

SCHEDULES

SCHEDULE 12

Section 43

SERIOUS CRIME PREVENTION ORDERS: POWER FOR POLICE TO APPLY IN TERRORISM-RELATED CASES

- 1 The Serious Crime Act 2007 is amended as follows.
- 2 (1) Section 8 (authorities that can apply for a serious crime prevention order) is amended as follows.
- (2) The existing text becomes subsection (1).
- (3) In that subsection (1)—
- (a) in paragraph (a)—
 - (i) omit the “or” before sub-paragraph (iii);
 - (ii) at the end of that sub-paragraph insert “or
(iv) subject to subsection (2), a chief officer of
police;”;
 - (b) in paragraph (aa), for “, the Lord Advocate” substitute “—
 - (i) the Lord Advocate; or
 - (ii) subject to subsection (2), the chief officer of
police;”;
 - (c) in paragraph (b), for “, the Director of Public Prosecutions for Northern
Ireland” substitute “—
 - (i) the Director of Public Prosecutions for Northern
Ireland; or
 - (ii) subject to subsection (2), the chief officer of
police.”
- (4) After subsection (1) insert—
- “(2) A chief officer of police may make an application for a serious crime prevention order only if—
- (a) it is an application for an order under section 1 that is terrorism-related (see section 8A);
 - (b) the chief officer has consulted—
 - (i) the Director of Public Prosecutions, in the case of an order in England and Wales;
 - (ii) the Lord Advocate, in the case of an order in Scotland; or
 - (iii) the Director for Public Prosecutions for Northern Ireland, in the case of an order in Northern Ireland; and
 - (c) in the case of an application by the chief constable of the Police Service of Scotland, it is made to the Court of Session (and not to the sheriff).
- (3) In this section “chief officer of police”—

- (a) in relation to England and Wales, means the chief officer of police of a police force in England and Wales;
- (b) in relation to Scotland, means the chief constable of the Police Service of Scotland;
- (c) in relation to Northern Ireland, means the Chief Constable of the Police Service of Northern Ireland.”

3 After section 8 insert—

“8A Serious crime prevention orders that are terrorism-related

- (1) For the purposes of this Part, a serious crime prevention order is “terrorism-related” if the trigger offence is within subsection (3).
- (2) The “trigger offence”, in relation to a serious crime prevention order, is the serious offence referred to in section 2(1) or (4), 2A(1) or (4) or (as the case may be) 3(1) or (4) pursuant to which the court is satisfied that the person who is the subject of the order has been involved in serious crime.
- (3) A trigger offence is within this subsection if—
 - (a) it falls within section 2(2)(a) or (5)(b)(i) by virtue of paragraph 2A of Schedule 1;
 - (b) it falls within section 2A(2)(a) or (5)(b)(i) by virtue of paragraph 16BA of Schedule 1;
 - (c) if falls within section 3(2)(a) or (5)(b)(i) by virtue of paragraph 18A of Schedule 1; or
 - (d) in the case of any other trigger offence (whether or not specified, or within a description specified, in Schedule 1), it appears to the court that the offence—
 - (i) is, or takes place in the course of, an act of terrorism; or
 - (ii) is committed for the purposes of terrorism.
- (4) Subsection (5) applies where—
 - (a) the court is considering whether a trigger offence is within subsection (3)(d);
 - (b) the court has, for the purposes of this Part, decided that a person has committed the trigger offence (see section 4(1)); and
 - (c) at the time at which the person was sentenced for the trigger offence, the offence was of a kind capable of being determined to have a terrorist connection.
- (5) The court—
 - (a) must decide that the trigger offence is within subsection (3)(d) if the offence was determined to have a terrorist connection; and
 - (b) must not otherwise decide that the trigger offence is within subsection (3)(d).
- (6) For the purposes of this section, an offence was determined to have a terrorist connection if—
 - (a) it was determined to have a terrorist connection under—
 - (i) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales or for a service offence); or

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- (ii) section 30 or 32 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales, or for a service offence, before the Sentencing Code applied); or
 - (b) it has been proved to have been aggravated by reason of having a terrorist connection under section 31 of that Act (in the case of an offender sentenced in Scotland);
 - (and the reference in subsection (4)(c) to an offence being capable of being determined to have such a connection is to be read accordingly).
 - (7) In this section “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).”
- 4 (1) Section 10(4) (definition of “relevant applicant authority”) is amended as follows.
- (2) In paragraph (a)—
 - (a) omit the “and” before sub-paragraph (iii);
 - (b) at the end of that sub-paragraph insert—
 - “(iv) where the order was applied for by the chief officer of police of a police force in England and Wales, the chief officer of police of any such police force;”.
 - (3) In paragraph (aa), for “, the Lord Advocate” substitute “—
 - (i) where the order was applied for by the Lord Advocate, the Lord Advocate;
 - (ii) where the order was applied for by the chief constable of the Police Service of Scotland, the chief constable;”.
 - (4) In paragraph (b), for “, the Director of Public Prosecutions for Northern Ireland” substitute “—
 - (i) where the order was applied for by the Director of Public Prosecutions for Northern Ireland, the Director;
 - (ii) where the order was applied for by the Chief Constable of the Police Service of Northern Ireland, the Chief Constable.”
- 5 (1) Section 17 (variation of orders) is amended as follows.
- (2) In subsection (3)(a), after “authority” insert “(but see subsection (7A))”.
 - (3) After subsection (7) insert—
 - “(7A) Where the relevant applicant authority is the chief constable of the Police Service of Scotland, an application for the variation of the order may only be made under this section to the Court of Session (and not to the sheriff).”
- 6 (1) Section 18 (discharge of orders) is amended as follows.
- (2) In subsection (2)(a), after “authority” insert “(but see subsection (7))”.
 - (3) At the end insert—
 - “(7) Where the relevant applicant authority is the chief constable of the Police Service of Scotland, an application for the discharge of the order may only be made under this section to the Court of Session (and not to the sheriff).”

- 7 (1) Section 27 (powers to wind up companies etc: England and Wales) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The chief officer of police of a police force in England and Wales may present a petition to the court for the winding up of a company, partnership or relevant body if—
- (a) the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a police-initiated serious crime prevention order; and
- (b) the chief officer of police concerned considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.”
- (3) In subsection (3), for “or the Director of the Serious Fraud Office” substitute “, the Director of the Serious Fraud Office or the chief officer of police of a police force in England and Wales”.
- (4) In subsection (12), after the definition of “partnership” (but before the final “and”) insert—
- ““police-initiated serious crime prevention order” means a serious crime prevention order that was made on the application of the chief officer of police of a police force in England and Wales;”.
- 8 (1) Section 27A (powers to wind up companies etc: Scotland) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The chief constable of the Police Service of Scotland may present a petition to the court for the winding up of a company or relevant body, or the dissolution of a partnership, if—
- (a) the company, relevant body or partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order that was made on the application of the chief constable; and
- (b) the chief constable considers that it would be in the public interest for the company or (as the case may be) relevant body to be wound up or the partnership to be dissolved.”
- (3) In subsection (3), at the end insert “or the chief constable of the Police Service of Scotland”.
- 9 (1) Section 28 (powers to wind up companies etc: Northern Ireland) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Chief Constable of the Police Service of Northern Ireland may present a petition to the court for the winding up of a company, partnership or relevant body if—
- (a) the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order that was made on the application of the Chief Constable; and
- (b) the Chief Constable considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.”

- (3) In subsection (3), at the end insert “or the Chief Constable of the Police Service of Northern Ireland”.
- 10 In section 43 (index of defined expressions for Part 1), at the appropriate place insert—
- ““terrorism-related” | section 8A”.
- 11 (1) Schedule 2 (functions of applicant authorities under Part 1) is amended as follows.
- (2) After paragraph 15 insert—

“Chief officers of police in England and Wales

- 15A The functions of a chief officer of police of a police force in England and Wales (referred to in this paragraph and paragraph 15B as a “chief officer”) are—
- (a) to have the conduct of applications for serious crime prevention orders in England and Wales that are terrorism-related or for their variation or discharge;
 - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in England and Wales that is terrorism-related;
 - (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders in England and Wales that are terrorism-related (whether proceedings on appeal, by virtue of section 27 or otherwise);
 - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders in England and Wales that are terrorism-related; and
 - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 15B (1) A chief officer may, to such extent as they may decide, delegate the exercise of their functions under this Part to any police officer of at least the rank of superintendent.
- (2) References in this Part to a chief officer are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1), as references to a chief officer or any police officer of at least the rank of superintendent.

The chief constable of the Police Service of Scotland

- 15C The functions of the chief constable of the Police Service of Scotland are—
- (a) to have the conduct of applications for serious crime prevention orders in Scotland that are terrorism-related and are made to the Court of Session, or for their variation or discharge;
 - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in Scotland that is terrorism-related;

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- (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders in Scotland that are terrorism-related (whether proceedings on appeal, by virtue of section 27A or otherwise);
 - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders in Scotland that are terrorism-related; and
 - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 15D (1) The chief constable of the Police Service of Scotland (“the chief constable”) may, to such extent as they may decide, delegate the exercise of their functions under this Part to any police officer of at least the rank of superintendent.
- (2) References in this Part to the chief constable are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1), as references to the chief constable or any police officer of at least the rank of superintendent.”
- (3) After paragraph 20 insert—

“The Chief Constable of the Police Service of Northern Ireland

- 20A The functions of the Chief Constable of the Police Service of Northern Ireland are—
- (a) to have the conduct of applications for serious crime prevention orders in Northern Ireland that are terrorism-related or for their variation or discharge;
 - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in Northern Ireland that is terrorism-related;
 - (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders in Northern Ireland that are terrorism-related (whether proceedings on appeal, by virtue of section 28 or otherwise);
 - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders in Northern Ireland that are terrorism-related; and
 - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 20B (1) The Chief Constable of the Police Service of Northern Ireland (“the Chief Constable”) may, to such extent as they may decide, delegate the exercise of their functions under this Part to any police officer of at least the rank of superintendent.
- (2) References in this Part to the Chief Constable are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1), as references to the Chief Constable or any police officer of at least the rank of superintendent.”