45(2) of the [M62]Criminal Justice (Children) (Northern Ireland) Order 1998 (punishment for serious offence) shall have effect with the substitution for the words " 14 years " of the words "five years".

(3) In this section "child" means a person who has not attained the age of 17.

**Marginal Citations**

**M62** S.I. 1998/1504 (N.I. 9).

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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## 79 Restricted remission.

(1) The remission granted under prison rules in respect of a sentence of imprisonment passed in Northern Ireland for a scheduled offence shall not, where it is for a term of five years or more, exceed one-third of the term.

(2) Where a person is sentenced on the same occasion for two or more scheduled offences to terms which are consecutive, subsection (1) shall apply as if those terms were a single term.

(3) Where a person is serving two or more terms which are consecutive but not all subject to subsection (1), the maximum remission granted under prison rules in respect of those terms taken together shall be arrived at by calculating the maximum remission for each term separately and aggregating the result.

(4) In this section "prison rules" means rules made under section 13 of the [M63]Prison Act (Northern Ireland) 1953.

(5) The Secretary of State may by order substitute a different length of sentence and a different maximum period of remission for those mentioned in subsection (1).

(6) This section applies where—

(a) the scheduled offence is committed while this section is in force,

(b) the offence (being a scheduled offence within the meaning of the [M64]Northern Ireland (Emergency Provisions) Act 1996) was committed while section 15 of that Act was in force,

(c) the offence (being a scheduled offence within the meaning of the [M65]Northern Ireland (Emergency Provisions) Act 1991) was committed while section 14 of that Act was in force, or

(d) the offence (being a scheduled offence within the meaning of the [M66]Northern Ireland (Emergency Provisions) Act 1978) was committed while section 22 of the [M67]Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

**Marginal Citations**

**M63** 1953 c.18 (N.I.)
**M64** 1996 c. 22.
**M65** 1991 c. 24.
**M66** 1978 c. 5.
**M67** 1989 c. 4.

## 80 Conviction during remission.

(1) This section applies where—

(a) a person is sentenced to imprisonment or a term of detention in a young offenders centre for a period exceeding one year,

(b) he is discharged from prison or the centre in pursuance of prison rules, and

(c) before his sentence or term would have expired (but for the discharge) he commits, and is convicted on indictment of, a scheduled offence.

(2) If the court before which he is convicted of the scheduled offence sentences him to imprisonment or a term of detention it shall in addition order him to be returned to prison or a young offenders centre for the period between the date of the order and the

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date on which the sentence or term mentioned in subsection (1) would have expired but for his discharge.

(3) No order shall be made under subsection (2) if the sentence imposed by the court is—
- (a) a suspended sentence,
- (b) a sentence of life imprisonment, or
- (c) a sentence of detention during the Secretary of State's pleasure under Article 45(1) of the [M68]Criminal Justice (Children) (Northern Ireland) Order 1998.

(4) An order made under subsection (2) shall cease to have effect if an appeal against the scheduled offence results in—
- (a) the acquittal of the person concerned, or
- (b) the substitution of a sentence other than imprisonment or a term of detention.

(5) The period for which a person is ordered under this section to be returned to prison or a young offenders centre—
- (a) shall be taken to be a sentence of imprisonment or term of detention for the purposes of the [M69]Prison Act (Northern Ireland) 1953 and for the purposes of the [M70]Treatment of Offenders Act (Northern Ireland) 1968 other than section 26(2) (reduction for time spent in custody),
- (b) shall not be subject to any provision of prison rules for discharge before expiry, and
- (c) shall be served before, and be followed by, the sentence or term imposed for the scheduled offence and be disregarded in determining the appropriate length of that sentence or term.

(6) For the purposes of this section a certificate purporting to be signed by the governor or deputy governor of a prison or young offenders centre which specifies—
- (a) the date on which a person was discharged from prison or a young offenders centre,
- (b) the sentence or term which the person was serving at the time of his discharge, the offence in respect of which the sentence or term was imposed and the date on which he was convicted of that offence, and
- (c) the date on which the person would, but for his discharge in pursuance of prison rules, have been discharged from prison or a young offenders centre,

shall be evidence of the matters specified.

(7) In this section—

"prison rules" means rules made under section 13 of the [M71]Prison Act (Northern Ireland) 1953,

"sentence of imprisonment" does not include a committal in default of payment of any sum of money or for want of sufficient distress to satisfy any sum of money or for failure to do or abstain from doing anything required to be done or left undone, and

"young offenders centre" has the meaning assigned to it by section 2(a) of the [M72]Treatment of Offenders Act (Northern Ireland) 1968.

(8) For the purposes of subsection (1) consecutive terms of imprisonment or of detention in a young offenders centre shall be treated as a single term and a sentence of imprisonment or detention in a young offenders centre includes—
- (a) a sentence or term passed by a court in the United Kingdom or any of the Islands, and

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(b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence within the meaning of the [M73]Army Act 1955, the [M74]Air Force Act 1955 and the [M75]Naval Discipline Act 1957.

(9) The Secretary of State may by order substitute a different period for the period of one year mentioned in subsection (1).

(10) This section applies irrespective of when the discharge from prison or a young offenders centre took place but only if—

(a) the scheduled offence is committed while this section is in force,

(b) the offence (being a scheduled offence within the meaning of the [M76]Northern Ireland (Emergency Provisions) Act 1996) was committed while section 16 of that Act was in force,

(c) the offence (being a scheduled offence within the meaning of the [M77]Northern Ireland (Emergency Provisions) Act 1991) was committed while section 15 of that Act was in force, or

(d) the offence (being a scheduled offence within the meaning of the [M78]Northern Ireland (Emergency Provisions) Act 1978) was committed while section 23 of the [M79]Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

**Marginal Citations**

**M68** S.I. 1998/1504 (N.I. 9).
**M69** 1953 c. 18 (N.I.).
**M70** 1968 c. 29 (N.I.).
**M71** 1953 c. 18 (N.I.).
**M72** 1968 c. 29 (N.I.).
**M73** 1955 c. 18.
**M74** 1955 c. 19.
**M75** 1957 c. 53.
**M76** 1996 c. 22.
**M77** 1991 c. 24.
**M78** 1978 c. 5.
**M79** 1989 c. 4.

*Powers of arrest, search, &c.*

**81 Arrest of suspected terrorists: power of entry.**

A constable may enter and search any premises if he reasonably suspects that a terrorist, within the meaning of section 40(1)(b), is to be found there.

**82 Arrest and seizure: constables.**

(1) A constable may arrest without warrant any person if he reasonably suspects that the person is committing, has committed or is about to commit—

(a) a scheduled offence, or

(b) a non-scheduled offence under this Act.

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(2) For the purpose of arresting a person under this section a constable may enter and search any premises where the person is or where the constable reasonably suspects him to be.

(3) A constable may seize and retain anything if he reasonably suspects that it is, has been or is intended to be used in the commission of—
  (a) a scheduled offence, or
  (b) a non-scheduled offence under this Act.

**Modifications etc. (not altering text)**
**C21** S. 82(3): powers of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 70; S.I. 2003/708, **art. 2**

## 83 Arrest and seizure: armed forces.

(1) If a member of Her Majesty's forces on duty reasonably suspects that a person is committing, has committed or is about to commit any offence he may—
  (a) arrest the person without warrant, and
  (b) detain him for a period not exceeding four hours.

(2) A person making an arrest under this section complies with any rule of law requiring him to state the ground of arrest if he states that he is making the arrest as a member of Her Majesty's forces.

(3) For the purpose of arresting a person under this section a member of Her Majesty's forces may enter and search any premises where the person is.

(4) If a member of Her Majesty's forces reasonably suspects that a person—
  (a) is a terrorist (within the meaning of Part V), or
  (b) has committed an offence involving the use or possession of an explosive or firearm,

he may enter and search any premises where he reasonably suspects the person to be for the purpose of arresting him under this section.

(5) A member of Her Majesty's forces may seize, and detain for a period not exceeding four hours, anything which he reasonably suspects is being, has been or is intended to be used in the commission of an offence under section 93 or 94.

(6) The reference to a rule of law in subsection (2) does not include a rule of law which has effect only by virtue of the [M80]Human Rights Act 1998.

**Marginal Citations**
**M80** 1998 c. 42.

## 84 Munitions and transmitters.

Schedule 10 (which confers power to search for munitions and transmitters) shall have effect.

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**85 Explosives inspectors.**

(1) An explosives inspector may enter and search any premises for the purpose of ascertaining whether any explosive is unlawfully there.

(2) The power under subsection (1) may not be exercised in relation to a dwelling.

(3) An explosives inspector may stop any person in a public place and search him for the purpose of ascertaining whether he has any explosive unlawfully with him.

(4) An explosives inspector—
- (a) may seize any explosive found in the course of a search under this section unless it appears to him that it is being, has been and will be used only for a lawful purpose, and
- (b) may retain and, if necessary, destroy it.

(5) In this section "explosives inspector" means an inspector appointed under section 53 of the [M81]Explosives Act 1875.

**Marginal Citations**
**M81** 1875 c. 17.

**86 Unlawfully detained persons.**

(1) If an officer reasonably believes that a person is unlawfully detained in such circumstances that his life is in danger, the officer may enter any premises for the purpose of ascertaining whether the person is detained there.

(2) In this section "officer" means—
- (a) a member of Her Majesty's forces on duty, or
- (b) a constable.

(3) A dwelling may be entered under subsection (1) only by—
- (a) a member of Her Majesty's forces authorised for the purpose by a commissioned officer of those forces, or
- (b) a constable authorised for the purpose by an officer of the Royal Ulster Constabulary of at least the rank of inspector.

**87 Examination of documents.**

(1) A member of Her Majesty's forces or a constable who performs a search under a provision of this Part—
- (a) may examine any document or record found in order to ascertain whether it contains information of the kind mentioned in section 58(1)(a) or 103(1)(a), and
- (b) if necessary or expedient for the purpose of paragraph (a), may remove the document or record to another place and retain it there until the examination is completed.

(2) Subsection (1) shall not permit a person to examine a document or record if he has reasonable cause to believe that it is an item subject to legal privilege (within the meaning of the [M82]Police and Criminal Evidence (Northern Ireland) Order 1989).

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(3) Subject to subsections (4) and (5), a document or record may not be retained by virtue of subsection (1)(b) for more than 48 hours.

(4) An officer of the Royal Ulster Constabulary who is of at least the rank of chief inspector may authorise a constable to retain a document or record for a further period or periods.

(5) Subsection (4) does not permit the retention of a document or record after the end of the period of 96 hours beginning with the time when it was removed for examination under subsection (1)(b).

(6) A person who wilfully obstructs a member of Her Majesty's forces or a constable in the exercise of a power conferred by this section commits an offence.

(7) A person guilty of an offence under subsection (6) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

**Marginal Citations**
**M82** S.I. 1989/1341 (N.I. 12).

## 88 Examination of documents: procedure.

(1) Where a document or record is examined under section 87—
- (a) it shall not be photographed or copied, and
- (b) the person who examines it shall make a written record of the examination as soon as is reasonably practicable.

(2) The record shall—
- (a) describe the document or record,
- (b) specify the object of the examination,
- (c) state the address of the premises where the document or record was found,
- (d) where the document or record was found in the course of a search of a person, state the person's name,
- (e) where the document or record was found in the course of a search of any premises, state the name of a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found,
- (f) where the document or record is removed for examination from the place where it was found, state the date and time when it was removed, and
- (g) where the document or record was examined at the place where it was found, state the date and time of examination.

(3) The record shall identify the person by whom the examination was carried out—
- (a) in the case of a constable, by reference to his police number, and
- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.

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(4) Where a person makes a record of a search in accordance with this section, he shall as soon as is reasonably practicable supply a copy—
- (a) in a case where the document or record was found in the course of a search of a person, to that person, and
- (b) in a case where the document or record was found in the course of a search of any premises, to a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found.

**89 Power to stop and question.**

(1) An officer may stop a person for so long as is necessary to question him to ascertain—
- (a) his identity and movements;
- (b) what he knows about a recent explosion or another recent incident endangering life;
- (c) what he knows about a person killed or injured in a recent explosion or incident.

(2) A person commits an offence if he—
- (a) fails to stop when required to do so under this section,
- (b) refuses to answer a question addressed to him under this section, or
- (c) fails to answer to the best of his knowledge and ability a question addressed to him under this section.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In this section "officer" means—
- (a) a member of Her Majesty's forces on duty, or
- (b) a constable.

**90 Power of entry.**

(1) An officer may enter any premises if he considers it necessary in the course of operations for the preservation of the peace or the maintenance of order.

(2) In this section "officer" means—
- (a) a member of Her Majesty's forces on duty, or
- (b) a constable.

**91 Taking possession of land, &c.**

If the Secretary of State considers it necessary for the preservation of the peace or the maintenance of order, he may authorise a person—
- (a) to take possession of land or other property;
- (b) to take steps to place buildings or other structures in a state of defence;
- (c) to detain property or cause it to be destroyed or moved;
- (d) to carry out works on land of which possession has been taken by virtue of this section;

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(e) to take any other action which interferes with a public right or with a private right of property.

**92 Road closure: permission.**

(1) If he considers it immediately necessary for the preservation of the peace or the maintenance of order, an officer may—
- (a) wholly or partly close a road;
- (b) divert or otherwise interfere with a road or the use of a road;
- (c) prohibit or restrict the exercise of a right of way;
- (d) prohibit or restrict the use of a waterway.

(2) In this section "officer" means—
- (a) a member of Her Majesty's forces on duty,
- (b) a constable, or
- (c) a person authorised for the purposes of this section by the Secretary of State.

**93 Sections 91 and 92: supplementary.**

(1) A person commits an offence if he interferes with—
- (a) works executed in connection with the exercise of powers conferred by virtue of section 91 or 92, or
- (b) any apparatus, equipment or other thing used in connection with the exercise of those powers.

(2) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his interference.

(3) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(4) An authorisation to exercise powers under section 91 or 92 may authorise—
- (a) the exercise of all those powers, or
- (b) the exercise of a specified power or class of powers.

(5) An authorisation to exercise powers under section 91 or 92 may be addressed—
- (a) to specified persons, or
- (b) to persons of a specified class.

**Modifications etc. (not altering text)**

**C22** S. 93: power to continue conferred (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {4(2)(d)}, 5(3)

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**94 Road closure: direction.**

(1) If the Secretary of State considers it necessary for the preservation of the peace or the maintenance of order he may by order direct that a specified road—
- (a) shall be wholly closed,
- (b) shall be closed to a specified extent, or
- (c) shall be diverted in a specified manner.

(2) A person commits an offence if he interferes with—
- (a) road closure works, or
- (b) road closure equipment.

(3) A person commits an offence if—
- (a) he executes any bypass works within 200 metres of road closure works,
- (b) he has in his possession or under his control, within 200 metres of road closure works, materials or equipment suitable for executing bypass works, or
- (c) he knowingly permits on land occupied by him the doing or occurrence of anything which is an offence under paragraph (a) or (b).

(4) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action, possession, control or permission.

(5) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(6) In this section—

"bypass works" means works which facilitate the bypassing by vehicles of road closure works,

"road closure equipment" means any apparatus, equipment or other thing used in pursuance of an order under this section in connection with the closure or diversion of a road, and

"road closure works" means works executed in connection with the closure or diversion of a road specified in an order under this section (whether executed in pursuance of the order or in pursuance of power under an enactment to close or divert the road).

**95 Sections 81 to 94: supplementary.**

(1) This section applies in relation to sections 81 to 94.

(2) A power to enter premises may be exercised by reasonable force if necessary.

(3) A power to search premises shall, in its application to vehicles (by virtue of section 121), be taken to include—
- (a) power to stop a vehicle (other than an aircraft which is airborne), and
- (b) power to take a vehicle or cause it to be taken, where necessary or expedient, to any place for the purpose of carrying out the search.

(4) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.

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(5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to—
  (a) imprisonment for a term not exceeding six months,
  (b) a fine not exceeding level 5 on the standard scale, or
  (c) both.

(6) In the application to a place or vehicle (by virtue of section 121) of a power to search premises—
  (a) a reference to the address of the premises shall be construed as a reference to the location of the place or vehicle together with its registration number (if any), and
  (b) a reference to the occupier of the premises shall be construed as a reference to the occupier of the place or the person in charge of the vehicle.

(7) Where a search is carried out under Schedule 10 in relation to a vehicle (by virtue of section 121), the person carrying out the search may, if he reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated—
  (a) require a person in or on the vehicle to remain with it;
  (b) require a person in or on the vehicle to go to and remain at any place to which the vehicle is taken by virtue of subsection (3)(b);
  (c) use reasonable force to secure compliance with a requirement under paragraph (a) or (b) above.

(8) Paragraphs 4(2) and (3), 8 and 9 of Schedule 10 shall apply to a requirement imposed under subsection (7) as they apply to a requirement imposed under that Schedule.

(9) Paragraph 8 of Schedule 10 shall apply in relation to the search of a vehicle which is not habitually stationary only if it is moved for the purpose of the search by virtue of subsection (3)(b); and where that paragraph does apply, the reference to the address of the premises shall be construed as a reference to the location where the vehicle is searched together with its registration number (if any).

(10) A member of Her Majesty's forces exercising any power when he is not in uniform shall, if requested to do so by any person at or about the time of exercising the power, produce to that person documentary evidence that he is a member of Her Majesty's Forces.

*Miscellaneous*

**96 Preservation of the peace: regulations.**

(1) The Secretary of State may by regulations make provision for promoting the preservation of the peace and the maintenance of order.

(2) The regulations may authorise the Secretary of State to make orders or give directions for specified purposes.

(3) A person commits an offence if he contravenes or fails to comply with—
  (a) regulations under this section, or
  (b) an order or direction made or given under regulations made under this section.

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(4) A person guilty of an offence under this section shall be liable on summary conviction to—
  (a) imprisonment for a term not exceeding six months,
  (b) a fine not exceeding level 5 on the standard scale, or
  (c) both.

**97 Port and border controls.**

(1) The Secretary of State may by order provide for members of Her Majesty's Forces to perform specified functions conferred on examining officers under Schedule 7.

(2) A member of Her Majesty's Forces exercising functions by virtue of subsection (1) shall be treated as an examining officer within the meaning of Schedule 7 for all purposes of this Act except for paragraphs 5 and 6 of Schedule 14.

(3) The Secretary of State may by order make provision, including provision supplementing or modifying Schedule 7, about entering or leaving Northern Ireland by land.

**98 Independent Assessor of Military Complaints Procedures.**

(1) The Secretary of State may appoint a person to be known as the Independent Assessor of Military Complaints Procedures in Northern Ireland.

(2) A person may be appointed as the Independent Assessor only if—
  (a) he is not a serving member of Her Majesty's forces, and
  (b) he has not been a serving member at any time during the period of 20 years ending with the date of the appointment.

(3) The Independent Assessor—
  (a) shall keep under review the procedures adopted by the General Officer Commanding Northern Ireland for receiving, investigating and responding to complaints to which this section applies,
  (b) shall receive and investigate any representations about those procedures,
  (c) may investigate the operation of those procedures in relation to a particular complaint or class of complaints,
  (d) may require the General Officer Commanding to review a particular case or class of cases in which the Independent Assessor considers that any of those procedures have operated inadequately, and
  (e) may make recommendations to the General Officer Commanding about inadequacies in those procedures, including inadequacies in the way in which they operate in relation to a particular complaint or class of complaints.

(4) This section applies to complaints about the behaviour of a member of Her Majesty's forces under the command of the General Officer Commanding Northern Ireland, other than—
  (a) a complaint which is referred by the General Officer Commanding to the Royal Ulster Constabulary and which is not remitted by the Royal Ulster Constabulary to the General Officer Commanding to be dealt with by him,
  (b) a complaint about a matter in respect of which a claim for compensation has been made under Schedule 12, and

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(c) a complaint about a matter which is the subject of proceedings involving a claim for compensation which have been instituted in a court.

(5) The General Officer Commanding Northern Ireland shall—

(a) provide such information,

(b) disclose such documents, and

(c) provide such assistance,

as the Independent Assessor may reasonably require for the purpose of the performance of his functions.

(6) Schedule 11 (which makes supplementary provision about the Independent Assessor) shall have effect.

**99 Police and army powers: code of practice.**

(1) The Secretary of State may make codes of practice in connection with—

(a) the exercise by police officers of any power conferred by this Act, and

(b) the seizure and retention of property found by police officers when exercising powers of search conferred by any provision of this Act.

(2) The Secretary of State may make codes of practice in connection with the exercise by members of Her Majesty's forces of powers by virtue of this Part.

(3) In this section "police officer" means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

**100 Video recording: code of practice.**

(1) The Secretary of State shall—

(a) make a code of practice about the silent video recording of interviews to which this section applies, and

(b) make an order requiring the silent video recording of interviews to which this section applies in accordance with the code.

(2) This section applies to—

(a) interviews by police officers of persons detained under section 41 if they take place in a police station (within the meaning of Schedule 8), and

(b) interviews held by police officers in such other circumstances as the Secretary of State may specify by order.

(3) In this section "police officer" means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

**101 Codes of practice: supplementary.**

(1) This section applies to a code of practice under section 99 or 100.

(2) Where the Secretary of State proposes to issue a code of practice he shall—

(a) publish a draft,

(b) consider any representations made to him about the draft, and

(c) if he thinks it appropriate, modify the draft in the light of any representations made to him.

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(3) The Secretary of State shall lay a draft of the code before Parliament.

(4) When the Secretary of State has laid a draft code before Parliament he may bring it into operation by order.

(5) The Secretary of State may revise the whole or any part of a code of practice issued by him and issue the code as revised; and subsections (2) to (4) shall apply to such a revised code as they apply to an original code.

(6) A failure by a police officer to comply with a provision of a code shall not of itself make him liable to criminal or civil proceedings.

(7) A failure by a member of Her Majesty's forces to comply with a provision of a code shall not of itself make him liable to any criminal or civil proceedings other than—

(a) proceedings under any provision of the [M83]Army Act 1955 or the [M84]Air Force Act 1955 other than section 70 (civil offences), and

(b) proceedings under any provision of the [M85]Naval Discipline Act 1957 other than section 42 (civil offences).

(8) A code—

(a) shall be admissible in evidence in criminal or civil proceedings, and

(b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(9) In this section—

"criminal proceedings" includes proceedings in Northern Ireland before a court-martial constituted under the [M86]Army Act 1955, the [M87]Air Force Act 1955 or the [M88]Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the 1957 Act and proceedings in Northern Ireland before the Courts-Martial Appeal Court, and

"police officer" means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

**Commencement Information**

**I5** S. 101 wholly in force at 19.2.2001; s. 101 not in force at Royal Assent see s. 128; s. 101(1)-(5) in force at 12.10.2000 by S.I. 2000/2800, **art. 2(b)**; s. 101(6)-(9) in force at 19.2.2001 by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M83** 1955 c. 18.
**M84** 1955 c. 19.
**M85** 1957 c. 53.
**M86** 1955 c. 18.
**M87** 1955 c. 19.
**M88** 1957 c. 53.

## 102 Compensation.

Schedule 12 (which provides for compensation to be paid for certain action taken under this Part) shall have effect.

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## 103 Terrorist information.

(1) A person commits an offence if—
- (a) he collects, makes a record of, publishes, communicates or attempts to elicit information about a person to whom this section applies which is of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) he possesses a document or record containing information of that kind.

(2) This section applies to a person who is or has been—
- (a) a constable,
- (b) a member of Her Majesty's Forces,
- (c) the holder of a judicial office,
- (d) an officer of any court, or
- (e) a full-time employee of the prison service in Northern Ireland.

(3) In this section "record" includes a photographic or electronic record.

(4) If it is proved in proceedings for an offence under subsection (1)(b) that a document or record—
- (a) was on any premises at the same time as the accused, or
- (b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed the document or record, unless he proves that he did not know of its presence on the premises or that he had no control over it.

(5) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession.

(6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(7) A court by or before which a person is convicted of an offence under this section may order the forfeiture of any document or record containing information of the kind mentioned in subsection (1)(a).

(8) Before making an order under subsection (7) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(9) An order under subsection (8) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

## 104 Police powers: records.

The Chief Constable of the Royal Ulster Constabulary shall make arrangements for securing that a record is made of each exercise by a constable of a power under this Part in so far as—
- (a) it is reasonably practicable to do so, and

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(b) a record is not required to be made under another enactment.

**105 Powers.**

A power conferred on a person by virtue of this Part—

(a) is additional to powers which he has at common law or by virtue of any other enactment, and

(b) shall not be taken to affect those powers or Her Majesty's prerogative.

**106 Private security services.**

Schedule 13 (private security services) shall have effect.

*Specified organisations*

**107 Specified organisations: interpretation.**

For the purposes of sections 108 to 111 an organisation is specified at a particular time if at that time—

(a) it is specified under section 3(8) of the [M89]Northern Ireland (Sentences) Act 1998, and

(b) it is, or forms part of, an organisation which is proscribed for the purposes of this Act.

**Marginal Citations**

**M89** 1998 c. 35.

**108 Evidence.**

(1) This section applies where a person is charged with an offence under section 11.

(2) Subsection (3) applies where a police officer of at least the rank of superintendent states in oral evidence that in his opinion the accused—

(a) belongs to an organisation which is specified, or

(b) belonged to an organisation at a time when it was specified.

(3) Where this subsection applies—

(a) the statement shall be admissible as evidence of the matter stated, but

(b) the accused shall not be committed for trial, be found to have a case to answer or be convicted solely on the basis of the statement.

(4) In this section "police officer" means a member of—

(a) a police force within the meaning of the [M90]Police Act 1996 or the [M91]Police (Scotland) Act 1967, or

(b) the Royal Ulster Constabulary.

**Marginal Citations**

**M90** 1996 c. 16.

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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**M91** 1967 c. 77.

## 109 Inferences.

(1) This section applies where a person is charged with an offence under section 11.

(2) Subsection (4) applies where evidence is given that—

(a) at any time before being charged with the offence the accused, on being questioned under caution by a constable, failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and

(b) before being questioned the accused was permitted to consult a solicitor.

(3) Subsection (4) also applies where evidence is given that—

(a) on being charged with the offence or informed by a constable that he might be prosecuted for it the accused failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and

(b) before being charged or informed the accused was permitted to consult a solicitor.

(4) Where this subsection applies—

(a) the court, in considering any question whether the accused belongs or belonged at a particular time to a specified organisation, may draw from the failure inferences relating to that question, but

(b) the accused shall not be committed for trial, be found to have a case to answer or be convicted solely on the basis of the inferences.

(5) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.

## 110 Sections 108 and 109: supplementary.

(1) Nothing in section 108 or 109 shall—

(a) prejudice the admissibility of evidence admissible apart from that section,

(b) preclude the drawing of inferences which could be drawn apart from that section, or

(c) prejudice an enactment providing (in whatever words) that an answer or evidence given by a person in specified circumstances is not admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).

(2) In subsection (1)(c) the reference to giving evidence is a reference to giving it in any manner (whether by giving information, making discovery, producing documents or otherwise).

## 111 Forfeiture orders.

(1) This section applies if—

(a) a person is convicted of an offence under section 11 or 12, and

(b) at the time of the offence he belonged to an organisation which was a specified organisation.

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(2) The court by or before which the person is convicted may order the forfeiture of any money or other property if—
  (a) he had it in his possession or under his control at the time of the offence, and
  (b) it has been used in connection with the activities of the specified organisation or the court believes that it may be used in that connection unless it is forfeited.

(3) Before making an order under this section the court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under this section.

(4) A question arising as to whether subsection (1)(b) or (2)(a) or (b) is satisfied shall be determined on the balance of probabilities.

(5) Schedule 4 shall apply (with the necessary modifications) in relation to orders under this section as it applies in relation to orders made under section 23.

*Duration of Part VII*

**112 Expiry and revival.**

(1) This Part shall (subject to subsection (2)) cease to have effect at the end of the period of one year beginning with the day on which it is brought into force.

(2) The Secretary of State may by order provide—
  (a) that a provision of this Part which is in force (whether or not by virtue of this subsection) shall continue in force for a specified period not exceeding twelve months;
  (b) that a provision of this Part shall cease to have effect;
  (c) that a provision of this Part which is not in force (whether or not by virtue of this subsection) shall come into force and remain in force for a specified period not exceeding twelve months.

(3) An order under subsection (2) may make provision with respect to a provision of this Part—
  (a) generally,
  (b) only in so far as it concerns powers of members of Her Majesty's Forces, or
  (c) except in so far as it concerns powers of members of Her Majesty's Forces.

(4) This Part shall, by virtue of this subsection, cease to have effect at the end of the period of five years beginning with the day on which it is brought into force.

(5) The following provisions shall be treated for the purposes of this section as forming part of this Part of this Act—
  (a) paragraphs 36 and 37 of Schedule 4, and
  (b) paragraphs 19 to 21 of Schedule 5.

**113 Transitional provisions.**

(1) Where a provision of sections 74 to 77 comes into force by virtue of an order under section 112(2), that shall not affect a trial on indictment where the indictment has been presented before the provision comes into force.

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(2) Where a provision of sections 74 to 77 ceases to have effect (whether or not by virtue of an order under section 112(2)), that shall not affect the application of the provision to a trial on indictment where the indictment has been presented before the provision ceases to have effect.

(3) If when section 74(1) comes into force by virtue of an order under section 112(2) a person has been committed for trial for a scheduled offence and the indictment has not been presented, then on the coming into force of section 74(1) he shall, if he was committed to the Crown Court sitting elsewhere than in Belfast, be treated as having been committed—

(a) to the Crown Court sitting in Belfast, or

(b) where a direction is given under section 74(1) which affects the trial, to the Crown Court sitting at the place specified in the direction.

(4) Where section 74 ceases to have effect (whether or not by virtue of an order under section 112(2)), that shall not affect—

(a) the committal of a person for trial in accordance with that provision to the Crown Court sitting either in Belfast or elsewhere, or

(b) the committal of a person for trial which, in accordance with that provision, has taken effect as a committal for trial to the Crown Court sitting elsewhere than in Belfast,

in a case where the indictment has not been presented.

(5) Where section 79 or 80 ceases to have effect (whether or not by virtue of an order under section 112(2)), that shall not affect the operation of the section in relation to an offence committed while it, or a corresponding earlier enactment, was in force.

(6) Sections 108 and 109 shall not apply to a statement made or failure occurring before 4th September 1998.

(7) Where section 108 or 109 comes into force by virtue of an order under section 112(2) it shall not apply to a statement made or failure occurring while the section was not in force.

(8) Section 111 applies where an offence is committed on or after 4th September 1998; and for this purpose an offence committed over a period of more than one day or at some time during a period of more than one day shall be taken to be committed on the last of the days in the period.

(9) Paragraph 19 of Schedule 9 shall have effect only in relation to an offence alleged to have been committed after the coming into force of that Schedule.

**Modifications etc. (not altering text)**

**C23** S. 113: power to continue conferred (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {4(2)(g)}, 5(3)

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## PART VIII

## GENERAL

### 114 Police powers.

(1) A power conferred by virtue of this Act on a constable—
- (a) is additional to powers which he has at common law or by virtue of any other enactment, and
- (b) shall not be taken to affect those powers.

(2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Act (apart from paragraphs 2 and 3 of Schedule 7).

(3) Where anything is seized by a constable under a power conferred by virtue of this Act, it may (unless the contrary intention appears) be retained for so long as is necessary in all the circumstances.

### 115 Officers' powers.

Schedule 14 (which makes provision about the exercise of functions by authorised officers for the purposes of sections 25 to 31 and examining officers for the purposes of Schedule 7) shall have effect.

### 116 Powers to stop and search.

(1) A power to search premises conferred by virtue of this Act shall be taken to include power to search a container.

(2) A power conferred by virtue of this Act to stop a person includes power to stop a vehicle (other than an aircraft which is airborne).

(3) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.

(4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

### 117 Consent to prosecution.

(1) This section applies to an offence under any provision of this Act other than an offence under—
- (a) section 36,
- (b) section 51,
- (c) paragraph 18 of Schedule 7,
- (d) paragraph 12 of Schedule 12, or
- (e) Schedule 13.

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(2) Proceedings for an offence to which this section applies—
  (a) shall not be instituted in England and Wales without the consent of the Director of Public Prosecutions, and
  (b) shall not be instituted in Northern Ireland without the consent of the Director of Public Prosecutions for Northern Ireland.

(3) Where it appears to the Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland that an offence to which this section applies is committed for a purpose connected with the affairs of a country other than the United Kingdom—
  (a) subsection (2) shall not apply, and
  (b) proceedings for the offence shall not be instituted without the consent of the Attorney General or the Attorney General for Northern Ireland.

### 118 Defences.

(1) Subsection (2) applies where in accordance with a provision mentioned in subsection (5) it is a defence for a person charged with an offence to prove a particular matter.

(2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(3) Subsection (4) applies where in accordance with a provision mentioned in subsection (5) a court—
  (a) may make an assumption in relation to a person charged with an offence unless a particular matter is proved, or
  (b) may accept a fact as sufficient evidence unless a particular matter is proved.

(4) If evidence is adduced which is sufficient to raise an issue with respect to the matter mentioned in subsection (3)(a) or (b) the court shall treat it as proved unless the prosecution disproves it beyond reasonable doubt.

(5) The provisions in respect of which subsections (2) and (4) apply are—
  (a) sections 12(4), 39(5)(a), 54, 57, 58, 77 and 103 of this Act, and
  (b) sections 13, 32 and 33 of the [M92]Northern Ireland (Emergency Provisions) Act 1996 (possession and information offences) as they have effect by virtue of Schedule 1 to this Act.

**Marginal Citations**
**M92** 1996 c. 22.

### 119 Crown servants, regulators, &c.

(1) The Secretary of State may make regulations providing for any of sections 15 to 23 and 39 to apply to persons in the public service of the Crown.

(2) The Secretary of State may make regulations providing for section 19 not to apply to persons who are in his opinion performing or connected with the performance of regulatory, supervisory, investigative or registration functions of a public nature.

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(3) Regulations—

(a) may make different provision for different purposes,

(b) may make provision which is to apply only in specified circumstances, and

(c) may make provision which applies only to particular persons or to persons of a particular description.

**120 Evidence.**

(1) A document which purports to be—

(a) a notice or direction given or order made by the Secretary of State for the purposes of a provision of this Act, and

(b) signed by him or on his behalf,

shall be received in evidence and shall, until the contrary is proved, be deemed to have been given or made by the Secretary of State.

(2) A document bearing a certificate which—

(a) purports to be signed by or on behalf of the Secretary of State, and

(b) states that the document is a true copy of a notice or direction given or order made by the Secretary of State for the purposes of a provision of this Act,

shall be evidence (or, in Scotland, sufficient evidence) of the document in legal proceedings.

(3) In subsections (1) and (2) a reference to an order does not include a reference to an order made by statutory instrument.

(4) The [M93]Documentary Evidence Act 1868 shall apply to an authorisation given in writing by the Secretary of State for the purposes of this Act as it applies to an order made by him.

**Marginal Citations**

**M93** 1868 c. 37.

VALID FROM 13/04/2006

**[[F19]120A Supplemental powers of court in respect of forfeiture orders**

(1) Where court makes an order under section 54, 58 or 103 for the forfeiture of anything, it may also make such other provision as appears to it to be necessary for giving effect to the forfeiture.

(2) That provision may include, in particular, provision relating to the retention, handling, disposal or destruction of what is forfeited.

(3) Provision made by virtue of this section may be varied at any time by the court that made it.**]**

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**Textual Amendments**

**F19** S. 120A inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **s. 37(3)**; S.I. 2006/1013, **art. 2**

## 121 Interpretation.

In this Act—

"act" and "action" include omission,

"article" includes substance and any other thing,

"customs officer" means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the [M94]Customs and Excise Management Act 1979,

"dwelling" means a building or part of a building used as a dwelling, and a vehicle which is habitually stationary and which is used as a dwelling,

"explosive" means—

(a) an article or substance manufactured for the purpose of producing a practical effect by explosion,

(b) materials for making an article or substance within paragraph (a),

(c) anything used or intended to be used for causing or assisting in causing an explosion, and

(d) a part of anything within paragraph (a) or (c),

"firearm" includes an air gun or air pistol,

"immigration officer" means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the [M95]Immigration Act 1971,

"the Islands" means the Channel Islands and the Isle of Man,

"organisation" includes any association or combination of persons,

"premises" includes any place and in particular includes—

(a) a vehicle,

(b) an offshore installation within the meaning given in section 44 of the [M96]Petroleum Act 1998, and

(c) a tent or moveable structure,

"property" includes property wherever situated and whether real or personal, heritable or moveable, and things in action and other intangible or incorporeal property,

"public place" means a place to which members of the public have or are permitted to have access, whether or not for payment,

"road" has the same meaning as in the [M97]Road Traffic Act 1988 (in relation to England and Wales), the [M98]Roads (Scotland) Act 1984 (in relation to Scotland) and the [M99]Road Traffic Regulation (Northern Ireland) Order 1997 (in relation to Northern Ireland), and includes part of a road, and

"vehicle", except in sections 48 to 52 and Schedule 7, includes an aircraft, hovercraft, train or vessel.

**Marginal Citations**

**M94** 1979 c. 2.

**M95** 1971 c. 77.

**M96** 1998 c. 17.

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**M97** 1988 c. 52.
**M98** 1984 c. 54.
**M99** S.I. 1997/276 (N.I. 2).

## 122 Index of defined expressions.

In this Act the expressions listed below are defined by the provisions specified.

| *Expression* | *Interpretation provision* |
|---|---|
| Act | Section 121 |
| Action | Section 121 |
| Action taken for the purposes of terrorism | Section 1(5) |
| Article | Section 121 |
| Authorised officer | Section 24(1) |
| Cash | Section 24(2) |
| Cordoned area | Section 33 |
| Customs officer | Section 121 |
| Dwelling | Section 121 |
| Examining officer | Schedule 7, paragraph 1 |
| Explosive | Section 121 |
| Firearm | Section 121 |
| Immigration officer | Section 121 |
| The Islands | Section 121 |
| Organisation | Section 121 |
| Premises | Section 121 |
| Property | Section 121 |
| Proscribed organisation | Section 3(1) |
| Public place | Section 121 |
| Road | Section 121 |
| Scheduled offence (in Part VII) | Section 65 |
| Terrorism | Section 1 |
| Terrorist (in Part V) | Section 40 |
| Terrorist investigation | Section 32 |
| Terrorist property | Section 14 |
| Vehicle | Section 121 |
| Vehicle (in sections 48 to 51) | Section 52 |

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## 123 Orders and regulations.

(1) An order or regulations made by the Secretary of State under this Act—
- (a) shall be made by statutory instrument,
- (b) may contain savings and transitional provisions, and
- (c) may make different provision for different purposes.

(2) Subject to subsection (3), an order or regulations under any of the following provisions shall be subject to annulment in pursuance of a resolution of either House of Parliament—
- (a) section 4(3);
- (b) section 24(2)(e);
- (c) section 72;
- (d) section 79(5);
- (e) section 80(9);
- (f) section 97(1) or (3);
- (g) section 100(1)(b);
- (h) section 119(1) or (2);
- (i) paragraph 52(1)(a) or (b) of Schedule 4;
- (j) paragraph 17(4) of Schedule 7;
- (k) paragraph 3(1)(b) of Schedule 8;
- (l) paragraph 19 of Schedule 8.

(3) In the cases of—
- (a) the first order to be made under paragraph 17(4) of Schedule 7, and
- (b) the first order to be made under paragraph 19 of Schedule 8,

the order shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament (and subsection (2)(j) or (l) shall not apply).

(4) An order or regulations under any of the following provisions shall not be made, subject to subsection (5), unless a draft has been laid before and approved by resolution of each House of Parliament—
- (a) section 3(3);
- (b) section 53(2);
- (c) section 65(3);
- (d) section 96;
- (e) section 101(4);
- (f) section 112(2);
- (g) paragraph 2(2) of Schedule 1;
- (h) paragraph 6(2) or 7(3) of Schedule 6;
- (i) paragraph 16 of Schedule 7;
- (j) paragraph 3(2) of Schedule 8;
- (k) paragraph 4(4) of Schedule 8;
- (l) paragraph 4(1)(e) of Schedule 14;
- (m) paragraph 7(3) of Schedule 14.

(5) An order or regulations under a provision mentioned in subsection (4), except for paragraph (b), may be made without a draft having been approved if the Secretary of State is of the opinion that it is necessary by reason of urgency; and the order—

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(a) shall contain a declaration of the Secretary of State's opinion, and
(b) shall cease to have effect at the end of the period of 40 days beginning with the day on which the Secretary of State makes the order, unless a resolution approving the order is passed by each House during that period.

(6) For the purposes of subsection (5)—
(a) a code of practice or revised code to which an order relates shall cease to have effect together with the order,
(b) an order's ceasing to have effect shall be without prejudice to anything previously done or to the making of a new order (or the issue of a new code), and
(c) the period of 40 days shall be computed in accordance with section 7(1) of the [M100]Statutory Instruments Act 1946.

(7) An order under paragraph 8(3) of Schedule 13 shall be laid before Parliament.

(8) Subsection (1)(a) does not apply to an order made—
(a) under section 94,
(b) by virtue of paragraph 36 of Schedule 4, or
(c) under or by virtue of any of paragraphs 19 to 21 of Schedule 5.

(9) Subsections (1)(a) and (4)(d) do not apply to an order made under regulations made under section 96.

**Marginal Citations**
**M100** 1946 c. 36.

### 124 Directions.

A direction given under this Act may be varied or revoked by a further direction.

### 125 Amendments and repeals.

(1) Schedule 15 (consequential amendments) shall have effect.

(2) The enactments listed in Schedule 16 are hereby repealed or revoked to the extent specified.

### 126 Report to Parliament.

The Secretary of State shall lay before both Houses of Parliament at least once in every 12 months a report on the working of this Act.

### 127 Money.

The following shall be paid out of money provided by Parliament—
(a) any expenditure of a Minister of the Crown under or by virtue of this Act, and
(b) any increase in the sums payable out of money provided by Parliament under any other enactment.

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## 128 Commencement.

The preceding provisions of this Act, apart from sections 2(1)(b) and (2) and 118 and Schedule 1, shall come into force in accordance with provision made by the Secretary of State by order.

**Subordinate Legislation Made**

**P1** S. 128 power partly exercised (10.10.2000): 12.10.2000 appointed for specified provisions by S.I. 2000/2800, **art. 2**
S. 128 power partly exercised (27.10.2000): 31.10.2000 appointed for specified provisions by S.I. 2000/2944, **art. 2**
S. 128 power partly exercised: 19.2.2001 appointed for specified provisions by S.I. 2001/421, **art. 2**

## 129 Transitional provisions.

(1) Where, immediately before the coming into force of section 2(1)(a), a person is being detained by virtue of a provision of the [M101]Prevention of Terrorism (Temporary Provisions) Act 1989—

(a) the provisions of that Act shall continue to apply to him, in place of the corresponding provisions of this Act, until his detention comes to an end, and

(b) nothing in paragraph 5 or 8 of Schedule 15 shall have effect in relation to him during his detention.

(2) Where—

(a) a person is detained by virtue of a provision of the [M102]Northern Ireland (Emergency Provisions) Act 1996 (as continued in force by virtue of Schedule 1 to this Act), and

(b) the provision ceases to have effect,

he shall be treated as lawfully detained under any corresponding provision of this Act.

(3) Where this Act repeals and re-enacts a provision of—

(a) the [M103]Prevention of Terrorism (Temporary Provisions) Act 1989, or

(b) the [M104]Northern Ireland (Emergency Provisions) Act 1996,

the repeal and re-enactment shall not, unless the contrary intention appears, affect the continuity of the law.

(4) A reference in this Act or any other enactment or instrument to a provision of this Act shall (so far as the context permits) be taken to include a reference to a corresponding provision repealed by this Act.

(5) The repeal by virtue of this Act of section 14 of the [M105]Northern Ireland (Emergency Provisions) Act 1996 (young persons convicted of scheduled offences) shall not affect its operation in relation to offences committed while it was in force.

(6) Any document made, served or issued after the commencement of paragraph (a) or (b) of section 2(1) which contains a reference to an enactment repealed by that paragraph shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of this Act.

(7) Any document made, served or issued after the commencement of this Act which contains a reference to a provision of this Act shall, so far as the context permits, be

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construed as referring to or (as the context may require) including a reference to the corresponding provision of—

(a) the [M106]Prevention of Terrorism (Temporary Provisions) Act 1989, or

(b) the [M107]Northern Ireland (Emergency Provisions) Act 1996.

(8) Section 117 shall apply to the institution of proceedings after commencement of that section whether the offence to which the proceedings relate (which may, by virtue of subsection (4) above, be an offence under a provision repealed by this Act) is alleged to have been committed before or after commencement of that section.

**Marginal Citations**

**M101** 1989 c. 4.
**M102** 1996 c. 22.
**M103** 1989 c. 4.
**M104** 1996 c. 22.
**M105** 1996 c. 22.
**M106** 1989 c. 4.
**M107** 1996 c. 22.

## 130 Extent.

(1) Subject to subsections (2) to (6), this Act extends to the whole of the United Kingdom.

(2) Section 59 shall extend to England and Wales only.

(3) The following shall extend to Northern Ireland only—

(a) section 60, and

(b) Part VII.

(4) Section 61 shall extend to Scotland only.

(5) In Schedule 5—

(a) Part I shall extend to England and Wales and Northern Ireland only, and

(b) Part II shall extend to Scotland only.

(6) The amendments and repeals in Schedules 15 and 16 shall have the same extent as the enactments to which they relate.

## 131 Short title.

This Act may be cited as the Terrorism Act 2000.

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# SCHEDULES

## SCHEDULE 1

Section 2.

### NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1996

*Temporary extension*

1 (1) This paragraph applies to any of the following if and in so far as it is in force immediately before the passing of this Act by virtue of an order under section 62(3) of the [M108]Northern Ireland (Emergency Provisions) Act 1996 (duration)—

(a) a provision of the [M109]Northern Ireland (Emergency Provisions) Act 1996 (other than one mentioned in sub-paragraph (2)),

(b) a provision of the [M110]Prevention of Terrorism (Temporary Provisions) Act 1989, and

(c) section 4 of the [M111]Criminal Justice (Terrorism and Conspiracy) Act 1998 (forfeiture orders).

(2) This paragraph does not apply to the following provisions of the [M112]Northern Ireland (Emergency Provisions) Act 1996—

(a) section 26(1)(b) (power of entry on authority of Secretary of State),

(b) section 35 (wearing of hoods), and

(c) section 50 (explosives factories).

**Marginal Citations**

**M108** 1996 c. 22.
**M109** 1996 c. 22.
**M110** 1989 c. 4.
**M111** 1998 c. 40.
**M112** 1996 c. 22.

2 (1) A provision to which paragraph 1 applies shall continue in force for the period of 12 months starting with the day on which this Act is passed.

(2) The Secretary of State may by order provide for a provision to which paragraph 1 applies to continue in force for the period of 12 months immediately following the period mentioned in sub-paragraph (1).

3 (1) The powers under section 62(3)(a) and (c) of the [M113]Northern Ireland (Emergency Provisions) Act 1996 shall continue to be exercisable in relation to a provision to which paragraph 1 applies in respect of any period falling within—

(a) the period mentioned in paragraph 2(1), or

(b) a period specified in relation to that provision under paragraph 2(2).

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(2) The power under section 62(3)(b) of the [M114]Northern Ireland (Emergency Provisions) Act 1996 shall continue to be exercisable in relation to a provision to which paragraph 1 applies at any time during—

(a) the period mentioned in paragraph 2(1), or

(b) a period specified in relation to that provision under paragraph 2(2).

**Marginal Citations**

**M113** 1996 c. 22.

**M114** 1996 c. 22.

4 The Secretary of State may by order provide for a provision to which paragraph 1 applies—

(a) to cease to have effect on a specified day;

(b) to cease to be capable of being the subject of an order under section 62(3) of the [M115]Northern Ireland (Emergency Provisions) Act 1996.

**Marginal Citations**

**M115** 1996 c. 22.

5 The continuance in force of a provision by virtue of paragraph 2 is subject to any order made by virtue of paragraph 3 or 4.

6 (1) A provision of the [M116]Northern Ireland (Emergency Provisions) Act 1996 to which paragraph 1 does not apply shall continue to have effect for the purposes of, or in so far it relates to, any provision to which that paragraph does apply.

(2) While Part I of Schedule 1 to that Act (scheduled offences) has effect by virtue of this Schedule, the following shall also have effect—

(a) Part III of that Schedule (extra-territorial offences), and

(b) sections 3, 10 and 11 of that Act so far as they relate to offences which are scheduled offences by virtue of that Part.

**Marginal Citations**

**M116** 1996 c. 22.

*Amendments during temporary extension*

7 The provisions of the 1996 Act which continue in force by virtue of this Schedule shall be amended as follows.

8 In section 19 (arrest and seizure) after subsection (4) insert—

"(5) The reference to a rule of law in subsection (2) does not include a rule of law which has effect only by virtue of the [M117]Human Rights Act 1998."

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**Marginal Citations**
**M117** 1998 c. 42.

9 In section 20 (search for munitions, &c.) after subsection (5) insert—

"(5A) The power to extend a period conferred by subsection (5) may be exercised only once in relation to a particular search."

10 In section 26 (powers of entry, &c.) after subsection (2) insert—

"(2A) The Secretary of State may grant an authorisation under subsection (2) only if he considers it necessary for the preservation of the peace or the maintenance of order."

11 In section 33 (collection of information, &c.) after subsection (5) insert—

"(5A) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(5B) An order under subsection (5) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time)."

12 (1) Part V (private security services) shall have effect subject to the provisions of this paragraph.

(2) On issuing a certificate under section 39 the Secretary of State may impose a condition if satisfied that it is necessary in order to prevent an organisation within section 39(8) from benefiting from the certificate.

(3) To the grounds for refusal to issue a certificate and for revocation of a certificate in sections 39(1) and (5) there shall be added the ground that the Secretary of State is satisfied that the applicant for or holder of a certificate has failed to comply with a condition imposed by virtue of sub-paragraph (2) above.

(4) The applicant for a certificate may appeal to the High Court if—

(a) the application is refused,

(b) a condition is imposed on the grant of the certificate, or

(c) the certificate is revoked.

(5) Where an appeal is brought under sub-paragraph (4), the Secretary of State may issue a certificate that the decision to which the appeal relates—

(a) was taken for the purpose of preventing benefit from accruing to an organisation which was within section 39(8), and

(b) was justified by that purpose.

(6) If he intends to rely on a certificate under sub-paragraph (5), the Secretary of State shall notify the appellant.

(7) Where the appellant is notified of the Secretary of State's intention to rely on a certificate under sub-paragraph (5)—

(a) he may appeal against the certificate to the Tribunal established under section 91 of the [M118]Northern Ireland Act 1998, and

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(b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure, and further appeal) shall apply.

(8) Rules made under section 91 or 92 of that Act which are in force immediately before the passing of this Act shall have effect in relation to a certificate under sub-paragraph (5)—

(a) with any necessary modifications, and

(b) subject to any later rules made by virtue of sub-paragraph (7)(b).

**Marginal Citations**

**M118** 1998 c. 47.

## SCHEDULE 2

Section 3.

### PROSCRIBED ORGANISATIONS

The Irish Republican Army.

Cumann na mBan.

Fianna na hEireann.

The Red Hand Commando.

Saor Eire.

The Ulster Freedom Fighters.

The Ulster Volunteer Force.

The Irish National Liberation Army.

The Irish People's Liberation Organisation.

The Ulster Defence Association.

The Loyalist Volunteer Force.

The Continuity Army Council.

The Orange Volunteers.

The Red Hand Defenders.

[F20 Al-Qa'ida

Egyptian Islamic Jihad

Al-Gama'at al-Islamiya

Armed Islamic Group (Groupe Islamique Armée) (GIA)

Salafist Group for Call and Combat (Groupe Salafiste pour la Prédication et le Combat) (GSPC)

Babbar Khalsa

International Sikh Youth Federation

Harakat Mujahideen

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Jaish e Mohammed
Lashkar e Tayyaba
Liberation Tigers of Tamil Eelam (LTTE)
Hizballah External Security Organisation
Hamas-Izz al-Din al-Qassem Brigades
Palestinian Islamic Jihad—Shaqaqi
Abu Nidal Organisation
Islamic Army of Aden
Mujaheddin e Khalq
Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK)
Revolutionary Peoples' Liberation Party—Front (Devrimci Halk Kurtulus Partisi-Cephesi) (DHKP-C)
Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA)
17 November Revolutionary Organisation (N17)**]**

**Textual Amendments**

**F20** Words in Sch. 2 inserted (29.3.2001) by The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2001 (S.I. 2001/1261), **art. 2**

*Note*

The entry for The Orange Volunteers refers to the organisation which uses that name and in the name of which a statement described as a press release was published on 14th October 1998.

## SCHEDULE 3

Section 5.

### THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION

*Constitution and administration*

1 (1) The Commission shall consist of members appointed by the Lord Chancellor.

(2) The Lord Chancellor shall appoint one of the members as chairman.

(3) A member shall hold and vacate office in accordance with the terms of his appointment.

(4) A member may resign at any time by notice in writing to the Lord Chancellor.

2 The Lord Chancellor may appoint officers and servants for the Commission.

3 The Lord Chancellor—

(a) may pay sums by way of remuneration, allowances, pensions and gratuities to or in respect of members, officers and servants,

(b) may pay compensation to a person who ceases to be a member of the Commission if the Lord Chancellor thinks it appropriate because of special circumstances, and

(c) may pay sums in respect of expenses of the Commission.

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*Procedure*

4 (1) The Commission shall sit at such times and in such places as the Lord Chancellor may direct.

(2) The Commission may sit in two or more divisions.

(3) At each sitting of the Commission—
- (a) three members shall attend,
- (b) one of the members shall be a person who holds or has held high judicial office (within the meaning of the [M119]Appellate Jurisdiction Act 1876), and
- (c) the chairman or another member nominated by him shall preside and report the Commission's decision.

**Marginal Citations**
**M119** 1876 c. 59.

5 (1) The Lord Chancellor may make rules—
- (a) regulating the exercise of the right of appeal to the Commission;
- (b) prescribing practice and procedure to be followed in relation to proceedings before the Commission;
- (c) providing for proceedings before the Commission to be determined without an oral hearing in specified circumstances;
- (d) making provision about evidence in proceedings before the Commission (including provision about the burden of proof and admissibility of evidence);
- (e) making provision about proof of the Commission's decisions.

(2) In making the rules the Lord Chancellor shall, in particular, have regard to the need to secure—
- (a) that decisions which are the subject of appeals are properly reviewed, and
- (b) that information is not disclosed contrary to the public interest.

(3) The rules shall make provision permitting organisations to be legally represented in proceedings before the Commission.

(4) The rules may, in particular—
- (a) provide for full particulars of the reasons for proscription or refusal to deproscribe to be withheld from the organisation or applicant concerned and from any person representing it or him;
- (b) enable the Commission to exclude persons (including representatives) from all or part of proceedings;
- (c) enable the Commission to provide a summary of evidence taken in the absence of a person excluded by virtue of paragraph (b);
- (d) permit preliminary or incidental functions to be discharged by a single member;
- (e) permit proceedings for permission to appeal under section 6 to be determined by a single member;

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(f) make provision about the functions of persons appointed under paragraph 7;

(g) make different provision for different parties or descriptions of party.

(5) Rules under this paragraph—

(a) shall be made by statutory instrument, and

(b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(6) In this paragraph a reference to proceedings before the Commission includes a reference to proceedings arising out of proceedings before the Commission.

6 (1) This paragraph applies to—

(a) proceedings brought by an organisation before the Commission, and

(b) proceedings arising out of proceedings to which paragraph (a) applies.

(2) Proceedings shall be conducted on behalf of the organisation by a person designated by the Commission (with such legal representation as he may choose to obtain).

(3) In **[**[F21]paragraph 5**]** of this Schedule a reference to an organisation includes a reference to a person designated under this paragraph.

**Textual Amendments**

**F21** Words in Sch. 3 para. 6(3) substituted (2.10.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 12(2)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

7 (1) The relevant law officer may appoint a person to represent the interests of an organisation or other applicant in proceedings in relation to which an order has been made by virtue of paragraph 5(4)(b).

(2) The relevant law officer is—

(a) in relation to proceedings in England and Wales, the Attorney General,

(b) in relation to proceedings in Scotland, the Advocate General for Scotland, and

(c) in relation to proceedings in Northern Ireland, the Attorney General for Northern Ireland.

(3) A person appointed under this paragraph must—

(a) have a general qualification for the purposes of section 71 of the [M120]Courts and Legal Services Act 1990 (qualification for legal appointments),

(b) be an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the [M121]Solicitors (Scotland) Act 1980, or

(c) be a member of the Bar of Northern Ireland.

(4) A person appointed under this paragraph shall not be responsible to the organisation or other applicant whose interests he is appointed to represent.

(5) In **[**[F22]paragraph 5**]** of this Schedule a reference to a representative does not include a reference to a person appointed under this paragraph.

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**Textual Amendments**

**F22** Words in Sch. 3 para. 7(5) substituted (2.10.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 12(2)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

**Marginal Citations**

**M120** 1990 c. 41.

**M120** 1980 c. 46.

[F23]8 . . . . . .

**Textual Amendments**

**F23** Sch. 3 para. 8 repealed (2.10.2000) by 2000 c. 23, s. 82, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 3**

VALID FROM 20/12/2001

[[F24]SCHEDULE 3A

REGULATED SECTOR AND SUPERVISORY AUTHORITIES]

**Textual Amendments**

**F24** Sch. 3A inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 3 para. 6**; S.I. 2001/4019, **art. 2(1)(c)**

. . . . . .

## SCHEDULE 4

Section 23.

### FORFEITURE ORDERS

### PART I

### ENGLAND AND WALES

*Interpretation*

1 In this Part of this Schedule—

"forfeiture order" means an order made by a court in England and Wales under section 23, and

"forfeited property" means the money or other property to which a forfeiture order applies.

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*Implementation of forfeiture orders*

2 (1) Where a court in England and Wales makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—

(a) require any of the forfeited property to be paid or handed over to the proper officer or to a constable designated for the purpose by the chief officer of police of a police force specified in the order;

(b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;

(c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;

(d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within section 23(7).

(2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

(3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

(4) Section 140 of the [M122]Magistrates' Courts Act 1980 (disposal of non-pecuniary forfeitures) shall not apply.

**Modifications etc. (not altering text)**
**C24** Sch. 4 para. 2(1) extended (with modifications) (13.12.2001) by S.I. 2001/3927 art. 11(1)

**Marginal Citations**
**M122** 1980 c. 43.

3 (1) A receiver appointed under paragraph 2 shall be entitled to be paid his remuneration and expenses by the proper officer out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 2(1)(c).

(2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.

(3) A receiver appointed under paragraph 2 shall not be liable to any person in respect of any loss or damage resulting from action—

(a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,

(b) which he would be entitled to take if the property were forfeited property, and

(c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

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(4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

**Modifications etc. (not altering text)**
**C25** Sch. 4 para. 3 applied (13.12.2001) by S.I. 2001/3927, **art. 11(1)**

4 (1) In paragraphs 2 and 3 "the proper officer" means—
(a) where the forfeiture order is made by a magistrates' court, the justices' chief executive for that court,
(b) where the forfeiture order is made by the Crown Court and the defendant was committed to the Crown Court by a magistrates' court, the justices' chief executive for the magistrates' court, and
(c) where the forfeiture order is made by the Crown Court and the proceedings were instituted by a bill of indictment preferred by virtue of section 2(2)(b) of the [M123]Administration of Justice (Miscellaneous Provisions) Act 1933, the justices' chief executive for the magistrates' court for the place where the trial took place.

(2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by—
(a) the prosecutor in the proceedings in which the forfeiture order was made,
(b) the defendant in those proceedings, or
(c) a person whom the court heard under section 23(7) before making the order.

(3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

**Marginal Citations**
**M123** 1933 c. 36.

VALID FROM 18/06/2009

*[[F27]Application of proceeds to compensate victims*

**Textual Amendments**
**F27** Sch. 4 para. 4A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 37(1)**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

4A (1) Where a court makes a forfeiture order in a case where—
(a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
(b) any such offence is taken into consideration by the court in determining sentence,

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the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.

(2) For this purpose the proceeds of the forfeiture means the aggregate amount of—

(a) any forfeited money, and

(b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,

reduced by the amount of any payment under paragraph 2(1)(d) or 3(1).

(3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 under which the offender would have been required to pay compensation of an amount not less than the specified amount.**]**

*Restraint orders*

5 (1) The High Court may make a restraint order under this paragraph where—

(a) proceedings have been instituted in England and Wales for an offence under any of sections 15 to 18,

(b) the proceedings have not been concluded,

(c) an application for a restraint order is made to the High Court by the prosecutor, and

(d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.

(2) The High Court may also make a restraint order under this paragraph where—

(a) it is satisfied that a person is to be charged in England and Wales with an offence under any of sections 15 to 18,

(b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of the proposed proceedings for the offence, and

(c) it appears to the High Court that a forfeiture order may be made in those proceedings.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in the proceedings referred to in sub-paragraph (1) or (2).

(4) An application for a restraint order may be made to a judge in chambers without notice.

(5) In this paragraph a reference to dealing with property includes a reference to removing the property from Great Britain.

6 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.

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(2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.

(3) In particular, a restraint order shall be discharged on an application under sub-paragraph (2)—

(a) in the case of an order made under paragraph 5(2), if the proceedings in respect of the offence are not instituted within such time as the High Court considers reasonable, and

(b) in any case, if the proceedings for the offence have been concluded.

7 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Great Britain.

(2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

**Modifications etc. (not altering text)**
**C26** Sch. 4 para. 7 applied (13.12.2001) by S.I. 2001/3927, **art. 12**

8 (1) The [M124]Land Charges Act 1972 and the [M125]Land Registration Act 1925—

(a) shall apply in relation to restraint orders as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognizances, and

(b) shall apply in relation to applications for restraint orders as they apply in relation to other pending land actions.

(2) Where a restraint order is made under paragraph 5(1) or an application for such an order is made, the prosecutor in the proceedings for the offence shall be treated for the purposes of section 57 of the [M126]Land Registration Act 1925 (inhibitions) as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.

(3) Where a restraint order is made under paragraph 5(2) or an application for such an order is made, the person who the High Court is satisfied will have the conduct of the proposed proceedings shall be treated for the purposes of section 57 of that Act as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.

**Modifications etc. (not altering text)**
**C27** Sch. 4 para. 8 applied (13.12.2001) by S.I. 2001/3927, **art. 12**

**Marginal Citations**
**M124** 1972 c. 61.
**M125** 1925 c. 21.
**M126** 1925 c. 21.

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*Compensation*

9 (1) This paragraph applies where a restraint order is discharged under paragraph 6(3)(a).

(2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18 which—

(a) do not result in conviction for an offence under any of those sections,

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty, or

(c) result in conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(4) The High Court may order compensation to be paid to the applicant if satisfied—

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,

(b) that the person in default was or was acting as a member of a police force, or was a member of the Crown Prosecution Service or was acting on behalf of the Service,

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid—

(a) where the person in default was or was acting as a member of a police force, out of the police fund out of which the expenses of that police force are met, and

(b) where the person in default was a member of the Crown Prosecution Service, or was acting on behalf of the Service, by the Director of Public Prosecutions.

[X2]10 (1) This paragraph applies where—

(a) a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18, and

(b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5).

(2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(3) The High Court may order compensation to be paid to the applicant if satisfied—

(a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

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(b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(4) Compensation payable under this paragraph shall be paid by the Secretary of State.

**Editorial Information**

**X2** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

*Proceedings for an offence: timing*

11 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—

(a) when a justice of the peace issues a summons or warrant under section 1 of the [M127]Magistrates' Courts Act 1980 in respect of the offence;

(b) when a person is charged with the offence after being taken into custody without a warrant;

(c) when a bill of indictment charging a person with the offence is preferred by virtue of section 2(2)(b) of the [M128]Administration of Justice (Miscellaneous Provisions) Act 1933.

(2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.

(3) For the purposes of this Part of this Schedule proceedings are concluded—

(a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or

(b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

**Marginal Citations**

**M127** 1980 c. 43.
**M128** 1933 c. 36.

VALID FROM 03/12/2014

*[[F28]Domestic and overseas freezing orders*

**Textual Amendments**

**F28** Sch. 4 Pt. 1 paras. 11A-11G and cross-headings inserted (prosp.) by Crime (International Co-operation) Act 2003 (c. 32), ss. 90, 94(1), **Sch. 4 para. 3**

11A (1) This paragraph has effect for the purposes of paragraphs 11B to 11G.

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(2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.

(3) A listed offence means—
- (a) an offence described in Article 3(2) of the relevant Framework Decision, or
- (b) a prescribed offence or an offence of a prescribed description.

(4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 11D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.

(5) Specified information, in relation to a certificate under paragraph 11B or 11D, means—
- (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
- (b) any prescribed information.

(6) In this paragraph, " prescribed " means prescribed by an order made by the Secretary of State.

(7) A participating country means—
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
- (b) any other member State designated by an order made by the Secretary of State.

(8) " Country " includes territory.

(9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

VALID FROM 03/12/2014

*Domestic freezing orders: certification*

11B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph.

(2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
- (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.

(3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
- (b) gives the specified information.

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(4) If the High Court makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
- (b) paragraph 6(2) to (4) applies to the certificate as it applies to the restraint order.

VALID FROM 03/12/2014

*Sending domestic freezing orders*

11C (1) If a certificate is made under paragraph 11B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or
- (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.

(2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.

(3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).

(4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.

The signature may be an electronic signature.

(5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1).

VALID FROM 03/12/2014

*Overseas freezing orders*

11D (1) Paragraph 11E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.

(2) An overseas freezing order is an order prohibiting dealing with property—
- (a) which is in the United Kingdom,
- (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
- (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,

and in respect of which the following requirements of this paragraph are met.

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(3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.

(4) The order must relate to—
- (a) criminal proceedings instituted in the participating country, or
- (b) a criminal investigation being carried on there.

(5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.

(6) The certificate must—
- (a) be signed by or on behalf of the court or authority which made or confirmed the order,
- (b) include a statement as to the accuracy of the information given in it,
- (c) if it is not in English, include a translation of it into English (or, if appropriate, Welsh).

The signature may be an electronic signature.

(7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.

(8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
- (a) a court exercising criminal jurisdiction in the country,
- (b) a prosecuting authority in the country,
- (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.

(9) References in paragraphs 11E to 11G to an overseas freezing order include its accompanying certificate.

VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

11E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the High Court and to the Director of Public Prosecutions.

(2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.

(3) Before giving effect to the overseas freezing order, the court must give the Director an opportunity to be heard.

(4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).

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11F The High Court may postpone giving effect to an overseas freezing order in respect of any property—

(a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or

(b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.

[F29]11G(1) Where the High Court decides to give effect to an overseas freezing order, it must—

(a) register the order in that court,

(b) provide for notice of the registration to be given to any person affected by it.

(2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court.

(3) Paragraph 7 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 5.

(4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the Director of Public Prosecutions or any other person affected by it, if or to the extent that—

(a) the court is of the opinion mentioned in paragraph 11E(4), or

(b) the court is of the opinion that the order has ceased to have effect in the participating country.

(5) Her Majesty may by Order in Council make further provision for the enforcement in England and Wales of registered overseas freezing orders.

(6) An Order in Council under this paragraph—

(a) may make different provision for different cases,

(b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

**Textual Amendments**

**F29** Sch. 4 paras. 11A-11G and cross-headings inserted (3.12.2014) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 4 para. 3**; S.I. 2014/3192, art. 2(b)

*Enforcement of orders made elsewhere in the British Islands*

12 In the following provisions of this Part of this Schedule—

"a Scottish order" means—

(a) an order made in Scotland under section 23 ("a Scottish forfeiture order"),

(b) an order made under paragraph 18 ("a Scottish restraint order"), or

(c) an order made under any other provision of Part II of this Schedule in relation to a Scottish forfeiture or restraint order;

"a Northern Ireland order" means—

(a) an order made in Northern Ireland under section 23 ("a Northern Ireland forfeiture order"),

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(b) an order made under paragraph 33 ("a Northern Ireland restraint order"), or

(c) an order made under any other provision of Part III of this Schedule in relation to a Northern Ireland forfeiture or restraint order;

"an Islands order" means an order made in any of the Islands under a provision of the law of that Island corresponding to—

(a) section 23 ("an Islands forfeiture order"),

(b) paragraph 5 ("an Islands restraint order"), or

(c) any other provision of this Part of this Schedule.

13 (1) Subject to the provisions of this paragraph, a Scottish, Northern Ireland or Islands order shall have effect in the law of England and Wales.

(2) But such an order shall be enforced in England and Wales only in accordance with—

(a) the provisions of this paragraph, and

(b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.

(3) On an application made to it in accordance with rules of court for registration of a Scottish, Northern Ireland or Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.

(4) Rules of court shall also make provision—

(a) for cancelling or varying the registration of a Scottish, Northern Ireland or Islands forfeiture order when effect has been given to it, whether in England and Wales or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;

(b) for cancelling or varying the registration of a Scottish, Northern Ireland or Islands restraint order which has been discharged or varied by the court by which it was made.

(5) If a Scottish, Northern Ireland or Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) to give effect to a forfeiture order made by it and—

(a) paragraph 3 shall apply accordingly,

(b) any functions of a justices' chief executive shall be exercised by the appropriate officer of the High Court, and

(c) after making any payment required by virtue of paragraph 2(1)(d) or 3, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under this sub-paragraph shall be paid by him to the Secretary of State.

(6) If a Scottish, Northern Ireland or Islands restraint order is registered under this paragraph—

(a) paragraphs 7 and 8 shall apply as they apply to a restraint order under paragraph 5, and

(b) the High Court shall have power to make an order under section 33 of the [M129]Supreme Court Act 1981 (extended power to order inspection of property, &c.) in relation to proceedings brought or likely to be brought for a Scottish, Northern Ireland or Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

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(7) In addition, if a Scottish, Northern Ireland or Islands order is registered under this paragraph—
  (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
  (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and
  (c) proceedings for or with respect to contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.

(8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of—
  (a) assisting the achievement in England and Wales of the purposes of a Scottish, Northern Ireland or Islands order, or
  (b) assisting a receiver or other person directed by a Scottish, Northern Ireland or Islands order to sell or otherwise dispose of property.

(9) The following documents shall be received in evidence in England and Wales without further proof—
  (a) a document purporting to be a copy of a Scottish, Northern Ireland or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 4(2) and (3) and to be certified by a proper officer of the court concerned.

**Commencement Information**

**I6** Sch. 4 para. 13 wholly in force at 19.2.2001; Sch. 4 para. 13 not in force at Royal Assent see s. 128; Sch. 4 para. 13(2)(b)(3)(4) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(h)(i)**; Sch. 4 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M129** 1981 c. 54.

*Enforcement of orders made in designated countries*

14 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in England and Wales of external orders.

(2) An "external order" means an order—
  (a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and
  (b) which makes relevant provision.

(3) "Relevant provision" means—
  (a) provision for the forfeiture of terrorist property ("an external forfeiture order"), or
  (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in

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proceedings which have been or are to be instituted in the designated country or territory ("an external restraint order").

(4) An Order in Council under this paragraph may, in particular, include provision—

(a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;

(b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 13(1) to (8) in relation to the orders to which that paragraph applies;

(c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.

(5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.

(6) An Order in Council under this paragraph—

(a) may make different provision for different cases, and

(b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

## PART II

### SCOTLAND

*Implementation of forfeiture orders*

15 In this Part of this Schedule—

"forfeiture order" means an order made by a court in Scotland under section 23, and

"forfeited property" means the money or other property to which a forfeiture order applies.

16 (1) Where a court in Scotland makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—

(a) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct;

(b) appoint an administrator to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property and to realise it in such manner as the court may direct;

(c) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid to a specified person falling within section 23(7).

(2) A forfeiture order shall not come into force so long as an appeal is pending against the order or against the conviction on which it was made; and for this purpose where

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an appeal is competent but has not been brought it shall be treated as pending until the expiry of a period of fourteen days from the date when the order was made.

(3) Any balance remaining after making any payment required under sub-paragraph (1)(c) or paragraph 17 shall be treated for the purposes of section 211(5) of the [M130]Criminal Procedure (Scotland) Act 1995 (fines payable to the Treasury) as if it were a fine imposed in the High Court of Justiciary.

(4) The clerk of court shall, on the application of—

(a) the prosecutor in the proceedings in which a forfeiture order is made,

(b) the accused in those proceedings, or

(c) a person whom the court heard under section 23(7) before making the order,

certify in writing the extent (if any) to which, at the date of the certificate, effect has been given to the order in respect of the money or other property to which it applies.

(5) In sub-paragraph (1) references to the proceeds of the sale, disposal or realisation of property are references to the proceeds after deduction of the costs of sale, disposal or realisation.

**Modifications etc. (not altering text)**

**C28** Sch. 4 para. 16(1) extended (13.12.2001) by S.I. 2001/3927, **art. 18**

**C29** Sch. 4 paras. 16(3)-(5) applied (13.12.2001) by S.I. 2001/3927, **art. 18**

**Marginal Citations**

**M130** 1995 c.46.

*Administrators*

17 (1) The Court of Session may by rules of court prescribe the powers and duties of an administrator appointed under paragraph 16.

(2) An administrator appointed under paragraph 16 shall be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by him or, if and so far as those proceeds are insufficient, by the Lord Advocate.

(3) The accountant of court shall supervise an administrator appointed under paragraph 16 in the exercise of the powers conferred, and discharge of the duties imposed, on him under or by virtue of that paragraph.

(4) An administrator appointed under paragraph 16 shall not be liable to any person in respect of any loss or damage resulting from action—

(a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,

(b) which he would be entitled to take if the property were forfeited property, and

(c) which he takes reasonably believing that he is entitled to take because of his belief that the property is forfeited property.

(5) Sub-paragraph (4) does not apply in so far as the loss or damage is caused by the administrator's negligence.

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***Changes to legislation:*** *Terrorism Act 2000 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C30** Sch. 4 para. 17 applied (13.12.2001) by S.I. 2001/3927, **art. 18**

VALID FROM 18/06/2009

*[F30 Application of proceeds to compensate victims*

**Textual Amendments**

**F30** Sch. 4 para. 17A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 37(2)**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

17A (1) Where a court makes a forfeiture order in a case where—

(a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or

(b) any such offence is taken into consideration by the court in determining sentence,

the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.

(2) For this purpose the proceeds of the forfeiture means the aggregate amount of—

(a) any forfeited money, and

(b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,

reduced by the amount of any payment under paragraph 16(1)(c) or 17(2).

(3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995 under which the offender would have been required to pay compensation of an amount not less than the specified amount.**]**

*Restraint orders*

18 (1) The Court of Session, on an application made by the Lord Advocate, may make a restraint order under this paragraph where—

(a) proceedings have been instituted in Scotland for an offence under any of sections 15 to 18,

(b) the proceedings have not been concluded, and

(c) a forfeiture order has been made, or it appears to the court that a forfeiture order may be made, in the proceedings for the offence.

(2) The Court of Session may also, on such an application, make a restraint order under this paragraph where—

(a) it is satisfied that a person is to be prosecuted in Scotland for an offence under any of sections 15 to 18, and

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(b) it appears to the Court of Session that a forfeiture order may be made in proceedings for the offence.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in the proceedings referred to in sub-paragraph (1) or (2).

(4) An application for a restraint order may be made ex parte in chambers.

(5) For the purposes of this paragraph, dealing with property includes removing the property from Great Britain.

19 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.

(2) A restraint order may be recalled or varied by the Court of Session on the application of any person affected by it.

(3) A restraint order shall be recalled—

(a) in the case of an order made under paragraph 18(2), if the proceedings in respect of the offence are not instituted within such time as the Court of Session considers reasonable, or

(b) in the case of an order made under paragraph 18(1) or (2), when proceedings for the offence are concluded.

(4) When proceedings for the offence are concluded the Lord Advocate shall forthwith apply to the Court for recall of the order.

20 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Great Britain.

(2) Property seized under this paragraph shall be dealt with in accordance with the Court's directions.

**Modifications etc. (not altering text)**
**C31** Sch. 4 para. 20 applied (13.12.2001) by S.I. 2001/3927, **art. 19**

21 (1) On the application of the Lord Advocate, the Court of Session may, in respect of heritable property in Scotland affected by a restraint order (whether such property generally or particular such property) grant warrant for inhibition against any person interdicted by the order.

(2) Subject to this Part of this Schedule, a warrant under sub-paragraph (1)—

(a) shall have effect as if granted on the dependence of an action for debt at the instance of the Lord Advocate against the person and may be executed, recalled, loosed or restricted accordingly;

(b) shall have the effect of letters of inhibition and shall forthwith be registered by the Lord Advocate in the register of inhibitions and adjudications.

(3) Section 155 of the [M131]Titles to Land Consolidation (Scotland) Act 1868 (effective date of inhibition) shall apply in relation to an inhibition for which warrant has been

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granted under sub-paragraph (2)(a) as that section applies to an inhibition by separate letters or contained in a summons.

(4) The execution of an inhibition under sub-paragraph (2) in respect of property shall not prejudice the exercise of an administrator's powers under or for the purposes of this Part of this Schedule in respect of that property.

(5) No inhibition executed under sub-paragraph (2) shall have effect once, or in so far as, the restraint order affecting the property in respect of which the warrant for the inhibition has been granted has ceased to have effect in respect of that property, and the Lord Advocate shall—

(a) apply for the recall, or as the case may be restriction, of the inhibition or arrestment accordingly; and

(b) ensure that recall, or restriction, of an inhibition on such application is reflected in the register of inhibitions and adjudications.

**Modifications etc. (not altering text)**
**C32** Sch. 4 para. 20 applied (13.12.2001) by S.I. 2001/3927, **art. 19**

**Marginal Citations**
**M131** 1868 c.101.

22 (1) On the application of the Lord Advocate, the court may, in respect of moveable property affected by a restraint order (whether such property generally or particular such property), grant warrant for arrestment if the property would be arrestable if the person entitled to it were a debtor.

(2) A warrant under sub-paragraph (1) shall have effect as if granted on the dependence of an action for debt at the instance of the Lord Advocate against the person and may be executed, recalled, loosed or restricted accordingly.

(3) The execution of an arrestment under sub-paragraph (2) in respect of property shall not prejudice the exercise of an administrator's powers under or for the purposes of this Part of this Schedule in respect of that property.

(4) No arrestment executed under sub-paragraph (2) shall have effect once, or in so far as, the restraint order affecting the property in respect of which the warrant for such arrestment has been granted has ceased to have effect in respect of that property; and the Lord Advocate shall apply to the court for an order recalling, or as the case may be, restricting the arrestment accordingly.

*Compensation*

23 (1) This paragraph applies where a restraint order is recalled under paragraph 19(3)(a).

(2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18 which—

(a) do not result in conviction for an offence under any of those sections,

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty, or

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(c) result in conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who had an interest in any property which was subject to the order may apply to the Court of Session for compensation.

(4) The Court of Session may order compensation to be paid to the applicant if it is satisfied—

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,

(b) that the person in default was a constable of a police force or a constable acting with the powers of such a constable, or was a procurator fiscal or was acting on behalf of the Lord Advocate,

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or the restraint order, and

(d) having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The Court of Session shall not order compensation to be paid where it appears to it that the proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid—

(a) where the person in default was a constable of a police force, out of the police fund out of which the expenses of that police force are met;

(b) where the person in default was a constable other than is mentioned in paragraph (a) above, but with the powers of such a constable, by the body under whose authority he acts; and

(c) where the person in default was a procurator fiscal or was acting on behalf of the Lord Advocate, by the Lord Advocate.

(7) This paragraph is without prejudice to any right which may otherwise exist to institute proceedings in respect of delictual liability disclosed by such circumstances as are mentioned in paragraphs (a) to (c) of sub-paragraph (2).

[X3]24 (1) This paragraph applies where—

(a) a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18, and

(b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5) as applied by section 8(1).

(2) A person who had an interest in any property which was subject to the order may apply to the Court of Session for compensation.

(3) The Court of Session may order compensation to be paid to the applicant if satisfied—

(a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(4) Compensation payable under this paragraph shall be paid by the Secretary of State.

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**Editorial Information**

**X3** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

*Proceedings for an offence: timing*

25 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—

(a) when a person is arrested for the offence,

(b) when a warrant to arrest or cite a person is granted,

(c) when an indictment or complaint is served on a person in respect of the offence.

(2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.

(3) For the purposes of this Part of this Schedule proceedings are concluded—

(a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the money or other property to which it applies, or

(b) when (disregarding any power of a court to extend the period within which an appeal may be made) there is no further possibility of a forfeiture order being made in the proceedings.

VALID FROM 03/12/2014

*[F31 Domestic and overseas freezing orders*

**Textual Amendments**

**F31** Sch. 4 Pt. 2 paras. 25A-25G and cross-headings inserted (prosp.) by Crime (International Co-operation) Act 2003 (c. 32), ss. 90, 94(1), **Sch. 4 para. 5**

F32 25A (1) This paragraph has effect for the purposes of paragraphs 25B to 25G.

(2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.

(3) A listed offence means—

(a) an offence described in Article 3(2) of the relevant Framework Decision, or

(b) a prescribed offence or an offence of a prescribed description.

(4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 25D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.

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(5) Specified information, in relation to a certificate under paragraph 25B or 25D, means—
  (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
  (b) any prescribed information.

(6) In this paragraph, " prescribed " means prescribed by an order made by the Secretary of State.

(7) A participating country means—
  (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
  (b) any other member State designated by an order made by the Secretary of State.

(8) " Country " includes territory.

(9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

**Textual Amendments**

**F32** Sch. 4 paras. 25A-25G and cross-headings inserted (3.12.2014) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 4 para. 5**; S.I. 2014/3192, art. 2(b)

VALID FROM 03/12/2014

*Domestic freezing orders: certification*

25B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the Court of Session to make a certificate under this paragraph.

(2) The Court of Session may make a certificate under this paragraph if—
  (a) it makes a restraint order in relation to property in the participating country, and
  (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.

(3) A certificate under this paragraph is a certificate which—
  (a) is made for the purposes of the relevant Framework Decision, and
  (b) gives the specified information.

(4) If the Court of Session makes a certificate under this paragraph—
  (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  (b) paragraph 19(2) to (4) applies to the certificate as it applies to the restraint order.

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VALID FROM 03/12/2014

*Sending domestic freezing orders*

25C (1) If a certificate is made under paragraph 25B, the restraint order and the certificate are to be sent to the Lord Advocate for forwarding to—

(a) a court exercising jurisdiction in the place where the property is situated, or

(b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.

(2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.

(3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).

(4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.

The signature may be an electronic signature.

(5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Lord Advocate for forwarding as mentioned in sub-paragraph (1).

VALID FROM 03/12/2014

*Overseas freezing orders*

25D (1) Paragraph 25E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.

(2) An overseas freezing order is an order prohibiting dealing with property—

(a) which is in the United Kingdom,

(b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and

(c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,

and in respect of which the following requirements of this paragraph are met.

(3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.

(4) The order must relate to—

(a) criminal proceedings instituted in the participating country, or

(b) a criminal investigation being carried on there.

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(5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.

(6) The certificate must—
- (a) be signed by or on behalf of the court or authority which made or confirmed the order,
- (b) include a statement as to the accuracy of the information given in it,
- (c) if it is not in English, include a translation of it into English.

The signature may be an electronic signature.

(7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.

(8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
- (a) a court exercising criminal jurisdiction in the country,
- (b) a prosecuting authority in the country,
- (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.

(9) References in paragraphs 25E to 25G to an overseas freezing order include its accompanying certificate.

VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

25E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the Court of Session and to the Lord Advocate.

(2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.

(3) Before giving effect to the overseas freezing order, the court must give the Lord Advocate an opportunity to be heard.

(4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).

25F The Court of Session may postpone giving effect to an overseas freezing order in respect of any property—
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
- (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.

25G (1) Where the Court of Session decides to give effect to an overseas freezing order, the Deputy Principal Clerk of Session must—
- (a) register the order in the Books of Council and Session,

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(b) provide for notice of the registration to be given to any person affected by it.

(2) For the purpose of enforcing an overseas freezing order registered in the Books of Council and Session, the order is to have effect as if it were an order made by the Court of Session.

(3) Paragraphs 20 and 21 apply to an overseas freezing order registered in the Books of Council and Session as they apply to a restraint order under paragraph 18.

(4) The Court of Session may cancel the registration of the order, or vary the property to which the order applies, on an application by the Lord Advocate or any other person affected by it, if or to the extent that—

(a) the court is of the opinion mentioned in paragraph 25E(4), or

(b) the court is of the opinion that the order has ceased to have effect in the participating country.

(5) Her Majesty may by Order in Council make further provision for the enforcement in Scotland of registered overseas freezing orders.

(6) An Order in Council under this paragraph—

(a) may make different provision for different cases,

(b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.**]**

**Textual Amendments**

**F32** Sch. 4 paras. 25A-25G and cross-headings inserted (3.12.2014) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 4 para. 5**; S.I. 2014/3192, art. 2(b)

*Enforcement of orders made elsewhere in the British Islands*

26 In the following provisions of this Part of this Schedule—

"an England and Wales order" means—

(a) an order made in England and Wales under section 23 ("an England and Wales forfeiture order"),

(b) an order made under paragraph 5 ("an England and Wales restraint order"), or

(c) an order made under any other provision of Part I of this Schedule in relation to an England and Wales forfeiture or restraint order;

"a Northern Ireland order" means—

(a) an order made in Northern Ireland under section 23 ("a Northern Ireland forfeiture order"),

(b) an order made under paragraph 33 ("a Northern Ireland restraint order"), or

(c) an order made under any other provision of Part III of this Schedule in relation to a Northern Ireland forfeiture or restraint order;

"an Islands order" means an order made in any of the Islands under a provision of the law of that Island corresponding to—

(a) section 23 ("an Islands forfeiture order"),

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(b) paragraph 18 ("an Islands restraint order"), or

(c) any other provision of this Part of this Schedule.

27 (1) Subject to the provisions of this paragraph, an England and Wales order, Northern Ireland order or Islands order shall have effect in the law of Scotland.

(2) But such an order shall be enforced in Scotland only in accordance with—

(a) the provisions of this paragraph, and

(b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.

(3) On an application made to it in accordance with rules of court for registration of an England and Wales order, Northern Ireland order or Islands order, the Court of Session shall direct that the order shall, in accordance with such rules, be registered in that court.

(4) Rules of court shall also make provision—

(a) for cancelling or varying the registration of an England and Wales, Northern Ireland or Islands forfeiture order when effect has been given to it, whether in Scotland or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies,

(b) for cancelling or varying the registration of an England and Wales, Northern Ireland or Islands restraint order which has been discharged or varied by the court by which it was made.

(5) If an England and Wales, Northern Ireland or Islands forfeiture order is registered under this paragraph the Court of Session shall have, in relation to that order, the same powers as a court has under paragraph 16(1) above in relation to a forfeiture order made by it and paragraphs 16(3) to (5) and 17 apply accordingly.

(6) If an England and Wales, Northern Ireland or Islands forfeiture order is registered under this paragraph—

(a) paragraphs 20 and 21 above shall apply as they apply to a restraint order, and

(b) the Court of Session shall have the like power to make an order under section 1 of the [M132]Administration of Justice (Scotland) Act 1972 (extended power to order inspection of documents, &c.) in relation to proceedings brought or likely to be brought for an England and Wales, Northern Ireland or Islands restraint order as if those proceedings had been brought or were likely to be brought in the Court of Session.

(7) In addition, if an England and Wales order, Northern Ireland order or Islands order is registered under this paragraph—

(a) the Court of Session shall have, in relation to its enforcement, the same power,

(b) proceedings for or with respect to its enforcement may be taken, and

(c) proceedings for or with respect to any contravention of such an order (whether before or after such registration) may be taken,

as if the order had originally been made in the Court of Session.

(8) The Court of Session may also make such orders or do otherwise as seems to it appropriate for the purpose of—

(a) assisting the achievement in Scotland of the purposes of an England and Wales order, Northern Ireland order or Islands order, or

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(b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property.

(9) The following documents shall, in Scotland, be sufficient evidence of their contents—

(a) a document purporting to be a copy of an England and Wales order, Northern Ireland order or Islands order and to be certified as such by a proper officer of the court by which it was made, and

(b) a document purporting to be a certificate for purposes corresponding to those of paragraph 16(4) and to be certified by a proper officer of the court concerned.

(10) Nothing in any England and Wales order, Northern Ireland order or Islands order prejudices any enactment or rule of law in respect of the recording of deeds relating to heritable property in Scotland or the registration of interests in such property.

**Commencement Information**

**I7** Sch. 4 wholly in force at 19.2.2001; Sch. 4 not in force at Royal Assent see s. 128; Sch. 4 para. 27(2)(b)(3)(4) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(h)(ii)**; Sch. 4 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M132** 1972 c.59.

*Enforcement of orders made in designated countries*

28 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in Scotland of external orders.

(2) An "external order" means an order—

(a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and

(b) which makes relevant provision.

(3) "Relevant provision" means—

(a) provision for the forfeiture of terrorist property ("an external forfeiture order"); or

(b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory ("an external restraint order").

(4) An Order in Council under this paragraph may, in particular, include provision—

(a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced,

(b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 27(1) to (8) in relation to the orders to which that paragraph applies, and

(c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.

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(5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.

(6) An Order under this paragraph—
- (a) may make different provision for different cases, and
- (b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

## PART III

### NORTHERN IRELAND

*Interpretation*

29 In this Part of this Schedule—

"forfeiture order" means an order made by a court in Northern Ireland under section 23, and

"forfeited property" means the money or other property to which a forfeiture order applies.

*Implementation of forfeiture orders*

30 (1) Where a court in Northern Ireland makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—
- (a) require any of the forfeited property to be paid or handed over to the proper officer or to a member of the Royal Ulster Constabulary designated for the purpose by the Chief Constable;
- (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;
- (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;
- (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within section 23(7).

(2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

(3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

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(4) Article 58 of the [M133]Magistrates' Courts (Northern Ireland) Order 1981 (disposal of non-pecuniary forfeitures) shall not apply.

**Modifications etc. (not altering text)**
**C33** Sch. 4 para. 30(1) extended (with modifications) (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

**Marginal Citations**
**M133** S.I. 1981/1675 (N.I. 26).

31 (1) A receiver appointed under paragraph 30 shall be entitled to be paid his remuneration and expenses by the proper officer out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 30(1)(c).

(2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.

(3) A receiver appointed under paragraph 30 shall not be liable to any person in respect of any loss or damage resulting from action—
- (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
- (b) which he would be entitled to take if the property were forfeited property, and
- (c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

(4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

**Modifications etc. (not altering text)**
**C34** Sch. 4 para. 31 applied (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

32 (1) In paragraphs 30 and 31 "the proper officer" means—
- (a) where the forfeiture order is made by a court of summary jurisdiction, the clerk of petty sessions, and
- (b) where the forfeiture order is made by the Crown Court, the appropriate officer of the Crown Court.

(2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by—
- (a) the prosecutor in the proceedings in which the forfeiture order was made,
- (b) the defendant in those proceedings, or
- (c) a person whom the court heard under section 23(7) before making the order.

(3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

(4) Any balance in the hands of the proper officer after making any payment required under paragraph 30(1)(d) or 31 shall be treated for the purposes of section 20 of the

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[M134]Administration of Justice (Northern Ireland) Act 1954 (application of fines, &c.) as if it were a fine.

**Marginal Citations**

**M134** 1954 c. 9 (N.I.).

VALID FROM 18/06/2009

*[[F33]Application of proceeds to compensate victims*

**Textual Amendments**

**F33** Sch. 4 para. 32A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 37(3)**, 100(5) (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

32A (1) Where a court makes a forfeiture order in a case where—

(a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or

(b) any such offence is taken into consideration by the court in determining sentence,

the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.

(2) For this purpose the proceeds of the forfeiture means the aggregate amount of—

(a) any forfeited money, and

(b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,

reduced by the amount of any payment under paragraph 30(1)(d) or 31(1).

(3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 under which the offender would have been required to pay compensation of an amount not less than the specified amount.**]**

*Restraint orders*

33 (1) The High Court may make a restraint order under this paragraph where—

(a) proceedings have been instituted in Northern Ireland for an offence under any of sections 15 to 18,

(b) the proceedings have not been concluded,

(c) an application for a restraint order is made to the High Court by the prosecutor, and

(d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.

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(2) The High Court may also make a restraint order under this paragraph where—

(a) it is satisfied that a person is to be charged in Northern Ireland with an offence under any of sections 15 to 18,

(b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of the proposed proceedings for the offence, and

(c) it appears to the High Court that a forfeiture order may be made in those proceedings.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in the proceedings referred to in sub-paragraph (1) or (2).

(4) An application for a restraint order may be made to a judge in chambers without notice.

(5) For the purposes of this paragraph a reference to dealing with property includes a reference to removing the property from Northern Ireland.

34 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.

(2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.

(3) In particular, a restraint order shall be discharged on an application under sub-paragraph (2)—

(a) in the case of an order made under paragraph 33(2), if the proceedings in respect of the offence are not instituted within such time as the High Court considers reasonable, and

(b) in any case, if the proceedings for the offence have been concluded.

35 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Northern Ireland.

(2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

**Modifications etc. (not altering text)**

**C35** Sch. 4 para. 35 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

36 (1) The power to make a restraint order under the provisions of paragraph 33 shall be exercisable by the Secretary of State in any case in which it appears to him that the information which it would be necessary to provide in support of an application to the High Court or a judge under those provisions would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18.

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(2) In their application by virtue of sub-paragraph (1) paragraphs 33 to 35 shall have effect with the necessary modifications and as if references to the High Court were references to the Secretary of State.

(3) An order made by the Secretary of State by virtue of this paragraph may be varied or discharged by the High Court under paragraph 34.

37 (1) A person commits an offence if he contravenes a restraint order.

(2) It is a defence for a person charged with an offence under this paragraph to prove that he had a reasonable excuse for the contravention.

(3) A person guilty of an offence under this paragraph shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum, or to both.

(4) Nothing in this paragraph shall be taken to prejudice any power of the High Court to deal with the contravention of a restraint order as a contempt of court.

**Modifications etc. (not altering text)**

**C36** Sch. 4 para. 37 modified (N.I.) (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {1(9)}, 5(3)

38 (1) The prosecutor shall be treated for the purposes of section 66 of the [M135]Land Registration Act (Northern Ireland) 1970 (cautions) as a person interested in respect of any registered land to which a restraint order or an application for such an order relates.

(2) On the application of the prosecutor, the Registrar of Titles shall, in respect of any registered land to which a restraint order or an application for such an order relates, make an entry inhibiting any dealing with the land without the consent of the High Court.

(3) Subsections (2) and (4) of section 67 of the [M136]Land Registration Act (Northern Ireland) 1970 (inhibitions) shall apply to an entry made on the application of the prosecutor under sub-paragraph (2) as they apply to an entry made on the application of any person interested in the registered land under subsection (1) of that section.

(4) In this paragraph—

"registered land" has the meaning assigned to it by section 45(1)(a) of the [M137]Interpretation Act (Northern Ireland) 1954,

"Registrar of Titles" and "entry" have the same meanings as in the [M138]Land Registration Act (Northern Ireland) 1970, and

"prosecutor" in a case where a restraint order is made under paragraph 33(2) or an application for such an order is made, means the person who the High Court is satisfied has or will have the conduct of the proposed proceedings.

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**Modifications etc. (not altering text)**

**C37** Sch. 4 para. 38 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

**Marginal Citations**

**M135** 1970 c. 18(N.I.).
**M136** 1970 c. 18(N.I.).
**M137** 1954 c. 33(N.I.).
**M138** 1970 c. 18(N.I.).

*Compensation*

39 (1) This paragraph applies where a restraint order is discharged under **[**[F34]paragraph 34(4)(a)**]**.

(2) This paragraph also apples where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18 which—

(a) do not result in conviction for an offence under any of those sections,

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty, or

(c) result in a conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(4) The High Court may order compensation to be paid to the applicant if satisfied—

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,

(b) that the person in default was or was acting as a member of the Royal Ulster Constabulary, or was a member of the Office of the Director of Public Prosecutions for Northern Ireland,

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid—

(a) where the person in default was or was acting as a member of the Royal Ulster Constabulary, out of funds put at the disposal of the Chief Constable under section 10(5) of the [M139]Police (Northern Ireland) Act 1998, and

(b) where the person in default was a member of the Office of the Director of Public Prosecutions for Northern Ireland, by the Director of Public Prosecutions for Northern Ireland.

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**Textual Amendments**

**F34** Word in Sch. 4 Pt. 3 para. 39(1) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(7)**; S.I. 2001/4019, **art. 2(1)(c)**

**Marginal Citations**

**M139** 1998 c. 32.

39 (1) This paragraph applies where a restraint order is discharged under paragraph 34(3)(a).

(2) This paragraph also apples where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18 which—

(a) do not result in conviction for an offence under any of those sections,

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty, or

(c) result in a conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(4) The High Court may order compensation to be paid to the applicant if satisfied—

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,

(b) that the person in default was or was acting as a member of the Royal Ulster Constabulary, or was a member of the Office of the Director of Public Prosecutions for Northern Ireland,

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid—

(a) where the person in default was or was acting as a member of the Royal Ulster Constabulary, out of funds put at the disposal of the Chief Constable under section 10(5) of the [M261]Police (Northern Ireland) Act 1998, and

(b) where the person in default was a member of the Office of the Director of Public Prosecutions for Northern Ireland, by the Director of Public Prosecutions for Northern Ireland.

**Marginal Citations**

**M261** 1998 c. 32.

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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[X4]40 (1) This paragraph applies where—

(a) a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 15 to 18, and

(b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5), as applied by section 8(2).

(2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(3) The High Court may order compensation to be paid to the applicant if satisfied—

(a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(4) Compensation payable under this paragraph shall be paid by the Secretary of State.

**Editorial Information**

**X4** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

*Proceedings for an offence: timing*

41 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—

(a) when a summons or warrant is issued under Article 20 of the [M140]Magistrates' Courts (Northern Ireland) Order 1981 in respect of the offence;

(b) when a person is charged with the offence after being taken into custody without a warrant;

(c) when an indictment charging a person with the offence is presented under section 2(2)(c), (e) or (f) of the [M141]Grand Jury (Abolition) Act (Northern Ireland) 1969.

(2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.

(3) For the purposes of this Part of this Schedule proceedings are concluded—

(a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or

(b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

**Marginal Citations**

**M140** S.I. 1981/1675 (N.I. 26).

**M141** 1969 c. 15(N.I.).

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VALID FROM 03/12/2014

*[F35 Domestic and overseas freezing orders*

**Textual Amendments**

**F35** Sch. 4 Pt. 3 paras. 41A-41G and cross-headings inserted (prosp.) by Crime (International Co-operation) Act 2003 (c. 32), ss. 90, 94(1), **Sch. 4 para. 7**

F36 41A(1) This paragraph has effect for the purposes of paragraphs 41B to 41G.

(2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.

(3) A listed offence means—

(a) an offence described in Article 3(2) of the relevant Framework Decision, or

(b) a prescribed offence or an offence of a prescribed description.

(4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 41D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.

(5) Specified information, in relation to a certificate under paragraph 41B or 41D, means—

(a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or

(b) any prescribed information.

(6) In this paragraph, " prescribed " means prescribed by an order made by the Secretary of State.

(7) A participating country means—

(a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and

(b) any other member State designated by an order made by the Secretary of State.

(8) " Country " includes territory.

(9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

**Textual Amendments**

**F36** Sch. 4 paras. 41A-41G and cross-headings inserted (3.12.2014) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 4 para. 7**; S.I. 2014/3192, art. 2(b)

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VALID FROM 03/12/2014

*Domestic freezing orders: certification*

41B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph.

(2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
- (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.

(3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
- (b) gives the specified information.

(4) If the High Court makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
- (b) paragraph 34(2) to (4) applies to the certificate as it applies to the restraint order.

VALID FROM 03/12/2014

*Sending domestic freezing orders*

41C (1) If a certificate is made under paragraph 41B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or
- (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.

(2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.

(3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).

(4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.

The signature may be an electronic signature.

(5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1).

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VALID FROM 03/12/2014

*Overseas freezing orders*

41D (1) Paragraph 41E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.

(2) An overseas freezing order is an order prohibiting dealing with property—
- (a) which is in the United Kingdom,
- (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
- (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,

and in respect of which the following requirements of this paragraph are met.

(3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.

(4) The order must relate to—
- (a) criminal proceedings instituted in the participating country, or
- (b) a criminal investigation being carried on there.

(5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.

(6) The certificate must—
- (a) be signed by or on behalf of the court or authority which made or confirmed the order,
- (b) include a statement as to the accuracy of the information given in it,
- (c) if it is not in English, include a translation of it into English.

The signature may be an electronic signature.

(7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.

(8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
- (a) a court exercising criminal jurisdiction in the country,
- (b) a prosecuting authority in the country,
- (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.

(9) References in paragraphs 41E to 41G to an overseas freezing order include its accompanying certificate.

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VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

41E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the High Court and to the Director of Public Prosecutions for Northern Ireland.

(2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.

(3) Before giving effect to the overseas freezing order, the court must give the Director an opportunity to be heard.

(4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).

41F The High Court may postpone giving effect to an overseas freezing order in respect of any property—

(a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or

(b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.

41G (1) Where the High Court decides to give effect to an overseas freezing order, it must—

(a) register the order in that court,

(b) provide for notice of the registration to be given to any person affected by it.

(2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court.

(3) Paragraph 35 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 33.

(4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the Director of Public Prosecutions for Northern Ireland or any other person affected by it, if or to the extent that—

(a) the court is of the opinion mentioned in paragraph 41E(4), or

(b) the court is of the opinion that the order has ceased to have effect in the participating country.

(5) Her Majesty may by Order in Council make further provision for the enforcement in Northern Ireland of registered overseas freezing orders.

(6) An Order in Council under this paragraph—

(a) may make different provision for different cases,

(b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

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**Textual Amendments**

**F36** Sch. 4 paras. 41A-41G and cross-headings inserted (3.12.2014) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 4 para. 7**; S.I. 2014/3192, art. 2(b)

*Enforcement of orders made elsewhere in the British Islands*

42 In the following provisions of this Part of this Schedule—

"an England and Wales order" means—

(a) an order made in England and Wales under section 23 ("an England and Wales forfeiture order"),

(b) an order made under paragraph 5 ("an England and Wales restraint order"), or

(c) an order made under any other provision of Part I of this Schedule in relation to an England and Wales forfeiture or restraint order;

"a Scottish order" means—

(a) an order made in Scotland under section 23 ("a Scottish forfeiture order"),

(b) an order made under paragraph 18 ("a Scottish restraint order"), or

(c) an order made under any other provision of Part II of this Schedule in relation to a Scottish forfeiture or restraint order;

"an Islands order" means an order made in any of the Islands under a provision of the law of that Island corresponding to—

(a) section 23 ("an Islands forfeiture order"),

(b) paragraph 33 ("an Islands restraint order"), or

(c) any other provision of this Part of this Schedule.

43 (1) Subject to the provisions of this paragraph, an England and Wales, Scottish or Islands order shall have effect in the law of Northern Ireland.

(2) But such an order shall be enforced in Northern Ireland only in accordance with—

(a) the provisions of this paragraph, and

(b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.

(3) On an application made to it in accordance with rules of court for registration of an England and Wales, Scottish or Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.

(4) Rules of court shall also make provision—

(a) for cancelling or varying the registration of an England and Wales, Scottish or Islands forfeiture order when effect has been given to it, whether in Northern Ireland or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;

(b) for cancelling or varying the registration of an England and Wales, Scottish or Islands restraint order which has been discharged or varied by the court by which it was made.

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(5) If an England and Wales, Scottish or Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 30(1) to give effect to a forfeiture order made by it and—
  (a) paragraph 31 shall apply accordingly,
  (b) any functions of the clerk of petty sessions or the appropriate officer of the Crown Court shall be exercised by the appropriate officer of the High Court, and
  (c) after making any payment required by virtue of paragraph 30(1)(d) or 31, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under this sub-paragraph shall be paid into the Consolidated Fund.

(6) If an England and Wales, Scottish or Islands restraint order is registered under this paragraph—
  (a) paragraphs 35 and 38 shall apply as they apply to a restraint order under paragraph 33, and
  (b) the High Court shall have the like power to make an order under section 21 of the [M142]Administration of Justice Act 1969 (extended power to order inspection of property, &c.) in relation to proceedings brought or likely to be brought for an England and Wales, Scottish or Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

(7) In addition, if an England and Wales, Scottish or Islands order is registered under this paragraph—
  (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
  (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and
  (c) proceedings for or with respect to any contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.

(8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of—
  (a) assisting the achievement in Northern Ireland of the purposes of an England and Wales, Scottish or Islands order, or
  (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property.

(9) The following documents shall be received in evidence in Northern Ireland without further proof—
  (a) a document purporting to be a copy of an England and Wales, Scottish or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 32(2) and (3) and to be certified by a proper officer of the court concerned.

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**Commencement Information**

**I8** Sch. 4 wholly in force at 19.2.2001; Sch. 4 not in force at Royal Assent see s. 128; Sch. 4 para. 43(2)(b)(3)(4) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(h)(iii)**; Sch. 4 para. 43 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M142** 1969 c. 58.

*Enforcement of orders made in designated countries*

44 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in Northern Ireland of external orders.

(2) An "external order" means an order—

(a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and

(b) which makes relevant provision.

(3) "Relevant provision" means—

(a) provision for the forfeiture of terrorist property ("an external forfeiture order"), or

(b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory ("an external restraint order").

(4) An Order in Council under this paragraph may, in particular, include provision—

(a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;

(b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 43(1) to (8) in relation to the orders to which that paragraph applies;

(c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.

(5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.

(6) An Order in Council under this paragraph—

(a) may make different provision for different cases, and

(b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

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## PART IV

### INSOLVENCY: UNITED KINGDOM PROVISIONS

#### *General*

45 In this Part of this Schedule—

"ancillary order" means an order made in connection with a forfeiture, other than the forfeiture order,

"forfeiture order" means—

(a) an order made in England and Wales, Scotland or Northern Ireland under section 23,

(b) an Islands forfeiture order within the meaning given in paragraph 12, 26 or 42, or

(c) an external forfeiture order which is enforceable in England and Wales, Scotland or Northern Ireland by virtue of an Order in Council made under paragraph 14, 28 or 44,

"forfeited property" means the money or other property to which a forfeiture order applies, and

"restraint order" means—

(a) an order made under paragraph 5, 18 or 33,

(b) an Islands restraint order within the meaning given in paragraph 12, 26 or 42, or

(c) an external restraint order which is enforceable in England and Wales, Scotland or Northern Ireland by virtue of an Order in Council made under paragraph 14, 28 or 44.

#### *Protection of creditors against forfeiture*

46 (1) During the period of six months beginning with the making of a forfeiture order, the following shall not be finally disposed of under this Schedule—

(a) the money to which the order applies, and

(b) the money which represents any property to which the order applies.

(2) For the purposes of this paragraph money is finally disposed of under this Schedule when—

(a) in England and Wales, it is paid to the Lord Chancellor in accordance with section 60 of the [M143]Justices of the Peace Act 1997 (application of fines, &c.) or to the Secretary of State in accordance with paragraph 13(5)(c),

(b) in Scotland, it is paid to the Treasury in accordance with section 211(5) of the [M144]Criminal Procedure (Scotland) Act 1995 (as modified by paragraph 16(3)), or

(c) in Northern Ireland, it is paid into the Consolidated Fund in accordance with paragraph 32(4) or 43(5)(c).

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**Marginal Citations**
**M143** 1997 c. 25.
**M144** 1995 c. 46.

47 (1) This paragraph applies where—
(a) before or after a forfeiture order is made, the commencement of an insolvency occurs in qualifying insolvency proceedings,
(b) an insolvency practitioner would, but for the forfeiture order, exercise a function in those proceedings in relation to property to which the forfeiture order applies, and
(c) he gives written notice to the relevant officer of the matters referred to in paragraphs (a) and (b) before the end of the period of six months beginning with the making of the forfeiture order.

(2) Sub-paragraph (3) shall apply to—
(a) the property in relation to which the insolvency practitioner would, but for the forfeiture order, exercise a function as described in sub-paragraph (1)(b), and
(b) the proceeds of sale of that property.

(3) The property—
(a) shall cease to be subject to the forfeiture order and any ancillary order, and
(b) shall be dealt with in the insolvency proceedings as if the forfeiture order had never been made.

(4) But—
(a) the property to which sub-paragraph (3) applies is the balance remaining after the relevant officer has exercised his powers under paragraph 50(1), and
(b) sub-paragraph (3) shall not take effect in respect of property in relation to which the relevant officer, or any person acting in pursuance of an ancillary order, has incurred obligations until those obligations have been discharged.

(5) In this paragraph "the commencement of an insolvency" means—
(a) the making of a bankruptcy order,
(b) the award of sequestration,
(c) in England and Wales or in Northern Ireland, in the case of the insolvent estate of a deceased person, the making of an insolvency administration order, or
(d) in the case of a company, the passing of a resolution for its winding up, or where no such resolution has been passed, the making of an order by the court for the winding up of the company.

48 (1) Where by virtue of paragraph 47(3) property falls to be dealt with in insolvency proceedings, the Secretary of State shall be taken to be a creditor in those proceedings to the amount or value of the property.

(2) Except in a sequestration, his debt—
(a) shall rank after the debts of all other creditors, and
(b) shall not be paid until they have been paid in full with interest under the relevant provision.

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(3) In sub-paragraph (2)(b) the "relevant provision" means—

(a) in relation to the winding up of a company in England and Wales or Scotland, section 189(2) of the [M145]Insolvency Act 1986,

(b) in relation to a bankruptcy in England and Wales, section 328(4) of that Act,

(c) in relation to the winding up of a company in Northern Ireland, Article 160(2) of the [M146]Insolvency (Northern Ireland) Order 1989, and

(d) in relation to a bankruptcy in Northern Ireland, Article 300(4) of that Order.

(4) In a sequestration, his debt shall rank after all of the debts mentioned in section 51(1) of the [M147]Bankruptcy (Scotland) Act 1985 and shall not be paid until they have been paid in full.

(5) Sub-paragraphs (2) to (4) apply notwithstanding any provision contained in or made under any other enactment.

**Marginal Citations**

**M145** 1986 c. 45.

**M146** S.I. 1989/2405 (N.I. 19).

**M147** 1985 c. 66.

49 (1) This paragraph applies to property which ceased to be subject to a forfeiture order by virtue of paragraph 47(3) in consequence of the making of a bankruptcy order or an award of sequestration.

(2) The property shall again become subject to the forfeiture order and, if applicable, any ancillary order if—

(a) the bankruptcy order is annulled, or

(b) the award of sequestration is recalled or reduced.

(3) Where the property is money or has been converted into money—

(a) the relevant court shall make an order specifying property comprised in the estate of the bankrupt or debtor to the amount or value of the property, and

(b) the specified property shall become subject to the forfeiture order, and any applicable ancillary order, in place of the property.

(4) In sub-paragraph (3) the "relevant court" means—

(a) the court which ordered the annulment of the bankruptcy, or

(b) the court which recalled or reduced the award of sequestration.

*Expenses incurred in connection with forfeiture*

50 (1) Where money or other property falls to be dealt with in accordance with paragraph 47(3), the relevant officer may—

(a) deduct allowable forfeiture expenses from that money;

(b) retain so much of that property as he considers necessary for the purpose of realising it and deducting allowable forfeiture expenses from the proceeds of realisation.

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(2) Where property is delivered up in pursuance of paragraph 47(3) and the relevant officer has not made provision under sub-paragraph (1) for all the allowable forfeiture expenses then—
  (a) a person who has incurred allowable forfeiture expenses for which provision has not been made shall have a claim to their value in the insolvency proceedings, and
  (b) the expenses in question shall be treated for the purposes of the insolvency proceedings as if they were expenses of those proceedings.

(3) In this paragraph "allowable forfeiture expenses"—
  (a) means expenses incurred in relation to the forfeited property by the relevant officer,
  (b) means expenses incurred in relation to the forfeited property by a receiver, administrator or other person appointed by the relevant officer,
  (c) means expenses incurred in relation to the forfeited property by any person appointed or directed to deal with any property under paragraph 16, and
  (d) includes sums paid or required to be paid under paragraph 2(1)(d), 16(1)(c) or 30(1)(d).

*Protection of insolvency practitioners*

51 (1) This paragraph applies where an insolvency practitioner seizes or disposes of property which is subject to a forfeiture order or a restraint order and—
  (a) he reasonably believes that he is entitled to do so in the exercise of his functions, and
  (b) he would be so entitled if the property were not subject to a forfeiture order or a restraint order.

(2) The insolvency practitioner shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence.

(3) The insolvency practitioner shall have a lien on the property seized or the proceeds of its sale—
  (a) for such of his expenses as were incurred in connection with the insolvency proceedings in relation to which the seizure or disposal purported to take place, and
  (b) for so much of his remuneration as may be reasonably assigned for his acting in connection with those proceedings.

(4) Sub-paragraphs (1) to (3) are without prejudice to the generality of any provision contained in the [M148]Insolvency Act 1986 or the [M149]Bankruptcy (Scotland) Act 1985 or any other Act or the [M150]Insolvency (Northern Ireland) Order 1989.

(5) In this paragraph "insolvency practitioner", in any part of the United Kingdom, means a person acting as an insolvency practitioner in that or any other part of the United Kingdom.

(6) For the purpose of sub-paragraph (5) any question whether a person is acting as an insolvency practitioner in England and Wales or in Scotland shall be determined in accordance with section 388 of the [M151]Insolvency Act 1986, except that—

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(a) the reference in section 388(2)(a) to a permanent or interim trustee in the sequestration of a debtor's estate shall be taken to include a reference to a trustee in sequestration,

(b) section 388(5) shall be disregarded, and

(c) the expression shall also include the Official Receiver acting as receiver or manager of property.

(7) For the purpose of sub-paragraph (5) any question whether a person is acting as an insolvency practitioner in Northern Ireland shall be determined in accordance with Article 3 of the [M152]Insolvency (Northern Ireland) Order 1989, except that—

(a) Article 3(5) shall be disregarded, and

(b) the expression shall also include the Official Receiver acting as receiver or manager of property.

**Marginal Citations**

**M148** 1986 c. 45.
**M149** 1985 c. 66.
**M150** S.I. 1989/2405 (N.I. 19).
**M151** 1986 c. 45.
**M152** S.I. 1989/2405 (N.I. 19).

*Insolvency practitioners in the Islands and designated countries*

52 (1) An order may be made under this paragraph to secure that an Islands or external insolvency practitioner has the same rights under this Part of this Schedule in relation to—

(a) property situated in England and Wales,

(b) property situated in Scotland, or

(c) property situated in Northern Ireland,

as he would have if he were an insolvency practitioner in that part of the United Kingdom.

(2) The Secretary of State may make an order—

(a) under sub-paragraph (1)(a) with the concurrence of the Lord Chancellor;

(b) under sub-paragraph (1)(b).

(3) An order under sub-paragraph (1)(c)—

(a) may be made by the Department of Enterprise, Trade and Investment in Northern Ireland,

(b) shall be a statutory rule for the purposes of the [M153]Statutory Rules (Northern Ireland) Order 1979, and

(c) shall be subject to negative resolution within the meaning of section 41(6) of the [M154]Interpretation (Northern Ireland) Act 1954.

(4) An order under this paragraph may, in particular, include—

(a) provision which modifies the rights under this Part of this Schedule which are to be conferred under the order;

(b) provision as to the manner in which the rights conferred under the order are to be exercised;

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(c) provision as to the conditions subject to which those rights are to be exercised, including the obtaining of leave from a court;

(d) provision for empowering a court granting such leave to impose such conditions as it thinks fit.

(5) An order under this paragraph may make different provision for different purposes.

(6) In this paragraph—

"Islands or external insolvency practitioner" means a person exercising under the insolvency law of a relevant country or territory functions corresponding to those exercised by insolvency practitioners under the insolvency law of any part of the United Kingdom,

"insolvency law" has the same meaning as in section 426(10) of the [M155]Insolvency Act 1986, except that the reference to a relevant country or territory shall be construed in accordance with this paragraph, and

"relevant country or territory" means—

(a) any of the Channel Islands,

(b) the Isle of Man, or

(c) any country or territory designated as mentioned in paragraph 14, 28 or 44.

**Marginal Citations**

**M153** S.I. 1979/1573 (N.I. 12).

**M154** 1954 c. 33 (N.I.).

**M155** 1986 c. 45.

*Interpretation*

53 (1) In this Part of this Schedule (other than in paragraph 51) "insolvency practitioner" means a person acting in any qualifying insolvency proceedings in any part of the United Kingdom as—

(a) a liquidator of a company or partnership,

(b) a trustee in bankruptcy,

(c) the permanent or interim trustee on the debtor's estate,

(d) an administrator of the insolvent estate of a deceased person, or

(e) a receiver or manager of any property.

(2) In this Part of this Schedule "qualifying insolvency proceedings" means—

(a) any proceedings under the [M156]Insolvency Act 1986 or the [M157]Insolvency (Northern Ireland) Order 1989 for the winding up of a company or an unregistered company and includes any voluntary winding up of a company under Part IV of that Act or Part V of that Order,

(b) any proceedings in England and Wales or Northern Ireland under or by virtue of section 420 of the [M158]Insolvency Act 1986 or Article 364 of the [M159]Insolvency (Northern Ireland) Order 1989 for the winding up of an insolvent partnership,

(c) any proceedings in bankruptcy or, in Scotland, any sequestration of a debtor's estate, or

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(d) any proceedings in England and Wales or in Northern Ireland under or by virtue of section 421 of the [M160]Insolvency Act 1986 or Article 365 of the [M161]Insolvency (Northern Ireland) Order 1989 in relation to the insolvent estate of a deceased person.

(3) In this Part of this Schedule "the relevant officer" means in England and Wales and in Northern Ireland—

(a) where the forfeiture order in question is made by a court in England and Wales, the proper officer within the meaning given in paragraph 4,

(b) where the forfeiture order in question is made by a court in Northern Ireland, the proper officer within the meaning given in paragraph 32, and

(c) in any other case, the appropriate officer of the High Court.

(4) In this Part of this Schedule "the relevant officer" means in Scotland—

(a) where the forfeiture order in question is made by a court in Scotland, the clerk of the court,

(b) in any other case, the Principal Clerk of Session and Justiciary.

(5) In this Part of this Schedule references to the proceeds of sale or realisation of property are references to the proceeds after deduction of the costs of sale or realisation.

**Marginal Citations**

**M156** 1986 c. 45.
**M157** S.I. 1989/2405 (N.I. 19).
**M158** 1986 c. 45.
**M159** S.I. 1989/2405 (N.I. 19).
**M160** 1986 c. 45.
**M161** S.I. 1989/2405 (N.I. 19).

## SCHEDULE 5

Section 37.

### TERRORIST INVESTIGATIONS: INFORMATION

### PART I

### ENGLAND AND WALES AND NORTHERN IRELAND

*Searches*

1 (1) A constable may apply to a justice of the peace for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.

(2) A warrant under this paragraph shall authorise any constable—

(a) to enter the premises specified in the warrant,

(b) to search the premises and any person found there, and

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(c) to seize and retain any relevant material which is found on a search under paragraph (b).

(3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that—

(a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and

(b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.

(4) A warrant under this paragraph shall not authorise—

(a) the seizure and retention of items subject to legal privilege, or

(b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(5) Subject to paragraph 2, a justice may grant an application under this paragraph if satisfied—

(a) that the warrant is sought for the purposes of a terrorist investigation,

(b) that there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation and which does not consist of or include excepted material (within the meaning of paragraph 4 below), and

(c) that the issue of a warrant is likely to be necessary in the circumstances of the case.

**Modifications etc. (not altering text)**

**C38** Sch. 5 para. 1: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, **art. 2**

**C39** Sch. 5 para. 1: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83; S.I. 2003/708, **art. 2**

**C40** Sch. 5 para. 1 modified (E.W.N.I) (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109(1) (with s. 57(3)); S.I. 2003/708, **art. 2**

2 (1) This paragraph applies where an application is made under paragraph 1 and—

(a) the application is made by a police officer of at least the rank of superintendent,

(b) the application does not relate to residential premises, and

(c) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).

(2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a) and (b).

(3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only within the period of 24 hours beginning with the time when the warrant is issued.

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(4) For the purpose of sub-paragraph (1) "residential premises" means any premises which the officer making the application has reasonable grounds for believing are used wholly or mainly as a dwelling.

VALID FROM 13/04/2006

[F37 2A (1) This paragraph applies where an application for an all premises warrant is made under paragraph 1 and—

(a) the application is made by a police officer of at least the rank of superintendent, and

(b) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).

(2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a), (b) and (d).

(3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only—

(a) in respect of premises which are not residential premises, and

(b) within the period of 24 hours beginning with the time when the warrant is issued.

(4) For the purpose of sub-paragraph (3) "residential premises", in relation to a power under paragraph 1(2)(a) or (b), means any premises which the constable exercising the power has reasonable grounds for believing are used wholly or mainly as a dwelling.]

**Textual Amendments**

**F37** Sch. 5 para. 2A inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **s. 26(6)**; S.I. 2006/1013, **art. 2**

3 (1) Subject to sub-paragraph (2), a police officer of at least the rank of superintendent may by a written authority signed by him authorise a search of specified premises which are wholly or partly within a cordoned area.

(2) A constable who is not of the rank required by sub-paragraph (1) may give an authorisation under this paragraph if he considers it necessary by reason of urgency.

(3) An authorisation under this paragraph shall authorise any constable—

(a) to enter the premises specified in the authority,

(b) to search the premises and any person found there, and

(c) to seize and retain any relevant material (within the meaning of paragraph 1(3)) which is found on a search under paragraph (b).

(4) The powers under sub-paragraph (3)(a) and (b) may be exercised—

(a) on one or more occasions, and

(b) at any time during the period when the designation of the cordoned area under section 33 has effect.

(5) An authorisation under this paragraph shall not authorise—

(a) the seizure and retention of items subject to legal privilege;

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***Changes to legislation:*** *Terrorism Act 2000 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(6) An authorisation under this paragraph shall not be given unless the person giving it has reasonable grounds for believing that there is material to be found on the premises which—

(a) is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and

(b) does not consist of or include excepted material.

(7) A person commits an offence if he wilfully obstructs a search under this paragraph.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding three months,

(b) a fine not exceeding level 4 on the standard scale, or

(c) both.

**Modifications etc. (not altering text)**

**C41** Sch. 5 para. 3: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, **art. 2**

**C42** Sch. 5 para. 3: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83; S.I. 2003/708, **art. 2**

**C43** Sch. 5 para. 3 modified (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109(1) (with s. 57(3)); S.I. 2003/708, **art. 2**

*Excepted material*

4 In this Part—

(a) "excluded material" has the meaning given by section 11 of the [M162]Police and Criminal Evidence Act 1984,

(b) "items subject to legal privilege" has the meaning given by section 10 of that Act, and

(c) "special procedure material" has the meaning given by section 14 of that Act;

and material is "excepted material" if it falls within any of paragraphs (a) to (c).

**Marginal Citations**

**M162** 1984 c. 60.

*Excluded and special procedure material: production & access*

5 (1) A constable may apply to a Circuit judge for an order under this paragraph for the purposes of a terrorist investigation.

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(2) An application for an order shall relate to particular material, or material of a particular description, which consists of or includes excluded material or special procedure material.

(3) An order under this paragraph may require a specified person—

(a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;

(b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;

(c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).

(4) For the purposes of this paragraph—

(a) an order may specify a person only if he appears to the Circuit judge to have in his possession, custody or power any of the material to which the application relates, and

(b) a period specified in an order shall be the period of seven days beginning with the date of the order unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

(5) Where a Circuit judge makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of a constable, order any person who appears to the judge to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.

6 (1) A Circuit judge may grant an application under paragraph 5 if satisfied—

(a) that the material to which the application relates consists of or includes excluded material or special procedure material,

(b) that it does not include items subject to legal privilege, and

(c) that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.

(2) The first condition is that—

(a) the order is sought for the purposes of a terrorist investigation, and

(b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard—

(a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and

(b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

7 (1) An order under paragraph 5 may be made in relation to—

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(a) material consisting of or including excluded or special procedure material which is expected to come into existence within the period of 28 days beginning with the date of the order;

(b) a person who the Circuit judge thinks is likely to have any of the material to which the application relates in his possession, custody or power within that period.

(2) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(3) shall apply with the following modifications—

(a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,

(b) the reference in paragraph 5(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and

(c) the reference in paragraph 5(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.

(3) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(4) shall not apply and the order—

(a) may only specify a person falling within sub-paragraph (1)(b), and

(b) shall specify the period of seven days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

8 (1) An order under paragraph 5—

(a) shall not confer any right to production of, or access to, items subject to legal privilege, and

(b) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(2) Where the material to which an application under paragraph 5 relates consists of information contained in a computer—

(a) an order under paragraph 5(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and

(b) an order under paragraph 5(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

9 (1) An order under paragraph 5 may be made in relation to material in the possession, custody or power of a government department.

(2) Where an order is made by virtue of sub-paragraph (1)—

(a) it shall be served as if the proceedings were civil proceedings against the department, and

(b) it may require any officer of the department, whether named in the order or not, who may for the time being have in his possession, custody or power the material concerned, to comply with the order.

(3) In this paragraph "government department" means an authorised government department for the purposes of the [M163]Crown Proceedings Act 1947.

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**Marginal Citations**

**M163** 1947 c. 44.

10 (1) An order of a Circuit judge under paragraph 5 shall have effect as if it were an order of the Crown Court.

(2) Crown Court Rules may make provision about proceedings relating to an order under paragraph 5.

(3) In particular, the rules may make provision about the variation or discharge of an order.

**Commencement Information**

**I9** Sch. 5 para. 10 wholly in force at 19.2.2001; Sch. 5 para. 10 not in force at Royal Assent see s. 128; Sch. 5 para. 10(2)(3) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(i)**; Sch. 5 para. 10 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

*Excluded or special procedure material: search*

11 (1) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.

(2) A warrant under this paragraph shall authorise any constable—

(a) to enter the premises specified in the warrant,

(b) to search the premises and any person found there, and

(c) to seize and retain any relevant material which is found on a search under paragraph (b).

(3) A warrant under this paragraph shall not authorise—

(a) the seizure and retention of items subject to legal privilege;

(b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(4) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

**Modifications etc. (not altering text)**

**C44** Sch. 5 para. 11: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, **art. 2**

**C45** Sch. 5 para. 11: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83; S.I. 2003/708, **art. 2**

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12 (1) A Circuit judge may grant an application under paragraph 11 if satisfied that an order made under paragraph 5 in relation to material on the premises specified in the application has not been complied with.

(2) A Circuit judge may also grant an application under paragraph 11 if satisfied that there are reasonable grounds for believing that—

(a) there is material on premises specified in the application which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege, and

(b) the conditions in sub-paragraphs (3) and (4) are satisfied.

(3) The first condition is that—

(a) the warrant is sought for the purposes of a terrorist investigation, and

(b) the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(4) The second condition is that it is not appropriate to make an order under paragraph 5 in relation to the material because—

(a) it is not practicable to communicate with any person entitled to produce the material,

(b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or

(c) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

*Explanations*

13 (1) A constable may apply to a Circuit judge for an order under this paragraph requiring any person specified in the order to provide an explanation of any material—

(a) seized in pursuance of a warrant under paragraph 1 or 11, or

(b) produced or made available to a constable under paragraph 5.

(2) An order under this paragraph shall not require any person to disclose any information which he would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.

(3) But a lawyer may be required to provide the name and address of his client.

(4) A statement by a person in response to a requirement imposed by an order under this paragraph—

(a) may be made orally or in writing, and

(b) may be used in evidence against him only on a prosecution for an offence under paragraph 14.

(5) Paragraph 10 shall apply to orders under this paragraph as it applies to orders under paragraph 5.

14 (1) A person commits an offence if, in purported compliance with an order under paragraph 13, he—

(a) makes a statement which he knows to be false or misleading in a material particular, or

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(b) recklessly makes a statement which is false or misleading in a material particular.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

*Urgent cases*

15 (1) A police officer of at least the rank of superintendent may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 1 or 11.

(2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing—

(a) that the case is one of great emergency, and

(b) that immediate action is necessary.

(3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Secretary of State.

(4) A person commits an offence if he wilfully obstructs a search under this paragraph.

(5) A person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding three months,

(b) a fine not exceeding level 4 on the standard scale, or

(c) both.

**Modifications etc. (not altering text)**

**C46** Sch. 5 para. 15: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, **art. 2**

**C47** Sch. 5 para. 15: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68. Sch. 1 Pt. 1 para. 83; S.I. 2003/708, **art. 2**

**C48** Sch. 5 para. 15 modified (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109(2) (with s. 57(3)); S.I. 2003/708, **art. 2**

16 (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 15.

(2) Sub-paragraphs (2) to (4) of paragraph 13 and paragraph 14 shall apply to a notice under this paragraph as they apply to an order under paragraph 13.

(3) A person commits an offence if he fails to comply with a notice under this paragraph.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.

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(5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding six months,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

*Supplementary*

17 For the purposes of sections 21 and 22 of the [M164]Police and Criminal Evidence Act 1984 (seized material: access, copying and retention)—

(a) a terrorist investigation shall be treated as an investigation of or in connection with an offence, and

(b) material produced in pursuance of an order under paragraph 5 shall be treated as if it were material seized by a constable.

**Marginal Citations**

**M164** 1984 c. 60.

*Northern Ireland*

18 In the application of this Part to Northern Ireland—

(a) the reference in paragraph 4(a) to section 11 of the [M165]Police and Criminal Evidence Act 1984 shall be taken as a reference to Article 13 of the [M166]Police and Criminal Evidence (Northern Ireland) Order 1989,

(b) the reference in paragraph 4(b) to section 10 of that Act shall be taken as a reference to Article 12 of that Order,

(c) the reference in paragraph 4(c) to section 14 of that Act shall be taken as a reference to Article 16 of that Order,

(d) the references in paragraph 9(1) and (2) to "government department" shall be taken as including references to an authorised Northern Ireland department for the purposes of the [M167]Crown Proceedings Act 1947,

(e) the reference in paragraph 10(2) to "Crown Court Rules" shall be taken as a reference to county court rules,

(f) the reference in paragraph 17 to sections 21 and 22 of the [M168]Police and Criminal Evidence Act 1984 shall be taken as a reference to Articles 23 and 24 of the [M169]Police and Criminal Evidence (Northern Ireland) Order 1989, and

(g) references to "a Circuit judge" shall be taken as references to a county court judge.

**Marginal Citations**

**M165** 1984 c. 60.

**M166** S.I. 1989/1341 (N.I. 12).

**M167** 1947 c. 44.

**M168** 1984 c. 60.

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**M169** S.I. 1989/1341 (N.I. 12).

19 (1) The Secretary of State may by a written order which relates to specified premises give to any constable in Northern Ireland—

(a) the authority which may be given by a search warrant under paragraph 1;

(b) the authority which may be given by a search warrant under paragraph 11.

(2) An order shall not be made under this paragraph unless—

(a) it appears to the Secretary of State that the information which it would be necessary to provide to the court in support of an application for a warrant would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18 or under section 56, and

(b) the order is made for the purposes of an investigation of the commission, preparation or instigation of an offence under any of sections 15 to 18 or under section 56.

(3) The Secretary of State may make an order under sub-paragraph (1)(a) in relation to particular premises only if satisfied—

(a) that there are reasonable grounds for believing that there is material on the premises which is likely to be of substantial value, whether by itself or together with other material, to the investigation mentioned in sub-paragraph (2)(b), and which does not consist of or include excepted material, and

(b) that the authority of an order is likely to be necessary in the circumstances of the case.

(4) The Secretary of State may make an order under sub-paragraph (1)(b) in relation to particular premises if satisfied that an order made under paragraph 5 in relation to material on the premises has not been complied with.

(5) The Secretary of State may also make an order under sub-paragraph (1)(b) in relation to particular premises if satisfied that there are reasonable grounds for believing that—

(a) there is material on the premises which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege,

(b) the material is likely to be of substantial value, whether by itself or together with other material, to the investigation mentioned in sub-paragraph (2)(b), and

(c) an order under paragraph 5 would not be appropriate in relation to the material for the reason mentioned in paragraph 12(4)(a) or (b) or because the investigation mentioned in sub-paragraph (2)(b) might be seriously prejudiced unless a constable can secure immediate access to the material.

(6) An order under sub-paragraph (1)(b) may not be made except in the circumstances specified in sub-paragraphs (4) and (5).

(7) A person commits an offence if he wilfully obstructs a search under this paragraph.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to—

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(a) imprisonment for a term not exceeding three months,
(b) a fine not exceeding level 4 on the standard scale, or
(c) both.

**Modifications etc. (not altering text)**

**C49** Sch. 5 para. 19: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, **art. 2**

**C50** Sch. 5 para. 19: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83; S.I. 2003/708, **art. 2**

**C51** Sch. 5 para. 19 modified (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109(2) (with s. 57(3)); S.I. 2003/708, **art. 2**

20 (1) The Secretary of State may exercise the power to make an order under paragraph 5 in relation to any person in Northern Ireland who is specified in the order.

(2) An order shall not be made by virtue of this paragraph unless it appears to the Secretary of State that the information which it would be necessary to provide to a county court judge in support of an application for an order under paragraph 5 would, if disclosed—
(a) be likely to place any person in danger, or
(b) be likely to prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18 or under section 56.

(3) Paragraphs 5 to 9 shall apply to the making of an order under paragraph 5 by virtue of this paragraph with the following modifications—
(a) references to a county court judge shall be taken as references to the Secretary of State,
(b) the references to "a terrorist investigation" in paragraphs 5(1) and 6(2)(a) shall be taken as references to an investigation of the commission, preparation or instigation of an offence under any of sections 15 to 18 or under section 56, and
(c) the references to "a terrorist investigation" in paragraphs 6(2)(b) and 6(3)(a) shall be taken as references to the investigation mentioned in paragraph 6(2)(a).

(4) Paragraph 10 shall not apply in relation to an order made under paragraph 5 by virtue of this paragraph.

(5) The Secretary of State may vary or revoke an order made by virtue of this paragraph.

(6) A person commits an offence if he contravenes an order made by virtue of this paragraph.

(7) A person guilty of an offence under sub-paragraph (6) shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

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21 (1) The Secretary of State may by a written order require any person in Northern Ireland who is specified in the order to provide an explanation of any material—
(a) seized in pursuance of an order under paragraph 19, or
(b) produced or made available to a constable in pursuance of an order made by virtue of paragraph 20.

(2) The provisions of paragraphs 13(2) to (4) and 14 shall apply to an order under this paragraph as they apply to an order under paragraph 13.

(3) The provisions of paragraph 16(3) to (5) shall apply to an order under this paragraph as they apply to a notice under paragraph 16.

## PART II

### SCOTLAND

*Order for production of material*

22 (1) The procurator fiscal may apply to the sheriff for an order under this paragraph for the purposes of a terrorist investigation.

(2) An application for an order shall relate to particular material, or material of a particular description.

(3) An order under this paragraph may require a specified person—
(a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
(b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;
(c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).

(4) For the purposes of this paragraph—
(a) an order may specify a person only if he appears to the sheriff to have in his possession, custody or power any of the material to which the application relates, and
(b) a period specified in an order shall be the period of seven days beginning with the date of the order unless it appears to the sheriff that a different period would be appropriate in the particular circumstances of the application.

(5) Where the sheriff makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of the procurator fiscal, order any person who appears to the sheriff to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.

23 (1) The sheriff may grant an application under paragraph 22 if satisfied that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.

(2) The first condition is that—
(a) the order is sought for the purposes of a terrorist investigation, and

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(b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard—

(a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and

(b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

24 (1) An order under paragraph 22 may be made in relation to a person who appears to the sheriff to be likely to have any of the material to which the application relates in his possession, custody or power within the period of 28 days beginning with the date of the order.

(2) Where an order is made under paragraph 22 by virtue of this paragraph, paragraph 22(3) shall apply with the following modifications—

(a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,

(b) the reference in paragraph 22(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and

(c) the reference in paragraph 22(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.

(3) Where an order is made under paragraph 22 by virtue of this paragraph, paragraph 22(4) shall not apply and the order—

(a) may only specify a person falling within sub-paragraph (1), and

(b) shall specify the period of seven days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the sheriff that a different period would be appropriate in the particular circumstances of the application.

25 (1) Subject to paragraph 33(1), an order under paragraph 22 shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of the information imposed by statute or otherwise.

(2) Where the material to which an application under paragraph 22 relates consists of information contained in a computer—

(a) an order under paragraph 22(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and

(b) an order under paragraph 22(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

26 (1) An order under paragraph 22 may be made in relation to material in the possession, custody or power of a government department.

(2) Where an order is made by virtue of sub-paragraph (1)—

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(a) it shall be served as if the proceedings were civil proceedings against the department, and

(b) it may require any officer of the department, whether named in the order or not, who may for the time being have in his possession, custody or power the material concerned, to comply with it.

(3) In this paragraph "government department" means a public department within the meaning of the Crown Suits Scotland Act 1857 and any part of the Scottish Administration.

27 (1) Provision may be made by Act of Adjournal as to—

(a) the recall and variation of orders under paragraph 22; and

(b) proceedings relating to such orders.

(2) The following provisions shall have effect pending the coming into force of an Act of Adjournal under sub-paragraph (1)—

(a) an order under paragraph 22 may be recalled or varied by the sheriff on a written application made to him by any person subject to the order;

(b) unless the sheriff otherwise directs on grounds of urgency, the applicant shall, not less than 48 hours before making the application, send a copy of it and a notice in writing of the time and place where the application is to be made to the procurator fiscal on whose application the order was made.

*Searches*

28 (1) The procurator fiscal may apply to the sheriff to grant a warrant under this paragraph for the purposes of a terrorist investigation.

(2) A warrant under this paragraph shall authorise any constable—

(a) to enter the premises specified in the warrant,

(b) to search the premises and any person found there, and

(c) to seize and retain any relevant material which is found on a search under paragraph (b).

(3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(4) The sheriff may grant an application under this paragraph if satisfied—

(a) that the warrant is sought for the purposes of a terrorist investigation,

(b) that there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value to a terrorist investigation, and

(c) that one of the conditions in paragraph 29 is satisfied.

(5) Where a warrant is granted in relation to non-residential premises, the entry and search must be within the period of 24 hours beginning with the time when the warrant is granted.

(6) For the purpose of sub-paragraph (5) "non-residential premises" means any premises other than those which the procurator fiscal has reasonable grounds for believing are used wholly or mainly as a dwelling.

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(7) A warrant under this paragraph may authorise the persons named in the warrant to accompany the constable who is executing it.

29 (1) The conditions referred to in paragraph 28(4)(c) are—

(a) that an order made under paragraph 28 in relation to material on the premises has not been complied with, or

(b) that for any of the reasons mentioned in sub-paragraph (2) it would not be appropriate to make such an order.

(2) The reasons are—

(a) it is not practicable to communicate with any person entitled to produce the material,

(b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or

(c) the investigation for the purposes of which the application is made may be seriously prejudiced unless a constable can secure immediate access to the material.

*Explanations*

30 (1) The procurator fiscal may apply to the sheriff for an order under this paragraph requiring any person specified in the order to provide an explanation of any material—

(a) seized in pursuance of a warrant under paragraph 28, or

(b) produced or made available to a constable under paragraph 22.

(2) Without prejudice to paragraph 33(1), an order under this paragraph may require a lawyer to provide the name and address of his client.

(3) A statement by a person in response to a requirement imposed by an order under this paragraph may only be used in evidence against him—

(a) on a prosecution for an offence under section 2 of the [M170]False Oaths (Scotland) Act 1933, or

(b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.

(4) Paragraphs 26 and 27 shall apply to orders under paragraph 22.

**Marginal Citations**

**M170** 1933 c. 20.

*Urgent cases*

31 (1) A police officer of at least the rank of superintendent may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 28.

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(2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing—
  (a) that the case is one of great emergency, and
  (b) that immediate action is necessary.

(3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Secretary of State.

32 (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 22.

(2) Sub-paragraphs (2) and (3) of paragraph 30 shall apply to a notice under this paragraph as they apply to an order under that paragraph.

(3) A person commits an offence if he fails to comply with a notice under this paragraph.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.

(5) A person guilty of an offence under sub-paragraph (3) is liable on summary conviction to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the standard scale or to both.

*Supplementary*

33 (1) This Part of this Schedule is without prejudice to any rule of law whereby—
  (a) communications between a professional legal adviser and his client, or
  (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings,

are in legal proceedings protected from disclosure on the ground of confidentiality.

(2) For the purpose of exercising any powers conferred on him under this Part of this Schedule a constable may, if necessary, open lockfast places on premises specified in an order under paragraph 22, a warrant under paragraph 28 or a notice under paragraph 32.

(3) A search of a person under this Part of this Schedule may only be carried out by a person of the same sex.

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# SCHEDULE 6

Section 38.

## FINANCIAL INFORMATION

### *Orders*

1 (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution to provide customer information for the purposes of the investigation.

(2) The information shall be provided—

(a) in such manner and within such time as the constable may specify, and

(b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(3) An institution which fails to comply with a requirement under this paragraph shall be guilty of an offence.

(4) It is a defence for an institution charged with an offence under sub-paragraph (3) to prove—

(a) that the information required was not in the institution's possession, or

(b) that it was not reasonably practicable for the institution to comply with the requirement.

(5) An institution guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Procedure*

2 An order under paragraph 1 may be made only on the application of—

(a) in England and Wales or Northern Ireland, a police officer of at least the rank of superintendent, or

(b) in Scotland, the procurator fiscal.

3 An order under paragraph 1 may be made only by—

(a) in England and Wales, a Circuit judge,

(b) in Scotland, the sheriff, or

(c) in Northern Ireland, a county court judge.

4 (1) Crown Court Rules may make provision about the procedure for an application under paragraph 1.

(2) The High Court of Justiciary may, by Act of Adjournal, make provision about the procedure for an application under paragraph 1.

### *Criteria for making order*

5 An order under paragraph 1 may be made only if the person making it is satisfied that—

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(a) the order is sought for the purposes of a terrorist investigation,
(b) the tracing of terrorist property is desirable for the purposes of the investigation, and
(c) the order will enhance the effectiveness of the investigation.

*Financial institution*

6 (1) In this Schedule "financial institution" means—
(a) a person who carries on a business of taking deposits for which he is authorised under the [M171]Banking Act 1987,
(b) a building society (within the meaning of the [M172]Building Societies Act 1986),
(c) a credit union (within the meaning of the [M173]Credit Unions Act 1979 or the [M174]Credit Unions (Northern Ireland) Order 1985),
(d) a person carrying on investment business within the meaning of the [M175]Financial Services Act 1986,
(e) the National Savings Bank,
(f) a person who carries out an activity for the purposes of raising money authorised to be raised under the [M176]National Loans Act 1968 under the auspices of the Director of National Savings,
(g) a European institution carrying on a home regulated activity (within the meaning of **[**[F38]Directive 2000/12/EC of the European Parliament and of the Council**]** relating to the taking up and pursuit of the business of credit institutions),
(h) a person carrying out an activity specified in any of points 1 to 12 and 14 of **[**[F39]Annex 1**]** to that Directive, and
(i) a person who carries on an insurance business in accordance with an authorisation pursuant to Article 6 or 27 of the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance.

(2) The Secretary of State may by order provide for a class of person—
(a) to be a financial institution for the purposes of this Schedule, or
(b) to cease to be a financial institution for the purposes of this Schedule.

(3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of sub-paragraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under paragraph 1 to provide customer information which relates to a time when the institution was a financial institution.

**Textual Amendments**

**F38** Words in Sch. 6 para. 6(1)(g) substituted (22.11.2000) by S.I. 2000/2952, **reg. 9(a)**

**F39** Words in Sch. 6 para. 6(1)(h) substituted (22.11.2000) by S.I. 2000/2952, **reg. 9(b)**

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**Commencement Information**

**I10** Sch. 6 wholly in force at 19.2.2001; Sch. 6 not in force at Royal Assent see s. 128; Sch. 6 para. 6(2) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(j)(ii)**; Sch. 6 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M171** 1987 c. 22.
**M172** 1986 c. 53.
**M173** 1979 c. 34.
**M174** S.I. 1985/1205 (N.I.12).
**M175** 1986 c. 60.
**M176** 1968 c. 13.

*Customer information*

7 (1) In this Schedule "customer information" means (subject to sub-paragraph (3))—

(a) information whether a business relationship exists or existed between a financial institution and a particular person ("a customer"),

(b) a customer's account number,

(c) a customer's full name,

(d) a customer's date of birth,

(e) a customer's address or former address,

(f) the date on which a business relationship between a financial institution and a customer begins or ends,

(g) any evidence of a customer's identity obtained by a financial institution in pursuance of or for the purposes of any legislation relating to money laundering, and

(h) the identity of a person sharing an account with a customer.

(2) For the purposes of this Schedule there is a business relationship between a financial institution and a person if (and only if)—

(a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them, and

(b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.

(3) The Secretary of State may by order provide for a class of information—

(a) to be customer information for the purposes of this Schedule, or

(b) to cease to be customer information for the purposes of this Schedule.

**Commencement Information**

**I11** Sch. 6 wholly in force at 19.2.2001; Sch. 6 not in force at Royal Assent see s. 128; Sch. 6 para. 7(3) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(j)(iii)**; Sch 6 para. 7 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Status:** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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*Offence by body corporate, &c.*

8 (1) This paragraph applies where an offence under paragraph 1(3) is committed by an institution and it is proved that the offence—
(a) was committed with the consent or connivance of an officer of the institution, or
(b) was attributable to neglect on the part of an officer of the institution.

(2) The officer, as well as the institution, shall be guilty of the offence.

(3) Where an individual is convicted of an offence under paragraph 1(3) by virtue of this paragraph, he shall be liable on summary conviction to—
(a) imprisonment for a term not exceeding six months,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

(4) In the case of an institution which is a body corporate, in this paragraph "officer" includes—
(a) a director, manager or secretary,
(b) a person purporting to act as a director, manager or secretary, and
(c) if the affairs of the body are managed by its members, a member.

(5) In the case of an institution which is a partnership, in this paragraph "officer" means a partner.

(6) In the case of an institution which is an unincorporated association (other than a partnership), in this paragraph "officer" means a person concerned in the management or control of the association.

*Self-incrimination*

9 (1) Customer information provided by a financial institution under this Schedule shall not be admissible in evidence in criminal proceedings against the institution or any of its officers or employees.

(2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(3) (including proceedings brought by virtue of paragraph 8).

VALID FROM 20/12/2001

[[F40]SCHEDULE 6A

ACCOUNT MONITORING ORDERS

**Textual Amendments**
**F40** Sch. 6A inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 1 para. 1(3)**; S.I. 2001/4019, **art. 2(1)(c)**

. . . . . .

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# SCHEDULE 7

Section 53.

## PORT AND BORDER CONTROLS

**Modifications etc. (not altering text)**

**C52** Sch. 7 modified (19.2.2001) by S.I. 1993/1813, **Sch. 4 para. 3** (as substituted by S.I. 2001/178, **art. 4**)

**C53** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), **art. 11(1)(b)**, Sch. 2 (as amended (31.3.2021) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021 (S.I. 2021/311), arts. 1(2), **2(7)(b)(i)**)

### *Interpretation*

1 (1) In this Schedule "examining officer" means any of the following—

(a) a constable,

(b) an immigration officer, and

(c) a customs officer who is designated for the purpose of this Schedule by the Secretary of State and the Commissioners of Customs and Excise.

(2) In this Schedule—

"the border area" has the meaning given by paragraph 4,

"captain" means master of a ship or commander of an aircraft,

"port" includes an airport and a hoverport,

"ship" includes a hovercraft, and

"vehicle" includes a train.

(3) A place shall be treated as a port for the purposes of this Schedule in relation to a person if an examining officer believes that the person—

(a) has gone there for the purpose of embarking on a ship or aircraft, or

(b) has arrived there on disembarking from a ship or aircraft.

### *Power to stop, question and detain*

2 (1) An examining officer may question a person to whom this paragraph applies for the purpose of determining whether he appears to be a person falling within section 40(1)(b).

(2) This paragraph applies to a person if—

(a) he is at a port or in the border area, and

(b) the examining officer believes that the person's presence at the port or in the area is connected with his entering or leaving Great Britain or Northern Ireland.

(3) This paragraph also applies to a person on a ship or aircraft which has arrived in Great Britain or Northern Ireland.

(4) An examining officer may exercise his powers under this paragraph whether or not he has grounds for suspecting that a person falls within section 40(1)(b).

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3 An examining officer may question a person who is in the border area for the purpose of determining whether his presence in the area is connected with his entering or leaving Northern Ireland.

4 (1) A place in Northern Ireland is within the border area for the purposes of paragraphs 2 and 3 if it is no more than one mile from the border between Northern Ireland and the Republic of Ireland.

(2) If a train goes from the Republic of Ireland to Northern Ireland, the first place in Northern Ireland at which it stops for the purpose of allowing passengers to leave is within the border area for the purposes of paragraphs 2 and 3.

5 A person who is questioned under paragraph 2 or 3 must—

(a) give the examining officer any information in his possession which the officer requests;

(b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes his identity;

(c) declare whether he has with him documents of a kind specified by the examining officer;

(d) give the examining officer on request any document which he has with him and which is of a kind specified by the officer.

6 (1) For the purposes of exercising a power under paragraph 2 or 3 an examining officer may—

(a) stop a person or vehicle;

(b) detain a person.

(2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.

(3) Where a person is detained under this paragraph the provisions of Part I of Schedule 8 (treatment) shall apply.

(4) A person detained under this paragraph shall (unless detained under any other power) be released not later than the end of the period of nine hours beginning with the time when his examination begins.

*Searches*

7 For the purpose of satisfying himself whether there are any persons whom he may wish to question under paragraph 2 an examining officer may—

(a) search a ship or aircraft;

(b) search anything on a ship or aircraft;

(c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.

8 (1) An examining officer who questions a person under paragraph 2 may, for the purpose of determining whether he falls within section 40(1)(b)—

(a) search the person;

(b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft;

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(c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft;

(d) search a ship or aircraft for anything falling within paragraph (b).

(2) Where an examining officer questions a person in the border area under paragraph 2 he may (in addition to the matters specified in sub-paragraph (1)), for the purpose of determining whether the person falls within section 40(1)(b)—

(a) search a vehicle;

(b) search anything in or on a vehicle;

(c) search anything which he reasonably believes has been, or is about to be, in or on a vehicle.

(3) A search of a person under this paragraph must be carried out by someone of the same sex.

9 (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of terrorism.

(2) This paragraph applies to goods which have arrived in or are about to leave Great Britain or Northern Ireland on a ship, aircraft or vehicle.

(3) In this paragraph "goods" includes—

(a) property of any description, and

(b) containers.

(4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of determining whether to exercise his power under this paragraph.

10 (1) An examining officer may authorise a person to carry out on his behalf a search or examination under any of paragraphs 7 to 9.

(2) A person authorised under this paragraph shall be treated as an examining officer for the purposes of—

(a) paragraphs 9(4) and 11 of this Schedule, and

(b) paragraphs 2 and 3 of Schedule 14.

*Detention of property*

11 (1) This paragraph applies to anything which—

(a) is given to an examining officer in accordance with paragraph 5(d),

(b) is searched or found on a search under paragraph 8, or

(c) is examined under paragraph 9.

(2) An examining officer may detain the thing—

(a) for the purpose of examination, for a period not exceeding seven days beginning with the day on which the detention commences,

(b) while he believes that it may be needed for use as evidence in criminal proceedings, or

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(c) while he believes that it may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the [M177]Immigration Act 1971.

**Marginal Citations**
**M177** 1971 c. 77.

*Designated ports*

12 (1) This paragraph applies to a journey—
(a) to Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands,
(b) from Great Britain to any of those places,
(c) to Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands, or
(d) from Northern Ireland to any of those places.

(2) Where a ship or aircraft is employed to carry passengers for reward on a journey to which this paragraph applies the owners or agents of the ship or aircraft shall not arrange for it to call at a port in Great Britain or Northern Ireland for the purpose of disembarking or embarking passengers unless—
(a) the port is a designated port, or
(b) an examining officer approves the arrangement.

(3) Where an aircraft is employed on a journey to which this paragraph applies otherwise than to carry passengers for reward, the captain of the aircraft shall not permit it to call at or leave a port in Great Britain or Northern Ireland unless—
(a) the port is a designated port, or
(b) he gives at least 12 hours' notice in writing to a constable for the police area in which the port is situated (or, where the port is in Northern Ireland, to a member of the Royal Ulster Constabulary).

(4) A designated port is a port which appears in the Table at the end of this Schedule.

(5) The Secretary of State may by order—
(a) add an entry to the Table;
(b) remove an entry from the Table.

*Embarkation and disembarkation*

13 (1) The Secretary of State may by notice in writing to the owners or agents of ships or aircraft—
(a) designate control areas in any port in the United Kingdom;
(b) specify conditions for or restrictions on the embarkation or disembarkation of passengers in a control area.

(2) Where owners or agents of a ship or aircraft receive notice under sub-paragraph (1) in relation to a port they shall take all reasonable steps to ensure, in respect of the ship or aircraft—

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(a) that passengers do not embark or disembark at the port outside a control area, and

(b) that any specified conditions are met and any specified restrictions are complied with.

14 (1) The Secretary of State may by notice in writing to persons concerned with the management of a port in the United Kingdom ("the port managers")—

(a) designate control areas in the port;

(b) require the port managers to provide at their own expense specified facilities in a control area for the purposes of the embarkation or disembarkation of passengers or their examination under this Schedule;

(c) require conditions to be met and restrictions to be complied with in relation to the embarkation or disembarkation of passengers in a control area;

(d) require the port managers to display, in specified locations in control areas, notices containing specified information about the provisions of this Schedule in such form as may be specified.

(2) Where port managers receive notice under sub-paragraph (1) they shall take all reasonable steps to comply with any requirement set out in the notice.

15 (1) This paragraph applies to a ship employed to carry passengers for reward, or an aircraft, which—

(a) arrives in Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands,

(b) arrives in Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands,

(c) leaves Great Britain for the Republic of Ireland, Northern Ireland or any of the Islands, or

(d) leaves Northern Ireland for Great Britain, the Republic of Ireland or any of the Islands.

(2) The captain shall ensure—

(a) that passengers and members of the crew do not disembark at a port in Great Britain or Northern Ireland unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer;

(b) that passengers and members of the crew do not embark at a port in Great Britain or Northern Ireland except in accordance with arrangements approved by an examining officer;

(c) where a person is to be examined under this Schedule on board the ship or aircraft, that he is presented for examination in an orderly manner.

(3) Where paragraph 27 of Schedule 2 to the [M178]Immigration Act 1971 (disembarkation requirements on arrival in the United Kingdom) applies, the requirements of sub-paragraph (2)(a) above are in addition to the requirements of paragraph 27 of that Schedule.

**Marginal Citations**

**M178** 1971 c. 77.

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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*Carding*

16 (1) The Secretary of State may by order make provision requiring a person to whom this paragraph applies, if required to do so by an examining officer, to complete and produce to the officer a card containing such information in such form as the order may specify.

(2) An order under this paragraph may require the owners or agents of a ship or aircraft employed to carry passengers for reward to supply their passengers with cards in the form required by virtue of sub-paragraph (1).

(3) This paragraph applies to a person—

(a) who disembarks in Great Britain from a ship or aircraft which has come from the Republic of Ireland, Northern Ireland or any of the Islands,

(b) who disembarks in Northern Ireland from a ship or aircraft which has come from Great Britain, the Republic of Ireland, or any of the Islands,

(c) who embarks in Great Britain on a ship or aircraft which is going to the Republic of Ireland, Northern Ireland or any of the Islands, or

(d) who embarks in Northern Ireland on a ship or aircraft which is going to Great Britain, the Republic of Ireland, or any of the Islands.

**Commencement Information**

**I12** Sch. 7 para. 16 wholly in force at 19.2.2001; Sch. 7 para. 16 not in force at Royal Assent see s. 128; Sch. 7 para. 16(1)(2) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(k)(i)**; Sch. 7 in force at 19.2.2002 in so far as not already in force by S.I. 2001/421, **art. 2**

*Provision of passenger information*

17 (1) This paragraph applies to a ship or aircraft which—

(a) arrives or is expected to arrive in Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands, or

(b) arrives or is expected to arrive in Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands.

(2) If an examining officer gives the owners or agents of a ship or aircraft to which this paragraph applies a written request to provide specified information, the owners or agents shall comply with the request as soon as is reasonably practicable.

(3) A request to an owner or agent may relate—

(a) to a particular ship or aircraft,

(b) to all ships or aircraft of the owner or agent to which this paragraph applies, or

(c) to specified ships or aircraft.

(4) Information may be specified in a request only if it is of a kind which is prescribed by order of the Secretary of State and which relates—

(a) to passengers,

(b) to crew, or

(c) to vehicles belonging to passengers or crew.

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(5) A passenger or member of the crew on a ship or aircraft shall give the captain any information required for the purpose of enabling the owners or agents to comply with a request under this paragraph.

(6) Sub-paragraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of paragraph 27(2) or 27B of Schedule 2 to the [M179]Immigration Act 1971.

**Commencement Information**

**I13** Sch. 7 para. 17 wholly in force at 19.2.2001; Sch. 7 para. 17 not in force at Royal Assent see s. 128; Sch. 7 para. 17(4) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(k)(ii)**; Sch. 7 para. 17 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

**Marginal Citations**

**M179** 1971 c. 77.

*Offences*

18 (1) A person commits an offence if he—

(a) wilfully fails to comply with a duty imposed under or by virtue of this Schedule,

(b) wilfully contravenes a prohibition imposed under or by virtue of this Schedule, or

(c) wilfully obstructs, or seeks to frustrate, a search or examination under or by virtue of this Schedule.

(2) A person guilty of an offence under this paragraph shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding three months,

(b) a fine not exceeding level 4 on the standard scale, or

(c) both.

Table Designated Ports Great Britain

| ***Seaports*** | ***Airports*** |
|---|---|
| Ardrossan | Aberdeen |
| Cairnryan | Biggin Hill |
| Campbeltown | Birmingham |
| Fishguard | Blackpool |
| Fleetwood | Bournemouth (Hurn) |
| Heysham | Bristol |
| Holyhead | Cambridge |
| Pembroke Dock | Cardiff |
| Plymouth | Carlisle |
| Poole Harbour | Coventry |
| Port of Liverpool | East Midlands |
| Portsmouth Continental Ferry Port | Edinburgh |
| Southampton | Exeter |
| Stranraer | Glasgow |
| Swansea | Gloucester/Cheltenham (Staverton) |

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| | |
|---|---|
| Torquay | Humberside |
| Troon | Leeds/Bradford |
| Weymouth | Liverpool |
| | London-City |
| | London-Gatwick |
| | London-Heathrow |
| | Luton |
| | Lydd |
| | Manchester |
| | Manston |
| | Newcastle |
| | Norwich |
| | Plymouth |
| | Prestwick |
| | Sheffield City |
| | Southampton |
| | Southend |
| | Stansted |
| | Teesside |

Northern Ireland

| ***Seaports*** | ***Airports*** |
|---|---|
| Ballycastle | Belfast City |
| Belfast | Belfast International |
| Larne | City of Derry |
| Port of Londonderry | |
| Warrenpoint | |

## SCHEDULE 8

Section 41 and Schedule 7, para. 6.

### DETENTION

**Modifications etc. (not altering text)**

**C54** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), **art. 11(1)(b)**, Sch. 2; (as amended (31.3.2021) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021 (S.I. 2021/311), arts. 1(2), **2(7)(b)(i)**)

**C55** Sch. 8 applied (with modifications) (25.7.2006) by Terrorism Act 2006 (c. 11), **s. 25(1)(3)(4)**; S.I. 2006/1936, **art. 2**

***Status:*** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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## PART I

### TREATMENT OF PERSONS DETAINED UNDER SECTION 41 OR SCHEDULE 7

*Place of detention*

1 (1) The Secretary of State shall designate places at which persons may be detained under Schedule 7 or section 41.

(2) In this Schedule a reference to a police station includes a reference to any place which the Secretary of State has designated under sub-paragraph (1) as a place where a person may be detained under section 41.

(3) Where a person is detained under Schedule 7, he may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where his attendance is required for the purpose of—

(a) his examination under that Schedule,

(b) establishing his nationality or citizenship, or

(c) making arrangements for his admission to a country or territory outside the United Kingdom.

(4) A constable who arrests a person under section 41 shall take him as soon as is reasonably practicable to the police station which the constable considers the most appropriate.

(5) In this paragraph "examining officer" has the meaning given in Schedule 7.

(6) Where a person is arrested in one Part of the United Kingdom and all or part of his detention takes place in another Part, the provisions of this Schedule which apply to detention in a particular Part of the United Kingdom apply in relation to him while he is detained in that Part.

**Modifications etc. (not altering text)**

**C56** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

**Commencement Information**

**I14** Sch. 8 para. 1 wholly in force at 19.2.2001; Sch. 8 para. 1 not in force at Royal Assent see s. 128; Sch. 8 para. 1(1) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(l)(i)**; Sch. 8 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

*Identification*

2 (1) An authorised person may take any steps which are reasonably necessary for—

(a) photographing the detained person,

(b) measuring him, or

(c) identifying him.

(2) In sub-paragraph (1) "authorised person" means any of the following—

(a) a constable,

(b) a prison officer,

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(c) a person authorised by the Secretary of State, and

(d) in the case of a person detained under Schedule 7, an examining officer (within the meaning of that Schedule).

(3) This paragraph does not confer the power to take—

(a) fingerprints, non-intimate samples or intimate samples (within the meaning given by paragraph 15 below), or

(b) relevant physical data or samples as mentioned in section 18 of the [M180]Criminal Procedure (Scotland) Act 1995 as applied by paragraph 20 below.

**Modifications etc. (not altering text)**

**C57** Sch. 8 para. 2 extended (N.I.) (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), ss. 30, 31, **Sch. 2 Pt. 2 para. 21**

**C58** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

**Marginal Citations**

**M180** 1995 c. 46.

*Audio and video recording of interviews*

3 (1) The Secretary of State shall—

(a) issue a code of practice about the audio recording of interviews to which this paragraph applies, and

(b) make an order requiring the audio recording of interviews to which this paragraph applies in accordance with any relevant code of practice under paragraph (a).

(2) The Secretary of State may make an order requiring the video recording of—

(a) interviews to which this paragraph applies;

(b) interviews to which this paragraph applies which take place in a particular Part of the United Kingdom.

(3) An order under sub-paragraph (2) shall specify whether the video recording which it requires is to be silent or with sound.

(4) Where an order is made under sub-paragraph (2)—

(a) the Secretary of State shall issue a code of practice about the video recording of interviews to which the order applies, and

(b) the order shall require the interviews to be video recorded in accordance with any relevant code of practice under paragraph (a).

(5) Where the Secretary of State has made an order under sub-paragraph (2) requiring certain interviews to be video recorded with sound—

(a) he need not make an order under sub-paragraph (1)(b) in relation to those interviews, but

(b) he may do so.

(6) This paragraph applies to any interview by a constable of a person detained under Schedule 7 or section 41 if the interview takes place in a police station.

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(7) A code of practice under this paragraph—
- (a) may make provision in relation to a particular Part of the United Kingdom;
- (b) may make different provision for different Parts of the United Kingdom.

4 (1) This paragraph applies to a code of practice under paragraph 3.

(2) Where the Secretary of State proposes to issue a code of practice he shall—
- (a) publish a draft,
- (b) consider any representations made to him about the draft, and
- (c) if he thinks it appropriate, modify the draft in the light of any representations made to him.

(3) The Secretary of State shall lay a draft of the code before Parliament.

(4) When the Secretary of State has laid a draft code before Parliament he may bring it into operation by order.

(5) The Secretary of State may revise a code and issue the revised code; and sub-paragraphs (2) to (4) shall apply to a revised code as they apply to an original code.

(6) The failure by a constable to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.

(7) A code—
- (a) shall be admissible in evidence in criminal and civil proceedings, and
- (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

**Commencement Information**

**I15** Sch. 8 Pt. I para. 4 partly in force; Sch. 8 Pt. I para. 4 not in force at Royal Assent see s. 128; Sch. 8 Pt. I para. 4(1)-(5) in force at 12.10.2000 by S.I. 2000/2800, **art. 2(c)(ii)**; Sch. 8 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

*Status*

5 A detained person shall be deemed to be in legal custody throughout the period of his detention.

*Rights: England, Wales and Northern Ireland*

6 (1) Subject to paragraph 8, a person detained under Schedule 7 or section 41 at a police station in England, Wales or Northern Ireland shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.

(2) The person named must be—
- (a) a friend of the detained person,
- (b) a relative, or
- (c) a person who is known to the detained person or who is likely to take an interest in his welfare.

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(3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.

**Modifications etc. (not altering text)**

**C59** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

7 (1) Subject to paragraphs 8 and 9, a person detained under Schedule 7 or section 41 at a police station in England, Wales or Northern Ireland shall be entitled, if he so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.

(2) Where a request is made under sub-paragraph (1), the request and the time at which it was made shall be recorded.

**Modifications etc. (not altering text)**

**C60** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

8 (1) Subject to sub-paragraph (2), an officer of at least the rank of superintendent may authorise a delay—

(a) in informing the person named by a detained person under paragraph 6;

(b) in permitting a detained person to consult a solicitor under paragraph 7.

(2) But where a person is detained under section 41 he must be permitted to exercise his rights under paragraphs 6 and 7 before the end of the period mentioned in subsection (3) of that section.

(3) Subject to sub-paragraph (5), an officer may give an authorisation under sub-paragraph (1) only if he has reasonable grounds for believing—

(a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in sub-paragraph (4), or

(b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 7 at the time when the detained person desires to exercise it will have any of the consequences specified in sub-paragraph (4).

(4) Those consequences are—

(a) interference with or harm to evidence of a serious arrestable offence,

(b) interference with or physical injury to any person,

(c) the alerting of persons who are suspected of having committed a serious arrestable offence but who have not been arrested for it,

(d) the hindering of the recovery of property obtained as a result of a serious arrestable offence or in respect of which a forfeiture order could be made under section 23,

(e) interference with the gathering of information about the commission, preparation or instigation of acts of terrorism,

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(f) the alerting of a person and thereby making it more difficult to prevent an act of terrorism, and

(g) the alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.

(5) An officer may also give an authorisation under sub-paragraph (1) if he has reasonable grounds for believing that—

(a) the detained person has committed an offence to which Part VI of the [M181]Criminal Justice Act 1988, Part I of the [M182]Proceeds of Crime (Scotland) Act 1995, or the [M183]Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence) applies,

(b) the detained person has benefited from the offence within the meaning of that Part or Order, and

(c) by informing the named person of the detained person's detention (in the case of an authorisation under sub-paragraph (1)(a)), or by the exercise of the right under paragraph 7 (in the case of an authorisation under sub-paragraph (1)(b)), the recovery of the value of that benefit will be hindered.

(6) If an authorisation under sub-paragraph (1) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

(7) Where an authorisation under sub-paragraph (1) is given—

(a) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and

(b) the reason shall be recorded as soon as is reasonably practicable.

(8) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).

(9) In this paragraph "serious arrestable offence" has the meaning given by section 116 of the [M184]Police and Criminal Evidence Act 1984 (in relation to England and Wales) and by Article 87 of the [M185]Police and Criminal Evidence (Northern Ireland) Order 1989 (in relation to Northern Ireland); but it also includes—

(a) an offence under any of the provisions mentioned in section 40(1)(a) of this Act, and

(b) an attempt or conspiracy to commit an offence under any of the provisions mentioned in section 40(1)(a).

**Marginal Citations**

**M181** 1988 c. 33.
**M182** 1995 c. 43.
**M183** S.I. 1996/1299 (N.I. 9).
**M184** 1984 c. 60.
**M185** S.I. 1989/1341 (N.I.12).

9 (1) A direction under this paragraph may provide that a detained person who wishes to exercise the right under paragraph 7 may consult a solicitor only in the sight and hearing of a qualified officer.

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(2) A direction under this paragraph may be given—

(a) where the person is detained at a police station in England or Wales, by an officer of at least the rank of Commander or Assistant Chief Constable, or

(b) where the person is detained at a police station in Northern Ireland, by an officer of at least the rank of Assistant Chief Constable.

(3) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing that, unless the direction is given, the exercise of the right by the detained person will have any of the consequences specified in paragraph 8(4) or the consequence specified in paragraph 8(5)(c).

(4) In this paragraph "a qualified officer" means a police officer who—

(a) is of at least the rank of inspector,

(b) is of the uniformed branch of the force of which the officer giving the direction is a member, and

(c) in the opinion of the officer giving the direction, has no connection with the detained person's case.

(5) A direction under this paragraph shall cease to have effect once the reason for giving it ceases to subsist.

**Modifications etc. (not altering text)**

**C61** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

10 (1) This paragraph applies where a person is detained in England, Wales or Northern Ireland under Schedule 7 or section 41.

(2) Fingerprints may be taken from the detained person only if they are taken by a constable—

(a) with the appropriate consent given in writing, or

(b) without that consent under sub-paragraph (4).

(3) A non-intimate sample may be taken from the detained person only if it is taken by a constable—

(a) with the appropriate consent given in writing, or

(b) without that consent under sub-paragraph (4).

(4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if—

(a) he is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken, or

(b) he has been convicted of a recordable offence and, where a non-intimate sample is to be taken, he was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).

(5) An intimate sample may be taken from the detained person only if—

(a) he is detained at a police station,

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(b) the appropriate consent is given in writing,

(c) a police officer of at least the rank of superintendent authorises the sample to be taken, and

(d) subject to paragraph 13(2) and (3), the sample is taken by a constable.

(6) An officer may give an authorisation under sub-paragraph (4)(a) or (5)(c) only if—

(a) in the case of a person detained under section 41, the officer reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 40(1)(a), and the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove his involvement, or

(b) in any case, the officer is satisfied that the taking of the fingerprints or sample from the person is necessary in order to assist in determining whether he falls within section 40(1)(b).

(7) If an authorisation under sub-paragraph (4)(a) or (5)(c) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

11 (1) Before fingerprints or a sample are taken from a person under paragraph 10, he shall be informed—

(a) that the fingerprints or sample may be used for the purposes of paragraph 14(4), section 63A(1) of the [M186]Police and Criminal Evidence Act 1984 and Article 63A(1) of the [M187]Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples), and

(b) where the fingerprints or sample are to be taken under paragraph 10(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.

(2) Before fingerprints or a sample are taken from a person upon an authorisation given under paragraph 10(4)(a) or (5)(c), he shall be informed—

(a) that the authorisation has been given,

(b) of the grounds upon which it has been given, and

(c) where relevant, of the nature of the offence in which it is suspected that he has been involved.

(3) After fingerprints or a sample are taken under paragraph 10, there shall be recorded as soon as is reasonably practicable any of the following which apply—

(a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),

(b) the reason referred to in sub-paragraph (1)(b),

(c) the authorisation given under paragraph 10(4)(a) or (5)(c),

(d) the grounds upon which that authorisation has been given, and

(e) the fact that the appropriate consent has been given.

**Marginal Citations**

**M186** 1984 c. 60.

**M187** S.I. 1989/1341 (N.I. 12).

12 (1) This paragraph applies where—

(a) two or more non-intimate samples suitable for the same means of analysis have been taken from a person under paragraph 10,

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(b) those samples have proved insufficient, and
(c) the person has been released from detention.

(2) An intimate sample may be taken from the person if—
(a) the appropriate consent is given in writing,
(b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
(c) subject to paragraph 13(2) and (3), the sample is taken by a constable.

(3) Paragraphs 10(6) and (7) and 11 shall apply in relation to the taking of an intimate sample under this paragraph; and a reference to a person detained under section 41 shall be taken as a reference to a person who was detained under section 41 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.

13 (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence—
(a) the court, in determining whether to commit him for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
(b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.

(2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.

(3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.

(4) Where a sample of hair other than pubic hair is to be taken under paragraph 10 the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

14 (1) This paragraph applies to—
(a) fingerprints or samples taken under paragraph 10 or 12, and
(b) information derived from those samples.

**[**[F41](2) The fingerprints and samples may be retained but shall not be used by any person except for the purposes of a terrorist investigation or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.**]**

(3) In particular, a check may not be made against them under—
(a) section 63A(1) of the [M188]Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), or
(b) Article 63A(1) of the [M189]Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples),

except for the purpose of a terrorist investigation **[**[F42]or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.**]**.

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(4) The fingerprints, samples or information may be checked, subject to sub-paragraph (2), against—

(a) other fingerprints or samples taken under paragraph 10 or 12 or information derived from those samples,

(b) relevant physical data or samples taken by virtue of paragraph 20,

(c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the [M190]Police and Criminal Evidence Act 1984 (checking of fingerprints and samples),

(d) any of the fingerprints, samples and information mentioned in Article 63A(1)(a) and (b) of the [M191]Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples), and

**[**[F43](4A) In this paragraph—

(a) a reference to crime includes a reference to any conduct which—

(i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

(b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.**]**

(5) This paragraph (other than sub-paragraph (4)) shall apply to fingerprints or samples taken under section 15(9) of, or paragraph 7(5) of Schedule 5 to, the [M192]Prevention of Terrorism (Temporary Provisions) Act 1989 and information derived from those samples as it applies to fingerprints or samples taken under paragraph 10 or 12 and the information derived from those samples.

**Textual Amendments**

**F41** Sch. 8 para. 14(2) substituted (E.W.N.I.) (11.5.2001) by 2001 c. 16, **s. 84(2)**

**F42** Words in Sch. 8 para. 14(3) inserted (E.W.N.I.) (11.5.2001) by 2001 c. 16, **s. 84(3)**

**F43** Sch. 8 para. 14(4A) inserted (E.W.N.I.) (11.5.2001) by 2001 c. 16, **s. 84(4)**

**Marginal Citations**

**M188** 1984 c. 60.

**M189** S.I. 1989/1341 (N.I.12).

**M190** 1984 c. 60.

**M191** S.I. 1989/1341 (N.I. 12).

**M192** 1989 c. 4.

15 (1) In the application of paragraphs 10 to 14 in relation to a person detained in England or Wales the following expressions shall have the meaning given by section 65 of the [M193]Police and Criminal Evidence Act 1984 (Part V definitions)—

(a) "appropriate consent",

(b) "fingerprints",

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(c) "insufficient",
(d) "intimate sample",
(e) "non-intimate sample",
(f) "registered dentist", and
(g) "sufficient".

(2) In the application of paragraphs 10 to 14 in relation to a person detained in Northern Ireland the expressions listed in sub-paragraph (1) shall have the meaning given by Article 53 of the [M194]Police and Criminal Evidence (Northern Ireland) Order 1989 (definitions).

(3) In paragraph 10 "recordable offence" shall have—
(a) in relation to a person detained in England or Wales, the meaning given by section 118(1) of the [M195]Police and Criminal Evidence Act 1984 (general interpretation), and
(b) in relation to a person detained in Northern Ireland, the meaning given by Article 2(2) of the [M196]Police and Criminal Evidence (Northern Ireland) Order 1989 (definitions).

**Marginal Citations**
**M193** 1984 c. 60.
**M194** S.I. 1989/1341 (N.I. 12).
**M195** 1984 c. 60.
**M196** S.I. 1989/1341 (N.I. 12).

*Rights: Scotland*

16 (1) A person detained under Schedule 7 or section 41 at a police station in Scotland shall be entitled to have intimation of his detention and of the place where he is being detained sent without delay to a solicitor and to another person named by him.

(2) The person named must be—
(a) a friend of the detained person,
(b) a relative, or
(c) a person who is known to the detained person or who is likely to take an interest in his welfare.

(3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under sub-paragraph (1) in respect of the police station to which he is transferred.

(4) A police officer not below the rank of superintendent may authorise a delay in making intimation where, in his view, the delay is necessary on one of the grounds mentioned in paragraph 17(3) or where paragraph 17(4) applies.

(5) Where a detained person requests that the intimation be made, there shall be recorded the time when the request is—
(a) made, and
(b) complied with.

(6) A person detained shall be entitled to consult a solicitor at any time, without delay.

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(7) A police officer not below the rank of superintendent may authorise a delay in holding the consultation where, in his view, the delay is necessary on one of the grounds mentioned in paragraph 17(3) or where paragraph 17(4) applies.

(8) Subject to paragraph 17, the consultation shall be private.

(9) Where a person is detained under section 41 he must be permitted to exercise his rights under this paragraph before the end of the period mentioned in subsection (3) of that section.

**Modifications etc. (not altering text)**

**C62** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

17 (1) An officer not below the rank of Assistant Chief Constable may direct that the consultation mentioned in paragraph 16(6) shall be in the presence of a uniformed officer not below the rank of inspector if it appears to the officer giving the direction to be necessary on one of the grounds mentioned in sub-paragraph (3).

(2) A uniformed officer directed to be present during a consultation shall be an officer who, in the opinion of the officer giving the direction, has no connection with the case.

(3) The grounds mentioned in paragraph 16(4) and (7) and in sub-paragraph (1) are—

(a) that it is in the interests of the investigation or prevention of crime;

(b) that it is in the interests of the apprehension, prosecution or conviction of offenders;

(c) that it will further the recovery of property obtained as a result of the commission of an offence or in respect of which a forfeiture order could be made under section 23;

(d) that it will further the operation of Part VI of the [M197]Criminal Justice Act 1988, Part I of the [M198]Proceeds of Crime (Scotland) Act 1995 or the [M199]Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence).

(4) This sub-paragraph applies where an officer mentioned in paragraph 16(4) or (7) has reasonable grounds for believing that—

(a) the detained person has committed an offence to which Part VI of the [M200]Criminal Justice Act 1988, Part I of the [M201]Proceeds of Crime (Scotland) Act 1995 or the [M202]Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence) applies,

(b) the detained person has benefited from the offence within the meaning of that Part or Order, and

(c) by informing the named person of the detained person's detention (in the case of an authorisation under paragraph 16(4)) or by the exercise of the entitlement under paragraph 16(6) (in the case of an authorisation under paragraph 16(7)) the recovery of the value of that benefit will be hindered.

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(5) Where delay is authorised in the exercising of any of the rights mentioned in paragraph 16(1) and (6)—

(a) if the authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable,

(b) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and

(c) the reason shall be recorded as soon as is reasonably practicable.

**Marginal Citations**

**M197** 1988 c. 33.
**M198** 1995 c. 43.
**M199** S.I. 1996/1299 (N.I.9).
**M200** 1988 c. 33.
**M201** 1995 c. 43.
**M202** S.I. 1996/1299 (N.I.9).

18 (1) Paragraphs 16 and 17 shall have effect, in relation to a person detained under section 41 or Schedule 7, in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.

(2) But, where a person detained under Schedule 7 or section 41 at a police station in Scotland appears to a constable to be a child—

(a) the other person named by the person detained in pursuance of paragraph 16(1) shall be that person's parent, and

(b) section 15(4) of the [M203]Criminal Procedure (Scotland) Act 1995 shall apply to the person detained as it applies to a person who appears to a constable to be a child who is being detained as mentioned in paragraph (b) of section 15(1) of that Act,

and in this sub-paragraph "child" and "parent" have the same meaning as in section 15(4) of that Act.

**Modifications etc. (not altering text)**

**C63** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

**Marginal Citations**

**M203** 1995 c. 46.

19 The Secretary of State shall, by order, make provision to require that—

(a) except in such circumstances, and

(b) subject to such conditions,

as may be specified in the order, where a person detained has been permitted to consult a solicitor, the solicitor shall be allowed to be present at any interview carried out in connection with a terrorist investigation or for the purposes of Schedule 7.

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**Modifications etc. (not altering text)**

**C64** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 5(8)**

20 (1) Subject to the modifications specified in sub-paragraphs (2) and (3), section 18 of the [M204]Criminal Procedure (Scotland) Act 1995 (procedure for taking certain prints and samples) shall apply to a person detained under Schedule 7 or section 41 at a police station in Scotland as it applies to a person arrested or a person detained under section 14 of that Act.

(2) For subsection (2) of section 18 there shall be substituted—

"(2) A constable may take from a detained person or require a detained person to provide relevant physical data only if—

(a) in the case of a person detained under section 41 of the Terrorism Act 2000, he reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 40(1)(a) of that Act and he reasonably believes that the relevant physical data will tend to confirm or disprove his involvement, or

(b) in any case, he is satisfied that it is necessary in order to assist in determining whether the person falls within section 40(1)(b) of that Act."

(3) Subsections (3) to (5) shall not apply, but any relevant physical data or sample taken in pursuance of section 18 as applied by this paragraph shall be retained only for the purposes of terrorist investigations.

**Marginal Citations**

**M204** 1995 c. 46.

## PART II

### REVIEW OF DETENTION UNDER SECTION 41

*Requirement*

21 (1) A person's detention shall be periodically reviewed by a review officer.

(2) The first review shall be carried out as soon as is reasonably practicable after the time of the person's arrest.

(3) Subsequent reviews shall, subject to paragraph 22, be carried out at intervals of not more than 12 hours.

(4) No review of a person's detention shall be carried out after a warrant extending his detention has been issued under Part III.

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*Postponement*

22 (1) A review may be postponed if at the latest time at which it may be carried out in accordance with paragraph 21—

(a) the detained person is being questioned by a police officer and an officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,

(b) no review officer is readily available, or

(c) it is not practicable for any other reason to carry out the review.

(2) Where a review is postponed it shall be carried out as soon as is reasonably practicable.

(3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review shall be deemed to have been carried out at the latest time at which it could have been carried out in accordance with paragraph 21.

*Grounds for continued detention*

23 (1) A review officer may authorise a person's continued detention only if satisfied that it is necessary—

(a) to obtain relevant evidence whether by questioning him or otherwise,

(b) to preserve relevant evidence,

(c) pending a decision whether to apply to the Secretary of State for a deportation notice to be served on the detained person,

(d) pending the making of an application to the Secretary of State for a deportation notice to be served on the detained person,

(e) pending consideration by the Secretary of State whether to serve a deportation notice on the detained person, or

(f) pending a decision whether the detained person should be charged with an offence.

(2) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(a) or (b) unless he is satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(3) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(c) to (f) unless he is satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.

(4) In sub-paragraph (1)(a) and (b) "relevant evidence" means evidence which—

(a) relates to the commission by the detained person of an offence under any of the provisions mentioned in section 40(1)(a), or

(b) indicates that the detained person falls within section 40(1)(b).

(5) In sub-paragraph (1) "deportation notice" means notice of a decision to make a deportation order under the Immigration Act 1971.

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*Review officer*

24 (1) The review officer shall be an officer who has not been directly involved in the investigation in connection with which the person is detained.

(2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer shall be an officer of at least the rank of inspector.

(3) In the case of any other review, the review officer shall be an officer of at least the rank of superintendent.

25 (1) This paragraph applies where—

(a) the review officer is of a rank lower than superintendent,

(b) an officer of higher rank than the review officer gives directions relating to the detained person, and

(c) those directions are at variance with the performance by the review officer of a duty imposed on him under this Schedule.

(2) The review officer shall refer the matter at once to an officer of at least the rank of superintendent.

*Representations*

26 (1) Before determining whether to authorise a person's continued detention, a review officer shall give either of the following persons an opportunity to make representations about the detention—

(a) the detained person, or

(b) a solicitor representing him who is available at the time of the review.

(2) Representations may be oral or written.

(3) A review officer may refuse to hear oral representations from the detained person if he considers that he is unfit to make representations because of his condition or behaviour.

*Rights*

27 (1) Where a review officer authorises continued detention he shall inform the detained person—

(a) of any of his rights under paragraphs 6 and 7 which he has not yet exercised, and

(b) if the exercise of any of his rights under either of those paragraphs is being delayed in accordance with the provisions of paragraph 8, of the fact that it is being so delayed.

(2) Where a review of a person's detention is being carried out at a time when his exercise of a right under either of those paragraphs is being delayed—

(a) the review officer shall consider whether the reason or reasons for which the delay was authorised continue to subsist, and

(b) if in his opinion the reason or reasons have ceased to subsist, he shall inform the officer who authorised the delay of his opinion (unless he was that officer).

(3) In the application of this paragraph to Scotland, for the references to paragraphs 6, 7 and 8 substitute references to paragraph 16.

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(4) The following provisions (requirement to bring an accused person before the court after his arrest) shall not apply to a person detained under section 41—

(a) section 135(3) of the [M205]Criminal Procedure (Scotland) Act 1995, and

(b) Article 8(1) of the [M206]Criminal Justice (Children) (Northern Ireland) Order 1998.

(5) Section 22(1) of the [M207]Criminal Procedure (Scotland) Act 1995 (interim liberation by officer in charge of police station) shall not apply to a person detained under section 41.

**Marginal Citations**

**M205** 1995 c. 46.

**M206** S.I. 1998/1504 (N.I. 9).

**M207** 1995 c. 46.

*Record*

28 (1) A review officer carrying out a review shall make a written record of the outcome of the review and of any of the following which apply—

(a) the grounds upon which continued detention is authorised,

(b) the reason for postponement of the review,

(c) the fact that the detained person has been informed as required under paragraph 27(1),

(d) the officer's conclusion on the matter considered under paragraph 27(2)(a),

(e) the fact that he has taken action under paragraph 27(2)(b), and

(f) the fact that the detained person is being detained by virtue of section 41(5) or (6).

(2) The review officer shall—

(a) make the record in the presence of the detained person, and

(b) inform him at that time whether the review officer is authorising continued detention, and if he is, of his grounds.

(3) Sub-paragraph (2) shall not apply where, at the time when the record is made, the detained person is—

(a) incapable of understanding what is said to him,

(b) violent or likely to become violent, or

(c) in urgent need of medical attention.

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## PART III

### EXTENSION OF DETENTION UNDER SECTION 41

*Warrants of further detention*

29 (1) A police officer of at least the rank of superintendent may apply to a judicial authority for the issue of a warrant of further detention under this Part.

(2) A warrant of further detention—
- (a) shall authorise the further detention under section 41 of a specified person for a specified period, and
- (b) shall state the time at which it is issued.

(3) The specified period in relation to a person shall end not later than the end of the period of seven days beginning—
- (a) with the time of his arrest under section 41, or
- (b) if he was being detained under Schedule 7 when he was arrested under section 41, with the time when his examination under that Schedule began.

(4) In this Part "judicial authority" means—
- (a) in England and Wales, the Senior District Judge (Chief Magistrate) or his deputy, or a District Judge (Magistrates' Courts) who is designated for the purpose of this Part by the Lord Chancellor,
- (b) in Scotland, the sheriff, and
- (c) in Northern Ireland, a county court judge, or a resident magistrate who is designated for the purpose of this Part by the Lord Chancellor.

*Time limit*

30 (1) An application for a warrant shall be made—
- (a) during the period mentioned in section 41(3), or
- (b) within six hours of the end of that period.

(2) The judicial authority hearing an application made by virtue of sub-paragraph (1)(b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 41(3).

(3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

*Notice*

31 An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating—
- (a) that the application has been made,
- (b) the time at which the application was made,
- (c) the time at which it is to be heard, and
- (d) the grounds upon which further detention is sought.

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*Grounds for extension*

32 (1) A judicial authority may issue a warrant of further detention only if satisfied that—

(a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary to obtain relevant evidence whether by questioning him or otherwise or to preserve relevant evidence, and

(b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(2) In sub-paragraph (1) "relevant evidence" means, in relation to the person to whom the application relates, evidence which—

(a) relates to his commission of an offence under any of the provisions mentioned in section 40(1)(a), or

(b) indicates that he is a person falling within section 40(1)(b).

*Representation*

33 (1) The person to whom an application relates shall—

(a) be given an opportunity to make oral or written representations to the judicial authority about the application, and

(b) subject to sub-paragraph (3), be entitled to be legally represented at the hearing.

(2) A judicial authority shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—

(a) he is not legally represented,

(b) he is entitled to be legally represented, and

(c) he wishes to be so represented.

(3) A judicial authority may exclude any of the following persons from any part of the hearing—

(a) the person to whom the application relates;

(b) anyone representing him.

[F44(4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—

(a) that the hearing of the application must be conducted, and

(b) that all representations by or on behalf of a person for the purposes of the hearing must be made,

by such means (whether a live television link or other means) falling within sub-paragraph (5) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

(5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of his (without being present at the hearing and to the extent that they are not excluded from it under sub-paragraph (3))—

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(a) to see and hear the judicial authority and the making of representations to it by other persons; and
(b) to be seen and heard by the judicial authority.

(6) If the person to whom the application relates wishes to make representations about whether a direction should be given under sub-paragraph (4), he must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.

(7) Sub-paragraph (2) applies to the hearing of representations about whether a direction should be given under sub-paragraph (4) in the case of any application as it applies to a hearing of the application.

(8) A judicial authority shall not give a direction under sub-paragraph (4) unless—
(a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within sub-paragraph (5); and
(b) that notification has not been withdrawn.

(9) If in a case where it has power to do so a judicial authority decides not to give a direction under sub-paragraph (4), it shall state its reasons for not giving it.**]**

**Textual Amendments**
**F44** Sch. 8 paras. 33(4)-(9) inserted (E.W.N.I.) (1.8.2001) by 2001 c. 16, **s. 75**; S.I. 2001/2223, **art. 3(d)**

*Information*

34 (1) The officer who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which he intends to rely be withheld from—
(a) the person to whom the application relates, and
(b) anyone representing him.

(2) Subject to sub-paragraph (3), a judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—
(a) evidence of an offence under any of the provisions mentioned in section 40(1)(a) would be interfered with or harmed,
(b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
(c) the recovery of property in respect of which a forfeiture order could be made under section 23 would be hindered,
(d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 40(1)(a) or (b) would be made more difficult as a result of his being alerted,
(e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,

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(f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or

(g) a person would be interfered with or physically injured.

(3) A judicial authority may also make an order under sub-paragraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that—

(a) the detained person has committed an offence to which Part VI of the [M208]Criminal Justice Act 1988, Part I of the [M209]Proceeds of Crime (Scotland) Act 1995, or the [M210]Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence) applies,

(b) the detained person has benefited from the offence within the meaning of that Part or Order, and

(c) the recovery of the value of that benefit would be hindered, if the information were disclosed.

(4) The judicial authority shall direct that the following be excluded from the hearing of the application under this paragraph—

(a) the person to whom the application for a warrant relates, and

(b) anyone representing him.

**Marginal Citations**

**M208** 1988 c. 33.

**M209** 1995 c. 43.

**M210** S.I. 1996/1299 (N.I. 9).

*Adjournments*

35 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 41(3).

(2) This paragraph shall not apply to an adjournment under paragraph 33(2).

*Extensions of warrants*

36 (1) A police officer of at least the rank of superintendent may apply to a judicial authority for the extension or further extension of the period specified in a warrant of further detention.

(2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.

(3) The specified period shall end not later than the end of the period of seven days beginning—

(a) with the time of the person's arrest under section 41, or

(b) if he was being detained under Schedule 7 when he was arrested under section 41, with the time when his examination under that Schedule began.

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(4) Paragraphs 30(3) and 31 to 34 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention.

(5) A judicial authority may adjourn the hearing of an application under sub-paragraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.

(6) Sub-paragraph (5) shall not apply to an adjournment under paragraph 33(2).

**Modifications etc. (not altering text)**

**C65** S. 36 extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 1 para. 14**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

*Detention - conditions*

37 A person detained by virtue of a warrant issued under this Part shall (unless detained in accordance with section 41(5) or (6) or under any other power) be released immediately if the officer having custody of him becomes aware that any of the grounds under paragraph 32(1)(a) and (b) upon which the judicial authority authorised his further detention have ceased to apply.

VALID FROM 16/02/2009

[[F45]SCHEDULE 8A

OFFENCE UNDER SECTION 58A: SUPPLEMENTARY PROVISIONS

**Textual Amendments**

**F45** Sch. 8A inserted (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 76(4), 100(5), **Sch. 8** (with s. 101(2)); S.I. 2009/58, **art. 2(d)**

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# SCHEDULE 9

Section 65.

## SCHEDULED OFFENCES

## PART I

## SUBSTANTIVE OFFENCES

### *Common law offences*

1 Murder subject to note 1 below.

2 Manslaughter subject to note 1 below.

3 Riot subject to note 1 below.

4 Kidnapping subject to note 1 below.

5 False imprisonment subject to note 1 below.

### *Malicious Damage Act 1861 (c. 97)*

6 Offences under section 35 of the [M211]Malicious Damage Act 1861 (interference with railway) subject to note 1 below.

**Marginal Citations**
**M211** 1861 c. 97

### *Offences against the Person Act 1861 (c. 100)*

7 Offences under the following provisions of the [M212]Offences against the Person Act 1861 subject to note 1 below—

(a) section 4 (offences relating to murder),
(b) section 16 (threats to kill),
(c) section 18 (wounding with intent to cause grievous bodily harm),
(d) section 20 (causing grievous bodily harm),
(e) section 29 (causing explosion or sending explosive substance or throwing corrosive liquid with intent to cause grievous bodily harm), and
(f) section 47 (assault occasioning actual bodily harm).

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**Marginal Citations**
**M212** 1861 c. 100.

*Explosive Substances Act 1883 (c. 3)*

8 Offences under the following provisions of the [M213]Explosive Substances Act 1883 subject to note 1 below—

(a) section 2 (causing explosion likely to endanger life or damage property),
(b) section 3 (intending or conspiring to cause any such explosion, and making or possessing explosive with intent to endanger life or cause serious damage to property), and
(c) section 4 (making or possessing explosives in suspicious circumstances).

**Marginal Citations**
**M213** 1883 c. 3.

*Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))*

9 Offences under the following provisions of the [M214]Prison Act (Northern Ireland) 1953 subject to note 1 below—

(a) section 25 (being unlawfully at large while under sentence),
(b) section 26 (escaping from lawful custody and failing to surrender to bail),
(c) section 27 (attempting to break prison),
(d) section 28 (breaking prison by force or violence),
(e) section 29 (rescuing or assisting or permitting to escape from lawful custody persons under sentence of death or life imprisonment),
(f) section 30 (rescuing or assisting or permitting to escape from lawful custody persons other than persons under sentence of death or life imprisonment),
(g) section 32 (causing discharge of prisoner under pretended authority), and
(h) section 33 (assisting prisoners to escape by conveying things into prisons).

**Marginal Citations**
**M214** 1953 c. 18(N.I.).

*Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))*

10 Offences under the following provisions of the [M215]Theft Act (Northern Ireland) 1969—

(a) section 1 (theft) subject to note 2 below,

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(b) section 8 (robbery) subject to notes 1 and 3 below,
(c) section 9 (burglary) subject to note 2 below,
(d) section 10 (aggravated burglary) subject to notes 1 and 3 below,
(e) section 15 (obtaining property by deception) subject to note 2 below, and
(f) section 20 (blackmail) subject to notes 1 and 2 below.

**Marginal Citations**
**M215** 1969 c. 16(N.I.).

*Protection of the Person and Property Act (Northern Ireland) 1969 (c. 29 (N.I.))*

11 Offences under the following provisions of the [M216]Protection of the Person and Property Act (Northern Ireland) 1969 subject to note 1 below—
(a) section 1 (intimidation),
(b) section 2 (making or possessing petrol bomb, etc. in suspicious circumstances), and
(c) section 3 (throwing or using petrol bomb, etc.).

**Marginal Citations**
**M216** 1969 c. 29(N.I.).

*Hijacking*

12 Offences under section 1 of the [M217]Aviation Security Act 1982 (aircraft) subject to note 1 below.

**Marginal Citations**
**M217** 1982 c. 36.

13 Offences in Northern Ireland under section 2 of the [M218]Criminal Jurisdiction Act 1975 (vehicles or ships) subject to note 1 below.

**Marginal Citations**
**M218** 1975 c. 59.

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*Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))*

14 Offences under the following provisions of the [M219]Criminal Damage (Northern Ireland) Order 1977 subject to note 1 below—

(a) Article 3(1) and (3) or Article 3(2) and (3) (arson),
(b) Article 3(2) (destroying or damaging property with intent to endanger life),
(c) Article 4 (threats to destroy or damage property), and
(d) Article 5 (possessing anything with intent to destroy or damage property).

**Marginal Citations**
**M219** S.I. 1977/426 (N.I. 4).

*Criminal Law (Amendment) (Northern Ireland) Order 1977 (S.I. 1977/1249 (N.I. 16))*

15 Offences under Article 3 of the [M220]Criminal Law (Amendment) (Northern Ireland) Order 1977 (bomb hoaxes) subject to note 1 below.

**Marginal Citations**
**M220** S.I. 1977/1249 (N.I. 16

*Firearms (Northern Ireland) Order 1981 (S.I. 1981/155 (N.I. 2))*

16 Offences under the following provisions of the [M221]Firearms (Northern Ireland) Order 1981 subject to note 1 below—

(a) Article 4(1), (2), (3) or (4) (manufacturing, dealing in, repairing, etc, firearm or ammunition without being registered),
(b) Article 5 (shortening barrel of shot gun or converting imitation firearm into firearm),
(c) Article 6(1) (manufacturing, dealing in or possessing certain weapons, etc.),
(d) Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property),
(e) Article 18 (use or attempted use of firearm or imitation firearm to prevent arrest of self or another etc.),
(f) Article 19 (carrying firearm or imitation firearm with intent to commit indictable offence or prevent arrest of self or another),
(g) Article 20 (carrying firearm, etc. in public place) subject to note 4 below,
(h) Article 22 (possession of firearm or ammunition by person who has been sentenced to imprisonment, etc. and sale of firearm or ammunition to such a person), and
(i) Article 23 (possessing firearm or ammunition in suspicious circumstances).

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**Marginal Citations**
**M221** S.I. 1981/155 (N.I. 2

*Taking of Hostages Act 1982 (c. 28)*

17 Offences under the [M222]Taking of Hostages Act 1982 subject to note 1 below.

**Marginal Citations**
**M222** 1982 c. 28

*Nuclear Material (Offences) Act 1983 (c. 18)*

18 Offences under section 2 of the [M223]Nuclear Material (Offences) Act 1983 (offences involving nuclear material: preparatory acts and threats) subject to note 1 below.

**Marginal Citations**
**M223** 1983 c. 18

*Computer Misuse Act 1990 (c. 18)*

19 Offences under the following provisions of the [M224]Computer Misuse Act 1990 subject to note 1 below—

(a) section 1 (unauthorised access to computer material),
(b) section 2 (unauthorised access with intent to commit further offence), and
(c) section 3 (unauthorised modification).

**Marginal Citations**
**M224** 1990 c. 18

*Aviation and Maritime Security Act 1990 (c. 31)*

20 Offences under the following provisions of the [M225]Aviation and Maritime Security Act 1990 subject to note 1 below—

(a) section 1 (endangering safety at aerodromes),
(b) section 9 (hijacking of ships), and
(c) section 10 (seizing or exercising control of fixed platforms).

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**Marginal Citations**
**M225** 1990 c. 31

*Channel Tunnel (Security) Order 1994 (S.I. 1994/570)*

21 Offences under the following provisions of [M226]the Channel Tunnel (Security) Order 1994 subject to note 1 below—
(a) Article 4 (hijacking of Channel Tunnel trains), and
(b) Article 5 (seizing or exercising control of the tunnel system).

**Marginal Citations**
**M226** S.I. 1994/570

*This Act*

22 Offences under the following provisions of this Act—
(a) section 11,
(b) section 12,
(c) section 13,
(d) sections 15 to 19,
(e) section 54,
(f) section 56,
(g) section 57,
(h) section 58,
(i) section 103,
(j) paragraph 37 of Schedule 4,
(k) Schedule 5,
(l) paragraph 10 of Schedule 10 subject to note 1 below, and
(m) paragraphs 2 and 3 of Schedule 13 subject to note 1 below.

VALID FROM 14/07/2004

***[[F46]Justice (Northern Ireland) Act 2004]***

**Textual Amendments**
**F46** Sch. 9 Pt. 1 para. 22A and preceding cross-heading inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), s. 11, **Sch. 2 para. 1(5)** (with para. 5); S.R. 2004/267, **art. 2**

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22A Offences under paragraph 1(1) or (2) of Schedule 2 to the Justice (Northern Ireland) Act 2004 (absconding by persons admitted to bail in respect of a scheduled offence), subject to note 1 below.

VALID FROM 19/02/2006

*[F47 Prevention of Terrorism Act 2005*

**Textual Amendments**

**F47** Sch. 9 Pt. 1 para. 22B and preceding cross-heading inserted (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {3(3)}, 5(3)

22B Offences under section 9 of the Prevention of Terrorism Act 2005 (contravention of control order obligations and obstruction of persons serving control order).**]**

VALID FROM 13/04/2006

*[F48 Terrorism Act 2006*

**Textual Amendments**

**F48** Sch. 9 Pt. 1 para. 22C and preceding cross-heading inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **s. 37(4)**; S.I. 2006/1013, **art. 2**

22C Offences under Part 1 of the Terrorism Act 2006 (terrorism-related offences).**]**

VALID FROM 15/01/2007

*[F49 Fraud Act 2006*

**Textual Amendments**

**F49** Sch. 9 Pt. 1 para. 23 and preceding cross-heading inserted after para. 22 (15.1.2007) by Fraud Act 2006 (c. 35), s. 14(1), **Sch. 1 para. 30(2)**; S.I. 2006/3200, **art. 2**

23 Offences under section 1 of the Fraud Act 2006 (fraud) subject to note 2 below.**]**

*Notes*

1 Any offence specified in this Part of this Schedule which is stated to be subject to this note is not a scheduled offence in any particular case in which the Attorney

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General for Northern Ireland certifies that it is not to be treated as a scheduled offence.

2 An offence specified in paragraph 10(a), (c) or (e) is a scheduled offence only where it is charged that the offence was committed in relation to or by means of nuclear material within the meaning of the [M227]Nuclear Material (Offences) Act 1983; and the Attorney General for Northern Ireland shall not certify that the offence specified in paragraph 10(f) is not to be treated as a scheduled offence in a case where it is charged that the offence was so committed.

**Marginal Citations**
**M227** 1983 c. 18.

3 An offence specified in paragraph 10(b) or (d) is a scheduled offence only where it is charged—

(a) that an explosive, firearm, imitation firearm or weapon of offence was used to commit the offence, or

(b) that the offence was committed in relation to or by means of nuclear material within the meaning of the [M228]Nuclear Material (Offences) Act 1983;

and expressions defined in section 10 of the [M229]Theft Act (Northern Ireland) 1969 have the same meaning when used in this note.

**Marginal Citations**
**M228** 1983 c. 18.
**M229** 1969 c. 16(N.I.).

4 The offence specified in paragraph 16(g) is a scheduled offence only where it is charged that the offence relates to a weapon other than an air weapon.

## PART II

### INCHOATE AND RELATED OFFENCES

Each of the following offences, that is to say—

(a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in Part I of this Schedule (hereafter in this paragraph referred to as a "substantive offence"),

(b) attempting or conspiring to commit a substantive offence,

(c) an offence under section 4 of the [M230]Criminal Law Act (Northern Ireland) 1967 of doing any act with intent to impede the arrest or prosecution of a person who has committed a substantive offence, and

(d) an offence under section 5(1) of the [M231]Criminal Law Act (Northern Ireland) 1967 of failing to give information to a constable which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of a person for a substantive offence,

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shall be treated for the purposes of Part VII of this Act as if it were the substantive offence.

**Marginal Citations**
**M230** 1967 c. 18(N.I.).
**M231** 1967 c. 18(N.I.).

**Marginal Citations**
**M230** 1967 c. 18(N.I.).
**M231** 1967 c. 18(N.I.).

## PART III

### EXTRA-TERRITORIAL OFFENCES

Any extra-territorial offence as defined in section 1(3) of the [M232]Criminal Jurisdiction Act 1975.

**Marginal Citations**
**M232** 1975 c. 59.

**Marginal Citations**
**M232** 1975 c. 59.

*Note*

An extra-territorial offence is not a scheduled offence in any particular case in which the Attorney General for Northern Ireland certifies that it is not to be treated as a scheduled offence.

## SCHEDULE 10

Section 84.

### MUNITIONS AND TRANSMITTERS: SEARCH AND SEIZURE

*Interpretation*

1 (1) In this Schedule "officer" means—
(a) a member of Her Majesty's forces on duty, and
(b) a constable.

(2) In this Schedule "authorised officer" means—
(a) a member of Her Majesty's forces who is on duty and is authorised by a commissioned officer of those forces, and

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(b) a constable who is authorised by an officer of the Royal Ulster Constabulary of at least the rank of inspector.

(3) In this Schedule—

"munitions" means—

(a) explosives, firearms and ammunition, and

(b) anything used or capable of being used in the manufacture of an explosive, a firearm or ammunition,

"scanning receiver" means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted,

"transmitter" means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for emission, as opposed to reception,

"wireless apparatus" means a scanning receiver or a transmitter, and

"wireless telegraphy" has the same meaning as in section 19(1) of the [M233]Wireless Telegraphy Act 1949.

**Marginal Citations**

**M233** 1949 c. 54.

*Entering premises*

2 (1) An officer may enter and search any premises for the purpose of ascertaining—

(a) whether there are any munitions unlawfully on the premises, or

(b) whether there is any wireless apparatus on the premises.

(2) An officer may not enter a dwelling under this paragraph unless he is an authorised officer and he reasonably suspects that the dwelling—

(a) unlawfully contains munitions, or

(b) contains wireless apparatus.

3 If it is necessary for the purpose of carrying out a search under paragraph 2 (including a search of a dwelling) an officer may be accompanied by other persons.

4 (1) If the officer carrying out a search of premises under paragraph 2 reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated, he may—

(a) require a person who is on the premises when the search begins, or who enters during the search, to remain on the premises;

(b) require a person mentioned in paragraph (a) to remain in a specified part of the premises;

(c) require a person mentioned in paragraph (a) to refrain from entering a specified part of the premises;

(d) require a person mentioned in paragraph (a) to go from one specified part of the premises to another;

(e) require a person who is not a resident of the premises to refrain from entering them.

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(2) A requirement imposed under this paragraph shall cease to have effect after the conclusion of the search in relation to which it was imposed.

(3) Subject to sub-paragraph (4), no requirement under this paragraph for the purposes of a search shall be imposed or have effect after the end of the period of four hours beginning with the time when the first (or only) requirement is imposed in relation to the search.

(4) An officer of the Royal Ulster Constabulary of at least the rank of superintendent may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.

(5) The power to extend a period conferred by sub-paragraph (4) may be exercised only once in relation to a particular search.

5 Section 114(2) has effect for the purposes of this Schedule in relation to a member of Her Majesty's forces as it has effect in relation to a constable.

*Stopping and searching persons*

6 (1) An officer may—

(a) stop a person in a public place, and

(b) search him for the purpose of ascertaining whether he has munitions unlawfully with him or wireless apparatus with him.

(2) An officer may search a person who—

(a) is not in a public place, and

(b) whom the officer reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.

(3) An officer may search a person entering or found in a dwelling entered under paragraph 2.

*Seizure*

7 (1) This paragraph applies where an officer is empowered by virtue of any provision of Part VII of this Act to search premises or a person.

(2) The officer may—

(a) seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully), and

(b) retain and, if necessary, destroy them.

(3) The officer may—

(a) seize any wireless apparatus found in the course of the search (unless it appears to him that the apparatus is being, has been and will be used only lawfully), and

(b) retain it.

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*Records*

8 (1) Where an officer carries out a search of premises under this Schedule he shall, unless it is not reasonably practicable, make a written record of the search.

(2) The record shall specify—
- (a) the address of the premises searched,
- (b) the date and time of the search,
- (c) any damage caused in the course of the search, and
- (d) anything seized in the course of the search.

(3) The record shall also include the name (if known) of any person appearing to the officer to be the occupier of the premises searched; but—
- (a) a person may not be detained in order to discover his name, and
- (b) if the officer does not know the name of a person appearing to him to be the occupier of the premises searched, he shall include in the record a note describing him.

(4) The record shall identify the officer—
- (a) in the case of a constable, by reference to his police number, and
- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.

9 (1) Where an officer makes a record of a search in accordance with paragraph 8, he shall supply a copy to any person appearing to him to be the occupier of the premises searched.

(2) The copy shall be supplied immediately or as soon as is reasonably practicable.

*Offence*

10 (1) A person commits an offence if he—
- (a) knowingly fails to comply with a requirement imposed under paragraph 4, or
- (b) wilfully obstructs, or seeks to frustrate, a search of premises under this Schedule.

(2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

11 (1) A person commits an offence if he fails to stop when required to do so under paragraph 6.

(2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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# SCHEDULE 11

Section 98.

## INDEPENDENT ASSESSOR OF MILITARY COMPLAINTS PROCEDURES IN NORTHERN IRELAND

### *Tenure*

1 (1) The Independent Assessor of Military Complaints Procedures in Northern Ireland shall hold and vacate office in accordance with the terms of his appointment.

(2) The Independent Assessor shall be appointed for a term not exceeding three years (but may be reappointed).

(3) The Independent Assessor may at any time resign his office by written notice to the Secretary of State.

(4) The Secretary of State may remove the Independent Assessor from office—

(a) if he has failed without reasonable excuse to carry out his duties for a continuous period of six months or more,

(b) if he has been convicted of a criminal offence,

(c) if a bankruptcy order has been made against him, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or

(d) if the Secretary of State is satisfied that he is otherwise unable or unfit to perform his functions.

### *Remuneration*

2 (1) The Secretary of State shall pay to the Independent Assessor—

(a) such remuneration, and

(b) such allowances,

as the Secretary of State may determine.

(2) The Secretary of State may make payments to or in respect of the Independent Assessor in connection with pensions and gratuities.

### *Staff*

3 (1) The Independent Assessor may appoint such number of employees, on such terms and conditions, as he may determine with the approval of the Secretary of State.

(2) The Secretary of State may make payments to or in respect of persons appointed under this paragraph.

### *Reports*

4 (1) The Independent Assessor shall send the Secretary of State an annual report on the performance of his functions.

(2) Where the Secretary of State receives a report under sub-paragraph (1) he shall—

(a) publish it, and

(b) lay it before Parliament.

(3) The Independent Assessor may report to the Secretary of State on any matter which comes to his attention in the course of the performance of his functions.

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*Disqualification*

5 In Part III of Schedule 1 to the [M234]Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) the following entry shall be inserted at the appropriate place—

"Independent Assessor of Military Complaints Procedures in Northern Ireland."

**Marginal Citations**

**M234** 1975 c. 25.

## SCHEDULE 12

Section 102.

### COMPENSATION

**Modifications etc. (not altering text)**

**C66** Sch. 12: power to apply conferred (19.2.2006) by Terrorism (Northern Ireland) Act 2006 (c. 4), ss. {4(2)(f)}, 5(3)

*Right to compensation*

1 (1) This paragraph applies where under Part VII of this Act—

(a) real or personal property is taken, occupied, destroyed or damaged, or

(b) any other act is done which interferes with private rights of property.

(2) Where this paragraph applies in respect of an act taken in relation to any property or rights the Secretary of State shall pay compensation to any person who—

(a) has an estate or interest in the property or is entitled to the rights, and

(b) suffers loss or damage as a result of the act.

2 No compensation shall be payable unless an application is made to the Secretary of State in such manner as he may specify.

*Time limit*

3 (1) Subject to sub-paragraphs (2) and (3), an application for compensation in respect of an act must be made within the period of 28 days beginning with the date of the act.

(2) The Secretary of State may, in response to a request made to him in writing, permit an application to be made—

(a) after the expiry of the period mentioned in sub-paragraph (1), and

(b) within such longer period, starting from the date of the act and not exceeding six months, as he may specify.

(3) Where the Secretary of State refuses a request under sub-paragraph (2)—

(a) he shall serve a notice of refusal on the person who made the request,

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(b) that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the refusal, and

(c) the county court may exercise the power of the Secretary of State under sub-paragraph (2).

*Determination*

4 Where the Secretary of State determines an application for compensation he shall serve on the applicant a notice—

(a) stating that he has decided to award compensation and specifying the amount of the award, or

(b) stating that he has decided to refuse the application.

5 (1) An applicant may appeal to the county court against—

(a) the amount of compensation awarded, or

(b) the refusal of compensation.

(2) An appeal must be brought within the period of six weeks beginning with the date of service of the notice under paragraph 4.

6 (1) This paragraph applies where the Secretary of State considers that in the course of an application for compensation the applicant—

(a) knowingly made a false or misleading statement,

(b) made a statement which he did not believe to be true, or

(c) knowingly failed to disclose a material fact.

(2) The Secretary of State may—

(a) refuse to award compensation,

(b) reduce the amount of compensation which he would otherwise have awarded, or

(c) withhold all or part of compensation which he has awarded.

7 Where the Secretary of State makes an award of compensation he may make a payment to the applicant in respect of all or part of the costs of the application.

*Assignment of right*

8 (1) This paragraph applies where—

(a) a person has made an application for compensation, and

(b) his right to compensation has passed to another person by virtue of an assignment or the operation of law.

(2) The Secretary of State shall treat the person mentioned in sub-paragraph (1)(b) as the applicant.

*Offenders*

9 (1) This paragraph applies where a person has a right to compensation in respect of an act and—

(a) the act was done in connection with, or revealed evidence of the commission of, a scheduled offence or a non-scheduled offence under this Act, and

(b) proceedings for the offence are brought against the person.

**Status:** *Point in time view as at 01/11/2001. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The person's right to compensation shall not be enforceable while the proceedings have not been concluded.

(3) If the person stands convicted of the offence he shall have no right to compensation.

*Notices*

10 A notice served under paragraph 3(3)(a) or 4 shall contain particulars of the right of appeal under paragraph 3(3)(b) or 5.

11 (1) The Secretary of State may serve a notice under this Schedule on an individual—
- (a) by delivering it to him,
- (b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
- (c) by leaving it for him there.

(2) The Secretary of State may serve a notice under this Schedule on a partnership—
- (a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
- (b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.

(3) The Secretary of State may serve a notice under this Schedule on a body corporate—
- (a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
- (b) by addressing it to the secretary or clerk of the body and leaving it at that office.

(4) The Secretary of State may serve a notice under this Schedule on any person—
- (a) by delivering it to his solicitor,
- (b) by sending it by post to his solicitor at his solicitor's office, or
- (c) by leaving it for his solicitor there.

*Offences*

12 (1) A person commits an offence if he obtains compensation or increased compensation for himself or another person by deception (within the meaning of section 15(4) of the [M235]Theft Act (Northern Ireland) 1969).

(2) A person commits an offence if for the purposes of obtaining compensation he—
- (a) knowingly makes a false or misleading statement,
- (b) makes a statement which he does not believe to be true, or
- (c) knowingly fails to disclose a material fact.

(3) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding one year, to a fine not exceeding the statutory maximum or to both.

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(4) Section 82 shall not apply in relation to an offence under this paragraph.

**Marginal Citations**
**M235** 1969 c. 16(N.I.).

## SCHEDULE 13

Section 106.

### PRIVATE SECURITY SERVICES

*Security services: interpretation*

1 In this Schedule "security services" means the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons).

*Unlicensed services: offences*

2 A person commits an offence if he provides or offers to provide security services for reward unless he—
(a) holds a licence under this Schedule, or
(b) acts on behalf of someone who holds a licence under this Schedule.

3 (1) A person commits an offence if he publishes or causes to be published an advertisement for the provision for reward of security services by a person who does not hold a licence under this Schedule.

(2) It is a defence for a person charged with an offence under this paragraph to prove—
(a) that his business is publishing advertisements or arranging for their publication,
(b) that he received the advertisement for publication in the ordinary course of business, and
(c) that he reasonably believed that the person mentioned in the advertisement as the provider of security services held a licence under this Schedule.

4 (1) A person commits an offence if he pays money, in respect of the provision of security services, to a person who—
(a) does not hold a licence under this Schedule, and
(b) is not acting on behalf of someone who holds a licence under this Schedule.

(2) It is a defence for a person charged with an offence under this paragraph to prove that he reasonably believed that the person to whom he paid the money—
(a) held a licence under this Schedule, or
(b) was acting on behalf of someone who held a licence under this Schedule.

5 (1) A person guilty of an offence under paragraph 2 or 3 shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

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(2) A person guilty of an offence under paragraph 4 is liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

*Application for licence*

6 (1) An application for a licence under this Schedule shall be made to the Secretary of State—
- (a) in such manner and form as he may specify, and
- (b) accompanied by such information as he may specify.

(2) The Secretary of State may specify information only if it concerns—
- (a) the applicant,
- (b) a business involving the provision of security services for reward which is, was or is proposed to be carried on by the applicant,
- (c) a person whom the applicant employs or proposes to employ as a security guard,
- (d) a partner or proposed partner of the applicant (where the applicant is an individual),
- (e) a member or proposed member of the applicant (where the applicant is a partnership),
- (f) an officer or proposed officer of the applicant (where the applicant is a body corporate).

(3) A person commits an offence if in connection with an application for a licence he—
- (a) makes a statement which he knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement which is false or misleading in a material particular.

(4) A person guilty of an offence under sub-paragraph (3) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

(5) For the purposes of this paragraph—
- (a) a reference to employment or proposed employment by an applicant for a licence shall, where the applicant is a partnership or a member of a partnership, be construed as a reference to employment or proposed employment by the partnership or any of the partners,
- (b) "officer" includes a director, manager or secretary,
- (c) a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act shall be treated as an officer of that body, and
- (d) the reference to directions or instructions in paragraph (c) does not include a reference to advice given in a professional capacity.

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*Issue of licence*

7 (1) The Secretary of State shall grant an application for a licence unless satisfied that—
(a) an organisation within sub-paragraph (4) would be likely to benefit from the licence (whether or not a condition were imposed under sub-paragraph (2)),
(b) that the applicant has persistently failed to comply with the requirements of this Schedule, or
(c) that the applicant has failed to comply with a condition imposed under sub-paragraph (2).

(2) The Secretary of State may on granting a licence impose a condition if satisfied that it is necessary in order to prevent an organisation within sub-paragraph (4) from benefiting from the licence.

(3) If the Secretary of State refuses an application for a licence he shall notify the applicant of the refusal.

(4) An organisation is within this sub-paragraph if—
(a) it is a proscribed organisation, or
(b) it appears to the Secretary of State to be closely associated with a proscribed organisation.

(5) In this paragraph a reference to a benefit is a reference to any benefit—
(a) whether direct or indirect, and
(b) whether financial or not.

(6) In this paragraph a reference to the requirements of this Schedule includes a reference to the requirements of—
(a) Part V of the [M236]Northern Ireland (Emergency Provisions) Act 1991 (private security services), and
(b) Part V of the [M237]Northern Ireland (Emergency Provisions) Act 1996 (private security services).

**Marginal Citations**
**M236** 1991 c. 24.
**M237** 1996 c. 22.

*Duration of licence*

8 (1) A licence—
(a) shall come into force at the beginning of the day on which it is issued, and
(b) subject to sub-paragraph (2), shall expire at the end of the period of 12 months beginning with that day.

(2) Where a licence is issued to a person who already holds a licence, the new licence shall expire at the end of the period of 12 months beginning with the day after the day on which the current licence expires.

(3) The Secretary of State may by order substitute a period exceeding 12 months for the period for the time being specified in sub-paragraphs (1)(b) and (2).

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*Revocation of licence*

9 (1) The Secretary of State may revoke a licence if satisfied that—

(a) an organisation within paragraph 7(4) would be likely to benefit from the licence remaining in force,

(b) the holder of the licence has persistently failed to comply with the requirements of this Schedule, or

(c) the holder of the licence has failed to comply with a condition imposed under paragraph 7(2).

(2) The Secretary of State shall not revoke a licence unless the holder—

(a) has been notified of the Secretary of State's intention to revoke the licence, and

(b) has been given a reasonable opportunity to make representations to the Secretary of State.

(3) If the Secretary of State revokes a licence he shall notify the holder immediately.

(4) Sub-paragraphs (5) and (6) of paragraph 7 shall apply for the purposes of this paragraph.

*Appeal*

10 The applicant for a licence may appeal to the High Court if—

(a) the application is refused,

(b) a condition is imposed on the grant of the licence, or

(c) the licence is revoked.

11 (1) Where an appeal is brought under paragraph 10, the Secretary of State may issue a certificate that the decision to which the appeal relates—

(a) was taken for the purpose of preventing benefit from accruing to an organisation which was proscribed or which appeared to the Secretary of State to be closely associated with an organisation which was proscribed, and

(b) was justified by that purpose.

(2) If he intends to rely on a certificate under this paragraph, the Secretary of State shall notify the appellant.

(3) Where the appellant is notified of the Secretary of State's intention to rely on a certificate under this paragraph—

(a) he may appeal against the certificate to the Tribunal established under section 91 of the [M238]Northern Ireland Act 1998, and

(b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure, and further appeal) shall apply.

(4) Rules made under section 91 or 92 of that Act which are in force immediately before this paragraph comes into force shall have effect in relation to a certificate under this paragraph—

(a) with any necessary modifications, and

(b) subject to any later rules made by virtue of sub-paragraph (3)(b).

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**Marginal Citations**
**M238** 1998 c. 47.

*Change of personnel*

12 Paragraphs 13 and 14 apply to a person who—
(a) holds a licence, or
(b) has made an application for a licence which has not yet been determined.

13 (1) If a person to whom this paragraph applies proposes to employ a security guard about whom information was not given under paragraph 6, he shall give the Secretary of State such information about the security guard as the Secretary of State may specify.

(2) The information shall be given not less than 14 days before the employment is to begin.

(3) For the purposes of this paragraph the provisions of paragraph 6(5) shall have effect in relation to a holder of or an applicant for a licence as they have effect for the purposes of paragraph 6 in relation to an applicant.

14 (1) A person to whom this paragraph applies shall give the Secretary of State such information about a relevant change of personnel as the Secretary of State may specify.

(2) The information shall be given—
(a) not less than 14 days before the change, or
(b) if that is not reasonably practicable, as soon as is reasonably practicable.

(3) A relevant change of personnel is—
(a) where the application for the licence was made by a partnership or a member of a partnership, a change in the members of the partnership, and
(b) where the application for the licence was made by a body corporate, a change in the officers of the body (within the meaning of paragraph 6).

(4) But a change of personnel is not relevant if it was mentioned in the information given under paragraph 6.

15 (1) A person commits an offence if he fails to comply with paragraph 13 or 14.

(2) A person guilty of an offence under this paragraph shall be liable on summary conviction to—
(a) imprisonment for a term not exceeding six months,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

*Records*

16 (1) A constable may—
(a) enter premises where a business involving the provision of security services is being carried on, and
(b) require records kept there of a person employed as a security guard to be produced for the constable's inspection.

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(2) A constable exercising the power under this paragraph—
- (a) shall identify himself to a person appearing to be in charge of the premises, and
- (b) if the constable is not in uniform, shall produce to that person documentary evidence that he is a constable.

(3) A person commits an offence if he fails to comply with a requirement under this paragraph.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.

(5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

17 (1) A person who provides security services for reward commits an offence if he makes or keeps a record of a person employed by him as a security guard which he knows to be false or misleading in a material particular.

(2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

*Offence: body corporate*

18 (1) This paragraph applies where an offence under this Schedule committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
- (b) to be attributable to neglect on the part of an officer of the body corporate.

(2) The officer, as well as the body corporate, shall be guilty of the offence.

(3) In this paragraph "officer" includes—
- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary, and
- (c) a member of a body corporate the affairs of which are managed by its members.

*Notice*

19 (1) A notice under this Schedule shall be in writing.

(2) Information required to be given to the Secretary of State under this Schedule—
- (a) shall be in writing, and
- (b) may be sent to him by post.

(3) The Secretary of State may serve a notice under this Schedule on an individual—

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(a) by delivering it to him,
(b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
(c) by leaving it for him there.

(4) The Secretary of State may serve a notice under this Schedule on a partnership—
(a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
(b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.

(5) The Secretary of State may serve a notice under this Schedule on a body corporate—
(a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
(b) by addressing it to the secretary or clerk of the body and leaving it at that office.

(6) The Secretary of State may serve a notice under this Schedule on any person—
(a) by delivering it to his solicitor,
(b) by sending it by post to his solicitor at his solicitor's office, or
(c) by leaving it for his solicitor there.

(7) Sub-paragraphs (3) to (6) do not apply in relation to a notice under paragraph 11.

## SCHEDULE 14

Section 115.

### EXERCISE OF OFFICERS' POWERS

**Modifications etc. (not altering text)**

**C67** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), **art. 11(1)(b)**, Sch. 2

*General*

1 In this Schedule an "officer" means—
(a) an authorised officer within the meaning given by section 24, and
(b) an examining officer within the meaning of Schedule 7.

2 An officer may enter a vehicle (within the meaning of section 121) for the purpose of exercising any of the functions conferred on him by virtue of this Act.

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3 An officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Act (apart from paragraphs 2 and 3 of Schedule 7).

*Information*

4 (1) Information acquired by an officer may be supplied—
- (a) to the Secretary of State for use in relation to immigration;
- (b) to the Commissioners of Customs and Excise or a customs officer;
- (c) to a constable;
- (d) to the Director General of the National Criminal Intelligence Service or of the National Crime Squad;
- (e) to a person specified by order of the Secretary of State for use of a kind specified in the order.

(2) Information acquired by a customs officer or an immigration officer may be supplied to an examining officer within the meaning of Schedule 7.

**Modifications etc. (not altering text)**

**C68** Sch. 14 para. 4(2) restricted (7.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 17(6), **Sch. 2 Pt. 2 para. 19**; S.I. 2005/1126, **art. 2**

*Code of practice*

5 An officer shall perform functions conferred on him by virtue of this Act in accordance with any relevant code of practice in operation under paragraph 6.

6 (1) The Secretary of State shall issue codes of practice about the exercise by officers of functions conferred on them by virtue of this Act.

(2) The failure by an officer to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.

(3) A code—
- (a) shall be admissible in evidence in criminal and civil proceedings, and
- (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(4) The Secretary of State may revise a code and issue the revised code.

**Commencement Information**

**I16** Sch. 14 para. 6 wholly in force at 19.2.2001; Sch. 14 para. 6 not in force at Royal Assent see s. 128; Sch. 14 para. 6(1)(4) in force at 12.10.2000 by S.I. 2000/2800, **art. 2(d)(ii)**; Sch. 14 para. 6 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

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7 (1) Before issuing a code of practice the Secretary of State shall—

(a) publish a draft code,

(b) consider any representations made to him about the draft, and

(c) if he thinks it appropriate, modify the draft in the light of any representations made to him.

(2) The Secretary of State shall lay a draft of the code before Parliament.

(3) When the Secretary of State has laid a draft code before Parliament he may bring it into operation by order.

(4) This paragraph has effect in relation to the issue of a revised code as it has effect in relation to the first issue of a code.

## SCHEDULE 15

Section 125.

### CONSEQUENTIAL AMENDMENTS

*Criminal Justice Act 1967 (c. 80)*

1 (1) The [M239]Criminal Justice Act 1967 shall be amended as follows.

(2) In section 67(7)(b) (computation of sentences) for "section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 41 of the Terrorism Act 2000 ".

**Marginal Citations**

**M239** 1967 c. 80.

*Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))*

2 (1) The [M240]Treatment of Offenders Act (Northern Ireland) 1968 shall be amended as follows.

(2) In section 26(6)(b) (definition of police detention) for "section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 41 of the Terrorism Act 2000 ".

**Marginal Citations**

**M240** 1968 c. 29(N.I.).

*Suppression of Terrorism Act 1978 (c. 26)*

3 (1) The [M241]Suppression of Terrorism Act 1978 shall be amended as follows.

(2) For paragraph 19A of Schedule 1 (list of offences) substitute—

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*" Financing terrorism*

19A An offence under any of sections 15 to 18 of the Terrorism Act 2000."

**Marginal Citations**
**M241** 1978 c. 26.

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I.8))*

4 (1) In Schedule 1 to the [M242]Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings for which legal aid may be given under Part II of that Order) at the end of Part I insert—

"8. Proceedings brought by an individual before the Proscribed Organisations Appeal Commission."

(2) The amendment made by sub-paragraph (1) is without prejudice to the power to make regulations under Article 10(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 amending or revoking the provision inserted by that sub-paragraph.

**Marginal Citations**
**M242** S.I. 1981/228 (N.I. 8)

*Police and Criminal Evidence Act 1984 (c. 60)*

5 (1) The [M243]Police and Criminal Evidence Act 1984 shall be amended as follows.

(2) For section 30(12)(c) (arrest elsewhere than at a police station) substitute—

"(c) any provision of the Terrorism Act 2000."

(3) In section 32(10) (search upon arrest) for "section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 43 of the Terrorism Act 2000 ".

(4) For section 51(b) (savings: Part IV) substitute—

"(b) the powers conferred by virtue of section 41 of, or Schedule 7 to, the Terrorism Act 2000 (powers of arrest and detention);".

(5) For section 56(10) and (11) (application of right to have someone informed) substitute—

"(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions."

(6) For section 58(12) to (18) (application of right of access to legal advice) substitute—

"(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions."

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(7) For section 61(9)(b) (fingerprinting: disapplication) substitute—

"(b) applies to a person arrested or detained under the terrorism provisions."

(8) For section 62(12) (intimate samples: disapplication) substitute—

"(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions; and subsection (1A) shall not apply where the non-intimate samples mentioned in that subsection were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000."

(9) For section 63(10) (non-intimate samples: disapplication) substitute—

"(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions."

(10) In section 65 (interpretation) for the definitions of "the terrorism provisions" and "terrorism" substitute—

""the terrorism provisions" means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention; and

"terrorism" has the meaning given in section 1 of that Act."

(11) In section 116 (definition of serious arrestable offence for the purposes of sections 56 and 58)—

(a) in subsection (3) for "subsections (4) and (5)" substitute " subsection (4) ", and

(b) subsection (5) shall cease to have effect.

(12) For section 118(2)(a) (definition of police detention) substitute—

"(a) he has been taken to a police station after being arrested for an offence or after being arrested under section 41 of the Terrorism Act 2000, or."

**Marginal Citations**

**M243** 1984 c. 60

*Criminal Justice Act 1988 (c. 33)*

6 (1) The Criminal Justice Act 1988 shall be amended as follows.

(2) In section 71(9)(c)(ii) (offences to which Part VI (confiscation) does not apply) for "or an offence under Part III of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " or an offence under any of sections 15 to 18 of the Terrorism Act 2000 ".

(3) For section 74(2)(d) and (e) (realisable property) substitute—

"(d) an order under section 23 of the Terrorism Act 2000 (forfeiture orders), or

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(e) an order under section 111 of the Terrorism Act 2000 (forfeiture orders),".

(4) In section 93E (application to Scotland of sections 93A to 93D)—

(a) in the definition of offences to which Part VI of the Act applies, for "Part III of the Prevention of Terrorism Act 1989" substitute " any of sections 15 to 18 of the Terrorism Act 2000 ", and

(b) in the definition of proceeds of criminal conduct, for paragraph (b) substitute—

"(b) terrorist property within the meaning of section 14 of the Terrorism Act 2000".

*Elected Authorities (Northern Ireland) Act 1989 (c. 3)*

7 (1) The Elected Authorities (Northern Ireland) Act 1989 shall be amended as follows.

(2) In section 6(5) (breach of terms of declaration), in the definition of "proscribed organisation" for "section 30 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 3 of the Terrorism Act 2000 ".

(3) In Schedule 2 (declaration against terrorism) for "Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1996" substitute " Schedule 2 to the Terrorism Act 2000 ".

*Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

8 (1) The [M244]Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as follows.

(2) In Article 2(2) (interpretation) for the definitions of "the terrorism provisions" and "terrorism" substitute—

""the terrorism provisions" means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention;

"terrorism" has the meaning given in section 1 of that Act."

(3) In Article 2(3) (definition of police detention) for "section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 or under paragraph 6 of Schedule 5 to that Act by an examining officer who is a constable" substitute " section 41 of the Terrorism Act 2000 ".

(4) For Article 4(3)(b) (provisions relating to powers to stop and search) substitute—

"(b) sections 85, 95 and 116 of and Schedule 10 to the Terrorism Act 2000, and".

(5) In Article 11(3) (special provisions as to access) for "section 17 of, and Schedule 7 to, the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " sections 37 and 38 of, and Schedules 5 and 6 to, the Terrorism Act 2000 ".

(6) In Article 30(3) (information to be given on arrest) for "section 19(2) of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 83(2) of the Terrorism Act 2000 ".

(7) For Article 32(15)(b) (arrest elsewhere than at a police station) substitute—

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"(b) any provision of the Terrorism Act 2000."

(8) In Article 34(10) (search upon arrest) for "section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 43 of the Terrorism Act 2000 ".

(9) For Article 51(b) (savings: Part V) substitute—

"(b) the powers conferred by virtue of section 41 of, or Schedule 7 to, the Terrorism Act 2000 (powers of arrest and detention);".

(10) In Article 60 (tape-recording of interviews), omit paragraph (2).

(11) For Article 61(9)(b) (fingerprinting: application) substitute—

"(b) applies to a person arrested or detained under the terrorism provisions".

(12) For Article 62(12) (intimate samples: application) substitute—

"(12) Nothing in this Article applies to a person arrested or detained under the terrorism provisions; and paragraph (1A) shall not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000."

(13) For Article 63(11) (non-intimate samples: application) substitute—

"(11) Nothing in this Article applies to a person arrested or detained under the terrorism provisions".

(14) In Article 66 (codes of practice), omit paragraph (12).

(15) In Article 74(9) (confessions) for "section 12 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 76 of the Terrorism Act 2000 ".

(16) In Article 76(2)(b) (exclusion of unfair evidence) for "subsection (1) of section 12 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " subsection (1) of section 76 of the Terrorism Act 2000 ".

**Marginal Citations**

**M244** S.I. 1989/1341 (N.I. 12).

*Criminal Justice and Public Order Act 1994 (c. 33)*

9 In section 139(11) of the [M245]Criminal Justice and Public Order Act 1994 (search powers available on arrests under sections 136 and 137) for "section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989" there shall be substituted " section 43 of the Terrorism Act 2000 ".

**Marginal Citations**

**M245** 1994 c. 33.

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*Drug Trafficking Act 1994 (c. 37)*

10 (1) The [M246]Drug Trafficking Act 1994 shall be amended as follows.

(2) In section 6(3) (realisable property)—

(a) in paragraph (d) for "section 13(2), (3) or (4) of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 23 of the Terrorism Act 2000 ", and

(b) for paragraph (f) there shall be substituted—

"(f) section 111 of the Terrorism Act 2000 (forfeiture orders)."

**Marginal Citations**
**M246** 1994 c. 37.

*Proceeds of Crime (Scotland) Act 1995 (c. 43)*

11 (1) The [M247]Proceeds of Crime (Scotland) Act 1995 shall be amended as follows.

(2) In subsection (2) of section 1 (offences to which Part I (confiscation) applies), for "Part III of the 1989 Act" substitute " any of sections 15 to 18 of the Terrorism Act 2000 ".

(3) In subsection (1)(c) of section 42 (reciprocal enforcement of orders), for "1989 Act" substitute " Terrorism Act 2000 ".

(4) In subsection (1) of section 49 (interpretation), the definition of "the 1989 Act" shall cease to have effect.

**Marginal Citations**
**M247** 1995 c. 43.

*Northern Ireland (Remission of Sentences) Act 1995 (c. 47)*

12 (1) The following shall be substituted for section 1(1) and (2) of the [M248]Northern Ireland (Remission of Sentences) Act 1995 (release on licence of persons subject to restricted remission)—

"**1** (1) This section applies to persons serving sentences to which section 79 of the Terrorism Act 2000 applies (restricted remission for persons sentenced for scheduled offences).

(2) A person to whom this section applies shall be released on licence for the period (or, where that period has partly elapsed, for the remainder of the period) during which, by reason only of section 79, he is prevented from being discharged in pursuance of prison rules."

(2) The following shall be substituted for section 1(6) of that Act—

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"(6) Section 80 of the Terrorism Act 2000 and Part II of the Treatment of Offenders (Northern Ireland) Order 1976 (conviction within certain period after discharge from prison, &c.) shall apply in relation to a person released on licence under this section as if he had been discharged in pursuance of prison rules."

**Marginal Citations**
**M248** 1995 c. 47.

*Criminal Procedure and Investigations Act 1996 (c. 25)*

13 (1) The [M249]Criminal Procedure and Investigations Act 1996 shall, in its application to Northern Ireland (as set out in Schedule 4 to that Act), be amended as follows.

(2) In section 14A(1) (public interest: review for scheduled offences) for "section 1 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 65 of the Terrorism Act 2000 ".

(3) In section 39(3)(a) (start of trial on indictment without a jury) for "section 11 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 75 of the Terrorism Act 2000 ".

**Marginal Citations**
**M249** 1996 c. 25.

*Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9))*

14 (1) The [M250]Proceeds of Crime (Northern Ireland) Order 1996 shall be amended as follows.

(2) In Article 2(4)(b) (offences to which Order does not apply) for "Part III of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " any of sections 15 to 18 of the Terrorism Act 2000 ".

(3) In Article 5(3) (realisable property) for sub-paragraph (c) substitute—

"(c) section 23 or 111 of the Terrorism Act 2000 (forfeiture orders)."

**Marginal Citations**
**M250** S.I. 1996/1299 (N.I. 9)

*Northern Ireland Arms Decommissioning Act 1997 (c. 7)*

15 (1) This paragraph applies to a reference in paragraph 9 or 10 of the Schedule to the [M251]Northern Ireland Arms Decommissioning Act 1997 (amnesty) to an offence under a provision ("the old provision") of—

(a) the [M252]Prevention of Terrorism (Temporary Provisions) Act 1989, or

(b) the [M253]Northern Ireland (Emergency Provisions) Act 1996.

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(2) The reference shall be taken as a reference to an offence under this Act which is committed in circumstances which would have amounted to the commission of an offence under the old provision before it ceased to have effect.

(3) Sub-paragraph (2) has effect for the purpose of the application of section 4(1) of the [M254]Northern Ireland Arms Decommissioning Act 1997 (amnesty) in relation to anything done after the old provision ceases to have effect.

**Marginal Citations**
**M251** 1997 c. 7
**M252** 1989 c. 4.
**M253** 1996 c. 22.
**M254** 1997 c. 7)

*Northern Ireland (Sentences) Act 1998 (c. 35)*

16 (1) The [M255]Northern Ireland (Sentences) Act 1998 shall be amended as follows.

(2) In section 5 (fixed term prisoners: special cases)—

(a) in subsection (2) for "section 16(2) of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 80(2) of the Terrorism Act 2000 ",

(b) in subsection (3)(a) for "section 16(2) of the 1996 Act" substitute " section 80(2) of the 2000 Act ",

(c) in subsection (4) for "section 16(2) of the 1996 Act" substitute " section 80(2) of the 2000 Act ", and

(d) at the end of subsection (4)(b) insert ", and

(c) section 16(2) of the [M256]Northern Ireland (Emergency Provisions) Act 1996."

(3) For section 14(3)(a) (inadmissibility of evidence or information in certain proceedings) substitute—

"(a) be admissible in proceedings on applications made under paragraph 1, 2, 5, 11, 13, 22, 28 or 30 of Schedule 5 to the Terrorism Act 2000."

**Marginal Citations**
**M255** 1998 c. 35
**M256** 1996 c. 22

17 (1) This paragraph applies to a reference in section 14(2) of the Northern Ireland (Sentences) Act 1998 (inadmissibility of evidence or information in certain proceedings) to an offence under a provision ("the old provision") of—

(a) the [M257]Prevention of Terrorism (Temporary Provisions) Act 1989, or

(b) the [M258]Northern Ireland (Emergency Provisions) Act 1996.

(2) The reference shall be taken as including a reference to an offence under this Act which is committed in circumstances which would have amounted to the commission of an offence under the old provision before it ceased to have effect.

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**Marginal Citations**
**M257** 1989 c. 4.
**M258** 1996 c. 22.

*Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))*

18 (1) The [M259]Criminal Justice (Children) (Northern Ireland) Order 1998 shall be amended as follows.

(2) In Article 12(4) (release on bail) for "section 3 of the Northern Ireland (Emergency Provisions) Act 1996" substitute " section 67 of the Terrorism Act 2000 ".

**Marginal Citations**
**M259** S.I. 1998/1504 (N.I. 9)

*Access to Justice Act 1999 (c. 22)*

19 (1) In paragraph 2(1) of Schedule 2 to the [M260]Access to Justice Act 1999 (Community Legal Service: exceptions to excluded services) after paragraph (h) insert—

"or

(i) the Proscribed Organisations Appeal Commission".

(2) The amendment made by sub-paragraph (1) is without prejudice to the power to make regulations under section 6(7) of the Access to Justice Act 1999 amending or revoking the provision inserted by that sub-paragraph.

**Marginal Citations**
**M260** 1999 c. 22

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

20 (1) The Powers of Criminal Courts (Sentencing) Act 2000 shall be amended as follows.

(2) In section 88(2)(b) (meaning of "remanded in custody") for "section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 41 of the Terrorism Act 2000 ".

(3) In section 101(12)(b) (meaning of "remanded in custody") for "section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989" substitute " section 41 of the Terrorism Act 2000 ".

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# SCHEDULE 16

Section 125.

## REPEALS AND REVOCATIONS

### PART I

### ACTS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1980 c. 62. | Criminal Justice (Scotland) Act 1980. | Sections 3A to 3D. |
| 1984 c. 60. | Police and Criminal Evidence Act 1984. | Section 116(5). |
| 1985 c. 73. | Law Reform (Miscellaneous Provisions) (Scotland) Act 1985. | Section 35. |
| 1988 c. 33. | Criminal Justice Act 1988. | Section 74(2)(e). |
| 1989 c. 4. | Prevention of Terrorism (Temporary Provisions) Act 1989. | The whole Act. |
| 1993 c. 36. | Criminal Justice Act 1993. | Sections 49 to 51. |
| | | Section 78(11). |
| | | In Schedule 4, paragraph 4. |
| | | In Schedule 5, paragraph 15. |
| 1994 c. 33. | Criminal Justice and Public Order Act 1994. | Sections 81 to 83. |
| | | In Schedule 10, paragraphs 62 (other than sub-paragraph (4)(a) and (b)) and 63. |
| 1995 c. 40. | Criminal Procedure (Consequential Provisions) (Scotland) Act 1995. | In Schedule 4, paragraph 72. |
| 1995 c. 43. | Proceeds of Crime (Scotland) Act 1995. | In section 49(1), the definition of “the 1989 Act”. |
| 1996 c. 7. | Prevention of Terrorism (Additional Powers) Act 1996. | The whole Act. |
| 1996 c. 22. | Northern Ireland (Emergency Provisions) Act 1996. | The whole Act. |
| 1998 c. 9. | Northern Ireland (Emergency Provisions) Act 1998. | The whole Act. |

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| | | |
|---|---|---|
| 1998 c. 40. | Criminal Justice (Terrorism and Conspiracy) Act 1998. | Sections 1 to 4. |
| | | Part I of Schedule 1. |
| | | Part I of Schedule 2. |
| 1999 c. 22. | Access to Justice Act 1999. | In paragraph 2(1) of Schedule 2, the word "or" after paragraph (f). |
| 1999 c. 33. | Immigration and Asylum Act 1999. | In Schedule 14, paragraph 89. |

## PART II

### ORDERS

| Reference | Title | Extent of revocation |
|---|---|---|
| S.I. 1989/1341 (N.I. 12). | Police and Criminal Evidence (Northern Ireland) Order 1989. | In Article 54(1) the words "Subject to paragraph (2)". |
| | | Article 54(2). |
| | | Article 60(2). |
| | | Article 66(12). |
| | | In Schedule 2, the entry relating to the Prevention of Terrorism (Temporary Provisions) Act 1989. |
| | | In Schedule 6, paragraph 18. |
| S.I. 1989/2405 (N.I. 19). | Insolvency (Northern Ireland) Order 1989. | In Schedule 9, paragraph 62. |
| S.I. 1995/2993 (N.I. 17). | Police (Amendment) (Northern Ireland) Order 1995. | Article 10(8). |
| | | Article 11(7). |
| S.I. 1998/1504 (N.I. 9). | Criminal Justice (Children) (Northern Ireland) Order 1998. | In Schedule 5, paragraphs 39, 47 and 48. |

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