

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1 Forfeiture of Terrorist Cash

Part 2 Seizure and detention

326. *Sub-paragraph (1)* of paragraph 2 enables an authorised officer (defined at paragraph 19 as a customs officer, immigration officer or constable) to seize cash if he has reasonable grounds for suspecting that it is terrorist cash as defined in sub-paragraph (1) of paragraph 1 of the Schedule. In normal circumstances, if the authorised officer only has reasonable grounds for suspecting that part of the cash in question is terrorist cash, then he may only seize that part. However, where the cash is in a non-divisible form (such as travellers' cheques), this will not be possible, and *sub-paragraph (2)* allows him in these circumstances to seize all of the cash including the non-terrorist part. *Sub-paragraph 4(2)* makes further provision as to what is to happen in such circumstances.
327. The effect of paragraph 3 is that cash may not be detained for more than 48 hours except by order of a magistrates' court or justice of the peace (or a sheriff in Scotland). Under *sub-paragraphs (6), (7) and (8)*, a magistrate may make an order for continued detention if satisfied that there are reasonable grounds for the officer's suspicion and that the continued detention is justified for the purposes of investigating its intended use, whether or not it consists of the resources of a proscribed organisations or its origin. The magistrate may also make an order for continued detention if consideration is being given to the bringing of criminal proceedings, or if such proceedings have been commenced and not concluded. Detention orders must be renewed every three months, but must not last for more than a total of two years from the date of the first order (*sub-paragraph (2)*). Paragraph 9 makes provision for any victim to intervene in the detention proceedings.
328. **Paragraph 4** provides that cash detained for more than 48 hours must be paid into an interest-bearing account unless it is required as evidence of an offence or evidence in proceedings under this Schedule. *Sub-paragraph (2)* provides that where part of the cash seized is not terrorist cash (as explained above, this may occur, for example, where the cash is in the form of a travellers' cheque), the non-terrorist part must be released at the time it is paid into the interest-bearing account.
329. **Paragraph 5** envisages two situations in which cash or any part of the cash may be released to the person from whom it was seized. Firstly, the magistrates' court (or a sheriff in Scotland) may do so in response to an application by the person from whom the cash was seized on the grounds that it no longer satisfies any of the conditions in paragraph 3 for its detention. Secondly, an authorised officer may release cash or any part of it after notifying the justice, magistrates' court or sheriff if satisfied that the

*These notes refer to the Anti-terrorism, Crime and Security Act
2001 (c.24) which received Royal Assent on 14th December 2001*

detention can no longer be justified. Paragraph 9 makes provision for a victim who claims the terrorist cash to apply for it to be released to him.