



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 2

#### TERRORIST PROPERTY

##### *Civil recovery*

### **38 Forfeiture of terrorist cash**

- (1) Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash) is amended as follows.
- (2) In paragraph 1 (meaning of terrorist cash)—
  - (a) after sub-paragraph (2)(e) insert—
    - “(f) gaming vouchers,
    - (g) fixed-value casino tokens,
    - (h) betting receipts,”;
  - (b) after sub-paragraph (4) insert—
    - “(5) For the purposes of sub-paragraph (2)—
      - (a) “gaming voucher” means a voucher in physical form issued by a gaming machine that represents a right to be paid the amount stated on it;
      - (b) “fixed-value casino token” means a casino token that represents a right to be paid the amount stated on it;
      - (c) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.
- (6) In sub-paragraph (5)—
  - “bet”—

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- (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;
  - (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);
- “betting licence”—
- (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;
  - (b) in relation to Northern Ireland, means a bookmaker's licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
- “gaming machine”—
- (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);
  - (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).
- (7) In the application of sub-paragraph (5) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).”
- (3) In paragraph 3 (detention of seized cash)—
- (a) in sub-paragraph (2)(a), for “three” substitute “ 6 ”;
  - (b) after sub-paragraph (8) insert—
- “(9) Where an application for an order under sub-paragraph (2) relates to cash seized under paragraph 2(2), the court, sheriff or justice may make the order if satisfied that—
- (a) the condition in sub-paragraph (6), (7) or (8) is met in respect of part of the cash, and
  - (b) it is not reasonably practicable to detain only that part.”
- (4) After paragraph 5 insert—

## “PART 2A

### FORFEITURE OF TERRORIST CASH WITHOUT COURT ORDER

#### 5A *Cash forfeiture notice*

- (1) This paragraph applies while any cash is detained in pursuance of an order under paragraph 3(2).

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- (2) A senior officer may give a notice for the purpose of forfeiting the cash or any part of it if satisfied that the cash or part is terrorist cash.
- (3) A notice given under sub-paragraph (2) is referred to in this Schedule as a cash forfeiture notice.
- (4) A cash forfeiture notice must—
  - (a) state the amount of cash in respect of which it is given,
  - (b) state when and where the cash was seized,
  - (c) confirm that the senior officer is satisfied as mentioned in sub-paragraph (2),
  - (d) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - (e) explain that the cash will be forfeited unless an objection is received at that address within the period for objecting.
- (5) The period for objecting must be at least 30 days starting with the day after the notice is given.
- (6) The Secretary of State must by regulations made by statutory instrument make provision about how a cash forfeiture notice is to be given.
- (7) The regulations may (amongst other things) provide—
  - (a) for a cash forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;
  - (b) for a cash forfeiture notice to be given by publication in such manner as may be prescribed;
  - (c) for circumstances in which, and the time at which, a cash forfeiture notice is to be treated as having been given.
- (8) The regulations must ensure that where a cash forfeiture notice is given it is, if possible, given to every person to whom notice of an order under paragraph 3(2) in respect of the cash has been given.
- (9) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this Part of this Schedule—

“senior officer” means—

  - (a) a senior police officer;
  - (b) an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;
  - (c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;

“senior police officer” means a police officer of at least the rank of superintendent.

#### **5B *Effect of cash forfeiture notice***

- (1) This paragraph applies if a cash forfeiture notice is given in respect of any cash.

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- (2) The cash is to be detained until—
  - (a) the cash is forfeited under this paragraph,
  - (b) the notice lapses under this paragraph, or
  - (c) the cash is released under a power conferred by this Schedule.
- (3) If no objection is made within the period for objecting specified in the notice under paragraph 5A(4)(d), and the notice has not lapsed, the cash is forfeited (subject to paragraph 5D).
- (4) If an objection is made within the period for objecting, the notice lapses.
- (5) If an application is made for the forfeiture of the whole or any part of the cash under paragraph 6, the notice lapses.
- (6) If the cash or any part of it is released under a power conferred by this Schedule, the notice lapses or (as the case may be) lapses in relation to that part.
- (7) An objection may be made by anyone (whether a recipient of the notice or not).
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the cash under paragraph 6.
- (10) Nothing in this paragraph affects the validity of an order under paragraph 3(2).

**5C *Detention following lapse of cash forfeiture notice***

- (1) This paragraph applies if—
  - (a) a cash forfeiture notice is given in respect of any cash,
  - (b) the notice lapses under paragraph 5B(4), and
  - (c) the period for which detention of the cash was authorised under paragraph 3(2) has expired.
- (2) The cash may be detained for a further period of up to 48 hours (calculated in accordance with paragraph 3(1A)).
- (3) But if within that period it is decided that neither of the applications mentioned in sub-paragraph (4) is to be made, the cash must be released.
- (4) The applications are—
  - (a) an application for a further order under paragraph 3(2);
  - (b) an application for forfeiture of the cash under paragraph 6.
- (5) If within that period an application is made for a further order under paragraph 3(2), the cash may be detained until the application is determined or otherwise disposed of.

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#### **5D Application to set aside forfeiture**

- (1) A person aggrieved by the forfeiture of cash in pursuance of paragraph 5B(3) may apply to a magistrates' court or (in Scotland) the sheriff for an order setting aside the forfeiture of the cash or any part of it.
- (2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended (“the 30-day period”).
- (3) But the court or sheriff may give permission for an application to be made after the 30-day period has ended if the court or sheriff thinks that there are exceptional circumstances to explain why the applicant—
  - (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (4) On an application under this paragraph the court or sheriff must consider whether the cash to which the application relates could be forfeited under paragraph 6 (ignoring the forfeiture mentioned in sub-paragraph (1)).
- (5) If the court or sheriff is satisfied that the cash to which the application relates or any part of it could not be forfeited under that paragraph the court or sheriff must set aside the forfeiture of that cash or part.
- (6) Where the court or sheriff sets aside the forfeiture of any cash—
  - (a) the court or sheriff must order the release of that cash, and
  - (b) the cash is to be treated as never having been forfeited.

#### **5E Release of cash subject to cash forfeiture notice**

- (1) This paragraph applies while any cash is detained under paragraph 5B or 5C.
- (2) The person from whom the cash was seized may apply to a magistrates' court or (in Scotland) the sheriff for the cash to be released.
- (3) On an application under sub-paragraph (2), the court or sheriff may direct the release of the cash or any part of it if not satisfied that the cash to be released is terrorist cash.
- (4) An authorised officer may release the cash or any part of it if satisfied that the detention of the cash to be released is no longer justified.

#### **5F Application of cash forfeited under cash forfeiture notice**

- (1) Cash forfeited in pursuance of paragraph 5B(3), and any accrued interest on it—
  - (a) if first detained in pursuance of an order under paragraph 3(2) made by a magistrates' court or a justice of the peace, is to be paid into the Consolidated Fund;
  - (b) if first detained in pursuance of an order under paragraph 3(2) made by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—

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- (a) before the end of the period within which an application under paragraph 5D may be made (ignoring the possibility of an application by virtue of paragraph 5D(3)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.”
- (5) In paragraph 7(4) (release of cash on appeal against decision in forfeiture proceedings), after “of” insert “ the whole or any part of ”.
- (6) In paragraph 9 (victims), after sub-paragraph (3) insert—
- “(4) If sub-paragraph (5) applies, the court or sheriff may order the cash to be released to the applicant or to the person from whom it was seized.
  - (5) This sub-paragraph applies where—
    - (a) the applicant is not the person from whom the cash claimed was seized,
    - (b) it appears to the court or sheriff that the cash belongs to the applicant,
    - (c) the court or sheriff is satisfied that the release condition is met in relation to the cash, and
    - (d) no objection to the making of an order under sub-paragraph (4) has been made by the person from whom the cash was seized.
  - (6) The release condition is met—
    - (a) in relation to cash detained under paragraph 3, if the conditions in that paragraph for the detention of the cash are no longer met,
    - (b) in relation to cash detained under paragraph 5B or 5C, if the cash is not terrorist cash, and
    - (c) in relation to cash detained pending the conclusion of proceedings in pursuance of an application under paragraph 6, if the court or sheriff decides not to make an order under that paragraph in relation to the cash.”
- (7) In paragraph 19 (general interpretation), in sub-paragraph (1), at the appropriate places insert—
- ““cash forfeiture notice” has the meaning given by paragraph 5A(3),”;
  - ““senior officer” (in Part 2A) has the meaning given by paragraph 5A(10),”.

#### **Commencement Information**

- I1** S. 38 in force at Royal Assent for specified purposes, see s. 58
- I2** S. 38(4) in force at 30.1.2018 for specified purposes by [S.I. 2018/78, reg. 2\(d\)](#)
- I3** S. 38 in force at 31.1.2018 in so far as not already in force by [S.I. 2018/78, reg. 3\(u\)](#)

**Changes to legislation:**

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