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## SCHEDULES

### SCHEDULE 7

Section 62

#### TERRORIST FINANCING AND MONEY LAUNDERING

##### PART 1

###### CONDITIONS FOR GIVING A DIRECTION

###### *Conditions for giving a direction*

- 1 (1) The Treasury may give a direction under this Schedule if one or more of the following conditions is met in relation to a country.
- (2) The first condition is that the Financial Action Task Force has advised that measures should be taken in relation to the country because of the risk of terrorist financing or money laundering activities being carried on—
- (a) in the country,
  - (b) by the government of the country, or
  - (c) by persons resident or incorporated in the country.
- (3) The second condition is that the Treasury reasonably believe that there is a risk that terrorist financing or money laundering activities are being carried on—
- (a) in the country,
  - (b) by the government of the country, or
  - (c) by persons resident or incorporated in the country,
- and that this poses a significant risk to the national interests of the United Kingdom.
- (4) The third condition is that the Treasury reasonably believe that—
- (a) the development or production of nuclear, radiological, biological or chemical weapons in the country, or
  - (b) the doing in the country of anything that facilitates the development or production of any such weapons,
- poses a significant risk to the national interests of the United Kingdom.
- (5) The power to give a direction is not exercisable in relation to an EEA state.

###### *Main definitions*

- 2 (1) “Terrorist financing” means—
- (a) the use of funds, or the making available of funds, for the purposes of terrorism, or
  - (b) the acquisition, possession, concealment, conversion or transfer of funds that are (directly or indirectly) to be used or made available for those purposes.

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- (2) “Money laundering” means an act which falls within section 340(11) of the Proceeds of Crime Act 2002 (c. 29).
- (3) “Nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon.
- (4) “Radiological weapon” means a device designed to cause destruction, damage or injury by means of the radiation produced by the decay of radioactive material.
- (5) “Chemical weapon” means a chemical weapon as defined by section 1(1) of the Chemical Weapons Act 1996 (c. 6), other than one whose intended use is only for permitted purposes (as defined by section 1(3) of that Act).
- (6) “Biological weapon” means anything within section 1(1)(a) or (b) of the Biological Weapons Act 1974 (c. 6).

## PART 2

### PERSONS TO WHOM A DIRECTION MAY BE GIVEN

#### *Persons to whom a direction may be given*

- 3 (1) A direction under this Schedule may be given to—
  - (a) a particular person operating in the financial sector,
  - (b) any description of persons operating in that sector, or
  - (c) all persons operating in that sector.
- (2) In this Schedule “relevant person”, in relation to a direction, means any of the persons to whom the direction is given.
- (3) A direction may make different provision in relation to different descriptions of relevant person.

#### *Persons operating in the financial sector*

- 4 (1) Any reference in this Schedule to a person operating in the financial sector is to a credit or financial institution that—
  - (a) is a United Kingdom person, or
  - (b) is acting in the course of a business carried on by it in the United Kingdom.
- (2) This is subject to the exceptions in paragraph 6.

#### *Meaning of “credit institution” and “financial institution”*

- 5 [F1(1) “Credit institution” means a credit institution, as defined in [F2Article 4(1)(1) of the capital requirements regulation], when it accepts deposits or other repayable funds from the public or grants credits for its own account (within the meaning of that directive).]
- (2) “Financial institution” means—

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- (a) an undertaking, including a money service business, when it carries out one or more of the activities listed in points 2 to 12 [<sup>F3</sup>, 14 and 15] of Annex 1 to the [<sup>F4</sup>capital requirements directive], other than—
  - (i) a credit institution;
  - (ii) an undertaking whose only listed activity is trading for own account in one or more of the products listed in point 7 of Annex 1 to the [<sup>F4</sup>capital requirements directive] where the undertaking does not have a customer,and for this purpose “customer” means a person who is not a member of the same group as the undertaking;
- (b) an insurance company duly authorised in accordance with the life assurance consolidation directive, when it carries out activities covered by that directive;
- [<sup>F5</sup>(ba) a person equivalent to an insurance company within paragraph (b) whose head office is located in a non-EEA state, when carrying out activities of the kind mentioned in paragraph (b);]
- (c) a person whose regular occupation or business is the provision to other persons of an investment service or the performance of an investment activity on a professional basis, when providing or performing investment services or activities (within the meaning of the markets in financial instruments directive), other than a person falling within Article 2 of that directive;
- (d) a collective investment undertaking, when marketing or otherwise offering its units or shares;
- (e) an insurance intermediary as defined in Article 2(5) of Directive [2002/92/EC](#) of the European Parliament and of the Council of 9th December 2002 on insurance mediation (other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive), when it acts in respect of contracts of long-term insurance within the meaning given by article 3(1) of, and Part II of Schedule 1 to, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);
- [<sup>F6</sup>(f) .....]
- (g) an insurance company (as defined by section 1165(3) of the Companies Act 2006 (c. 46));
- (h) the National Savings Bank;
- (i) the Director of Savings, when money is raised under the auspices of the Director under the National Loans Act 1968 (c. 13).

[<sup>F7</sup>(3) The fact that an institution's head office is located in a non-EEA state does not prevent it from being a credit institution or a financial institution for the purposes of this Schedule.]

#### Textual Amendments

- F1** Sch. 7 para. 5(1) substituted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), **ss. 48(1)(a), 55(1)**
- F2** Words in Sch. 7 para. 5(1) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 44(2)(a)**
- F3** Words in Sch. 7 para. 5(2)(a) 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. 6(b)**

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| <b>F4</b> | Words in Sch. 7 para. 5(2)(a) substituted (1.1.2014) by <a href="#">The Capital Requirements Regulations 2013 (S.I. 2013/3115)</a> , reg. 1(2), <b>Sch. 2 para. 44(2)(b)</b> |
| <b>F5</b> | Sch. 7 para. 5(2)(ba) inserted (17.12.2010) by <a href="#">Terrorist Asset-Freezing etc. Act 2010 (c. 38)</a> , <b>ss. 48(1)(b)</b> , 55(1)                                  |
| <b>F6</b> | Sch. 7 para. 5(2)(f) repealed (17.12.2010) by <a href="#">Terrorist Asset-Freezing etc. Act 2010 (c. 38)</a> , <b>ss. 48(1)(c)</b> , 55(1), <b>Sch. 2 Pt. 2</b>              |
| <b>F7</b> | Sch. 7 para. 5(3) inserted (17.12.2010) by <a href="#">Terrorist Asset-Freezing etc. Act 2010 (c. 38)</a> , <b>ss. 48(1)(d)</b> , 55(1)                                      |

### Exceptions

- 6 (1) For the purposes of this Schedule the following are not regarded as persons operating in the financial sector when carrying out any of the following activities—
- (a) a society registered under the Industrial and Provident Societies Act 1965 (c. 12), when it—
    - (i) issues withdrawable share capital within the limit set by section 6 of that Act (maximum shareholding in society); or
    - (ii) accepts deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies);
  - (b) a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), when it—
    - (i) issues withdrawable share capital within the limit set by section 6 of that Act (maximum shareholding in society); or
    - (ii) accepts deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies);
  - (c) a person within any of paragraphs 1 to 23 or 25 to 51 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201), when carrying out an activity in respect of which the person is exempt;
  - (d) a person who was an exempted person for the purposes of section 45 of the Financial Services Act 1986 (c. 60) (miscellaneous exemptions) immediately before its repeal, when exercising the functions specified in that section.
- (2) A person who falls within the definition of “credit institution” or “financial institution” solely as a result of engaging in financial activity on an occasional or very limited basis is not regarded for the purposes of this Schedule as operating in the financial sector.
- (3) For the purposes of sub-paragraph (2) a person is regarded as engaging in a financial activity on an occasional or very limited basis if—
- (a) the person's total annual turnover in respect of the financial activity does not exceed £64,000,
  - (b) the financial activity is limited in relation to any customer to no more than one transaction exceeding 1,000 euro (whether the transaction is carried out in a single operation or a series of operations which appear to be linked),
  - (c) the financial activity does not exceed 5% of the person's total annual turnover,
  - (d) the financial activity is ancillary and directly related to the person's main activity,

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- (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means,
- (f) the person's main activity is not that of a credit or financial institution, and
- (g) the financial activity is provided only to customers of the person's main activity.

#### *Interpretation of this Part*

7 In this Part of this Schedule—

<sup>F8</sup>  
...

[<sup>F9</sup>“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC;]

[<sup>F9</sup>“the capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council;”.]

“the life assurance consolidation directive” means Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance;

“the markets in financial instruments directive” means Directive 2004/39/EC of the European Parliament and of the Council of 12th April 2004 on markets in financial instruments.

#### **Textual Amendments**

**F8** Words in Sch. 7 para. 7 omitted (1.1.2014) by virtue of The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), Sch. 2 para. 44(3)(a)

**F9** Words in Sch. 7 para. 7 inserted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), Sch. 2 para. 44(3)(b)

#### *Power to amend*

- 8 (1) The Treasury may by order amend paragraphs 4 to 7.  
(2) Any such order is subject to affirmative resolution procedure.

### **PART 3**

#### REQUIREMENTS THAT MAY BE IMPOSED BY A DIRECTION

##### *Requirements that may be imposed by a direction*

- 9 (1) A direction under this Schedule may impose requirements in relation to transactions or business relationships with—
- (a) a person carrying on business in the country;
  - (b) the government of the country;
  - (c) a person resident or incorporated in the country.
- [<sup>F10</sup>(d) a company that is a subsidiary of a company within paragraph (a) or (c).]

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- (2) The direction may impose requirements in relation to—
- (a) a particular person within sub-paragraph (1),
  - (b) any description of persons within that sub-paragraph, or
  - (c) all persons within that sub-paragraph.
- (3) In this Schedule “designated person”, in relation to a direction, means any of the persons in relation to whom the direction is given.
- (4) The kinds of requirement that may be imposed by a direction under this Schedule are specified in—
- paragraph 10 (customer due diligence);
  - paragraph 11 (ongoing monitoring);
  - paragraph 12 (systematic reporting);
  - paragraph 13 (limiting or ceasing business).
- (5) A direction may make different provision—
- (a) in relation to different descriptions of designated person, and
  - (b) in relation to different descriptions of transaction or business relationship.
- [<sup>F11</sup>(5A) Descriptions of transactions or business relationships for the purposes of sub-paragraph (5)(b) may, in particular, include transactions or business relationships of a particular branch (or description of branch) of a relevant person.]
- (6) The requirements imposed by a direction must be proportionate having regard to the advice mentioned in paragraph 1(2) or, as the case may be, the risk mentioned in paragraph 1(3) or (4) to the national interests of the United Kingdom.
- [<sup>F12</sup>(7) In this paragraph “subsidiary” has the meaning given by section 1159 of the Companies Act 2006 (and “company” has the same meaning as in that section).]

#### Textual Amendments

- F10** Sch. 7 para. 9(1)(d) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. **49(2)**, **55(1)**
- F11** Sch. 7 para. 9(5A) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. **48(2)**, **55(1)**
- F12** Sch. 7 para. 9(7) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. **49(3)**, **55(1)**

#### *Customer due diligence*

- 10 (1) A direction may require a relevant person to undertake enhanced customer due diligence measures—
- (a) before entering into a transaction or business relationship with a designated person, and
  - (b) during a business relationship with such a person.
- (2) The direction may do either or both of the following—
- (a) impose a general obligation to undertake enhanced customer due diligence measures;
  - (b) require a relevant person to undertake specific measures identified or described in the direction.
- (3) “Customer due diligence measures” means measures to—

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- (a) establish the identity of the designated person,
  - (b) obtain information about—
    - (i) the designated person and their business, and
    - (ii) the source of their funds, and
  - (c) assess the risk of the designated person being involved in relevant activities.
- (4) In sub-paragraph (3)(c) “relevant activities” means—
- (a) terrorist financing;
  - (b) money laundering; or
  - (c) the development or production of nuclear, radiological, biological or chemical weapons or the facilitation of that development or production.
- (5) A direction may not impose requirements of a kind mentioned in this paragraph on a person who is regarded as operating in the financial sector by virtue only of paragraph 5(2)(g) (certain insurance companies).

#### *Ongoing monitoring*

- 11 (1) A direction may require a relevant person to undertake enhanced ongoing monitoring of any business relationship with a designated person.
- (2) The direction may do either or both of the following—
- (a) impose a general obligation to undertake enhanced ongoing monitoring;
  - (b) require a relevant person to undertake specific measures identified or described in the direction.
- (3) “Ongoing monitoring” of a business relationship means—
- (a) keeping up to date information and documents obtained for the purposes of customer due diligence measures, and
  - (b) scrutinising transactions undertaken during the course of the relationship (and, where appropriate, the source of funds for those transactions) to ascertain whether the transactions are consistent with the relevant person's knowledge of the designated person and their business.
- (4) A direction may not impose requirements of a kind mentioned in this paragraph on a person who is regarded as operating in the financial sector by virtue only of paragraph 5(2)(g) (certain insurance companies).

#### *Systematic reporting*

- 12 (1) A direction may require a relevant person to provide such information and documents as may be specified in the direction relating to transactions and business relationships with designated persons.
- (2) A direction imposing such a requirement must specify how the direction is to be complied with, including—
- (a) the person to whom the information and documents are to be provided, and
  - (b) the period within which, or intervals at which, information and documents are to be provided.
- (3) The power conferred by this paragraph is not exercisable in relation to information or documents in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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- (4) The exercise of the power conferred by this paragraph and the provision of information under it is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

*Limiting or ceasing business*

- 13 A direction may require a relevant person not to enter into or continue to participate in—
- (a) a specified transaction or business relationship with a designated person,
  - (b) a specified description of transactions or business relationships with a designated person, or
  - (c) any transaction or business relationship with a designated person.

**PART 4**

PROCEDURAL PROVISIONS AND LICENSING

*General directions to be given by order*

- 14 (1) A direction given to—
- (a) a description of persons operating in the financial sector, or
  - (b) all persons operating in that sector,
- must be contained in an order made by the Treasury.
- (2) If the order contains requirements of a kind mentioned in paragraph 13 (limiting or ceasing business)—
- (a) it must be laid before Parliament after being made, and
  - (b) if not approved by a resolution of each House of Parliament before the end of 28 days beginning with the day on which it is made, it ceases to have effect at the end of that period.

In calculating the period of 28 days, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

- (3) An order's ceasing to have effect in accordance with sub-paragraph (2) does not affect anything done under the order.
- (4) An order to which sub-paragraph (2) does not apply is subject to negative resolution procedure.
- (5) If apart from this sub-paragraph an order under this paragraph would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

*Specific directions: notification and duration of directions*

- 15 (1) This paragraph applies in relation to a direction given to a particular person.
- (2) The Treasury must give notice of the direction to the person.



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- (3) The direction (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of one year beginning with the day on which the direction is given.

This is without prejudice to the giving of a further direction.

- (4) The Treasury may vary or revoke the direction at any time.
- (5) Where the direction is varied or ceases to have effect (whether on revocation or otherwise), the Treasury must give notice of that fact to the person.

*General directions: publication and duration of directions*

- 16 (1) This paragraph applies to an order containing directions under paragraph 14 (general directions given by order).
- (2) The Treasury must take such steps as they consider appropriate to publicise the making of the order.
- (3) An order—
- (a) revoking the order, or
  - (b) varying the order so as to make its provisions less onerous,
- is subject to negative resolution procedure.
- (4) The order (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of one year beginning with the day on which it was made.
- This is without prejudice to the making of a further order.
- (5) Where the order is varied or ceases to have effect (whether on revocation or otherwise), the Treasury must take such steps as they consider appropriate to publicise that fact.

*Directions limiting or ceasing business: exemption by licence*

- 17 (1) The following provisions apply where a direction contains requirements of a kind mentioned in paragraph 13 (limiting or ceasing business).
- (2) The Treasury may grant a licence to exempt acts specified in the licence from those requirements.
- (3) A licence may be—
- (a) general or granted to a description of persons or to a particular person;
  - (b) subject to conditions;
  - (c) of indefinite duration or subject to an expiry date.
- (4) The Treasury may vary or revoke a licence at any time.
- (5) On the grant, variation or revocation of a licence, the Treasury must—
- (a) in the case of a licence granted to a particular person, give notice of the grant, variation or revocation to that person;
  - (b) in the case of a general licence or a licence granted to a description of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the licence.

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## PART 5

### ENFORCEMENT: INFORMATION POWERS

#### *Enforcement authorities and officers*

- 18 (1) In this Schedule “enforcement authority” means—
- <sup>F13</sup>(a) The Financial Conduct Authority (“the FCA”),
  - (b) the Commissioners for Her Majesty's Revenue and Customs (“HMRC”),  
<sup>F14</sup> ...
  - <sup>F15</sup>(c) .....
  - <sup>F16</sup>(d) .....
- (2) In this Part of this Schedule “enforcement officer” means—
- (a) an officer of the [<sup>F17</sup>FCA], including a member of the staff or an agent of the [<sup>F17</sup>FCA],
  - (b) an officer of Revenue and Customs,
  - <sup>F18</sup>(c) .....
  - <sup>F19</sup>(d) ..... or
  - (e) a local enforcement officer.
- (3) A “local enforcement officer” means—
- (a) in Great Britain, an officer of a local weights and measures authority;
  - (b) in Northern Ireland, an officer of [<sup>F20</sup>the Department of Enterprise, Trade and Investment in Northern Ireland (“DETINI”) ] acting pursuant to arrangements made with the [<sup>F21</sup>FCA] for the purposes of this Schedule.

#### Textual Amendments

- F13** Sch. 7 para. 18(1)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(2\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F14** Word in Sch. 7 para. 18(1)(b) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(a\)\(i\)](#)
- F15** Sch. 7 para. 18(1)(c) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(a\)\(ii\)](#)
- F16** Sch. 7 para. 18(1)(d) and preceding word repealed (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. 51(1)(b), 55(2), [Sch. 2 Pt. 2](#); S.I. 2011/2835, art. 2(a)(d)
- F17** Word in Sch. 7 para. 18(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F18** Sch. 7 para. 18(2)(c) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(a\)\(iii\)](#)
- F19** Sch. 7 para. 18(2)(d) repealed (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(2), [Sch. 1 para. 11\(1\), Sch. 2 Pt. 2](#); S.I. 2011/2835, art. 2(c)(d)
- F20** Words in Sch. 7 para. 18(3)(b) substituted (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(2), [Sch. 1 para. 11\(2\)](#); S.I. 2011/2835, art. 2(c)

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**F21** Word in Sch. 7 para. 18(3)(b) substituted (26.7.2013 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(b\)](#)

*Power to require information or documents*

- 19 (1) An enforcement officer may by notice to a relevant person require the person—
- (a) to provide such information as may be specified in the notice, or
  - (b) to produce such documents as may be so specified.
- (2) An officer may exercise powers under this paragraph only if the information or documents sought to be obtained as a result are reasonably required in connection with the exercise by the enforcement authority for whom the officer acts of its functions under this Schedule.
- (3) Where an officer requires information to be provided or documents produced under this paragraph—
- (a) the notice must set out the reasons why the officer requires the information to be provided or the documents produced, and
  - (b) the information must be provided or the documents produced—
    - (i) before the end of such reasonable period as may be specified in the notice; and
    - (ii) at such place as may be so specified.
- (4) In relation to a document in electronic form the power to require production of it includes a power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.
- (5) An enforcement officer may take copies of, or make extracts from, any document produced under this paragraph.
- (6) The production of a document does not affect any lien which a person has on the document.

*Entry, inspection without a warrant etc*

- 20 (1) Where an enforcement officer has reasonable cause to believe that any premises are being used by a relevant person in connection with the person's business activities, the officer may on producing evidence of authority at any reasonable time—
- (a) enter the premises;
  - (b) inspect the premises;
  - (c) observe the carrying on of business activities by the relevant person;
  - (d) inspect any document found on the premises;
  - (e) require any person on the premises to provide an explanation of any document or to state where it may be found.
- (2) An enforcement officer may take copies of, or make extracts from, any document found under sub-paragraph (1).
- (3) An officer may exercise powers under this paragraph only if the information or document sought to be obtained as a result is reasonably required in connection with the exercise by the enforcement authority for whom the officer acts of its functions under this Schedule.

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- (4) In this paragraph “premises” means any premises other than premises used only as a dwelling.

*Entry to premises under warrant*

- 21 (1) A justice may issue a warrant under this paragraph if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.
- (2) The first set of conditions is—
- (a) that there is on the premises specified in the warrant a document in relation to which a requirement could be imposed under paragraph 19(1)(b), and
  - (b) that if such a requirement were to be imposed—
    - (i) it would not be complied with, or
    - (ii) the document to which it relates would be removed, tampered with or destroyed.
- (3) The second set of conditions is—
- (a) that a person on whom a requirement has been imposed under paragraph 19(1)(b) has failed (wholly or in part) to comply with it, and
  - (b) that there is on the premises specified in the warrant a document that has been required to be produced.
- (4) The third set of conditions is—
- (a) that an enforcement officer has been obstructed in the exercise of a power under paragraph 20, and
  - (b) that there is on the premises specified in the warrant a document that could be inspected under paragraph 20(1)(d).
- (5) A justice may issue a warrant under this paragraph if satisfied on information on oath given by an officer that there are reasonable grounds for suspecting that—
- (a) an offence under this Schedule has been, is being or is about to be committed by a relevant person, and
  - (b) there is on the premises specified in the warrant a document relevant to whether that offence has been, or is being or is about to be committed.
- (6) A warrant issued under this paragraph shall authorise an enforcement officer—
- (a) to enter the premises specified in the warrant;
  - (b) to search the premises and take possession of anything appearing to be a document specified in the warrant or to take, in relation to any such document, any other steps which may appear to be necessary for preserving it or preventing interference with it;
  - (c) to take copies of, or extracts from, any document specified in the warrant;
  - (d) to require any person on the premises to provide an explanation of any document appearing to be of the kind specified in the warrant or to state where it may be found;
  - (e) to use such force as may reasonably be necessary.
- (7) Where a warrant is issued by a justice under sub-paragraph (1) or (5) on the basis of information on oath given by an officer of the [F<sup>22</sup>FCA], for “an enforcement officer” in sub-paragraph (6) substitute “a constable”.

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

- (8) In sub-paragraphs (1), (5) and (7), “justice” means—
- (a) in relation to England and Wales, a justice of the peace;
  - (b) in relation to Scotland, a justice within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (interpretation);
  - (c) in relation to Northern Ireland, a lay magistrate.
- (9) In the application of this paragraph to Scotland, the references in sub-paragraphs (1), (5) and (7) to information on oath are to be read as references to evidence on oath.

#### Textual Amendments

**F22** Word in Sch. 7 para. 21(7) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 127(2)(c) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

#### *Restrictions on powers*

- 22 (1) This paragraph applies in relation to the powers conferred by—
- (a) paragraph 19 (power to require information or documents),
  - (b) paragraph 20 (entry, inspection without warrant etc), or
  - (c) paragraph 21 (entry to premises under warrant).
- (2) Those powers are not exercisable in relation to information or documents in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (3) The exercise of those powers and the provision of information or production of documents under them is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

#### *Failure to comply with information requirement*

- 23 (1) If on an application made by—
- (a) an enforcement authority, or
  - (b) a local weights and measures authority or DETINI pursuant to arrangements made with the [F23FCA] —
    - (i) by or on behalf of the authority; or
    - (ii) by DETINI,
- it appears to the court that a person (the “information defaulter”) has failed to do something that they were required to do under paragraph 19(1), the court may make an order under this paragraph.
- (2) An order under this paragraph may require the information defaulter—
- (a) to do the thing that they failed to do within such period as may be specified in the order;
  - (b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.
- (3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons that is not a partnership, the order may require any officer of the body corporate, partnership or body, who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

- (4) In this paragraph “the court” means—
- (a) in England and Wales and Northern Ireland, the High Court or the county court;
  - (b) in Scotland, the Court of Session or the sheriff court.

#### Textual Amendments

**F23** Word in [Sch. 7 para. 23\(1\)\(b\)](#) substituted (26.7.2013 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(b\)](#)

#### *Powers of local enforcement officers*

- 24 (1) A local enforcement officer may only exercise powers under this Part of this Schedule pursuant to arrangements made with the [F24FCA] —
- (a) by or on behalf of the relevant local weights and measures authority, or
  - (b) by DETINI.
- (2) Anything done or omitted to be done by, or in relation to, a local enforcement officer in the exercise or purported exercise of a power in this Part of this Schedule is treated for all purposes as if done or omitted to be done by, or in relation to, an officer of the OFT.
- (3) Sub-paragraph (2) does not apply for the purposes of criminal proceedings brought against the local enforcement officer, the relevant local weights and measures authority, DETINI or the [F24FCA], in respect of anything done or omitted to be done by the officer.
- (4) A local enforcement officer must not disclose to any person other than the [F24FCA] and the relevant local weights and measures authority or, as the case may be, DETINI information obtained by the officer in the exercise of powers under this Part of this Schedule unless—
- (a) the officer has the approval of the [F24FCA] to do so, or
  - (b) the officer is under a duty to make the disclosure.
- (5) In this paragraph “the relevant local weights and measures authority”, in relation to a local enforcement officer, means the authority of which the officer is an officer.

#### Textual Amendments

**F24** Word in [Sch. 7 para. 24](#) substituted (26.7.2013 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(2\)\(b\)](#)

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

## PART 6

### ENFORCEMENT: CIVIL PENALTIES

#### *Power to impose civil penalties*

- 25 (1) An enforcement authority may impose a penalty of such amount as it considers appropriate on a person who fails to comply with a requirement imposed—
- by a direction under this Schedule, or
  - by a condition of a licence under paragraph 17.

For this purpose “appropriate” means effective, proportionate and dissuasive.

- No such penalty is to be imposed if the authority is satisfied that the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
  - In deciding whether to impose a penalty for failure to comply with a requirement, an enforcement authority must consider whether the person followed any relevant guidance which was at the time—
    - issued by a supervisory authority or any other appropriate body,
    - approved by the Treasury, and
    - published in a manner approved by the Treasury as suitable in their opinion to bring the guidance to the attention of persons likely to be affected by it.
  - In sub-paragraph (3) “appropriate body” means a body which regulates or is representative of any trade, profession, business or employment carried on by the person.
  - A person on whom a penalty is imposed under this paragraph is not liable to be proceeded against for an offence under paragraph 30 in respect of the same failure.
- [<sup>F25</sup>25A(1) An enforcement authority may impose a penalty of such amount as it considers appropriate on a relevant person who has intentionally participated in activities knowing that the object or effect of them was (whether directly or indirectly) to circumvent a requirement imposed by a direction under this Schedule.
- In sub-paragraph (1) “appropriate” means effective, proportionate and dissuasive.
  - A person on whom a penalty is imposed under this paragraph is not liable to be proceeded against for an offence under paragraph 30A in respect of participation in the same activities.]

#### **Textual Amendments**

**F25** Sch. 7 para. 25A inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. 50(2), 55(1)

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

*Imposition of penalty by HMRC: procedure <sup>F26</sup>...*

**Textual Amendments**

**F26** Words in Sch. 7 Pt. 6 cross-heading omitted (1.4.2009) by virtue of [Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, [Sch. para. 2\(2\)](#)

- 26 (1) This paragraph applies where HMRC decide to impose a penalty under paragraph 25 [<sup>F27</sup>or 25A] on a person.
- (2) HMRC must give the person notice of—
- (a) their decision to impose the penalty and its amount,
  - (b) the reasons for imposing the penalty,
  - (c) the right to a review under [<sup>F28</sup>paragraph 26A], and
  - (d) the right to appeal under [<sup>F29</sup>this paragraph].
- [<sup>F30</sup>(3) The person may appeal to the tribunal against the decision in accordance with paragraph 26F.
- (4) On the appeal the tribunal may—
- (a) set aside the decision appealed against, and
  - (b) impose any penalty that could have been imposed by HMRC or remit the matter to HMRC.
- (5) In this paragraph, and in paragraphs 26A to 26F, “tribunal” means the First-tier Tribunal or, where so provided by or determined under Tribunal Procedure Rules, the Upper Tribunal.
- (6) Section 85 of the Value Added Tax Act 1994 (settling appeals by agreement) shall apply to appeals under this paragraph as if the reference to section 83 of that Act included a reference to this paragraph.]

**Textual Amendments**

- F27** Words in Sch. 7 para. 26(1) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), [Sch. 1 para. 10\(1\)](#)
- F28** Words in Sch. 7 para. 26(2)(c) substituted (1.4.2009) by [Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, [Sch. para. 2\(3\)\(a\)](#)
- F29** Words in Sch. 7 para. 26(2)(d) substituted (1.4.2009) by [Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, [Sch. para. 2\(3\)\(b\)](#)
- F30** Sch. 7 para. 26(3)-(6) substituted (1.4.2009) by [Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, [Sch. para. 2\(4\)](#)

*[<sup>F31</sup>Offer of review*

**Textual Amendments**

**F31** Sch. 7 paras. 26A-26F and cross-headings inserted (1.4.2009) by [Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, [Sch. para. 3](#)



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- 26A (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under paragraph 26 in respect of the decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This paragraph does not apply to the notification of the conclusions of a review.

*Review by HMRC*

- 26B (1) HMRC must review a decision if—
- (a) they have offered a review of the decision under paragraph 26A, and
  - (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under paragraph 26F.
- (3) HMRC shall not review a decision if P has appealed to the tribunal under paragraph 26F in respect of the decision.

*Extensions of time*

- 26C (1) If under paragraph 26A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If notice is given the relevant period is extended to the end of 30 days from—
- (a) the date of the notice, or
  - (b) any other date set out in the notice or a further notice.
- (3) In this paragraph “relevant period” means—
- (a) the period of 30 days referred to in paragraph 26B(1)(b), or
  - (b) if notice has been given under sub-paragraph (1) that period as extended (or as most recently extended) in accordance with sub-paragraph (2).

*Review out of time*

- 26D (1) This paragraph applies if—
- (a) HMRC have offered a review of a decision under paragraph 26A, and
  - (b) P does not accept the offer within the time allowed under paragraph 26B(1)(b) or 26C(2).
- (2) HMRC must review the decision under paragraph 26B if—
- (a) after the time allowed, P notifies HMRC in writing requesting a review out of time,
  - (b) HMRC are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
  - (c) HMRC are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P has appealed to the tribunal under paragraph 26F in respect of the decision.

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*Nature of review etc*

- 26E (1) This paragraph applies if HMRC are required to undertake a review under paragraph 26B or 26D.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
- (a) by HMRC in reaching the decision, and
  - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
- (a) upheld,
  - (b) varied, or
  - (c) cancelled.
- (6) HMRC must give P notice of the conclusions of the review and their reasoning within—
- (a) a period of 45 days beginning with the relevant date, or
  - (b) such other period as HMRC and P may agree.
- (7) In sub-paragraph (6) “relevant date” means—
- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within paragraph 26A), or
  - (b) the date on which HMRC decided to undertake the review (in a case falling within paragraph 26D).
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If sub-paragraph (8) applies, HMRC must notify P of the conclusion which the review is treated as having reached.

*Bringing of appeals against decisions of HMRC*

- 26F (1) An appeal under paragraph 26 is to be made to the tribunal before—
- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
  - (b) if later, the end of the relevant period (within the meaning of paragraph 26C).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under paragraph 26B—
- (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where HMRC are requested to undertake a review in accordance with paragraph 26D—

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- (a) an appeal may not be made—
    - (i) unless HMRC have decided whether or not to undertake a review, and
    - (ii) if HMRC decide to undertake a review, until the conclusion date; and
  - (b) any appeal is to be made within the period of 30 days beginning with—
    - (i) the conclusion date (if HMRC decide to undertake a review), or
    - (ii) the date on which HMRC decide not to undertake a review.
- (5) In a case where paragraph 26E(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 26E(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.
- (7) In this paragraph “conclusion date” means the date of the document notifying the conclusions of the review.]

*Imposition of penalty by other enforcement authority: procedure*

- 27 (1) This paragraph applies if the [F32FCA]F33... (“the authority”) proposes to impose a penalty under paragraph 25 [F34or 25A] on a person.
- (2) The authority must give the person notice of—
  - (a) the proposal to impose the penalty and the proposed amount,
  - (b) the reasons for imposing the penalty, and
  - (c) the right to make representations to the authority within a specified period (which may not be less than 28 days).
- (3) The authority must then decide, within a reasonable period, whether to impose a penalty under paragraph 25 [F35or (as the case may be) 25A] and must give the person notice—
  - (a) if it decides not to impose a penalty, of that decision;
  - (b) if it decides to impose a penalty, of the following matters—
    - (i) the decision to impose a penalty and the amount,
    - (ii) the reasons for the decision, and
    - (iii) the right to appeal under paragraph 28.

**Textual Amendments**

- F32** Word in Sch. 7 para. 27(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F33** Words in [Sch. 7 para. 27\(1\)](#) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 15\(3\)](#)
- F34** Words in Sch. 7 para. 27(1) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\), s. 55\(1\), Sch. 1 para. 10\(2\)\(a\)](#)
- F35** Words in Sch. 7 para. 27(3) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\), s. 55\(1\), Sch. 1 para. 10\(2\)\(b\)](#)

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

*Appeal against imposition of civil penalty<sup>F36</sup> other than by HMRC]*

**Textual Amendments**

**F36** Words in Sch. 7 Pt. 6 cross-heading inserted (1.4.2009) by Revenue and Customs Appeals Order 2009 (S.I. 2009/777), art. 1, **Sch. para. 4(2)**

- 28 (1) A person may appeal to the tribunal against—
- <sup>F37</sup>(a) .....
- <sup>F37</sup>(...) a decision of the [<sup>F38</sup>FCA]<sup>F39</sup> ... under paragraph 27.
- <sup>F40</sup>(2) .....
- (3) On the appeal the tribunal <sup>F41</sup>... may—
- (a) set aside the decision appealed against, and
- (b) impose any penalty that could have been imposed by the body whose decision is appealed or remit the matter to that body.
- <sup>F42</sup>(4) .....
- (5) In this paragraph “the tribunal” means the First-tier Tribunal or, where so provided by or determined under Tribunal Procedure Rules, the Upper Tribunal.
- <sup>F43</sup>(6) .....
- <sup>F43</sup>(7) .....
- <sup>F43</sup>(8) .....

**Textual Amendments**

- F37** Words in Sch. 7 para. 28(1) omitted (1.4.2009) by virtue of Revenue and Customs Appeals Order 2009 (S.I. 2009/777), art. 1, **Sch. para. 4(3)**
- F38** Word in Sch. 7 para. 28(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 127(3)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F39** Words in Sch. 7 para. 28(1) omitted (26.7.2013 for specified purposes) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 15(3)**
- F40** Sch. 7 para. 28(2) repealed (31.3.2012) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(2), Sch. 1 para. 11(4)(a), **Sch. 2 Pt. 2**; S.I. 2011/2835, art. 2(c)(d)
- F41** Words in Sch. 7 para. 28(3) repealed (31.3.2012) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(2), Sch. 1 para. 11(4)(b), **Sch. 2 Pt. 2**; S.I. 2011/2835, art. 2(c)(d)
- F42** Sch. 7 para. 28(4) omitted (1.4.2009) by virtue of Revenue and Customs Appeals Order 2009 (S.I. 2009/777), art. 1, **Sch. para. 4(4)**
- F43** Sch. 7 para. 28(6)-(8) omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 145** (with Sch. 5)

*Payment and recovery of civil penalties*

- 29 (1) A penalty imposed under paragraph 25 [<sup>F44</sup>or 25A] is payable to the enforcement authority that imposed it.

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(2) Any such penalty is a debt due to the authority and is recoverable accordingly.

#### Textual Amendments

**F44** Words in Sch. 7 para. 29(1) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), [Sch. 1 para. 10\(3\)](#)

## PART 7

### ENFORCEMENT: OFFENCES

*Offences: failure to comply with requirement imposed by direction*

- 30 (1) A person who fails to comply with a requirement imposed by a direction under this Schedule commits an offence, subject to the following provisions.
- (2) No offence is committed if the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
- (3) In deciding whether a person has committed an offence under this paragraph the court must consider whether the person followed any relevant guidance that was at the time—
- (a) issued by a supervisory authority or any other appropriate body,
  - (b) approved by the Treasury, and
  - (c) published in a manner approved by the Treasury as suitable in their opinion to bring the guidance to the attention of persons likely to be affected by it.
- (4) In sub-paragraph (3) “appropriate body” means a body that regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.
- (5) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) A person who is convicted of an offence under this paragraph is not liable to a penalty under paragraph 25 in respect of the same failure.

*<sup>F45</sup>Offences: relevant person circumventing requirements*

#### Textual Amendments

**F45** Sch. 7 para. 30A inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), ss. 50(3), 55(1)

- 30A (1) A relevant person who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement imposed by a direction under this Schedule commits an offence.
- (2) A person guilty of an offence under this paragraph is liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) A person who is convicted of an offence under this paragraph is not liable to a penalty under paragraph 25A in respect of participation in the same activities.]

*Offences in connection with licences*

- 31 (1) A person commits an offence who for the purpose of obtaining a licence under paragraph 17—
- (a) provides information that is false in a material respect or a document that is not what it purports to be, and
  - (b) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.
- (2) A person guilty of an offence under this paragraph is liable on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

*Extra-territorial application of offences*

- 32 (1) An offence under this Schedule may be committed by a United Kingdom person by conduct wholly or partly outside the United Kingdom.
- (2) Nothing in this paragraph affects any criminal liability arising otherwise than under this paragraph.

*Prosecution of offences*

- 33 (1) Proceedings for an offence under this Schedule may be instituted in England and Wales only by—
- (a) the [<sup>F46</sup>FCA];
  - <sup>F47</sup>(b) .....
  - <sup>F48</sup>(c) .....
  - (d) a local weights and measures authority; or
  - (e) the Director of Public Prosecutions.
- (2) Proceedings for an offence under this Schedule may be instituted in Northern Ireland only by—
- (a) the [<sup>F49</sup>FCA];
  - (b) HMRC;
  - <sup>F50</sup>(c) .....
  - (d) DETINI; or
  - (e) the Director of Public Prosecutions for Northern Ireland.
- (3) In section 168(4) of the Financial Services and Markets Act 2000 (c. 8) (appointment <sup>F51</sup>... of persons to carry out investigation), after paragraph (b) insert—
- “(ba) a person may be guilty of an offence under Schedule 7 to the Counter-Terrorism Act 2008 (terrorist financing or money laundering);”

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(4) In section 402(1) of that Act (power of FSA to institute proceedings), omit the “or” before paragraph (b) and after that paragraph insert—

“or

(c) Schedule 7 to the Counter-Terrorism Act 2008 (terrorist financing or money laundering).”.

(5) HMRC may conduct a criminal investigation into any offence under this Schedule.

(6) In sub-paragraph (5) “criminal investigation” has the meaning given by section 35(5)(b) of the Commissioners for Revenue and Customs Act 2005 (c. 11).

#### Textual Amendments

- F46** Word in Sch. 7 para. 33(1)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F47** Sch. 7 para. 33(1)(b) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\), art. 1\(1\), Sch. 2 para. 60](#)
- F48** Sch. 7 para. 33(1)(c) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 15\(4\)\(a\)](#)
- F49** Word in Sch. 7 para. 33(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F50** Sch. 7 para. 33(2)(c) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 15\(4\)\(b\)](#)
- F51** Words in Sch. 7 para. 33(3) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

#### *Jurisdiction to try offences*

- 34 Where an offence under this Schedule is committed outside the United Kingdom—
- proceedings for the offence may be taken at any place in the United Kingdom, and
  - the offence may for all incidental purposes be treated as having been committed at any such place.

#### *Time limit for summary proceedings*

- 35 (1) An information relating to an offence under this Schedule that is triable by a magistrates' court in England and Wales may be so tried if it is laid—
- at any time within three years after the commission of the offence, and
  - within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (2) Summary proceedings in Scotland for an offence under this Schedule—
- must not be commenced after the expiration of three years from the commission of the offence;

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- (b) subject to that, may be commenced at any time within twelve months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the knowledge of the Lord Advocate.

Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date when proceedings deemed to be commenced) applies for the purposes of this sub-paragraph as for the purposes of that section.

- (3) A magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the commission of a summary offence under this Schedule provided that the complaint is made—
- (a) within three years from the time when the offence was committed, and
  - (b) within twelve months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (4) For the purposes of this paragraph a certificate of the prosecutor (or, in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

*Liability of officers of bodies corporate etc*

- 36 (1) If an offence under this Schedule committed by a body corporate is shown—
- (a) to have been committed with the consent or the connivance of an officer of the body corporate, or
  - (b) to be attributable to any neglect on the part of any such officer,
- the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) If an offence under this Schedule committed by a partnership is shown—
- (a) to have been committed with the consent or the connivance of a partner, or
  - (b) to be attributable to any neglect on the part of a partner,
- the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.
- (3) If an offence under this Schedule committed by an unincorporated association (other than a partnership) is shown—
- (a) to have been committed with the consent or the connivance of an officer of the association, or
  - (b) to be attributable to any neglect on the part of any such officer,
- the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, sub-paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.
- (5) In this paragraph—
- “officer”—
- (a) in relation to a body corporate, means a director, manager, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity, and



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- (b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such capacity;  
“partner” includes a person purporting to act as a partner.

*Proceedings against unincorporated bodies*

- 37 (1) Proceedings for an offence under this Schedule alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of its members).
- (2) In proceedings for such an offence brought against a partnership or unincorporated association—
- (a) section 33 of the Criminal Justice Act 1925 (c. 86) (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (corporations) apply as they do in relation to a body corporate;
  - (b) section 70 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (proceedings against bodies corporate) applies as it does in relation to a body corporate;
  - (c) section 18 of the Criminal Justice (Northern Ireland) Act 1945 (c. 15 (N.I.)) (procedure on charge) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (corporations) apply as they do in relation to a body corporate.
- (3) Rules of court relating to the service of documents have effect in relation to proceedings for an offence under this Schedule as if the partnership or association were a body corporate.
- (4) A fine imposed on the partnership or association on its conviction of such an offence is to be paid out of the funds of the partnership or association.

**PART 8**

SUPPLEMENTARY AND GENERAL

*Report to Parliament*

- 38 (1) As soon as reasonably practicable after the end of each calendar year, the Treasury must—
- (a) prepare a report about their exercise during that year of their functions under this Schedule, and
  - (b) lay a copy of the report before Parliament.
- (2) Sub-paragraph (1) does not apply in relation to a year if no direction under this Schedule is in force at any time in that year.

*Supervision by supervisory authority*

- 39 (1) A supervisory authority must take appropriate measures to monitor persons operating in the financial sector for whom it is the supervisory authority for the purpose of securing compliance by those persons with the requirements of any directions under this Schedule.

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- (2) For the purposes of this Schedule—
- (a) the [<sup>F52</sup>FCA] is the supervisory authority for—
    - (i) credit institutions that are authorised persons;
    - (ii) financial institutions (except money service businesses that are not authorised persons <sup>F53</sup> ...);
  - <sup>F54</sup>(b) .....
  - (c) HMRC are the supervisory authority for money service businesses that are not authorised persons;
  - <sup>F55</sup>(d) .....
- (3) Where under sub-paragraph (2) there is more than one supervisory authority for a person, the authorities may agree that one of them will act as the supervisory authority for that person for the purposes of this Schedule.
- (4) Where an agreement has been made under sub-paragraph (3), the authority that has agreed to act as the supervisory authority must—
- (a) where directions under this Schedule have been given to specified persons operating in the financial sector, notify those persons;
  - (b) where such directions have been given to all persons operating in the financial sector or to a description of such persons, publish the agreement in such way as it considers appropriate.
- (5) Where no agreement has been made under sub-paragraph (3), the supervisory authorities for a person must co-operate in the performance of their functions under this paragraph.

#### Textual Amendments

- F52** Word in Sch. 7 para. 39(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 127\(5\)\(a\)](#) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F53** Words in Sch. 7 para. 39(2)(a)(ii) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(5\)\(a\)\(i\)](#)
- F54** Sch. 7 para. 39(2)(b) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(5\)\(a\)\(ii\)](#)
- F55** Sch. 7 para. 39(2)(d) repealed (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\), ss. 51\(2\), 55\(2\), Sch. 2 Pt. 2](#); S.I. 2011/2835, art. 2(a)(d)

#### *Assistance in preparing guidance*

- 40 The Treasury must provide such assistance as may reasonably be required by a supervisory authority or other body drawing up guidance that, when issued and published with the approval of the Treasury, would be relevant guidance for the purposes of paragraph 25(3) (civil penalties) and 30(3) (offences: failure to comply with requirement imposed by direction).

*Status: Point in time view as at 27/03/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

### *Functions of [<sup>F56</sup>Financial Conduct Authority]*

#### **Textual Amendments**

**F56** Words in Sch. 7 para. 41 cross-heading substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 127(5)(c) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

- 41 (1) The functions of the FSA under this Schedule shall be treated for the purposes of [<sup>F57</sup>Parts 1, 3 and 5 of Schedule 1ZA] to the Financial Services and Markets Act 2000 (c. 8) (general provisions relating to the Authority) as if they were functions conferred on the [<sup>F58</sup>FCA] under that Act.
- (2) Any penalty under paragraph 25 [<sup>F59</sup>or 25A] (civil penalties) received by the FSA is to be applied towards expenses incurred by it in connection with its functions under this Schedule or for any incidental purpose.

#### **Textual Amendments**

**F57** Words in Sch. 7 para. 41(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 127(5)(b)(i) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**F58** Word in Sch. 7 para. 41(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 127(5)(b)(ii) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**F59** Words in Sch. 7 para. 41(2) inserted (17.12.2010) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(1), Sch. 1 para. 10(4)

### *Notices*

- 42 (1) A notice under this Schedule may be given to a person—
- (a) by posting it to the person's last known address, or
  - (b) where the person is a body corporate, partnership or unincorporated association, by posting it to the registered or principal office of the body, partnership or association.
- (2) Where the Treasury are under a duty to give a notice to a person but do not have an address for them, they must make arrangements for the notice to be given to the person at the first available opportunity.

### *Crown application*

- 43 (1) This Schedule binds the Crown, subject as follows.
- (2) No contravention by the Crown of a provision of this Schedule makes the Crown criminally liable.
- (3) The following courts may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes such a contravention—
- (a) the High Court in England and Wales;
  - (b) the Court of Session;
  - (c) the High Court in Northern Ireland.
- (4) Nothing in this paragraph affects Her Majesty in her private capacity.

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This is to be construed as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Schedule.

*Meaning of “United Kingdom person”*

- 44 (1) In this Schedule “United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of any part of the United Kingdom.
- (2) For this purpose a United Kingdom national is 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 (c. 61) is a British subject; or
  - (c) a British protected person within the meaning of that Act.
- (3) Her Majesty may by Order in Council extend the definition in sub-paragraph (1) so as to apply to bodies incorporated or constituted under the law of any of the Channel Islands, the Isle of Man or any British overseas territory.

*Interpretation*

- 45 (1) In this Schedule—
- “authorised person” means a person who is authorised for the purposes of the Financial Services and Markets Act 2000 (c. 8);
- “business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;
- “conduct” includes acts and omissions;
- F60  
...
- “country” includes territory;
- “document” means information recorded in any form;
- “money service business” means an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers;
- “notice” means a notice in writing.
- (2) In this Schedule any reference to an amount in one currency includes the equivalent amount in any other currency.
- (3) Unless otherwise defined, expressions used in this Schedule and in—
- (a) Directive [2005/60/EC](#) of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or
  - (b) Commission Directive [2006/70/EC](#) of 1st August 2006 laying down implementing measures for that directive,
- have the same meaning as in the relevant directive.

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*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7. (See end of Document for details)*

### Textual Amendments

**F60** Words in Sch. 7 para. 45(1) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), [Sch. para. 15\(5\)\(b\)](#)

### *Index of defined expressions*

46 In this Schedule the following expressions are defined or otherwise explained by the provisions indicated—

authorised person	paragraph 45(1)
<b>F61</b>	<b>F61</b>
. . .	. . .
biological weapon	paragraph 2(6)
business relationship	paragraph 45(1)
[ <b>F62</b> the capital requirements directive	paragraph 7]
[ <b>F62</b> the capital requirements regulation	paragraph 7]
chemical weapon	paragraph 2(5)
conduct	paragraph 45(1)
<b>F63</b>	<b>F63</b>
. . .	. . .
country	paragraph 45(1)
credit institution	paragraph 5(1) [ <b>F64</b> and (3)]
customer due diligence measures	paragraph 10(3)
designated person, in relation to a direction	paragraph 9(3)
DETINI	[ <b>F65</b> paragraph 18(3)(b)]
document	paragraph 45(1)
enforcement authority	paragraph 18(1)
enforcement officer (in Part 5 of this Schedule)	paragraph 18(2)
financial institution	paragraph 5(2) [ <b>F66</b> and (3)]
[ <b>F67</b> the FCA]	paragraph 18(1)(a)
HMRC	paragraph 18(1)(b)
the life assurance consolidation directive (in Part 2 of this Schedule)	paragraph 7
local enforcement officer	paragraph 18(3)

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the markets in financial instruments directive (in Part 2 of this Schedule)	paragraph 7
money laundering	paragraph 2(2)
money service business	paragraph 45(1)
notice	paragraph 45(1)
nuclear weapon	paragraph 2(3)
the OFT	paragraph 18(1)(c)
persons operating in the financial sector	paragraph 4
radiological weapon	paragraph 2(4)
relevant person, in relation to a direction	paragraph 3(2)
supervisory authority	paragraph 39(2)
terrorist financing	paragraph 2(1)
United Kingdom person	paragraph 44

#### Textual Amendments

- F61** Words in Sch. 7 para. 46 omitted (1.1.2014) by virtue of [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 44(4)(a)**
- F62** Words in Sch. 7 para. 46 inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 44(4)(b)**
- F63** Words in Sch. 7 para. 46 omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 15(5)(c)**
- F64** Words in Sch. 7 para. 46 inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 9(a)**
- F65** Words in Sch. 7 para. 46 substituted (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(2), **Sch. 1 para. 11(5)**; S.I. 2011/2835, art. 2(c)
- F66** Words in Sch. 7 para. 46 inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 9(b)**
- F67** Words in Sch. 7 para. 46 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 127(5)(d)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**Status:**

Point in time view as at 27/03/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Counter-Terrorism Act 2008, SCHEDULE 7.