

TERRORIST ASSET-FREEZING ETC. ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 1 – Terrorist Asset-Freezing

Chapter 4 – Supplementary Provisions

Offences

Section 38 – Procedure for offences by unincorporated bodies

88. *Section 38* deals with proceedings in relation to offences committed under Part 1 of the Act by a body which is not a body corporate. *Subsection (1)* specifies that a fine imposed on an unincorporated body on its conviction of an offence under that Part must be paid out of the funds of the body. *Subsection (3)* specifies that in England, Wales and Northern Ireland proceedings for an offence alleged to have been committed by such a body must be brought in the name of the body rather than in that of any of its members. *Subsection (4)* makes provision for unincorporated bodies to be treated in the same way as bodies corporate in such proceedings, including in relation to rules of court governing the service of documents and in relation to various legislative provisions in England and Wales and Northern Ireland which relate to procedures in legal proceedings against corporations (for example, the appointment of a representative to enter a plea on behalf of such body). *Subsection (5)* applies similar provisions in Scotland to the provisions on service of documents set out in *subsection (4)(a)* and applies section 70 of the Criminal Procedure (Scotland) Act 1995 (which contains provisions on the service of documents to bodies corporate) to unincorporated bodies. Section 70 is amended by section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 to extend the provisions to unincorporated bodies, although section 66 is not yet in force. *Subsection (6)* anticipates that this provision will come into force and render *subsection 5(b)* unnecessary.