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## SCHEDULES

### 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 [<sup>F1</sup>or counter-terrorism financial investigator] named in the order may require a financial institution [<sup>F2</sup>to which the order applies]to provide customer information for the purposes of the investigation.
- [<sup>F3</sup>(1A) The order may provide that it applies to—
- (a) all financial institutions,
  - (b) a particular description, or particular descriptions, of financial institutions, or
  - (c) a particular financial institution or particular financial institutions.]
- (2) The information shall be provided—
- (a) in such manner and within such time as the constable [<sup>F4</sup>or counter-terrorism financial investigator] 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.

#### **Textual Amendments**

- F1** Words in Sch. 6 para. 1(1) inserted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 41(4)(a)**, 58(4)(6)
- F2** Words in Sch. 6 para. 1(1) inserted (20.12.2001) by [2001 c. 24, s. 3](#), **Sch. 2 Pt. 4 para. 6(2)**; [S.I. 2001/4019](#), **art. 2(1)(c)**
- F3** Sch. 6 para. 1(1A) inserted (20.12.2001) by [2001 c. 24, s. 3](#), **Sch. 2 Pt. 4 para. 6(3)**; [S.I. 2001/4019](#), **art. 2(1)(c)**
- F4** Words in Sch. 6 para. 1(2)(a) inserted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 41(4)(b)**, 58(4)(6)

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

- C1** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **22(4)** (with art. 22(1))
- C2** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **34(4)** (with art. 34(1))
- C3** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **10(4)** (with art. 10(1))
- C4** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **21(4)** (with art. 21(1))
- C5** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **33(4)** (with art. 33(1))
- C6** Sch. 6 para. 1(2)(b) applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **9(4)** (with art. 9(1))

#### 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 [<sup>F5</sup>or a District Judge (Magistrates' Courts)] ,
  - (b) in Scotland, the sheriff, or
  - (c) in Northern Ireland, a [<sup>F6</sup>Crown Court judge].

#### Textual Amendments

- F5** Words in Sch. 6 para. 3(a) inserted (1.4.2005) by Courts Act 2003 (c. 39), s. 65(2), **Sch. 4 para. 10**; S.I. 2005/910, **art. 3(u)**
- F6** Words in Sch. 6 para. 3(c) substituted (7.7.2002) by 2001 c. 24, **ss. 121(4)**; S.I. 2002/1558, **art. 2**

- 4 (1) [<sup>F7</sup>Criminal Procedure 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.
- [<sup>F8</sup>(3) Crown Court Rules may make provision about the procedure for an application under paragraph 1.]

#### Textual Amendments

- F7** Words in Sch. 6 para. 4(1) substituted (1.9.2004 subject to saving in art. 3 of the commencing S.I.) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 390(2)**; S.I. 2004/2066, **art. 2**
- F8** Sch. 6 para. 4(3) inserted (1.9.2004 subject to saving in art. 3 of the commencing S.I.) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 390(3)**; S.I. 2004/2066, **art. 2**

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*Criteria for making order*

- 5 An order under paragraph 1 may be made only if the person making it is satisfied that—
- (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—
- [<sup>F9</sup>(a) a person who has permission under [<sup>F10</sup>Part 4A] of the Financial Services and Markets Act 2000 to accept deposits,]
  - [<sup>F11</sup>(b) .....
  - (c) a credit union (within the meaning of the <sup>M1</sup>Credit Unions Act 1979 or the <sup>M2</sup>Credit Unions (Northern Ireland) Order 1985),
  - [<sup>F12</sup>(d) a person carrying on a relevant regulated activity,]
  - (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 <sup>M3</sup>National Loans Act 1968 under the auspices of the Director of National Savings,
  - [<sup>F13</sup>(g) a European institution carrying on a home Member State regulated activity (within the meaning of Regulation (EU) No. 575/2013 of the European Parliament and of the Council);]
  - (h) a person carrying out an activity specified in any of points 1 to 12 [<sup>F14</sup>, 14 and 15] of [<sup>F15</sup>Annex 1] to [<sup>F16</sup>Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013,] , <sup>F17</sup>...
  - [<sup>F18</sup>(ha) an electronic money institution within the meaning of Directive [2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 relating to the taking up, pursuit and prudential supervision of the business of electronic money institutions, and ]
  - (i) a person who carries on an insurance business in accordance with an authorisation pursuant to [<sup>F19</sup>Article 14 or 162 of [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)] .
- [<sup>F20</sup>(1A) For the purposes of sub-paragraph (1)(d), a relevant regulated activity means—
- (a) dealing in investments as principal or as agent,
  - (b) arranging deals in investments,
    - [ operating a multilateral trading facility,]
  - [<sup>F21</sup>(ba)
    - [ operating an organised trading facility,]
  - [<sup>F22</sup>(bb)
    - (c) managing investments,
    - (d) safeguarding and administering investments,
    - (e) sending dematerialised instructions,

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- [ managing a UCITS,  
F23 (ea)  
(eb) acting as trustee or depositary of a UCITS,  
(ec) managing an AIF,  
(ed) acting as trustee or depositary of an AIF,]  
(f) establishing etc. collective investment schemes,  
(g) advising on investments.
- (1B) Sub-paragraphs (1)(a) and (1A) must be read with—  
(a) section 22 of the Financial Services and Markets Act 2000;  
(b) any relevant order under that section; and  
(c) Schedule 2 to that Act.]
- (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

- F9** Sch. 6 para. 6(1)(a) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(a)
- F10** Words in Sch. 6 para. 6(1)(a) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 87(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F11** Sch. 6 para. 6(1)(b) repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(b)
- F12** Sch. 6 para. 6(1)(d) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(c)
- F13** Sch. 6 para. 6(1)(g) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), Sch. 2 para. 40(3)(a)
- F14** Words in Sch. 6 para. 6(1)(h) substituted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by The Electronic Money Regulations 2011 (S.I. 2011/99), reg. 1(2), Sch. 4 para. 3(b)(iii)
- F15** Words in Sch. 6 para. 6(1)(h) substituted (22.11.2000) by S.I. 2000/2952, reg. 9(b)
- F16** Words in Sch. 6 para. 6(1)(h) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), Sch. 2 para. 40(3)(b)
- F17** Word in Sch. 6 para. 6(1)(h) omitted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by virtue of The Electronic Money Regulations 2011 (S.I. 2011/99), reg. 1(2), Sch. 4 para. 3(b)(ii)
- F18** Sch. 6 para. 6(1)(ha) inserted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by The Electronic Money Regulations 2011 (S.I. 2011/99), reg. 1(2), Sch. 4 para. 3(b)(ii)
- F19** Words in Sch. 6 para. 6(1)(i) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), Sch. 1 para. 21(3)
- F20** Sch. 6 para 6(1A)(1B) inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(3)
- F21** Sch. 6 para. 6(1A)(ba) inserted (1.4.2007 for certain purposes and otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment No. 3) Order 2006 (S.I. 2006/3384), art. 33
- F22** Sch. 6 para. 6(1A)(bb) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), art. 1(2), Sch. para. 3

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**F23** Sch. 6 para. 6(1A)(ea)-(ed) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, [Sch. 1 para. 41](#)

#### Commencement Information

**I1** 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

**M1** 1979 c. 34.  
**M2** [S.I. 1985/1205 \(N.I.12\)](#).  
**M3** 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

**I2** 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](#)

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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).

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

- C7** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **10(3)** (with art. 10(1))
- C8** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **34(3)** (with art. 34(1))
- C9** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **22(3)** (with art. 22(1))
- C10** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **21(3)** (with art. 21(1))
- C11** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **9(3)** (with art. 9(1))
- C12** Sch. 6 para. 9 applied (1.6.2018) by The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018 (S.I. 2018/521), arts. 1, **33(3)** (with art. 33(1))

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