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## SCHEDULES

### SCHEDULE 1

Section 2.

#### NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1996

##### *Temporary extension*

- 1 (1) This paragraph applies to any of the following if and in so far as it is in force immediately before the passing of this Act by virtue of an order under section 62(3) of the <sup>M1</sup>Northern Ireland (Emergency Provisions) Act 1996 (duration)—
- (a) a provision of the <sup>M2</sup>Northern Ireland (Emergency Provisions) Act 1996 (other than one mentioned in sub-paragraph (2)),
  - (b) a provision of the <sup>M3</sup>Prevention of Terrorism (Temporary Provisions) Act 1989, and
  - (c) section 4 of the <sup>M4</sup>Criminal Justice (Terrorism and Conspiracy) Act 1998 (forfeiture orders).
- (2) This paragraph does not apply to the following provisions of the <sup>M5</sup>Northern Ireland (Emergency Provisions) Act 1996—
- (a) section 26(1)(b) (power of entry on authority of Secretary of State),
  - (b) section 35 (wearing of hoods), and
  - (c) section 50 (explosives factories).

##### **Marginal Citations**

- M1** 1996 c. 22.  
**M2** 1996 c. 22.  
**M3** 1989 c. 4.  
**M4** 1998 c. 40.  
**M5** 1996 c. 22.

- 2 (1) A provision to which paragraph 1 applies shall continue in force for the period of 12 months starting with the day on which this Act is passed.
- (2) The Secretary of State may by order provide for a provision to which paragraph 1 applies to continue in force for the period of 12 months immediately following the period mentioned in sub-paragraph (1).
- 3 (1) The powers under section 62(3)(a) and (c) of the <sup>M6</sup>Northern Ireland (Emergency Provisions) Act 1996 shall continue to be exercisable in relation to a provision to which paragraph 1 applies in respect of any period falling within—
- (a) the period mentioned in paragraph 2(1), or
  - (b) a period specified in relation to that provision under paragraph 2(2).

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- (2) The power under section 62(3)(b) of the <sup>M7</sup>Northern Ireland (Emergency Provisions) Act 1996 shall continue to be exercisable in relation to a provision to which paragraph 1 applies at any time during—
- (a) the period mentioned in paragraph 2(1), or
  - (b) a period specified in relation to that provision under paragraph 2(2).

**Marginal Citations**

**M6** 1996 c. 22.

**M7** 1996 c. 22.

- 4 The Secretary of State may by order provide for a provision to which paragraph 1 applies—
- (a) to cease to have effect on a specified day;
  - (b) to cease to be capable of being the subject of an order under section 62(3) of the <sup>M8</sup>Northern Ireland (Emergency Provisions) Act 1996.

**Marginal Citations**

**M8** 1996 c. 22.

- 5 The continuance in force of a provision by virtue of paragraph 2 is subject to any order made by virtue of paragraph 3 or 4.
- 6 (1) A provision of the <sup>M9</sup>Northern Ireland (Emergency Provisions) Act 1996 to which paragraph 1 does not apply shall continue to have effect for the purposes of, or in so far it relates to, any provision to which that paragraph does apply.
- (2) While Part I of Schedule 1 to that Act (scheduled offences) has effect by virtue of this Schedule, the following shall also have effect—
- (a) Part III of that Schedule (extra-territorial offences), and
  - (b) sections 3, 10 and 11 of that Act so far as they relate to offences which are scheduled offences by virtue of that Part.

**Marginal Citations**

**M9** 1996 c. 22.

*Amendments during temporary extension*

- 7 The provisions of the 1996 Act which continue in force by virtue of this Schedule shall be amended as follows.
- 8 In section 19 (arrest and seizure) after subsection (4) insert—
- “(5) The reference to a rule of law in subsection (2) does not include a rule of law which has effect only by virtue of the <sup>M10</sup>Human Rights Act 1998.”

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#### Marginal Citations

M10 1998 c. 42.

- 9 In section 20 (search for munitions, &c.) after subsection (5) insert—
- “(5A) The power to extend a period conferred by subsection (5) may be exercised only once in relation to a particular search.”
- 10 In section 26 (powers of entry, &c.) after subsection (2) insert—
- “(2A) The Secretary of State may grant an authorisation under subsection (2) only if he considers it necessary for the preservation of the peace or the maintenance of order.”
- 11 In section 33 (collection of information, &c.) after subsection (5) insert—
- “(5A) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.
- (5B) An order under subsection (5) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).”
- 12 (1) Part V (private security services) shall have effect subject to the provisions of this paragraph.
- (2) On issuing a certificate under section 39 the Secretary of State may impose a condition if satisfied that it is necessary in order to prevent an organisation within section 39(8) from benefiting from the certificate.
- (3) To the grounds for refusal to issue a certificate and for revocation of a certificate in sections 39(1) and (5) there shall be added the ground that the Secretary of State is satisfied that the applicant for or holder of a certificate has failed to comply with a condition imposed by virtue of sub-paragraph (2) above.
- (4) The applicant for a certificate may appeal to the High Court if—
- the application is refused,
  - a condition is imposed on the grant of the certificate, or
  - the certificate is revoked.
- (5) Where an appeal is brought under sub-paragraph (4), the Secretary of State may issue a certificate that the decision to which the appeal relates—
- was taken for the purpose of preventing benefit from accruing to an organisation which was within section 39(8), and
  - was justified by that purpose.
- (6) If he intends to rely on a certificate under sub-paragraph (5), the Secretary of State shall notify the appellant.
- (7) Where the appellant is notified of the Secretary of State’s intention to rely on a certificate under sub-paragraph (5)—
- he may appeal against the certificate to the Tribunal established under section 91 of the <sup>M11</sup>Northern Ireland Act 1998, and

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- (b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure, and further appeal) shall apply.
- (8) Rules made under section 91 or 92 of that Act which are in force immediately before the passing of this Act shall have effect in relation to a certificate under sub-paragraph (5)—
- (a) with any necessary modifications, and
  - (b) subject to any later rules made by virtue of sub-paragraph (7)(b).

#### Marginal Citations

M11 1998 c. 47.

## SCHEDULE 2

Section 3.

### PROSCRIBED ORGANISATIONS

#### Modifications etc. (not altering text)

- C1** Sch. 2 modified (14.8.2006) by [The Proscribed Organisations \(Name Changes\) Order 2006 \(S.I. 2006/1919\)](#), arts. 1, 2  
Sch. 2 modified (2.4.2009) by [The Proscribed Organisations \(Name Change\) Order 2009 \(S.I. 2009/578\)](#), art. 2
- C2** Sch. 2 modified (14.1.2010) by [The Proscribed Organisations \(Name Changes\) Order 2010 \(S.I. 2010/34\)](#), arts. 1, 2  
Sch. 2 modified (11.11.2011) by [The Proscribed Organisations \(Name Changes\) Order 2011 \(S.I. 2011/2688\)](#), arts. 1, 2

The Irish Republican Army.

Cumann na mBan.

Fianna na hEireann.

The Red Hand Commando.

Saor Eire.

The Ulster Freedom Fighters.

The Ulster Volunteer Force.

The Irish National Liberation Army.

The Irish People's Liberation Organisation.

The Ulster Defence Association.

The Loyalist Volunteer Force.

The Continuity Army Council.

The Orange Volunteers.

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The Red Hand Defenders.

[<sup>F1</sup>Al-Qa'ida

**Textual Amendments**

**F1** Words in Sch. 2 inserted (29.3.2001) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2001 \(S.I. 2001/1261\)](#), **art. 2**

Egyptian Islamic Jihad

Al-Gama'at al-Islamiya

Armed Islamic Group (Groupe Islamique Armée) (GIA)

Salafist Group for Call and Combat (Groupe Salafiste pour la Prédication et le Combat) (GSPC)

Babbar Khalsa

International Sikh Youth Federation

Harakat Mujahideen

Jaish e Mohammed

Lashkar e Tayyaba

Liberation Tigers of Tamil Eelam (LTTE)

[<sup>F2</sup>The military wing of Hizballah, including the Jihad Council and all units reporting to it (including the Hizballah External Security Organisation).]

**Textual Amendments**

**F2** Words in Sch. 2 substituted (18.7.2008) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) \(No. 2\) Order 2008 \(S.I. 2008/1931\)](#), **arts. 1, 2**

Hamas-Izz al-Din al-Qassem Brigades

Palestinian Islamic Jihad—Shaqaqi

Abu Nidal Organisation

Islamic Army of Aden

<sup>F3</sup> .....

**Textual Amendments**

**F3** Words in Sch. 2 omitted (24.6.2008) by virtue of [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2008 \(S.I. 2008/1645\)](#), **arts. 1, 2**

Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK)

Revolutionary Peoples' Liberation Party—Front (Devrimci Halk Kurtulus Partisi-Cephesi) (DHKP-C)

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Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA)

17 November Revolutionary Organisation (N17)]

[<sup>F4</sup>Abu Sayyaf Group

**Textual Amendments**

**F4** Sch. 2: organisations added (1.11.2002) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2002 \(S.I. 2002/2724\)](#), [art. 2](#)

Asbat Al-Ansar

Islamic Movement of Uzbekistan

Jemaah Islamiyah.]

[<sup>F5</sup>Al Ittihad Al Islamia

**Textual Amendments**

**F5** Sch. 2: organisations added (14.10.2005) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2005 \(S.I. 2005/2892\)](#), [art. 2](#)

Ansar Al Islam

Ansar Al Sunna

Groupe Islamique Combattant Marocain

Harakat-ul-Jihad-ul-Islami

Harakat-ul-Jihad-ul-Islami (Bangladesh)

Harakat-ul-Mujahideen/Alami

Hezb-e Islami Gulbuddin

Islamic Jihad Union

Jamaat ul-Furquan

Jundallah

Khuddam ul-Islam

Lashkar-e Jhangvi

Libyan Islamic Fighting Group

Sipah-e Sahaba Pakistan.]

[<sup>F6</sup>Al-Ghurabaa

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**Textual Amendments**

**F6** Sch. 2: organisations added (26.7.2006) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2006 \(S.I. 2006/2016\)](#), **art. 2**

The Saved Sect

Baluchistan Liberation Army

Teyrebaz Azadiye Kurdistan.]

[<sup>F7</sup>Jammat-ul Mujahideen Bangladesh

**Textual Amendments**

**F7** Words in Sch. 2 inserted (25.7.2007) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2007 \(S.I. 2007/2184\)](#), **art. 2**

Tehrik Nefaz-e Shari'at Muhammadi.]

[<sup>F8</sup>Al Shabaab]

**Textual Amendments**

**F8** Words in Sch. 2 added (5.3.2010) by [Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2010 \(S.I. 2010/611\)](#), **arts. 1, 2**

[<sup>F9</sup>Tehrik-e Taliban Pakistan]

**Textual Amendments**

**F9** Words in Sch. 2 added (21.1.2011) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2011 \(S.I. 2011/108\)](#), **arts. 1, 2**

[<sup>F10</sup>Indian Mujahideen]

**Textual Amendments**

**F10** Words in Sch. 2 inserted (6.7.2012) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2012 \(S.I. 2012/1771\)](#), **arts. 1, 2**

[<sup>F11</sup>Ansarul Muslimina Fi Biladis Sudan (Vanguard for the protection of Muslims in Black Africa) (Ansaru)]

**Textual Amendments**

**F11** Words in Sch. 2 inserted (23.11.2012) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) \(No.2\) Order 2012 \(S.I. 2012/2937\)](#), **arts. 1, 2**

*Note*

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The entry for The Orange Volunteers refers to the organisation which uses that name and in the name of which a statement described as a press release was published on 14th October 1998.

[<sup>F12</sup>The entry for Jemaah Islamiyah refers to the organisation using that name that is based in south-east Asia, members of which were arrested by the Singapore authorities in December 2001 in connection with a plot to attack US and other Western targets in Singapore.]

#### Textual Amendments

**F12** Sch. 2 Note: words added (1.11.2002) by [The Terrorism Act 2000 \(Proscribed Organisations\) \(Amendment\) Order 2002 \(S.I. 2002/2724\)](#), **art. 3**

## SCHEDULE 3

Section 5.

### THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION

#### *Constitution and administration*

- 1 (1) The Commission shall consist of members appointed by the Lord Chancellor.
- (2) The Lord Chancellor shall appoint one of the members as chairman.
- (3) A member shall hold and vacate office in accordance with the terms of his appointment.
- (4) A member may resign at any time by notice in writing to the Lord Chancellor.
- 2 The Lord Chancellor may appoint officers and servants for the Commission.
- 3 The Lord Chancellor—
  - (a) may pay sums by way of remuneration, allowances, pensions and gratuities to or in respect of members, officers and servants,
  - (b) may pay compensation to a person who ceases to be a member of the Commission if the Lord Chancellor thinks it appropriate because of special circumstances, and
  - (c) may pay sums in respect of expenses of the Commission.

#### *Procedure*

- 4 (1) The Commission shall sit at such times and in such places as the Lord Chancellor may direct [<sup>F13</sup> after consulting the following—
  - (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland].
- (2) The Commission may sit in two or more divisions.
- (3) At each sitting of the Commission—
  - (a) three members shall attend,
  - (b) one of the members shall be a person who holds or has held high judicial office (within the meaning of [<sup>F14</sup>Part 3 of the Constitutional Reform Act



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- 2005) or is or has been a member of the Judicial Committee of the Privy Council], and
- (c) the chairman or another member nominated by him shall preside and report the Commission's decision.
- [<sup>F15</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F13** Words in Sch. 3 para. 4(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(2\)](#); [S.I. 2006/1014, art. 2\(1\)](#), Sch. 1
- F14** Words in Sch. 3 para. 4(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 145, 148, Sch. 17 para. 29](#); [S.I. 2009/1604, art. 2\(e\)](#)
- F15** Sch. 3 para. 4(4)-(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(3\)](#); [S.I. 2006/1014, art. 2\(1\)](#), Sch. 1

- 5 (1) The Lord Chancellor may make rules—
- (a) regulating the exercise of the right of appeal to the Commission;
- (b) prescribing practice and procedure to be followed in relation to proceedings before the Commission;
- (c) providing for proceedings before the Commission to be determined without an oral hearing in specified circumstances;
- (d) making provision about evidence in proceedings before the Commission (including provision about the burden of proof and admissibility of evidence);
- (e) making provision about proof of the Commission's decisions.
- (2) In making the rules the Lord Chancellor shall, in particular, have regard to the need to secure—
- (a) that decisions which are the subject of appeals are properly reviewed, and
- (b) that information is not disclosed contrary to the public interest.
- (3) The rules shall make provision permitting organisations to be legally represented in proceedings before the Commission.
- (4) The rules may, in particular—
- (a) provide for full particulars of the reasons for proscription or refusal to deproscribe to be withheld from the organisation or applicant concerned and from any person representing it or him;
- [<sup>F16</sup>(aa) provide for full particulars of the reasons for—

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- (i) the making of an order under section 3(6), or
  - (ii) a refusal to provide for a name to cease to be treated as a name for an organisation,  
 to be withheld from the organisation or applicant concerned and from any person representing it or him;]
  - (b) enable the Commission to exclude persons (including representatives) from all or part of proceedings;
  - (c) enable the Commission to provide a summary of evidence taken in the absence of a person excluded by virtue of paragraph (b);
  - (d) permit preliminary or incidental functions to be discharged by a single member;
  - (e) permit proceedings for permission to appeal under section 6 to be determined by a single member;
  - (f) make provision about the functions of persons appointed under paragraph 7;
  - (g) make different provision for different parties or descriptions of party.
- (5) Rules under this paragraph—
- (a) shall be made by statutory instrument, and
  - (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (6) In this paragraph a reference to proceedings before the Commission includes a reference to proceedings arising out of proceedings before the Commission.

#### Textual Amendments

**F16** Sch. 3 para. 5(4)(aa) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), s. 22(11); S.I. 2006/1013, art. 2

- 6
- (1) This paragraph applies to—
    - (a) proceedings brought by an organisation before the Commission, and
    - (b) proceedings arising out of proceedings to which paragraph (a) applies.
  - (2) Proceedings shall be conducted on behalf of the organisation by a person designated by the Commission (with such legal representation as he may choose to obtain).
  - (3) In [<sup>F17</sup>paragraph 5] of this Schedule a reference to an organisation includes a reference to a person designated under this paragraph.

#### Textual Amendments

**F17** Words in Sch. 3 para. 6(3) substituted (2.10.2000) by [2000 c. 23](#), s. 82, [Sch. 4 para. 12\(2\)](#) (with s. 82(3)); S.I. 2000/2543, art. 3

- 7
- (1) The relevant law officer may appoint a person to represent the interests of an organisation or other applicant in proceedings in relation to which an order has been made by virtue of paragraph 5(4)(b).
  - (2) The relevant law officer is—
    - (a) in relation to proceedings in England and Wales, the Attorney General,
    - (b) in relation to proceedings in Scotland, the Advocate General for Scotland,  
 and

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- (c) in relation to proceedings in Northern Ireland, the <sup>F18</sup> Advocate General for Northern Ireland ].
- (3) A person appointed under this paragraph must—
- (a) have a general qualification for the purposes of section 71 of the <sup>M12</sup>Courts and Legal Services Act 1990 (qualification for legal appointments),
- (b) be an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the <sup>M13</sup>Solicitors (Scotland) Act 1980, or
- (c) be a member of the Bar of Northern Ireland.
- (4) A person appointed under this paragraph shall not be responsible to the organisation or other applicant whose interests he is appointed to represent.
- (5) In <sup>F19</sup>paragraph 5] of this Schedule a reference to a representative does not include a reference to a person appointed under this paragraph.

#### Textual Amendments

- F18** Words in Sch. 3 para. 7(2)(c) substituted (12.4.2010 being the date that 2002 c. 26, s. 27 comes into force, see S.I. 2010/113, art. 2, Sch. para. 7) by [Counter-Terrorism Act 2008 \(c. 28\)](#), [s. 91\(2\)\(3\)](#) (with [s. 101\(2\)](#))
- F19** Words in Sch. 3 para. 7(5) substituted (2.10.2000) by [2000 c. 23, s. 82](#), [Sch. 4 para. 12\(2\)](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543](#), [art. 3](#)

#### Marginal Citations

- M12** [1990 c. 41](#).
- M13** [1980 c. 46](#).

<sup>F20</sup>g . . . . .

#### Textual Amendments

- F20** Sch. 3 para. 8 repealed (2.10.2000) by [2000 c. 23, s. 82](#), [Sch. 5](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543](#), [art. 3](#)

## <sup>F21</sup>SCHEDULE 3A

### REGULATED SECTOR AND SUPERVISORY AUTHORITIES

#### Textual Amendments

- F21** Sch. 3A inserted (20.12.2001) by [2001 c. 24, s. 3](#), [Sch. 2 Pt. 3 para. 6](#); [S.I. 2001/4019](#), [art. 2\(1\)\(c\)](#)

#### Modifications etc. (not altering text)

- C3** Sch. 3A applied (8.10.2008 at 10.10 a.m.) by [The Landsbanki Freezing Order 2008 \(S.I. 2008/2668\)](#), [arts. 1, 8](#), [Sch. para. 3\(2\)](#) (with [art. 13](#))

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## [<sup>F22</sup>PART 1

### REGULATED SECTOR

#### Textual Amendments

**F22** Sch. 3A Pts. 1 and 2 substituted (15.12.2007) by [The Terrorism Act 2000 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2007 \(S.I. 2007/3288\)](#), [art. 2](#)

#### *Business in the regulated sector*

- 1 (1) A business is in the regulated sector to the extent that it consists of—
- (a) the acceptance by a credit institution of deposits or other repayable funds from the public, or the granting by a credit institution of credits for its own account;
  - (b) the carrying on of one or more of the activities listed in points 2 to 12 [<sup>F23</sup>, 14 and 15] of Annex 1 to the Banking Consolidation Directive by an undertaking other than—
    - (i) a credit institution; or
    - (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 Banking Consolidation Directive and which does not act on behalf of a customer (that is, a third party which is not a member of the same group as the undertaking);
  - (c) the carrying on of activities covered by the Life Assurance Consolidation Directive by an insurance company authorised in accordance with that Directive;
  - (d) the provision of investment services or the performance of investment activities by a person (other than a person falling within Article 2 of the Markets in Financial Instruments Directive) 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;
  - (e) the marketing or other offering of units or shares by a collective investment undertaking;
  - (f) the activities of an insurance intermediary as defined in Article 2(5) of the Insurance Mediation Directive, other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive, 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;
  - (g) the carrying on of any of the activities mentioned in paragraphs (b) to (f) by a branch located in an EEA State of a person referred to in those paragraphs (or of an equivalent person in any other State), wherever its head office is located;
  - (h) the activities of the National Savings Bank;
  - (i) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 under the auspices of the Director of Savings;
  - [<sup>F24</sup>(j) the carrying on of statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of “statutory auditor” etc ) by any firm

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- or individual who is a statutory auditor within the meaning of Part 42 of that Act (statutory auditors); ]
- (k) the activities of a person appointed to act as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (meaning of “act as insolvency practitioner”) or article 3 of the Insolvency (Northern Ireland) Order 1989;
  - (l) the provision to other persons of accountancy services by a firm or sole practitioner who by way of business provides such services to other persons;
  - (m) the provision of advice about the tax affairs of other persons by a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons;
  - (n) the participation in financial or real property transactions concerning—
    - (i) the buying and selling of real property (or, in Scotland, heritable property) or business entities;
    - (ii) the managing of client money, securities or other assets;
    - (iii) the opening or management of bank, savings or securities accounts;
    - (iv) the organisation of contributions necessary for the creation, operation or management of companies; or
    - (v) the creation, operation or management of trusts, companies or similar structures,by a firm or sole practitioner who by way of business provides legal or notarial services to other persons;
  - (o) the provision to other persons by way of business by a firm or sole practitioner of any of the services mentioned in sub-paragraph (4);
  - (p) the carrying on of estate agency work <sup>F25</sup>... by a firm or a sole practitioner who carries on, or whose employees carry on, such work;
  - (q) the trading in goods (including dealing as an auctioneer) whenever a transaction involves the receipt of a payment or payments in cash of at least 15,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked, by a firm or sole trader who by way of business trades in goods;
  - (r) operating a casino under a casino operating licence (within the meaning given by section 65(2) of the Gambling Act 2005 (nature of licence)).
  - [<sup>F26</sup>(s) the auctioning by an auction platform of two-day spot or five-day futures, within the meanings given by Article 3 of the Emission Allowance Auctioning Regulation.]
  - [<sup>F27</sup>(t) bidding directly, on behalf of clients, in auctions of emissions allowances in accordance with the Emission Allowance Auctioning Regulation.]
- (2) For the purposes of sub-paragraph (1)(a) and (b) “ credit institution ” means—
- (a) a credit institution as defined in [<sup>F28</sup>Article 4(1)] of the Banking Consolidation Directive; or
  - (b) a branch (within the meaning of Article 4(3) of that Directive) located in an EEA state of an institution falling within paragraph (a) (or of an equivalent institution in any other State) wherever its head office is located.
- (3) For the purposes of sub-paragraph (1)(n) a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.

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- (4) The services referred to in sub-paragraph (1)(o) are—
- (a) forming companies or other legal persons;
  - (b) acting, or arranging for another person to act—
    - (i) as a director or secretary of a company;
    - (ii) as a partner of a partnership; or
    - (iii) in a similar position in relation to other legal persons;
  - (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
  - (d) acting, or arranging for another person to act, as—
    - (i) a trustee of an express trust or similar legal arrangement; or
    - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.
- (5) For the purposes of sub-paragraph (4)(d) “regulated market”—
- (a) in relation to any EEA State, has the meaning given by point 14 of Article 4(1) of the Markets in Financial Instruments Directive; and
  - (b) in relation to any other State, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are contained in international standards and are equivalent to the specified disclosure obligations.
- (6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means disclosure requirements consistent with—
- (a) Article 6(1) to (4) of Directive [2003/6/ EC](#) of the European Parliament and of the Council of 28th January 2003 on insider dealing and market manipulation;
  - (b) Articles 3, 5, 7, 8, 10, 14 and 16 of Directive [2003/71/ EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;
  - (c) Articles 4 to 6, 14, 16 to 19 and 30 of Directive [2004/109/ EC](#) of the European Parliament and of the Council of 15th December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; or
  - (d) <sup>[F29]</sup>EU] legislation made under the provisions mentioned in paragraphs (a) to (c).
- <sup>[F30]</sup>(6A) For the purposes of sub-paragraph (1)(p) “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979 (estate agency work), but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest.]
- (7) For the purposes of sub-paragraph (1)(j) and (l) to (q) “firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association.
- (8) For the purposes of sub-paragraph (1)(q) “cash” means notes, coins or travellers' cheques in any currency.

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[<sup>F31</sup>(9) For the purposes of sub-paragraph (1)(s) “auction platform” means a platform on which auctions of emissions allowances are held in accordance with the Emission Allowance Auctioning Regulation.]

#### Textual Amendments

- F23** Words in Sch. 3A para. 1(1)(b) 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. 3(a)(i)**
- F24** Sch. 3A para. 1(1)(j) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1), **Sch. 1 para. 25(2)** (with arts. 6, 11, 12)
- F25** Words in Sch. 3A para. 1(1)(p) omitted (1.10.2012) by virtue of [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, **2(a)**
- F26** Sch. 3A para. 1(1)(s) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, **2(2)(a)**
- F27** Sch. 3A para. 1(1)(t) inserted (7.7.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2012 \(S.I. 2012/1534\)](#), arts. 1, **2**
- F28** Words in Sch. 3A para. 1(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. 3(a)(ii)**
- F29** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F30** Sch. 3A para. 1(6A) inserted (1.10.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, **2(b)**
- F31** Sch. 3A para. 1(9) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, **2(2)(b)**

#### *Excluded activities*

- 2 (1) A business is not in the regulated sector to the extent that it consists of—
- (a) the issuing of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act 1965 (maximum shareholding in society), or the acceptance of deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies), by a society registered under that Act;
  - (b) the issuing of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (maximum shareholding in society), or the acceptance of deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies), by a society registered under that Act;
  - (c) the carrying on of any activity in respect of which a person who is (or falls within a class of persons) specified in any of paragraphs 2 to 23, 25 to 38 or 40 to 49 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001 is exempt;
  - (d) the exercise of the functions specified in section 45 of the Financial Services Act 1986 (miscellaneous exemptions) by a person who was an exempted person for the purposes of that section immediately before its repeal; [<sup>F32</sup>or ]
  - (e) the engaging in financial activity which fulfils all of the conditions set out in paragraphs (a) to (g) of sub-paragraph (3) of this paragraph by a person whose main activity is that of a high value dealer; <sup>F33</sup> ...
  - <sup>F34</sup>(f) .....

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- (2) For the purposes of sub-paragraph (1)(e) a “ high value dealer ” means a person mentioned in paragraph 1(1)(q) when carrying on the activities mentioned in that paragraph.
- (3) A business is not in the regulated sector to the extent that it consists of financial activity 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 euros, 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 to the person's main activity and directly related to that activity;
  - (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means;
  - (f) the main activity of the person carrying on the financial activity is not an activity mentioned in paragraph 1(1)(a) to (p) or (r); and
  - (g) the financial activity is provided only to customers of the person's main activity and is not offered to the public.
- (4) A business is not in the regulated sector if it is carried on by—
- (a) the Auditor General for Scotland;
  - (b) the Auditor General for Wales;
  - (c) the Bank of England;
  - (d) the Comptroller and Auditor General;
  - (e) the Comptroller and Auditor General for Northern Ireland;
  - (f) the Official Solicitor to the Supreme Court, when acting as trustee in his official capacity; or
  - (g) the Treasury Solicitor.

#### **Textual Amendments**

- F32** Word in Sch. 3A para. 2(1)(d) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(k), [Sch. 18 para. 1\(a\)](#)
- F33** Word in Sch. 3A para. 2(1) repealed (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(m), [Sch. 25 Pt. 29](#)
- F34** Sch. 3A para. 2(1)(f) repealed (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(k), [Sch. 18 para. 1\(b\)](#), [Sch. 25 Pt. 29](#)

#### **INTERPRETATION**

- 3 (1) In this Part—
- “ the Banking Consolidation Directive ” means directive [2006/48/ EC](#) of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions [<sup>F35</sup> as last amended by Directive [2009/111/ EC](#) ] ;



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[<sup>F36</sup>“the Emission Allowance Auctioning Regulation” means Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;]

“the Insurance Mediation Directive” means directive 2002/92/EC of the European Parliament and of the Council of 9th December 2002 on insurance mediation;

“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; and

“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.

- (2) In this Part references to amounts in euros include references to equivalent amounts in another currency.
- (3) Terms used in this Part and in the Banking Consolidation Directive or the Markets in Financial Instruments Directive have the same meaning in this Part as in those Directives.]

#### Textual Amendments

- F35** Words in Sch. 3A para. 3(1) inserted (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. 3(a)(iii)**
- F36** Words in Sch. 3A para. 3(1) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, **2(3)**

## [<sup>F37</sup>PART 2

### SUPERVISORY AUTHORITIES

#### Textual Amendments

- F37** Sch. 3A Pts. 1 and 2 substituted (15.12.2007) by [The Terrorism Act 2000 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2007 \(S.I. 2007/3288\)](#), **art. 2**

- 4 (1) The following bodies are supervisory authorities—
- (a) the Commissioners for Her Majesty's Revenue and Customs;
  - (b) the Department of Enterprise, Trade and Investment in Northern Ireland;
  - (c) the Financial Services Authority;
  - (d) the Gambling Commission;
  - (e) the Office of Fair Trading;
  - (f) the Secretary of State; and
  - (g) the professional bodies listed in sub-paragraph (2).
- (2) The professional bodies referred to in sub-paragraph (1)(g) are—

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- (a) the Association of Accounting Technicians;
- (b) the Association of Chartered Certified Accountants;
- (c) the Association of International Accountants;
- (d) the Association of Taxation Technicians;
- (e) the Chartered Institute of Management Accountants;
- (f) the Chartered Institute of Public Finance and Accountancy;
- (g) the Chartered Institute of Taxation;
- (h) the Council for Licensed Conveyancers;
- (i) the Faculty of Advocates;
- (j) the Faculty Office of the Archbishop of Canterbury;
- (k) the General Council of the Bar;
- (l) the General Council of the Bar of Northern Ireland;
- (m) the Insolvency Practitioners Association;
- (n) the Institute of Certified Bookkeepers;
- (o) the Institute of Chartered Accountants in England and Wales;
- (p) the Institute of Chartered Accountants in Ireland;
- (q) the Institute of Chartered Accountants of Scotland;
- (r) the Institute of Financial Accountants;
- (s) the International Association of Book-keepers;
- (t) the Law Society;
- (u) the Law Society for Northern Ireland; and
- (v) the Law Society of Scotland.]

### PART 3

#### POWER TO AMEND

- 5 (1) The Treasury may by order amend Part 1 or 2 of this Schedule.
- (2) An order under sub-paragraph (1) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

## SCHEDULE 4

Section 23.

### FORFEITURE ORDERS

#### PART I

#### ENGLAND AND WALES

##### *Interpretation*

- 1 In this Part of this Schedule—
- “forfeiture order” means an order made by a court in England and Wales under section 23 [<sup>F38</sup>or 23A], and

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“forfeited property” means the money or other property to which a forfeiture order applies.

[<sup>F39</sup> “ relevant offence ” means—

- (a) an offence under any of sections 15 to 18,
- (b) an offence to which section 23A applies, or
- (c) in relation to a restraint order, any offence specified in Schedule 2 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered).]

#### Textual Amendments

**F38** Sch. 4 para. 1: words in definition of "forfeiture order" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(2)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

**F39** Sch. 4 para. 1: definition of "relevant offence" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(2)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### *Implementation of forfeiture orders*

- 2 (1) Where a court in England and Wales makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—
- (a) require any of the forfeited property to be paid or handed over to the proper officer or to a constable designated for the purpose by the chief officer of police of a police force specified in the order;
  - (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;
  - (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;
  - (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within [<sup>F40</sup>section 23B(1)].
- (2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).
- (3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.
- (4) Section 140 of the <sup>M14</sup>Magistrates' Courts Act 1980 (disposal of non-pecuniary forfeitures) shall not apply.

#### Textual Amendments

**F40** Words in Sch. 4 para. 2(1)(d) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(3)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

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**Modifications etc. (not altering text)**

**C4** Sch. 4 para. 2(1) extended (with modifications) (13.12.2001) by [S.I. 2001/3927](#) art. 11(1)

**Marginal Citations**

**M14** 1980 c. 43.

- 3
- (1) A receiver appointed under paragraph 2 shall be entitled to be paid his remuneration and expenses by the proper officer out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 2(1)(c).
  - (2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.
  - (3) A receiver appointed under paragraph 2 shall not be liable to any person in respect of any loss or damage resulting from action—
    - (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
    - (b) which he would be entitled to take if the property were forfeited property, and
    - (c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.
  - (4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

**Modifications etc. (not altering text)**

**C5** Sch. 4 para. 3 applied (13.12.2001) by [S.I. 2001/3927](#), [art. 11\(1\)](#)

- 4
- (1) In paragraphs 2 and 3 “the proper officer” means—
    - (a) where the forfeiture order is made by a magistrates' court, the [F41designated officer] for that court,
    - (b) where the forfeiture order is made by the Crown Court and the defendant was committed to the Crown Court by a magistrates' court, the [F41designated officer] for the magistrates' court, and
    - (c) where the forfeiture order is made by the Crown Court and the proceedings were instituted by a bill of indictment preferred by virtue of section 2(2)(b) of the <sup>M15</sup>Administration of Justice (Miscellaneous Provisions) Act 1933, the [F41designated officer] for the magistrates' court for the place where the trial took place.
  - (2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by—
    - (a) the prosecutor in the proceedings in which the forfeiture order was made,
    - (b) the defendant in those proceedings, or
    - (c) a person whom the court heard under [F42section 23B(1)] before making the order.
  - (3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

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#### Textual Amendments

- F41** Words in Sch. 4 para. 4(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 108(1), [Sch. 8 para. 388\(2\)](#); [S.I. 2005/910](#), [art. 3](#)
- F42** Words in Sch. 4 para. 4(2)(c) substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 39, 100(5), [Sch. 3 para. 5\(4\)](#) (with s. 101(2)); [S.I. 2009/1256](#), [art. 2\(c\)](#)

#### Marginal Citations

- M15** 1933 c. 36.

### *[<sup>F43</sup>Application of proceeds to compensate victims*

#### Textual Amendments

- F43** Sch. 4 para. 4A and preceding cross-heading inserted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 37(1), 100(5) (with s. 101(2)); [S.I. 2009/1256](#), [art. 2\(c\)](#)

- 4A (1) Where a court makes a forfeiture order in a case where—
- the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
  - any such offence is taken into consideration by the court in determining sentence,
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of—
- any forfeited money, and
  - the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation, reduced by the amount of any payment under paragraph 2(1)(d) or 3(1).
- (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 under which the offender would have been required to pay compensation of an amount not less than the specified amount.]

### *Restraint orders*

- 5 (1) The High Court may make a restraint order under this paragraph where—
- proceedings have been instituted in England and Wales for [<sup>F44</sup>a relevant offence],
  - the proceedings have not been concluded,
  - an application for a restraint order is made to the High Court by the prosecutor, and
  - a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.
- [<sup>F45</sup>(2) The High Court may also make a restraint order under this paragraph where—

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- (a) a criminal investigation has been started in England and Wales with regard to <sup>F44</sup>a relevant offence],
  - (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
  - (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.]
- (3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in <sup>F46</sup>any proceedings] referred to in sub-paragraph (1) or (2).
- (4) An application for a restraint order may be made to a judge in chambers without notice.
- (5) In this paragraph a reference to dealing with property includes a reference to removing the property from Great Britain.
- <sup>F47</sup>(6) In this paragraph “ criminal investigation ” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. ]

#### Textual Amendments

- F44** Words in Sch. 4 para. 5(1)(a)(2)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F45** Sch. 4 Pt. 1 para. 5(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F46** Words in Sch. 4 Pt. 1 para. 5(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F47** Sch. 4 Pt. 1 para. 5(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para 2(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 6 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.
- (2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.
- <sup>F48</sup>(3) A restraint order made under paragraph 5(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.
- (4) A restraint order made under paragraph 5(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of <sup>F49</sup>relevant offences] are instituted within such time as the High Court considers reasonable, and
  - (b) if all proceedings in respect of <sup>F49</sup>relevant offences] have been concluded.]

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F48** Sch. 4 para. 6(3)(4) substituted for Sch. 4 para. 6(3) (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(5)**; S.I. 2001/4019, **art. 2(1)(c)**
- F49** Words in Sch. 4 para. 6(4)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 7 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Great Britain.
- (2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

#### Modifications etc. (not altering text)

- C6** Sch. 4 para. 7 applied (13.12.2001) by S.I. 2001/3927, **art. 12**

- 8 (1) The <sup>M16</sup>Land Charges Act 1972 and the [<sup>F50</sup>Land Registration Act 2002]—
- (a) shall apply in relation to restraint orders as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognizances, and [<sup>F51</sup>, except that no notice may be entered in the register of title under the Land Registration Act 2002 in respect of such orders]
- (b) shall apply in relation to applications for restraint orders as they apply in relation to other pending land actions.
- (2) <sup>F52</sup> .....
- (3) <sup>F52</sup> .....

#### Textual Amendments

- F50** Words in Sch. 4 para. 8(1) substituted (13.10.2003) by 2002 c. 9, s. 133, **Sch. 11 para. 38(a)** (with s. 129); S.I. 2003/1725, **art. 2**
- F51** Words in Sch. 4 para. 8(1)(a) inserted (13.10.2003) by 2002 c. 9, s. 133, **Sch. 11 para. 38(b)** (with s. 129); S.I. 2003/1725, **art. 2**
- F52** Sch. 4 para. 8(2)(3) repealed (13.10.2003) by 2002 c. 9, s. 135, **Sch. 13** (with s. 129, **Sch. 12 para. 1**); S.I. 2003/1725, **art. 2**

#### Modifications etc. (not altering text)

- C7** Sch. 4 para. 8 applied (13.12.2001) by S.I. 2001/3927, **art. 12**

#### Marginal Citations

- M16** 1972 c. 61.

- 9 (1) This paragraph applies where a restraint order is discharged under [<sup>F53</sup>paragraph 6(4)(a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F54</sup>a relevant offence] which—
- (a) do not result in conviction for [<sup>F55</sup>a relevant offence],

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- (b) result in conviction for [<sup>F55</sup>a relevant offence] in respect of which the person convicted is subsequently pardoned by Her Majesty, or
  - (c) result in conviction for [<sup>F55</sup>a relevant offence] which is subsequently quashed.
- (3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (4) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
  - (b) that the person in default was or was acting as a member of a police force, or was a member of the Crown Prosecution Service or was acting on behalf of the Service,
  - (c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.
- (6) Compensation payable under this paragraph shall be paid—
- (a) where the person in default was or was acting as a member of a police force, out of the police fund out of which the expenses of that police force are met, and
  - (b) where the person in default was a member of the Crown Prosecution Service, or was acting on behalf of the Service, by the Director of Public Prosecutions.

#### Textual Amendments

- F53** Words in Sch. 4 Pt. 1 para. 9(1) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 2(7)**; S.I. 2001/4019, **art. 2(1)(c)**
- F54** Words in Sch. 4 para. 9(2) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(8)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F55** Words in Sch. 4 para. 9(2)(a)(b)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(8)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 10 (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F56</sup>a relevant offence], and
  - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5).
- (2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (3) The High Court may order compensation to be paid to the applicant if satisfied—



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- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
- (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(4) Compensation payable under this paragraph shall be paid by the Secretary of State.

**Textual Amendments**

**F56** Words in Sch. 4 para. 10(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(9)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

F57 . . .

**Textual Amendments**

**F57** Sch. 4 para. 9: preceding cross-heading omitted (18.6.2009) by virtue of Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(7)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

*Proceedings for an offence: timing*

- 11 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—
- (a) when a justice of the peace issues a summons or warrant under section 1 of the <sup>M17</sup>Magistrates' Courts Act 1980 in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (c) when a bill of indictment charging a person with the offence is preferred by virtue of section 2(2)(b) of the <sup>M18</sup>Administration of Justice (Miscellaneous Provisions) Act 1933.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part of this Schedule proceedings are concluded—
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or
  - (b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

**Marginal Citations**

**M17** 1980 c. 43.

**M18** 1933 c. 36.

*Status: Point in time view as at 23/11/2012.*

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VALID FROM 03/12/2014

*f<sup>58</sup> Domestic and overseas freezing orders*

**Textual Amendments**

**F58** Sch. 4 Pt. 1 paras. 11A-11G and cross-headings inserted (prosp.) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), ss. 90, 94\(1\), Sch. 4 para. 3](#)

- 11A (1) This paragraph has effect for the purposes of paragraphs 11B to 11G.
- (2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.
- (3) A listed offence means—
- (a) an offence described in Article 3(2) of the relevant Framework Decision, or
  - (b) a prescribed offence or an offence of a prescribed description.
- (4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 11D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.
- (5) Specified information, in relation to a certificate under paragraph 11B or 11D, means—
- (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
  - (b) any prescribed information.
- (6) In this paragraph, “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A participating country means—
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
  - (b) any other member State designated by an order made by the Secretary of State.
- (8) “Country” includes territory.
- (9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

*Status: Point in time view as at 23/11/2012.*

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VALID FROM 03/12/2014

*Domestic freezing orders: certification*

- 11B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph.
- (2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
  - (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.
- (3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
  - (b) gives the specified information.
- (4) If the High Court makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  - (b) paragraph 6(2) to (4) applies to the certificate as it applies to the restraint order.

VALID FROM 03/12/2014

*Sending domestic freezing orders*

- 11C (1) If a certificate is made under paragraph 11B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or
  - (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.
- (2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.
- (3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).
- (4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.
- The signature may be an electronic signature.
- (5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1).

*Status: Point in time view as at 23/11/2012.*

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VALID FROM 03/12/2014

*Overseas freezing orders*

- 11D (1) Paragraph 11E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.
- (2) An overseas freezing order is an order prohibiting dealing with property—
- (a) which is in the United Kingdom,
  - (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
  - (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,
- and in respect of which the following requirements of this paragraph are met.
- (3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.
- (4) The order must relate to—
- (a) criminal proceedings instituted in the participating country, or
  - (b) a criminal investigation being carried on there.
- (5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.
- (6) The certificate must—
- (a) be signed by or on behalf of the court or authority which made or confirmed the order,
  - (b) include a statement as to the accuracy of the information given in it,
  - (c) if it is not in English, include a translation of it into English (or, if appropriate, Welsh).
- The signature may be an electronic signature.
- (7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.
- (8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
- (a) a court exercising criminal jurisdiction in the country,
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.
- (9) References in paragraphs 11E to 11G to an overseas freezing order include its accompanying certificate.

*Status: Point in time view as at 23/11/2012.*

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VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

- 11E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the High Court and to the Director of Public Prosecutions.
- (2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.
- (3) Before giving effect to the overseas freezing order, the court must give the Director an opportunity to be heard.
- (4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 11F The High Court may postpone giving effect to an overseas freezing order in respect of any property—
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
- (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.
- <sup>F59</sup> 11G(1) Where the High Court decides to give effect to an overseas freezing order, it must—
- (a) register the order in that court,
- (b) provide for notice of the registration to be given to any person affected by it.
- (2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court.
- (3) Paragraph 7 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 5.
- (4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the Director of Public Prosecutions or any other person affected by it, if or to the extent that—
- (a) the court is of the opinion mentioned in paragraph 11E(4), or
- (b) the court is of the opinion that the order has ceased to have effect in the participating country.
- (5) Her Majesty may by Order in Council make further provision for the enforcement in England and Wales of registered overseas freezing orders.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases,
- (b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

**Textual Amendments**

**F59** Sch. 4 paras. 11A-11G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), s. 94(1), [Sch. 4 para. 3](#); S.I. 2014/3192, art. 2(b)

*Status: Point in time view as at 23/11/2012.*

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*Enforcement of orders made elsewhere in the British Islands*

- 12 In the following provisions of this Part of this Schedule—
- “a Scottish order” means—
- (a) an order made in Scotland under section 23 [<sup>F60</sup>or 23A] (“a Scottish forfeiture order”),
  - (b) an order made under paragraph 18 (“a Scottish restraint order”), or
  - (c) an order made under any other provision of Part II of this Schedule in relation to a Scottish forfeiture or restraint order;
- “a Northern Ireland order” means—
- (a) an order made in Northern Ireland under section 23 [<sup>F60</sup>or 23A] (“a Northern Ireland forfeiture order”),
  - (b) an order made under paragraph 33 (“a Northern Ireland restraint order”), or
  - (c) an order made under any other provision of Part III of this Schedule in relation to a Northern Ireland forfeiture or restraint order;
- “an Islands order” means an order made in any of the Islands under a provision of the law of that Island corresponding to—
- (a) section 23 [<sup>F60</sup>or 23A] (“an Islands forfeiture order”),
  - (b) paragraph 5 (“an Islands restraint order”), or
  - (c) any other provision of this Part of this Schedule.

**Textual Amendments**

**F60** Words in Sch. 4 para. 12 inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), Sch. 3 para. 5(10) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

- 13 (1) Subject to the provisions of this paragraph, a Scottish, Northern Ireland or Islands order shall have effect in the law of England and Wales.
- (2) But such an order shall be enforced in England and Wales only in accordance with—
- (a) the provisions of this paragraph, and
  - (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.
- (3) On an application made to it in accordance with rules of court for registration of a Scottish, Northern Ireland or Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.
- (4) Rules of court shall also make provision—
- (a) for cancelling or varying the registration of a Scottish, Northern Ireland or Islands forfeiture order when effect has been given to it, whether in England and Wales or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;
  - (b) for cancelling or varying the registration of a Scottish, Northern Ireland or Islands restraint order which has been discharged or varied by the court by which it was made.
- (5) If a Scottish, Northern Ireland or Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) to give effect to a forfeiture order made by it and—

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- (a) paragraph 3 shall apply accordingly,
  - (b) any functions of [<sup>F61</sup>the designated officer for a magistrates' court] shall be exercised by the appropriate officer of the High Court, and
  - (c) after making any payment required by virtue of paragraph 2(1)(d) or 3, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under this sub-paragraph shall be paid by him to the Secretary of State.
- (6) If a Scottish, Northern Ireland or Islands restraint order is registered under this paragraph—
- (a) paragraphs 7 and 8 shall apply as they apply to a restraint order under paragraph 5, and
  - (b) the High Court shall have power to make an order under section 33 of the <sup>M19</sup>[<sup>F62</sup>Senior Courts Act 1981](extended power to order inspection of property, &c.) in relation to proceedings brought or likely to be brought for a Scottish, Northern Ireland or Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.
- (7) In addition, if a Scottish, Northern Ireland or Islands order is registered under this paragraph—
- (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
  - (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and
  - (c) proceedings for or with respect to contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.
- (8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of—
- (a) assisting the achievement in England and Wales of the purposes of a Scottish, Northern Ireland or Islands order, or
  - (b) assisting a receiver or other person directed by a Scottish, Northern Ireland or Islands order to sell or otherwise dispose of property.
- (9) The following documents shall be received in evidence in England and Wales without further proof—
- (a) a document purporting to be a copy of a Scottish, Northern Ireland or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  - (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 4(2) and (3) and to be certified by a proper officer of the court concerned.

#### Textual Amendments

- F61** Words in Sch. 4 para. 13(5)(b) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 109\(1\), Sch. 8 para. 388\(3\)](#); [S.I. 2005/910, art. 3](#)
- F62** Act: for the words "Supreme Court Act 1981" wherever they occur in any enactment there are substituted (1.10.2009) the words "Senior Courts Act 1981" by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

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#### Commencement Information

- II** Sch. 4 para. 13 wholly in force at 19.2.2001; Sch. 4 para. 13 not in force at Royal Assent see s. 128; Sch. 4 para. 13(2)(b)(3)(4) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(h\)\(i\)](#); Sch. 4 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

#### Marginal Citations

- M19** 1981 c. 54.

#### *Enforcement of orders made in designated countries*

- 14 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in England and Wales of external orders.
- (2) An “external order” means an order—
- (a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and
  - (b) which makes relevant provision.
- (3) “Relevant provision” means—
- (a) provision for the forfeiture of terrorist property (“an external forfeiture order”), or
  - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory (“an external restraint order”).
- (4) An Order in Council under this paragraph may, in particular, include provision—
- (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;
  - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 13(1) to (8) in relation to the orders to which that paragraph applies;
  - (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.
- (5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases, and
  - (b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.



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## PART II

### SCOTLAND

#### *Implementation of forfeiture orders*

- 15 In this Part of this Schedule—
- “forfeiture order” means an order made by a court in Scotland under section 23 [<sup>F63</sup>or 23A], and
- “forfeited property” means the money or other property to which a forfeiture order applies.
- [<sup>F64</sup>“ relevant offence ” means—
- (a) an offence under any of sections 15 to 18,
  - (b) an offence to which section 23A applies, or
  - (c) in relation to a restraint order, any offence specified in Schedule 2 to the Counter-Terrorism Act 2008 (offences where terrorist connection to be considered).]

#### **Textual Amendments**

- F63** Sch. 4 para. 15: words in definition of "forfeiture order" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(11)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F64** Sch. 4 para. 15: definition of "relevant offence" inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(11)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 16 (1) Where a court in Scotland makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—
- (a) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct;
  - (b) appoint an administrator to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property and to realise it in such manner as the court may direct;
  - (c) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid to a specified person falling within [<sup>F65</sup>section 23B(1)].
- (2) A forfeiture order shall not come into force so long as an appeal is pending against the order or against the conviction on which it was made; and for this purpose where an appeal is competent but has not been brought it shall be treated as pending until the expiry of a period of fourteen days from the date when the order was made.
- (3) Any balance remaining after making any payment required under sub-paragraph (1) (c) or paragraph 17 shall be treated for the purposes of section 211(5) of the <sup>M20</sup>Criminal Procedure (Scotland) Act 1995 (fines payable to the Treasury) as if it were a fine imposed in the High Court of Justiciary.
- (4) The clerk of court shall, on the application of—
- (a) the prosecutor in the proceedings in which a forfeiture order is made,
  - (b) the accused in those proceedings, or
  - (c) a person whom the court heard under [<sup>F65</sup>section 23B(1)] before making the order,

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certify in writing the extent (if any) to which, at the date of the certificate, effect has been given to the order in respect of the money or other property to which it applies.

- (5) In sub-paragraph (1) references to the proceeds of the sale, disposal or realisation of property are references to the proceeds after deduction of the costs of sale, disposal or realisation.

#### Textual Amendments

**F65** Words in Sch. 4 para. 16(1)(c)(4)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(12)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### Modifications etc. (not altering text)

**C8** Sch. 4 para. 16(1) extended (13.12.2001) by S.I. 2001/3927, **art. 18**

**C9** Sch. 4 paras. 16(3)-(5) applied (13.12.2001) by S.I. 2001/3927, **art. 18**

#### Marginal Citations

**M20** 1995 c.46.

### *Administrators*

- 17 (1) The Court of Session may by rules of court prescribe the powers and duties of an administrator appointed under paragraph 16.
- (2) An administrator appointed under paragraph 16 shall be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by him or, if and so far as those proceeds are insufficient, by the Lord Advocate.
- (3) The accountant of court shall supervise an administrator appointed under paragraph 16 in the exercise of the powers conferred, and discharge of the duties imposed, on him under or by virtue of that paragraph.
- (4) An administrator appointed under paragraph 16 shall not be liable to any person in respect of any loss or damage resulting from action—
- (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
  - (b) which he would be entitled to take if the property were forfeited property, and
  - (c) which he takes reasonably believing that he is entitled to take because of his belief that the property is forfeited property.
- (5) Sub-paragraph (4) does not apply in so far as the loss or damage is caused by the administrator's negligence.

#### Modifications etc. (not altering text)

**C10** Sch. 4 para. 17 applied (13.12.2001) by S.I. 2001/3927, **art. 18**

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### *[<sup>F66</sup>Application of proceeds to compensate victims*

#### **Textual Amendments**

**F66** Sch. 4 para. 17A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 37(2), 100(5) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

- 17A (1) Where a court makes a forfeiture order in a case where—
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
  - (b) any such offence is taken into consideration by the court in determining sentence,
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of—
- (a) any forfeited money, and
  - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,
- reduced by the amount of any payment under paragraph 16(1)(c) or 17(2).
- (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995 under which the offender would have been required to pay compensation of an amount not less than the specified amount.]

### *Restraint orders*

- 18 (1) The Court of Session, on an application made by the Lord Advocate, may make a restraint order under this paragraph where—
- (a) proceedings have been instituted in Scotland for [<sup>F67</sup>a relevant offence],
  - (b) the proceedings have not been concluded, and
  - (c) a forfeiture order has been made, or it appears to the court that a forfeiture order may be made, in the proceedings for the offence.
- [<sup>F68</sup>(2) The Court of Session may also make a restraint order on such an application where—
- (a) a criminal investigation has been instituted in Scotland with regard to [<sup>F67</sup>a relevant offence], and
  - (b) it appears to the Court of Session that a forfeiture order may be made in any proceedings for the offence.]
- (3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in [<sup>F69</sup>any proceedings] referred to in sub-paragraph (1) or (2).
- (4) An application for a restraint order may be made ex parte in chambers.
- (5) For the purposes of this paragraph, dealing with property includes removing the property from Great Britain.

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[<sup>F70</sup>(6) In this paragraph “ criminal investigation ” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. ]

#### Textual Amendments

- F67** Words in Sch. 4 para. 18(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(13)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F68** Sch. 4 Pt. 2 para. 18(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 3(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F69** Words in Sch. 4 Pt. 2 para. 18(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 3(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F70** Sch. 4 Pt. 2 para. 18(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 3(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 19 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.
- (2) A restraint order may be recalled or varied by the Court of Session on the application of any person affected by it.
- [<sup>F71</sup>(3) A restraint order made under paragraph 18(1) shall in particular be recalled on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.
- (3A) A restraint order made under paragraph 18(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of [<sup>F72</sup>relevant offences] are instituted within such time as the Court of Session considers reasonable, and
- (b) if all proceedings in respect of [<sup>F72</sup>relevant offences] have been concluded.]
- (4) When proceedings for the offence are concluded the Lord Advocate shall forthwith apply to the Court for recall of the order.

#### Textual Amendments

- F71** Sch. 4 para. 19(3)(3A) substituted for Sch. 4 para. 19(3) (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 3(5)**; S.I. 2001/4019, **art. 2(1)(c)**
- F72** Words in Sch. 4 para. 19(3A)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(14)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 20 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Great Britain.
- (2) Property seized under this paragraph shall be dealt with in accordance with the Court’s directions.

#### Modifications etc. (not altering text)

- C11** Sch. 4 para. 20 applied (13.12.2001) by S.I. 2001/3927, **art. 19**

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- 21 (1) On the application of the Lord Advocate, the Court of Session may, in respect of heritable property in Scotland affected by a restraint order (whether such property generally or particular such property) grant warrant for inhibition against any person interdicted by the order.
- (2) Subject to this Part of this Schedule, a warrant under sub-paragraph (1)—
- (a) shall have effect as if granted on the dependence of an action for debt at the instance of the Lord Advocate against the person and may be executed, recalled, loosed or restricted accordingly;
  - (b) shall have the effect of letters of inhibition and shall forthwith be registered by the Lord Advocate in the register of inhibitions and adjudications.
- (3) Section 155 of the <sup>M21</sup>Titles to Land Consolidation (Scotland) Act 1868 (effective date of inhibition) shall apply in relation to an inhibition for which warrant has been granted under sub-paragraph (2)(a) as that section applies to an inhibition by separate letters or contained in a summons.
- (4) The execution of an inhibition under sub-paragraph (2) in respect of property shall not prejudice the exercise of an administrator's powers under or for the purposes of this Part of this Schedule in respect of that property.
- (5) No inhibition executed under sub-paragraph (2) shall have effect once, or in so far as, the restraint order affecting the property in respect of which the warrant for the inhibition has been granted has ceased to have effect in respect of that property, and the Lord Advocate shall—
- (a) apply for the recall, or as the case may be restriction, of the inhibition or arrestment accordingly; and
  - (b) ensure that recall, or restriction, of an inhibition on such application is reflected in the register of inhibitions and adjudications.

**Modifications etc. (not altering text)**

C12 Sch. 4 para. 20 applied (13.12.2001) by S.I. 2001/3927, art. 19

**Marginal Citations**

M21 1868 c.101.

- 22 (1) On the application of the Lord Advocate, the court may, in respect of moveable property affected by a restraint order (whether such property generally or particular such property), grant warrant for arrestment if the property would be arrestable if the person entitled to it were a debtor.
- (2) A warrant under sub-paragraph (1) shall have effect as if granted on the dependence of an action for debt at the instance of the Lord Advocate against the person and may be executed, recalled, loosed or restricted accordingly.
- (3) The execution of an arrestment under sub-paragraph (2) in respect of property shall not prejudice the exercise of an administrator's powers under or for the purposes of this Part of this Schedule in respect of that property.
- (4) No arrestment executed under sub-paragraph (2) shall have effect once, or in so far as, the restraint order affecting the property in respect of which the warrant for such arrestment has been granted has ceased to have effect in respect of that property; and

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the Lord Advocate shall apply to the court for an order recalling, or as the case may be, restricting the arrestment accordingly.

- <sup>x123</sup> (1) This paragraph applies where a restraint order is recalled under paragraph [F73]19(3A) (a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [F74]a relevant offence] which—
- (a) do not result in conviction for an [F75]a relevant offence],
  - (b) result in conviction for [F75]a relevant offence] s in respect of which the person convicted is subsequently pardoned by Her Majesty, or
  - (c) result in conviction for [F75]a relevant offence] which is subsequently quashed.
- (3) A person who had an interest in any property which was subject to the order may apply to the Court of Session for compensation.
- (4) The Court of Session may order compensation to be paid to the applicant if it is satisfied—
- (a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
  - (b) that the person in default was a constable of a police force or a constable acting with the powers of such a constable, or was a procurator fiscal or was acting on behalf of the Lord Advocate,
  - (c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or the restraint order, and
  - (d) having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (5) The Court of Session shall not order compensation to be paid where it appears to it that the proceedings for the offence would have been instituted even if the serious default had not occurred.
- (6) Compensation payable under this paragraph shall be paid—
- (a) where the person in default was a constable of a police force, out of the police fund out of which the expenses of that police force are met;
  - (b) where the person in default was a constable other than is mentioned in paragraph (a) above, but with the powers of such a constable, by the body under whose authority he acts; and
  - (c) where the person in default was a procurator fiscal or was acting on behalf of the Lord Advocate, by the Lord Advocate.
- (7) This paragraph is without prejudice to any right which may otherwise exist to institute proceedings in respect of delictual liability disclosed by such circumstances as are mentioned in paragraphs (a) to (c) of sub-paragraph (2).

#### **Editorial Information**

- X1** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

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#### Textual Amendments

- F73** Word in Sch. 4 Pt. 2 para. 23(1) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 3(6)**; S.I. 2001/4019, **art. 2(1)(c)**
- F74** Words in Sch. 4 para. 23(2) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(16)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F75** Words in Sch. 4 para. 23(2)(a)(b)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(16)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- <sup>x2</sup>24 (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F76</sup>a relevant offence], and
  - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5) as applied by section 8(1).
- (2) A person who had an interest in any property which was subject to the order may apply to the Court of Session for compensation.
- (3) The Court of Session may order compensation to be paid to the applicant if satisfied—
- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (4) Compensation payable under this paragraph shall be paid by the Secretary of State.

#### Editorial Information

- X2** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

#### Textual Amendments

- F76** Words in Sch. 4 para. 24(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(17)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

F77 . . .

#### Textual Amendments

- F77** Sch. 4 para. 23: preceding cross-heading omitted (18.6.2009) by virtue of Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(15)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### *Proceedings for an offence: timing*

- 25 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—
- (a) when a person is arrested for the offence,

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- (b) when a warrant to arrest or cite a person is granted,
  - (c) when an indictment or complaint is served on a person in respect of the offence.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part of this Schedule proceedings are concluded—
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the money or other property to which it applies, or
  - (b) when (disregarding any power of a court to extend the period within which an appeal may be made) there is no further possibility of a forfeiture order being made in the proceedings.

VALID FROM 03/12/2014

*<sup>F78</sup>Domestic and overseas freezing orders*

**Textual Amendments**

**F78** Sch. 4 Pt. 2 paras. 25A-25G and cross-headings inserted (prosp.) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 90, 94(1), [Sch. 4 para. 5](#)

- <sup>F79</sup>25A(1) This paragraph has effect for the purposes of paragraphs 25B to 25G.
- (2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.
  - (3) A listed offence means—
    - (a) an offence described in Article 3(2) of the relevant Framework Decision, or
    - (b) a prescribed offence or an offence of a prescribed description.
  - (4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 25D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.
  - (5) Specified information, in relation to a certificate under paragraph 25B or 25D, means—
    - (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
    - (b) any prescribed information.
  - (6) In this paragraph, “prescribed” means prescribed by an order made by the Secretary of State.
  - (7) A participating country means—



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- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
- (b) any other member State designated by an order made by the Secretary of State.

(8) “Country” includes territory.

(9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

#### Textual Amendments

**F79** Sch. 4 paras. 25A-25G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 4 para. 5; S.I. 2014/3192, art. 2\(b\)](#)

VALID FROM 03/12/2014

#### *Domestic freezing orders: certification*

- 25B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the Court of Session to make a certificate under this paragraph.
- (2) The Court of Session may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
  - (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.
- (3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
  - (b) gives the specified information.
- (4) If the Court of Session makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  - (b) paragraph 19(2) to (4) applies to the certificate as it applies to the restraint order.

VALID FROM 03/12/2014

#### *Sending domestic freezing orders*

- 25C (1) If a certificate is made under paragraph 25B, the restraint order and the certificate are to be sent to the Lord Advocate for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or

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(b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.

- (2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.
- (3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).
- (4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.

The signature may be an electronic signature.

- (5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Lord Advocate for forwarding as mentioned in sub-paragraph (1).

VALID FROM 03/12/2014

#### *Overseas freezing orders*

- 25D (1) Paragraph 25E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.
- (2) An overseas freezing order is an order prohibiting dealing with property—
    - (a) which is in the United Kingdom,
    - (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
    - (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,
 and in respect of which the following requirements of this paragraph are met.
  - (3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.
  - (4) The order must relate to—
    - (a) criminal proceedings instituted in the participating country, or
    - (b) a criminal investigation being carried on there.
  - (5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.
  - (6) The certificate must—
    - (a) be signed by or on behalf of the court or authority which made or confirmed the order,
    - (b) include a statement as to the accuracy of the information given in it,
    - (c) if it is not in English, include a translation of it into English.

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The signature may be an electronic signature.

- (7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.
- (8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
  - (a) a court exercising criminal jurisdiction in the country,
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.
- (9) References in paragraphs 25E to 25G to an overseas freezing order include its accompanying certificate.

VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

- 25E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the Court of Session and to the Lord Advocate.
- (2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.
  - (3) Before giving effect to the overseas freezing order, the court must give the Lord Advocate an opportunity to be heard.
  - (4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 25F The Court of Session may postpone giving effect to an overseas freezing order in respect of any property—
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
  - (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.
- 25G (1) Where the Court of Session decides to give effect to an overseas freezing order, the Deputy Principal Clerk of Session must—
- (a) register the order in the Books of Council and Session,
  - (b) provide for notice of the registration to be given to any person affected by it.
- (2) For the purpose of enforcing an overseas freezing order registered in the Books of Council and Session, the order is to have effect as if it were an order made by the Court of Session.
  - (3) Paragraphs 20 and 21 apply to an overseas freezing order registered in the Books of Council and Session as they apply to a restraint order under paragraph 18.

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- (4) The Court of Session may cancel the registration of the order, or vary the property to which the order applies, on an application by the Lord Advocate or any other person affected by it, if or to the extent that—
- (a) the court is of the opinion mentioned in paragraph 25E(4), or
  - (b) the court is of the opinion that the order has ceased to have effect in the participating country.
- (5) Her Majesty may by Order in Council make further provision for the enforcement in Scotland of registered overseas freezing orders.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases,
  - (b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

**F79** Sch. 4 paras. 25A-25G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 4 para. 5](#); S.I. 2014/3192, art. 2(b)

#### *Enforcement of orders made elsewhere in the British Islands*

- 26 In the following provisions of this Part of this Schedule—
- “an England and Wales order” means—
- (a) an order made in England and Wales under section 23 [<sup>F80</sup>or 23A] (“an England and Wales forfeiture order”),
  - (b) an order made under paragraph 5 (“an England and Wales restraint order”), or
  - (c) an order made under any other provision of Part I of this Schedule in relation to an England and Wales forfeiture or restraint order;
- “a Northern Ireland order” means—
- (a) an order made in Northern Ireland under section 23 [<sup>F80</sup>or 23A] (“a Northern Ireland forfeiture order”),
  - (b) an order made under paragraph 33 (“a Northern Ireland restraint order”), or
  - (c) an order made under any other provision of Part III of this Schedule in relation to a Northern Ireland forfeiture or restraint order;
- “an Islands order” means an order made in any of the Islands under a provision of the law of that Island corresponding to—
- (a) section 23 [<sup>F80</sup>or 23A] (“an Islands forfeiture order”),
  - (b) paragraph 18 (“an Islands restraint order”), or
  - (c) any other provision of this Part of this Schedule.

#### Textual Amendments

**F80** Words in Sch. 4 para. 26 inserted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(18\)](#) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

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*Status: Point in time view as at 23/11/2012.*

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- 27 (1) Subject to the provisions of this paragraph, an England and Wales order, Northern Ireland order or Islands order shall have effect in the law of Scotland.
- (2) But such an order shall be enforced in Scotland only in accordance with—
- (a) the provisions of this paragraph, and
  - (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.
- (3) On an application made to it in accordance with rules of court for registration of an England and Wales order, Northern Ireland order or Islands order, the Court of Session shall direct that the order shall, in accordance with such rules, be registered in that court.
- (4) Rules of court shall also make provision—
- (a) for cancelling or varying the registration of an England and Wales, Northern Ireland or Islands forfeiture order when effect has been given to it, whether in Scotland or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies,
  - (b) for cancelling or varying the registration of an England and Wales, Northern Ireland or Islands restraint order which has been discharged or varied by the court by which it was made.
- (5) If an England and Wales, Northern Ireland or Islands forfeiture order is registered under this paragraph the Court of Session shall have, in relation to that order, the same powers as a court has under paragraph 16(1) above in relation to a forfeiture order made by it and paragraphs 16(3) to (5) and 17 apply accordingly.
- (6) If an England and Wales, Northern Ireland or Islands forfeiture order is registered under this paragraph—
- (a) paragraphs 20 and 21 above shall apply as they apply to a restraint order, and
  - (b) the Court of Session shall have the like power to make an order under section 1 of the <sup>M22</sup>Administration of Justice (Scotland) Act 1972 (extended power to order inspection of documents, &c.) in relation to proceedings brought or likely to be brought for an England and Wales, Northern Ireland or Islands restraint order as if those proceedings had been brought or were likely to be brought in the Court of Session.
- (7) In addition, if an England and Wales order, Northern Ireland order or Islands order is registered under this paragraph—
- (a) the Court of Session shall have, in relation to its enforcement, the same power,
  - (b) proceedings for or with respect to its enforcement may be taken, and
  - (c) proceedings for or with respect to any contravention of such an order (whether before or after such registration) may be taken,
- as if the order had originally been made in the Court of Session.
- (8) The Court of Session may also make such orders or do otherwise as seems to it appropriate for the purpose of—
- (a) assisting the achievement in Scotland of the purposes of an England and Wales order, Northern Ireland order or Islands order, or
  - (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property.

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- (9) The following documents shall, in Scotland, be sufficient evidence of their contents—
- (a) a document purporting to be a copy of an England and Wales order, Northern Ireland order or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  - (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 16(4) and to be certified by a proper officer of the court concerned.
- (10) Nothing in any England and Wales order, Northern Ireland order or Islands order prejudices any enactment or rule of law in respect of the recording of deeds relating to heritable property in Scotland or the registration of interests in such property.

#### Commencement Information

**I2** Sch. 4 wholly in force at 19.2.2001; Sch. 4 not in force at Royal Assent see s. 128; Sch. 4 para. 27(2)(b)(3)(4) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(h\)\(ii\)](#); Sch. 4 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

#### Marginal Citations

**M22** 1972 c.59.

#### *Enforcement of orders made in designated countries*

- 28 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in Scotland of external orders.
- (2) An “external order” means an order—
- (a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and
  - (b) which makes relevant provision.
- (3) “Relevant provision” means—
- (a) provision for the forfeiture of terrorist property (“an external forfeiture order”); or
  - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory (“an external restraint order”).
- (4) An Order in Council under this paragraph may, in particular, include provision—
- (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced,
  - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 27(1) to (8) in relation to the orders to which that paragraph applies, and
  - (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.

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- (5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.
- (6) An Order under this paragraph—
- (a) may make different provision for different cases, and
  - (b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

### PART III

#### NORTHERN IRELAND

##### *Interpretation*

- 29 In this Part of this Schedule—
- “forfeiture order” means an order made by a court in Northern Ireland under section 23 [<sup>F81</sup>or 23A], and
- “forfeited property” means the money or other property to which a forfeiture order applies.
- [<sup>F82</sup>“relevant offence” means—
- (a) an offence under any of sections 15 to 18, or
  - (b) an offence to which section 23A applies.]

##### **Textual Amendments**

- F81** Sch. 4 para. 29: words in definition of “forfeiture order” inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(19)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F82** Sch. 4 para. 29: definition of “relevant offence” inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(19)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

##### *Implementation of forfeiture orders*

- 30 (1) Where a court in Northern Ireland makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may—
- (a) require any of the forfeited property to be paid or handed over to the proper officer or to a member of the Royal Ulster Constabulary designated for the purpose by the Chief Constable;
  - (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer;
  - (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;

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- (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person falling within [<sup>F83</sup>section 23B(1)].
- (2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).
- (3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.
- (4) Article 58 of the <sup>M23</sup>Magistrates' Courts (Northern Ireland) Order 1981 (disposal of non-pecuniary forfeitures) shall not apply.

#### Textual Amendments

**F83** Words in Sch. 4 para. 30(1)(d) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(20)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### Modifications etc. (not altering text)

**C13** Sch. 4 para. 30(1) extended (with modifications) (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

#### Marginal Citations

**M23** S.I. 1981/1675 (N.I. 26).

- 31 (1) A receiver appointed under paragraph 30 shall be entitled to be paid his remuneration and expenses by the proper officer out of the proceeds of the property realised by the receiver and paid to the proper officer under paragraph 30(1)(c).
- (2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.
- (3) A receiver appointed under paragraph 30 shall not be liable to any person in respect of any loss or damage resulting from action—
- which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
  - which he would be entitled to take if the property were forfeited property, and
  - which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.
- (4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

#### Modifications etc. (not altering text)

**C14** Sch. 4 para. 31 applied (13.12.2001) by S.I. 2001/3927, **art. 25(1)**

- 32 (1) In paragraphs 30 and 31 “the proper officer” means—
- where the forfeiture order is made by a court of summary jurisdiction, the clerk of petty sessions, and
  - where the forfeiture order is made by the Crown Court, the appropriate officer of the Crown Court.



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- (2) The proper officer shall issue a certificate in respect of a forfeiture order if an application is made by—
  - (a) the prosecutor in the proceedings in which the forfeiture order was made,
  - (b) the defendant in those proceedings, or
  - (c) a person whom the court heard under [<sup>F84</sup>section 23B(1)] before making the order.
- (3) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.
- (4) Any balance in the hands of the proper officer after making any payment required under paragraph 30(1)(d) or 31 shall be treated for the purposes of section 20 of the <sup>M24</sup>Administration of Justice (Northern Ireland) Act 1954 (application of fines, &c.) as if it were a fine.

#### Textual Amendments

**F84** Words in Sch. 4 para. 32(2)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(21)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

#### Marginal Citations

**M24** 1954 c. 9 (N.I.).

### <sup>F85</sup>*Application of proceeds to compensate victims*

#### Textual Amendments

**F85** Sch. 4 para. 32A and preceding cross-heading inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), **ss. 37(3), 100(5)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 32A (1) Where a court makes a forfeiture order in a case where—
- (a) the offender has been convicted of an offence that has resulted in a person suffering personal injury, loss or damage, or
  - (b) any such offence is taken into consideration by the court in determining sentence,
- the court may also order that an amount not exceeding a sum specified by the court is to be paid to that person out of the proceeds of the forfeiture.
- (2) For this purpose the proceeds of the forfeiture means the aggregate amount of—
    - (a) any forfeited money, and
    - (b) the proceeds of the sale, disposal or realisation of any forfeited property, after deduction of the costs of the sale, disposal or realisation,reduced by the amount of any payment under paragraph 30(1)(d) or 31(1).
  - (3) The court may make an order under this paragraph only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 under which the offender would have been required to pay compensation of an amount not less than the specified amount.]

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### *Restraint orders*

- 33 (1) The High Court may make a restraint order under this paragraph where—
- (a) proceedings have been instituted in Northern Ireland for [<sup>F86</sup>a relevant offence],
  - (b) the proceedings have not been concluded,
  - (c) an application for a restraint order is made to the High Court by the prosecutor, and
  - (d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.
- [<sup>F87</sup>(2) The High Court may also make a restraint order under this paragraph where—
- (a) a criminal investigation has been started in Northern Ireland with regard to [<sup>F86</sup>a relevant offence],
  - (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
  - (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.]
- (3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in [<sup>F88</sup>any proceedings] referred to in sub-paragraph (1) or (2).
- (4) An application for a restraint order may be made to a judge in chambers without notice.
- (5) For the purposes of this paragraph a reference to dealing with property includes a reference to removing the property from Northern Ireland.
- [<sup>F89</sup>(6) In this paragraph “ criminal investigation ” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. ]

#### **Textual Amendments**

- F86** Words in Sch. 4 para. 33(1)(a)(2)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(22)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F87** Sch. 4 Pt. 3 para. 33(2) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(2)**; S.I. 2001/4019, **art. 2(1)(c)**
- F88** Words in Sch. 4 Pt. 3 para. 33(3) substituted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(3)**; S.I. 2001/4019, **art. 2(1)(c)**
- F89** Sch. 4 Pt. 3 para. 33(6) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(4)**; S.I. 2001/4019, **art. 2(1)(c)**

- 34 (1) A restraint order shall provide for notice of it to be given to any person affected by the order.
- (2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.

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- [<sup>F90</sup>(3) A restraint order made under paragraph 33(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.
- (4) A restraint order made under paragraph 33(2) shall in particular be discharged on an application under sub-paragraph (2)—
- (a) if no proceedings in respect of [<sup>F91</sup>relevant offences] are instituted within such time as the High Court considers reasonable, and
- (b) if all proceedings in respect of [<sup>F91</sup>relevant offences] have been concluded.]

#### Textual Amendments

**F90** Sch. 4 Pt. 3 para. 34(3)(4) inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 2 para. 4(5)**; S.I. 2001/4019, **art. 2(1)(c)**

**F91** Words in Sch. 4 para. 34(4)(a)(b) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(23)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

- 35 (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from Northern Ireland.
- (2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

#### Modifications etc. (not altering text)

**C15** Sch. 4 para. 35 applied (13.12.2001) by S.I. 2001/3927, **art. 26**

- [<sup>F92</sup>36 (1) The power to make a restraint order under the provisions of paragraph 33 shall be exercisable by the Secretary of State in any case in which it appears to him that the information which it would be necessary to provide in support of an application to the High Court or a judge under those provisions would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18.
- (2) In their application by virtue of sub-paragraph (1) paragraphs 33 to 35 shall have effect with the necessary modifications and as if references to the High Court were references to the Secretary of State.
- (3) An order made by the Secretary of State by virtue of this paragraph may be varied or discharged by the High Court under paragraph 34.]

#### Textual Amendments

**F92** Sch. 4 para. 36 ceased to have effect (N.I.) (19.2.2003) by virtue of **The Terrorism Act 2000 (Continuance of Part VII) Order 2003** (S.I. 2003/427), **art. 2(2)(b)**; and repealed (N.I.) (19.2.2006) by **Terrorism (Northern Ireland) Act 2006** (c. 4), s. 5(2)(3), **Sch.**

- 37 (1) A person commits an offence if he contravenes a restraint order.
- (2) It is a defence for a person charged with an offence under this paragraph to prove that he had a reasonable excuse for the contravention.

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- (3) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum, or to both.
- (4) Nothing in this paragraph shall be taken to prejudice any power of the High Court to deal with the contravention of a restraint order as a contempt of court.

**Modifications etc. (not altering text)**

**C16** Sch. 4 para. 37 modified (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {1(9)}, 5(3)

- 38 (1) The prosecutor shall be treated for the purposes of section 66 of the <sup>M25</sup>Land Registration Act (Northern Ireland) 1970 (cautions) as a person interested in respect of any registered land to which a restraint order or an application for such an order relates.
- (2) On the application of the prosecutor, the Registrar of Titles shall, in respect of any registered land to which a restraint order or an application for such an order relates, make an entry inhibiting any dealing with the land without the consent of the High Court.
- (3) Subsections (2) and (4) of section 67 of the <sup>M26</sup>Land Registration Act (Northern Ireland) 1970 (inhibitions) shall apply to an entry made on the application of the prosecutor under sub-paragraph (2) as they apply to an entry made on the application of any person interested in the registered land under subsection (1) of that section.
- (4) In this paragraph—
- “registered land” has the meaning assigned to it by section 45(1)(a) of the <sup>M27</sup>Interpretation Act (Northern Ireland) 1954,
- “Registrar of Titles” and “entry” have the same meanings as in the <sup>M28</sup>Land Registration Act (Northern Ireland) 1970, and
- “prosecutor” in a case where a restraint order is made under paragraph 33(2) or an application for such an order is made, means the person who the High Court is satisfied has or will have the conduct of [<sup>F93</sup>any proceedings for [<sup>F94</sup>a relevant offence]].

**Textual Amendments**

**F93** Words in Sch. 4 para. 38(4) substituted (20.12.2001) by [2001 c. 24, s. 3, Sch. 2 Pt. 2 para. 4\(6\)](#); [S.I. 2001/4019, art. 2\(1\)\(c\)](#)

**F94** Sch. 4 para. 38(4): words in definition of "prosecutor" substituted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 5\(24\)](#) (with [s. 101\(2\)](#)); [S.I. 2009/1256, art. 2\(c\)](#)

**Modifications etc. (not altering text)**

**C17** Sch. 4 para. 38 applied (13.12.2001) by [S.I. 2001/3927, art. 26](#)

**Marginal Citations**

**M25** [1970 c. 18\(N.I.\)](#).

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**M26** 1970 c. 18(N.I.).

**M27** 1954 c. 33(N.I.).

**M28** 1970 c. 18(N.I.).

- <sup>x3</sup>39 (1) This paragraph applies where a restraint order is discharged under [F95] paragraph 34(4)(a)].
- (2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for [F96] a relevant offence] which—
- (a) do not result in conviction for [F97] a relevant offence],
  - (b) result in conviction for [F97] a relevant offence] in respect of which the person convicted is subsequently pardoned by Her Majesty, or
  - (c) result in a conviction for [F97] a relevant offence] which is subsequently quashed.
- (3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (4) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
  - (b) that the person in default was or was acting as a member of the Royal Ulster Constabulary, or was a [F98] member of staff of the Public Prosecution Service for Northern Ireland],
  - (c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.
- (6) Compensation payable under this paragraph shall be paid—
- (a) where the person in default was or was acting as a member of the Royal Ulster Constabulary, out of funds put at the disposal of the Chief Constable under section 10(5) of the <sup>M29</sup>Police (Northern Ireland) Act 1998, and
  - (b) where the person in default was a [F99] member of staff of the Public Prosecution Service for Northern Ireland], by the Director of Public Prosecutions for Northern Ireland.

#### **Editorial Information**

- X3** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

#### **Textual Amendments**

- F95** Word in Sch. 4 Pt. 3 para. 39(1) substituted (20.12.2001) by 2001 c. 24, s. 3, Sch. 2 Pt. 2 para. 4(7); S.I. 2001/4019, art. 2(1)(c)

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- F96** Words in Sch. 4 para. 39(2) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(a)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F97** Words in Sch. 4 para. 39(2)(a)(b)(c) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(26)(b)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**
- F98** Words in Sch. 4 para. 39(4)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**
- F99** Words in Sch. 4 para. 39(6)(b) substituted (13.6.2005) by 2002 c. 26, s. 85, Sch. 12 para. 80; S.R. 2005/281, **art. 2, Sch. 1**

#### Marginal Citations

**M29** 1998 c. 32.

- <sup>x4</sup>40 (1) This paragraph applies where—
- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for [<sup>F100</sup>a relevant offence], and
  - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 7(2) or (5), as applied by section 8(2).
- (2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (3) The High Court may order compensation to be paid to the applicant if satisfied—
- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (4) Compensation payable under this paragraph shall be paid by the Secretary of State.

#### Editorial Information

**X4** The omission of the cross-heading "Compensation" on 18.6.2009 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under "Restraint Orders" cross-heading.

#### Textual Amendments

**F100** Words in Sch. 4 para. 40(1)(a) substituted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(27)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

*F101* . . .

#### Textual Amendments

**F101** Sch. 4 para. 39: preceding cross-heading omitted (18.6.2009) by virtue of Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), **Sch. 3 para. 5(25)** (with s. 101(2)); S.I. 2009/1256, **art. 2(c)**

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Proceedings for an offence: timing*

- 41 (1) For the purposes of this Part of this Schedule proceedings for an offence are instituted—
- (a) when a summons or warrant is issued under Article 20 of the <sup>M30</sup>Magistrates' Courts (Northern Ireland) Order 1981 in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (c) when an indictment charging a person with the offence is presented under section 2(2)(c), (e) or (f) of the <sup>M31</sup>Grand Jury (Abolition) Act (Northern Ireland) 1969.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part of this Schedule proceedings are concluded—
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or
  - (b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

**Marginal Citations**

**M30** S.I. 1981/1675 (N.I. 26).

**M31** 1969 c. 15(N.I.).

VALID FROM 03/12/2014

*[<sup>F102</sup>Domestic and overseas freezing orders*

**Textual Amendments**

**F102** Sch. 4 Pt. 3 paras. 41A-41G and cross-headings inserted (prosp.) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 90, 94(1), [Sch. 4 para. 7](#)

<sup>F103</sup>41A(1) This paragraph has effect for the purposes of paragraphs 41B to 41G.

- (2) The relevant Framework Decision means the Framework Decision on the execution in the European Union of orders freezing property or evidence adopted by the Council of the European Union on 22nd July 2003.
- (3) A listed offence means—
  - (a) an offence described in Article 3(2) of the relevant Framework Decision, or
  - (b) a prescribed offence or an offence of a prescribed description.
- (4) An order under sub-paragraph (3)(b) which, for the purposes of paragraph 41D, prescribes an offence or a description of offences may require that the conduct which constitutes the offence or offences would, if it occurred in a part of the United Kingdom, constitute an offence in that part.

*Status: Point in time view as at 23/11/2012.*

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- (5) Specified information, in relation to a certificate under paragraph 41B or 41D, means—
- (a) any information required to be given by the form of certificate annexed to the relevant Framework Decision, or
  - (b) any prescribed information.
- (6) In this paragraph, “prescribed” means prescribed by an order made by the Secretary of State.
- (7) A participating country means—
- (a) a country other than the United Kingdom which is a member State on a day appointed for the commencement of Schedule 4 to the Crime (International Co-operation) Act 2003, and
  - (b) any other member State designated by an order made by the Secretary of State.
- (8) “Country” includes territory.
- (9) Section 14(2)(a) applies for the purposes of determining what are the proceeds of the commission of an offence.

#### Textual Amendments

**F103** Sch. 4 paras. 41A-41G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 4 para. 7; S.I. 2014/3192, art. 2\(b\)](#)

VALID FROM 03/12/2014

#### *Domestic freezing orders: certification*

- 41B (1) If any of the property to which an application for a restraint order relates is property in a participating country, the applicant may ask the High Court to make a certificate under this paragraph.
- (2) The High Court may make a certificate under this paragraph if—
- (a) it makes a restraint order in relation to property in the participating country, and
  - (b) it is satisfied that there is a good arguable case that the property is likely to be used for the purposes of a listed offence or is the proceeds of the commission of a listed offence.
- (3) A certificate under this paragraph is a certificate which—
- (a) is made for the purposes of the relevant Framework Decision, and
  - (b) gives the specified information.
- (4) If the High Court makes a certificate under this paragraph—
- (a) the restraint order must provide for notice of the certificate to be given to the person affected by it, and
  - (b) paragraph 34(2) to (4) applies to the certificate as it applies to the restraint order.



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VALID FROM 03/12/2014

*Sending domestic freezing orders*

- 41C (1) If a certificate is made under paragraph 41B, the restraint order and the certificate are to be sent to the Secretary of State for forwarding to—
- (a) a court exercising jurisdiction in the place where the property is situated, or
  - (b) any authority recognised by the government of the participating country as the appropriate authority for receiving orders of that kind.
- (2) The restraint order and the certificate must be accompanied by a forfeiture order, unless the certificate indicates when the court expects a forfeiture order to be sent.
- (3) The certificate must include a translation of it into an appropriate language of the participating country (if that language is not English).
- (4) The certificate must be signed by or on behalf of the court and must include a statement as to the accuracy of the information given in it.
- The signature may be an electronic signature.
- (5) If the restraint order and the certificate are not accompanied by a forfeiture order, but a forfeiture order is subsequently made, it is to be sent to the Secretary of State for forwarding as mentioned in sub-paragraph (1).

VALID FROM 03/12/2014

*Overseas freezing orders*

- 41D (1) Paragraph 41E applies where an overseas freezing order made by an appropriate court or authority in a participating country is received by the Secretary of State from the court or authority which made or confirmed the order.
- (2) An overseas freezing order is an order prohibiting dealing with property—
- (a) which is in the United Kingdom,
  - (b) which the appropriate court or authority considers is likely to be used for the purposes of a listed offence or is the proceeds of the commission of such an offence, and
  - (c) in respect of which an order has been or may be made by a court exercising criminal jurisdiction in the participating country for the forfeiture of the property,
- and in respect of which the following requirements of this paragraph are met.
- (3) The action which the appropriate court or authority considered would constitute or, as the case may be, constituted the listed offence is action done as an act of terrorism or for the purposes of terrorism.
- (4) The order must relate to—
- (a) criminal proceedings instituted in the participating country, or
  - (b) a criminal investigation being carried on there.

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- (5) The order must be accompanied by a certificate which gives the specified information; but a certificate may be treated as giving any specified information which is not given in it if the Secretary of State has the information in question.
- (6) The certificate must—
- (a) be signed by or on behalf of the court or authority which made or confirmed the order,
  - (b) include a statement as to the accuracy of the information given in it,
  - (c) if it is not in English, include a translation of it into English.
- The signature may be an electronic signature.
- (7) The order must be accompanied by an order made by a court exercising criminal jurisdiction in that country for the forfeiture of the property, unless the certificate indicates when such an order is expected to be sent.
- (8) An appropriate court or authority in a participating country in relation to an overseas freezing order is—
- (a) a court exercising criminal jurisdiction in the country,
  - (b) a prosecuting authority in the country,
  - (c) any other authority in the country which appears to the Secretary of State to have the function of making such orders.
- (9) References in paragraphs 41E to 41G to an overseas freezing order include its accompanying certificate.

VALID FROM 03/12/2014

*Enforcement of overseas freezing orders*

- 41E (1) Where this paragraph applies the Secretary of State must send a copy of the overseas freezing order to the High Court and to the Director of Public Prosecutions for Northern Ireland.
- (2) The court is to consider the overseas freezing order on its own initiative within a period prescribed by rules of court.
- (3) Before giving effect to the overseas freezing order, the court must give the Director an opportunity to be heard.
- (4) The court may decide not to give effect to the overseas freezing order only if, in its opinion, giving effect to it would be incompatible with any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 41F The High Court may postpone giving effect to an overseas freezing order in respect of any property—
- (a) in order to avoid prejudicing a criminal investigation which is taking place in the United Kingdom, or
  - (b) if, under an order made by a court in criminal proceedings in the United Kingdom, the property may not be dealt with.
- 41G (1) Where the High Court decides to give effect to an overseas freezing order, it must—
- (a) register the order in that court,

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- (b) provide for notice of the registration to be given to any person affected by it.
- (2) For the purpose of enforcing an overseas freezing order registered in the High Court, the order is to have effect as if it were an order made by that court.
- (3) Paragraph 35 applies to an overseas freezing order registered in the High Court as it applies to a restraint order under paragraph 33.
- (4) The High Court may cancel the registration of the order, or vary the property to which the order applies, on an application by the Director of Public Prosecutions for Northern Ireland or any other person affected by it, if or to the extent that—
  - (a) the court is of the opinion mentioned in paragraph 41E(4), or
  - (b) the court is of the opinion that the order has ceased to have effect in the participating country.
- (5) Her Majesty may by Order in Council make further provision for the enforcement in Northern Ireland of registered overseas freezing orders.
- (6) An Order in Council under this paragraph—
  - (a) may make different provision for different cases,
  - (b) is not to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### **Textual Amendments**

**F103** Sch. 4 paras. 41A-41G and cross-headings inserted (3.12.2014) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 4 para. 7; S.I. 2014/3192, art. 2\(b\)](#)

#### *Enforcement of orders made elsewhere in the British Islands*

- 42 In the following provisions of this Part of this Schedule—
- “an England and Wales order” means—
    - (a) an order made in England and Wales under section 23 [<sup>F104</sup>or 23A] (“an England and Wales forfeiture order”),
    - (b) an order made under paragraph 5 (“an England and Wales restraint order”), or
    - (c) an order made under any other provision of Part I of this Schedule in relation to an England and Wales forfeiture or restraint order;
  - “a Scottish order” means—
    - (a) an order made in Scotland under section 23 [<sup>F104</sup>or 23A] (“a Scottish forfeiture order”),
    - (b) an order made under paragraph 18 (“a Scottish restraint order”), or
    - (c) an order made under any other provision of Part II of this Schedule in relation to a Scottish forfeiture or restraint order;
  - “an Islands order” means an order made in any of the Islands under a provision of the law of that Island corresponding to—
    - (a) section 23 [<sup>F104</sup>or 23A] (“an Islands forfeiture order”),
    - (b) paragraph 33 (“an Islands restraint order”), or
    - (c) any other provision of this Part of this Schedule.

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### Textual Amendments

**F104** Words in Sch. 4 para. 42 inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), Sch. 3 para. 5(28) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

- 43 (1) Subject to the provisions of this paragraph, an England and Wales, Scottish or Islands order shall have effect in the law of Northern Ireland.
- (2) But such an order shall be enforced in Northern Ireland only in accordance with—
- (a) the provisions of this paragraph, and
  - (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced there.
- (3) On an application made to it in accordance with rules of court for registration of an England and Wales, Scottish or Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.
- (4) Rules of court shall also make provision—
- (a) for cancelling or varying the registration of an England and Wales, Scottish or Islands forfeiture order when effect has been given to it, whether in Northern Ireland or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;
  - (b) for cancelling or varying the registration of an England and Wales, Scottish or Islands restraint order which has been discharged or varied by the court by which it was made.
- (5) If an England and Wales, Scottish or Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 30(1) to give effect to a forfeiture order made by it and—
- (a) paragraph 31 shall apply accordingly,
  - (b) any functions of the clerk of petty sessions or the appropriate officer of the Crown Court shall be exercised by the appropriate officer of the High Court, and
  - (c) after making any payment required by virtue of paragraph 30(1)(d) or 31, the balance of any sums received by the appropriate officer of the High Court by virtue of an order made under this sub-paragraph shall be paid into the Consolidated Fund.
- (6) If an England and Wales, Scottish or Islands restraint order is registered under this paragraph—
- (a) paragraphs 35 and 38 shall apply as they apply to a restraint order under paragraph 33, and
  - (b) the High Court shall have the like power to make an order under section 21 of the <sup>M32</sup>Administration of Justice Act 1969 (extended power to order inspection of property, &c.) in relation to proceedings brought or likely to be brought for an England and Wales, Scottish or Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.
- (7) In addition, if an England and Wales, Scottish or Islands order is registered under this paragraph—

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- (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
  - (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and
  - (c) proceedings for or with respect to any contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.
- (8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of—
- (a) assisting the achievement in Northern Ireland of the purposes of an England and Wales, Scottish or Islands order, or
  - (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property.
- (9) The following documents shall be received in evidence in Northern Ireland without further proof—
- (a) a document purporting to be a copy of an England and Wales, Scottish or Islands order and to be certified as such by a proper officer of the court by which it was made, and
  - (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 32(2) and (3) and to be certified by a proper officer of the court concerned.

#### Commencement Information

**I3** Sch. 4 wholly in force at 19.2.2001; Sch. 4 not in force at Royal Assent see s. 128; Sch. 4 para. 43(2)(b)(3)(4) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(h\)\(iii\)](#); Sch. 4 para. 43 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

#### Marginal Citations

**M32** 1969 c. 58.

#### *Enforcement of orders made in designated countries*

- 44 (1) Her Majesty may by Order in Council make provision for the purpose of enabling the enforcement in Northern Ireland of external orders.
- (2) An “external order” means an order—
- (a) which is made in a country or territory designated for the purposes of this paragraph by the Order in Council, and
  - (b) which makes relevant provision.
- (3) “Relevant provision” means—
- (a) provision for the forfeiture of terrorist property (“an external forfeiture order”), or
  - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory (“an external restraint order”).
- (4) An Order in Council under this paragraph may, in particular, include provision—

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- (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;
  - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 43(1) to (8) in relation to the orders to which that paragraph applies;
  - (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Order in Council.
- (5) An Order in Council under this paragraph may also make provision with respect to anything falling to be done on behalf of the United Kingdom in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.
- (6) An Order in Council under this paragraph—
- (a) may make different provision for different cases, and
  - (b) shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

## PART IV

### INSOLVENCY: UNITED KINGDOM PROVISIONS

#### *General*

- 45 In this Part of this Schedule—
- “ancillary order” means an order made in connection with a forfeiture, other than the forfeiture order,
- “forfeiture order” means—
- (a) an order made in England and Wales, Scotland or Northern Ireland under section 23 [<sup>F105</sup>or 23A],
  - (b) an Islands forfeiture order within the meaning given in paragraph 12, 26 or 42, or
  - (c) an external forfeiture order which is enforceable in England and Wales, Scotland or Northern Ireland by virtue of an Order in Council made under paragraph 14, 28 or 44,
- “forfeited property” means the money or other property to which a forfeiture order applies, and
- “restraint order” means—
- (a) an order made under paragraph 5, 18 or 33,
  - (b) an Islands restraint order within the meaning given in paragraph 12, 26 or 42, or
  - (c) an external restraint order which is enforceable in England and Wales, Scotland or Northern Ireland by virtue of an Order in Council made under paragraph 14, 28 or 44.

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#### Textual Amendments

**F105** Words in Sch. 4 para. 45 inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), Sch. 3 para. 5(29) (with s. 101(2)); S.I. 2009/1256, art. 2(c)

#### *Protection of creditors against forfeiture*

- 46 (1) During the period of six months beginning with the making of a forfeiture order, the following shall not be finally disposed of under this Schedule—
- (a) the money to which the order applies, and
  - (b) the money which represents any property to which the order applies.
- (2) For the purposes of this paragraph money is finally disposed of under this Schedule when—
- (a) in England and Wales, it is paid to the Lord Chancellor in accordance with [F106section 38 of the Courts Act 2003 (application of receipts of designated officers)] or to the Secretary of State in accordance with paragraph 13(5)(c),
  - (b) in Scotland, it is paid to the Treasury in accordance with section 211(5) of the M33Criminal Procedure (Scotland) Act 1995 (as modified by paragraph 16(3)), or
  - (c) in Northern Ireland, it is paid into the Consolidated Fund in accordance with paragraph 32(4) or 43(5)(c).

#### Textual Amendments

**F106** Words in Sch. 4 para. 46(2)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), Sch. 8 para. 388(4); S.I. 2005/910, art. 3

#### Marginal Citations

**M33** 1995 c. 46.

- 47 (1) This paragraph applies where—
- (a) before or after a forfeiture order is made, the commencement of an insolvency occurs in qualifying insolvency proceedings,
  - (b) an insolvency practitioner would, but for the forfeiture order, exercise a function in those proceedings in relation to property to which the forfeiture order applies, and
  - (c) he gives written notice to the relevant officer of the matters referred to in paragraphs (a) and (b) before the end of the period of six months beginning with the making of the forfeiture order.
- (2) Sub-paragraph (3) shall apply to—
- (a) the property in relation to which the insolvency practitioner would, but for the forfeiture order, exercise a function as described in sub-paragraph (1) (b), and
  - (b) the proceeds of sale of that property.
- (3) The property—
- (a) shall cease to be subject to the forfeiture order and any ancillary order, and

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- (b) shall be dealt with in the insolvency proceedings as if the forfeiture order had never been made.
- (4) But—
- (a) the property to which sub-paragraph (3) applies is the balance remaining after the relevant officer has exercised his powers under paragraph 50(1), and
- (b) sub-paragraph (3) shall not take effect in respect of property in relation to which the relevant officer, or any person acting in pursuance of an ancillary order, has incurred obligations until those obligations have been discharged.
- (5) In this paragraph “the commencement of an insolvency” means—
- (a) the making of a bankruptcy order,
- (b) the award of sequestration,
- (c) in England and Wales or in Northern Ireland, in the case of the insolvent estate of a deceased person, the making of an insolvency administration order, or
- (d) in the case of a company, the passing of a resolution for its winding up, or where no such resolution has been passed, the making of an order by the court for the winding up of the company.
- 48 (1) Where by virtue of paragraph 47(3) property falls to be dealt with in insolvency proceedings, the Secretary of State shall be taken to be a creditor in those proceedings to the amount or value of the property.
- (2) Except in a sequestration, his debt—
- (a) shall rank after the debts of all other creditors, and
- (b) shall not be paid until they have been paid in full with interest under the relevant provision.
- (3) In sub-paragraph (2)(b) the “relevant provision” means—
- (a) in relation to the winding up of a company in England and Wales or Scotland, section 189(2) of the <sup>M34</sup>Insolvency Act 1986,
- (b) in relation to a bankruptcy in England and Wales, section 328(4) of that Act,
- (c) in relation to the winding up of a company in Northern Ireland, Article 160(2) of the <sup>M35</sup>Insolvency (Northern Ireland) Order 1989, and
- (d) in relation to a bankruptcy in Northern Ireland, Article 300(4) of that Order.
- (4) In a sequestration, his debt shall rank after all of the debts mentioned in section 51(1) of the <sup>M36</sup>Bankruptcy (Scotland) Act 1985 and shall not be paid until they have been paid in full.
- (5) Sub-paragraphs (2) to (4) apply notwithstanding any provision contained in or made under any other enactment.

#### Marginal Citations

**M34** 1986 c. 45.

**M35** S.I. 1989/2405 (N.I. 19).

**M36** 1985 c. 66.



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- 49 (1) This paragraph applies to property which ceased to be subject to a forfeiture order by virtue of paragraph 47(3) in consequence of the making of a bankruptcy order or an award of sequestration.
- (2) The property shall again become subject to the forfeiture order and, if applicable, any ancillary order if—
- (a) the bankruptcy order is annulled, or
  - (b) the award of sequestration is recalled or reduced.
- (3) Where the property is money or has been converted into money—
- (a) the relevant court shall make an order specifying property comprised in the estate of the bankrupt or debtor to the amount or value of the property, and
  - (b) the specified property shall become subject to the forfeiture order, and any applicable ancillary order, in place of the property.
- (4) In sub-paragraph (3) the “relevant court” means—
- (a) the court which ordered the annulment of the bankruptcy, or
  - (b) the court which recalled or reduced the award of sequestration.

*Expenses incurred in connection with forfeiture*

- 50 (1) Where money or other property falls to be dealt with in accordance with paragraph 47(3), the relevant officer may—
- (a) deduct allowable forfeiture expenses from that money;
  - (b) retain so much of that property as he considers necessary for the purpose of realising it and deducting allowable forfeiture expenses from the proceeds of realisation.
- (2) Where property is delivered up in pursuance of paragraph 47(3) and the relevant officer has not made provision under sub-paragraph (1) for all the allowable forfeiture expenses then—
- (a) a person who has incurred allowable forfeiture expenses for which provision has not been made shall have a claim to their value in the insolvency proceedings, and
  - (b) the expenses in question shall be treated for the purposes of the insolvency proceedings as if they were expenses of those proceedings.
- (3) In this paragraph “allowable forfeiture expenses”—
- (a) means expenses incurred in relation to the forfeited property by the relevant officer,
  - (b) means expenses incurred in relation to the forfeited property by a receiver, administrator or other person appointed by the relevant officer,
  - (c) means expenses incurred in relation to the forfeited property by any person appointed or directed to deal with any property under paragraph 16, and
  - (d) includes sums paid or required to be paid under paragraph 2(1)(d), 16(1)(c) or 30(1)(d).

*Protection of insolvency practitioners*

- 51 (1) This paragraph applies where an insolvency practitioner seizes or disposes of property which is subject to a forfeiture order or a restraint order and—

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- (a) he reasonably believes that he is entitled to do so in the exercise of his functions, and
  - (b) he would be so entitled if the property were not subject to a forfeiture order or a restraint order.
- (2) The insolvency practitioner shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence.
- (3) The insolvency practitioner shall have a lien on the property seized or the proceeds of its sale—
  - (a) for such of his expenses as were incurred in connection with the insolvency proceedings in relation to which the seizure or disposal purported to take place, and
  - (b) for so much of his remuneration as may be reasonably assigned for his acting in connection with those proceedings.
- (4) Sub-paragraphs (1) to (3) are without prejudice to the generality of any provision contained in the <sup>M37</sup>Insolvency Act 1986 or the <sup>M38</sup>Bankruptcy (Scotland) Act 1985 or any other Act or the <sup>M39</sup>Insolvency (Northern Ireland) Order 1989.
- (5) In this paragraph “insolvency practitioner”, in any part of the United Kingdom, means a person acting as an insolvency practitioner in that or any other part of the United Kingdom.
- (6) For the purpose of sub-paragraph (5) any question whether a person is acting as an insolvency practitioner in England and Wales or in Scotland shall be determined in accordance with section 388 of the <sup>M40</sup>Insolvency Act 1986, except that—
  - (a) the reference in section 388(2)(a) to a permanent or interim trustee in the sequestration of a debtor’s estate shall be taken to include a reference to a trustee in sequestration,
  - (b) section 388(5) shall be disregarded, and
  - (c) the expression shall also include the Official Receiver acting as receiver or manager of property.
- (7) For the purpose of sub-paragraph (5) any question whether a person is acting as an insolvency practitioner in Northern Ireland shall be determined in accordance with Article 3 of the <sup>M41</sup>Insolvency (Northern Ireland) Order 1989, except that—
  - (a) Article 3(5) shall be disregarded, and
  - (b) the expression shall also include the Official Receiver acting as receiver or manager of property.

#### Marginal Citations

**M37** 1986 c. 45.

**M38** 1985 c. 66.

**M39** S.I. 1989/2405 (N.I. 19).

**M40** 1986 c. 45.

**M41** S.I. 1989/2405 (N.I. 19).

*Status: Point in time view as at 23/11/2012.*

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*Insolvency practitioners in the Islands and designated countries*

- 52 (1) An order may be made under this paragraph to secure that an Islands or external insolvency practitioner has the same rights under this Part of this Schedule in relation to—
- (a) property situated in England and Wales,
  - (b) property situated in Scotland, or
  - (c) property situated in Northern Ireland,
- as he would have if he were an insolvency practitioner in that part of the United Kingdom.
- (2) The Secretary of State may make an order—
- (a) under sub-paragraph (1)(a) with the concurrence of the Lord Chancellor;
  - (b) under sub-paragraph (1)(b).
- (3) An order under sub-paragraph (1)(c)—
- (a) may be made by the Department of Enterprise, Trade and Investment in Northern Ireland,
  - (b) shall be a statutory rule for the purposes of the <sup>M42</sup>Statutory Rules (Northern Ireland) Order 1979, and
  - (c) shall be subject to negative resolution within the meaning of section 41(6) of the <sup>M43</sup>Interpretation (Northern Ireland) Act 1954.
- (4) An order under this paragraph may, in particular, include—
- (a) provision which modifies the rights under this Part of this Schedule which are to be conferred under the order;
  - (b) provision as to the manner in which the rights conferred under the order are to be exercised;
  - (c) provision as to the conditions subject to which those rights are to be exercised, including the obtaining of leave from a court;
  - (d) provision for empowering a court granting such leave to impose such conditions as it thinks fit.
- (5) An order under this paragraph may make different provision for different purposes.
- (6) In this paragraph—
- “Islands or external insolvency practitioner” means a person exercising under the insolvency law of a relevant country or territory functions corresponding to those exercised by insolvency practitioners under the insolvency law of any part of the United Kingdom,
- “insolvency law” has the same meaning as in section 426(10) of the <sup>M44</sup>Insolvency Act 1986, except that the reference to a relevant country or territory shall be construed in accordance with this paragraph, and
- “relevant country or territory” means—
- (a) any of the Channel Islands,
  - (b) the Isle of Man, or
  - (c) any country or territory designated as mentioned in paragraph 14, 28 or 44.

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#### Marginal Citations

**M42** S.I. 1979/1573 (N.I. 12).

**M43** 1954 c. 33 (N.I.).

**M44** 1986 c. 45.

#### Interpretation

- 53 (1) In this Part of this Schedule (other than in paragraph 51) “insolvency practitioner” means a person acting in any qualifying insolvency proceedings in any part of the United Kingdom as—
- (a) a liquidator of a company or partnership,
  - (b) a trustee in bankruptcy,
  - (c) the permanent or interim trustee on the debtor’s estate,
  - (d) an administrator of the insolvent estate of a deceased person, or
  - (e) a receiver or manager of any property.
- (2) In this Part of this Schedule “qualifying insolvency proceedings” means—
- (a) any proceedings under the <sup>M45</sup>Insolvency Act 1986 or the <sup>M46</sup>Insolvency (Northern Ireland) Order 1989 for the winding up of a company or an unregistered company and includes any voluntary winding up of a company under Part IV of that Act or Part V of that Order,
  - (b) any proceedings in England and Wales or Northern Ireland under or by virtue of section 420 of the <sup>M47</sup>Insolvency Act 1986 or Article 364 of the <sup>M48</sup>Insolvency (Northern Ireland) Order 1989 for the winding up of an insolvent partnership,
  - (c) any proceedings in bankruptcy or, in Scotland, any sequestration of a debtor’s estate, or
  - (d) any proceedings in England and Wales or in Northern Ireland under or by virtue of section 421 of the <sup>M49</sup>Insolvency Act 1986 or Article 365 of the <sup>M50</sup>Insolvency (Northern Ireland) Order 1989 in relation to the insolvent estate of a deceased person.
- (3) In this Part of this Schedule “the relevant officer” means in England and Wales and in Northern Ireland—
- (a) where the forfeiture order in question is made by a court in England and Wales, the proper officer within the meaning given in paragraph 4,
  - (b) where the forfeiture order in question is made by a court in Northern Ireland, the proper officer within the meaning given in paragraph 32, and
  - (c) in any other case, the appropriate officer of the High Court.
- (4) In this Part of this Schedule “the relevant officer” means in Scotland—
- (a) where the forfeiture order in question is made by a court in Scotland, the clerk of the court,
  - (b) in any other case, the Principal Clerk of Session and Justiciary.
- (5) In this Part of this Schedule references to the proceeds of sale or realisation of property are references to the proceeds after deduction of the costs of sale or realisation.

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#### Marginal Citations

- M45 1986 c. 45.
- M46 S.I. 1989/2405 (N.I. 19).
- M47 1986 c. 45.
- M48 S.I. 1989/2405 (N.I. 19).
- M49 1986 c. 45.
- M50 S.I. 1989/2405 (N.I. 19).

## SCHEDULE 5

Section 37.

### TERRORIST INVESTIGATIONS: INFORMATION

#### PART I

#### ENGLAND AND WALES AND NORTHERN IRELAND

##### *Searches*

- 1 (1) A constable may apply to a justice of the peace for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.
- (2) A warrant under this paragraph shall authorise any constable—
  - (a) to enter [<sup>F107</sup>premises mentioned in sub-paragraph (2A)] ,
  - (b) to search the premises and any person found there, and
  - (c) to seize and retain any relevant material which is found on a search under paragraph (b).
- [<sup>F108</sup>(2A) The premises referred to in sub-paragraph (2)(a) are—
  - (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”); or
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).]
  - (3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that—
    - (a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
    - (b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.
  - (4) A warrant under this paragraph shall not authorise—
    - (a) the seizure and retention of items subject to legal privilege, or
    - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
  - (5) Subject to paragraph 2, a justice may grant an application under this paragraph if satisfied—

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- (a) that the warrant is sought for the purposes of a terrorist investigation,
- (b) that there are reasonable grounds for believing that there is material on [F109]premises to which the application relates] which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation and which does not consist of or include excepted material (within the meaning of paragraph 4 below), and
- (c) that the issue of a warrant is likely to be necessary in the circumstances of the case [F110, and]
- [F111](d) in the case of an application for an all premises warrant, that it is not reasonably practicable to specify in the application all the premises which the person so specified occupies or controls and which might need to be searched.]

#### Textual Amendments

- F107** Words in Sch. 5 para. 1(2)(a) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(2\)](#); S.I. 2006/1013, [art. 2](#)
- F108** Sch. 5 para. 1(2A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(2\)](#); S.I. 2006/1013, [art. 2](#)
- F109** Words in Sch. 5 para. 1(5)(b) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(4\)\(a\)](#); S.I. 2006/1013, [art. 2](#)
- F110** Word in Sch. 5 para. 1(5)(c) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(4\)\(b\)](#); S.I. 2006/1013, [art. 2](#)
- F111** Sch. 5 para. 1(5)(d) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(4\)\(c\)](#); S.I. 2006/1013, [art. 2](#)

#### Modifications etc. (not altering text)

- C18** Sch. 5 para. 1: power(s) of seizure extended (1.4.2003) by [2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71](#); S.I. 2003/708, [art. 2](#)
- C19** Sch. 5 para. 1: power(s) of seizure extended (1.4.2003) by [2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83](#); S.I. 2003/708, [art. 2](#)
- C20** Sch. 5 para. 1 modified (E.W.N.I) (1.4.2003) by [2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109\(1\)](#) (with [s. 57\(3\)](#)); S.I. 2003/708, [art. 2](#)

- 2 (1) This paragraph applies where an application [F112]for a specific premises warrant] is made under paragraph 1 and—
- (a) the application is made by a police officer of at least the rank of superintendent,
  - (b) the application does not relate to residential premises, and
  - (c) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).
- (2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a) and (b).
- (3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only within the period of 24 hours beginning with the time when the warrant is issued.
- (4) For the purpose of sub-paragraph (1) “residential premises” means any premises which the officer making the application has reasonable grounds for believing are used wholly or mainly as a dwelling.

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#### Textual Amendments

**F112** Words in Sch. 5 para. 2(1) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(5\)](#); S.I. 2006/1013, [art. 2](#)

- [<sup>F113</sup>2A(1) This paragraph applies where an application for an all premises warrant is made under paragraph 1 and—
- (a) the application is made by a police officer of at least the rank of superintendent, and
  - (b) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).
- (2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a), (b) and (d).
- (3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only—
- (a) in respect of premises which are not residential premises, and
  - (b) within the period of 24 hours beginning with the time when the warrant is issued.
- (4) For the purpose of sub-paragraph (3) “ residential premises ”, in relation to a power under paragraph 1(2)(a) or (b), means any premises which the constable exercising the power has reasonable grounds for believing are used wholly or mainly as a dwelling. ]

#### Textual Amendments

**F113** Sch. 5 para. 2A inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(6\)](#); S.I. 2006/1013, [art. 2](#)

- 3
- (1) Subject to sub-paragraph (2), a police officer of at least the rank of superintendent may by a written authority signed by him authorise a search of specified premises which are wholly or partly within a cordoned area.
  - (2) A constable who is not of the rank required by sub-paragraph (1) may give an authorisation under this paragraph if he considers it necessary by reason of urgency.
  - (3) An authorisation under this paragraph shall authorise any constable—
    - (a) to enter the premises specified in the authority,
    - (b) to search the premises and any person found there, and
    - (c) to seize and retain any relevant material (within the meaning of paragraph 1(3)) which is found on a search under paragraph (b).
  - (4) The powers under sub-paragraph (3)(a) and (b) may be exercised—
    - (a) on one or more occasions, and
    - (b) at any time during the period when the designation of the cordoned area under section 33 has effect.
  - (5) An authorisation under this paragraph shall not authorise—
    - (a) the seizure and retention of items subject to legal privilege;
    - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

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- (6) An authorisation under this paragraph shall not be given unless the person giving it has reasonable grounds for believing that there is material to be found on the premises which—
- (a) is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
  - (b) does not consist of or include excepted material.
- (7) A person commits an offence if he wilfully obstructs a search under this paragraph.
- (8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding three months,
  - (b) a fine not exceeding level 4 on the standard scale, or
  - (c) both.

**Modifications etc. (not altering text)**

- C21** Sch. 5 para. 3: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71; S.I. 2003/708, art. 2
- C22** Sch. 5 para. 3: power(s) of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83; S.I. 2003/708, art. 2
- C23** Sch. 5 para. 3 modified (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 109(1) (with s. 57(3)); S.I. 2003/708, art. 2

*Excepted material*

- 4 In this Part—
- (a) “excluded material” has the meaning given by section 11 of the <sup>M51</sup>Police and Criminal Evidence Act 1984,
  - (b) “items subject to legal privilege” has the meaning given by section 10 of that Act, and
  - (c) “special procedure material” has the meaning given by section 14 of that Act;
- and material is “excepted material” if it falls within any of paragraphs (a) to (c).

**Marginal Citations**

**M51** 1984 c. 60.

*Excluded and special procedure material: production & access*

- 5 (1) A constable may apply to a Circuit judge [<sup>F114</sup>or a District Judge (Magistrates' Courts)] for an order under this paragraph for the purposes of a terrorist investigation.
- (2) An application for an order shall relate to particular material, or material of a particular description, which consists of or includes excluded material or special procedure material.
- (3) An order under this paragraph may require a specified person—



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- (a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
  - (b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;
  - (c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).
- (4) For the purposes of this paragraph—
- (a) an order may specify a person only if he appears to the Circuit judge [<sup>F115</sup>or the District Judge (Magistrates' Courts)] to have in his possession, custody or power any of the material to which the application relates, and
  - (b) a period specified in an order shall be the period of seven days beginning with the date of the order unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.
- (5) Where a Circuit judge [<sup>F114</sup>or a District Judge (Magistrates' Courts)] makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of a constable, order any person who appears to the judge to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.

#### Textual Amendments

**F114** Words in Sch. 5 para. 5(1)(5) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 65\(2\), Sch. 4 para. 9\(a\)](#); [S.I. 2005/910, art. 3\(u\)](#)

**F115** Words in Sch. 5 para. 5(4)(a) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 65\(2\), Sch. 4 para. 9\(b\)](#); [S.I. 2005/910, art. 3\(u\)](#)

- 6 (1) A Circuit judge [<sup>F116</sup>or a District Judge (Magistrates' Courts)] may grant an application under paragraph 5 if satisfied—
- (a) that the material to which the application relates consists of or includes excluded material or special procedure material,
  - (b) that it does not include items subject to legal privilege, and
  - (c) that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.
- (2) The first condition is that—
- (a) the order is sought for the purposes of a terrorist investigation, and
  - (b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
- (3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard—
- (a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and

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- (b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

#### Textual Amendments

**F116** Words in Sch. 5 para. 6(1) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 65(2), [Sch. 4 para. 9\(a\)](#); [S.I. 2005/910](#), [art. 3\(u\)](#)

- 7 (1) An order under paragraph 5 may be made in relation to—
- (a) material consisting of or including excluded or special procedure material which is expected to come into existence within the period of 28 days beginning with the date of the order;
  - (b) a person who the Circuit judge [<sup>F117</sup>or the District Judge (Magistrates' Courts)] thinks is likely to have any of the material to which the application relates in his possession, custody or power within that period.
- (2) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(3) shall apply with the following modifications—
- (a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,
  - (b) the reference in paragraph 5(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and
  - (c) the reference in paragraph 5(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.
- (3) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(4) shall not apply and the order—
- (a) may only specify a person falling within sub-paragraph (1)(b), and
  - (b) shall specify the period of seven days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

#### Textual Amendments

**F117** Words in Sch. 5 para. 7(1)(b) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 65(2), [Sch. 4 para. 9\(b\)](#); [S.I. 2005/910](#), [art. 3\(u\)](#)

- 8 (1) An order under paragraph 5—
- (a) shall not confer any right to production of, or access to, items subject to legal privilege, and
  - (b) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (2) Where the material to which an application under paragraph 5 relates consists of information contained in a computer—

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- (a) an order under paragraph 5(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and
  - (b) an order under paragraph 5(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.
- 9 (1) An order under paragraph 5 may be made in relation to material in the possession, custody or power of a government department.
- (2) Where an order is made by virtue of sub-paragraph (1)—
- (a) it shall be served as if the proceedings were civil proceedings against the department, and
  - (b) it may require any officer of the department, whether named in the order or not, who may for the time being have in his possession, custody or power the material concerned, to comply with the order.
- (3) In this paragraph “government department” means an authorised government department for the purposes of the <sup>M52</sup>Crown Proceedings Act 1947.

#### Marginal Citations

**M52** 1947 c. 44.

- 10 (1) An order of a Circuit judge [<sup>F118</sup>or a District Judge (Magistrates' Courts)] under paragraph 5 shall have effect as if it were an order of the Crown Court.
- (2) [<sup>F119</sup>Criminal Procedure Rules] may make provision about proceedings relating to an order under paragraph 5.
- (3) In particular, the rules may make provision about the variation or discharge of an order.

#### Textual Amendments

**F118** Words in Sch. 5 para. 10(1) inserted (1.4.2005) by Courts Act 2003 (c. 39), s. 65(2), Sch. 4 para. 9(a); S.I. 2005/910, art. 3(u)

**F119** Words in Sch. 5 para. 10(2) substituted (1.9.2004 subject to art. 3 of the commencing S.I.) by Courts Act 2003 (c. 39), s. 109(1), Sch. 8 para. 389(2); S.I. 2004/2066, art. 2

#### Commencement Information

**I4** Sch. 5 para. 10 wholly in force at 19.2.2001; Sch. 5 para. 10 not in force at Royal Assent see s. 128; Sch. 5 para. 10(2)(3) in force at 31.10.2000 by S.I. 2000/2944, art. 2(i); Sch. 5 para. 10 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, art. 2

#### *Excluded or special procedure material: search*

- 11 (1) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.
- (2) A warrant under this paragraph shall authorise any constable—
- (a) to enter [<sup>F120</sup>premises mentioned in sub-paragraph (3A)],
  - (b) to search the premises and any person found there, and

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- (c) to seize and retain any relevant material which is found on a search under paragraph (b).
- (3) A warrant under this paragraph shall not authorise—
- (a) the seizure and retention of items subject to legal privilege;
  - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- [<sup>F121</sup>(3A) The premises referred to in sub-paragraph (2)(a) are—
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”); or
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).]

(4) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

#### Textual Amendments

**F120** Words in Sch. 5 para. 11(2)(a) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(7\)](#); S.I. 2006/1013, [art. 2](#)

**F121** Sch. 5 para. 11(3A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 26\(8\)](#); S.I. 2006/1013, [art. 2](#)

#### Modifications etc. (not altering text)

**C24** Sch. 5 para. 11: power(s) of seizure extended (1.4.2003) by [2001 c. 16, ss. 50, 52-54, 68, Sch. 1 Pt. 1 para. 71](#); S.I. 2003/708, [art. 2](#)

**C25** Sch. 5 para. 11: power(s) of seizure extended (1.4.2003) by [2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 83](#); S.I. 2003/708, [art. 2](#)

- 12 (1) A Circuit judge may grant an application [<sup>F122</sup>for a specific premises warrant] under paragraph 11 if satisfied that an order made under paragraph 5 in relation to material on the premises specified in the application has not been complied with.
- (2) A Circuit judge may also grant an application [<sup>F122</sup>for a specific premises warrant] under paragraph 11 if satisfied that there are reasonable grounds for believing that—
- (a) there is material on premises specified in the application which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege, and
  - (b) the conditions in sub-paragraphs (3) and (4) are satisfied.
- [<sup>F123</sup>(2A) A Circuit judge or a District Judge (Magistrates' Courts) may grant an application for an all premises warrant under paragraph 11 if satisfied—
- (a) that an order made under paragraph 5 has not been complied with, and
  - (b) that the person specified in the application is also specified in the order.
- (2B) A Circuit judge or a District Judge (Magistrates' Courts) may also grant an application for an all premises warrant under paragraph 11 if satisfied that there are reasonable grounds for believing—

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- (a) that there is material on premises to which the application relates which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege, and
  - (b) that the conditions in sub-paragraphs (3) and (4) are met.]
- (3) The first condition is that—
- (a) the warrant is sought for the purposes of a terrorist investigation, and
  - (b) the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
- (4) The second condition is that it is not appropriate to make an order under paragraph 5 in relation to the material because—
- (a) it is not practicable to communicate with any person entitled to produce the material,
  - (b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to [<sup>F124</sup>premises to which the application for the warrant relates] , or
  - (c) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

#### Textual Amendments

- F122** Words in Sch. 5 para. 12(1)(2) inserted (13.4.2006) by Terrorism Act 2006 (c. 11), s. 26(9); S.I. 2006/1013, art. 2
- F123** Sch. 5 para. 12(2A)(2B) inserted (13.4.2006) by Terrorism Act 2006 (c. 11), s. 26(10); S.I. 2006/1013, art. 2
- F124** Words in Sch. 5 para. 12(4)(b) substituted (13.4.2006) by Terrorism Act 2006 (c. 11), s. 26(11); S.I. 2006/1013, art. 2

#### Explanations

- 13 (1) A constable may apply to a Circuit judge [<sup>F125</sup>or a District Judge (Magistrates' Courts)] for an order under this paragraph requiring any person specified in the order to provide an explanation of any material—
- (a) seized in pursuance of a warrant under paragraph 1 or 11, or
  - (b) produced or made available to a constable under paragraph 5.
- (2) An order under this paragraph shall not require any person to disclose any information which he would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.
- (3) But a lawyer may be required to provide the name and address of his client.
- (4) A statement by a person in response to a requirement imposed by an order under this paragraph—
- (a) may be made orally or in writing, and
  - (b) may be used in evidence against him only on a prosecution for an offence under paragraph 14.
- (5) Paragraph 10 shall apply to orders under this paragraph as it applies to orders under paragraph 5.

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### Textual Amendments

**F125** Words in Sch. 5 para. 13(1) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 65(2), [Sch. 4 para. 9\(a\)](#); [S.I. 2005/910](#), [art. 3\(u\)](#)

- 14 (1) A person commits an offence if, in purported compliance with an order under paragraph 13, he—
- (a) makes a statement which he knows to be false or misleading in a material particular, or
  - (b) recklessly makes a statement which is false or misleading in a material particular.
- (2) A person guilty of an offence under sub-paragraph (1) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

### *Urgent cases*

- 15 (1) A police officer of at least the rank of superintendent may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 1 or 11.
- (2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing—
- (a) that the case is one of great emergency, and
  - (b) that immediate action is necessary.
- (3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Secretary of State.
- (4) A person commits an offence if he wilfully obstructs a search under this paragraph.
- (5) A person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding three months,
  - (b) a fine not exceeding level 4 on the standard scale, or
  - (c) both.

### Modifications etc. (not altering text)

- C26** Sch. 5 para. 15: power(s) of seizure extended (1.4.2003) by [2001 c. 16](#), ss. 50, 52-54, 68, [Sch. 1 Pt. 1 para. 71](#); [S.I. 2003/708](#), [art. 2](#)
- C27** Sch. 5 para. 15: power(s) of seizure extended (1.4.2003) by [2001 c. 16](#), ss. 51-54, 68, [Sch. 1 Pt. 1 para. 83](#); [S.I. 2003/708](#), [art. 2](#)
- C28** Sch. 5 para. 15 modified (1.4.2003) by [2001 c. 16](#), ss. 55, 68, [Sch. 1 Pt. 3 para. 109\(2\)](#) (with s. 57(3)); [S.I. 2003/708](#), [art. 2](#)

- 16 (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed

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by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 15.

- (2) Sub-paragraphs (2) to (4) of paragraph 13 and paragraph 14 shall apply to a notice under this paragraph as they apply to an order under paragraph 13.
- (3) A person commits an offence if he fails to comply with a notice under this paragraph.
- (4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.
- (5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to—
  - (a) imprisonment for a term not exceeding six months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.

*Supplementary*

- 17 For the purposes of sections 21 and 22 of the <sup>M53</sup>Police and Criminal Evidence Act 1984 (seized material: access, copying and retention)—
- (a) a terrorist investigation shall be treated as an investigation of or in connection with an offence, and
  - (b) material produced in pursuance of an order under paragraph 5 shall be treated as if it were material seized by a constable.

**Marginal Citations**

**M53** 1984 c. 60.

*Northern Ireland*

- 18 In the application of this Part to Northern Ireland—
- (a) the reference in paragraph 4(a) to section 11 of the <sup>M54</sup>Police and Criminal Evidence Act 1984 shall be taken as a reference to Article 13 of the <sup>M55</sup>Police and Criminal Evidence (Northern Ireland) Order 1989,
  - (b) the reference in paragraph 4(b) to section 10 of that Act shall be taken as a reference to Article 12 of that Order,
  - (c) the reference in paragraph 4(c) to section 14 of that Act shall be taken as a reference to Article 16 of that Order,
  - (d) the references in paragraph 9(1) and (2) to “government department” shall be taken as including references to an authorised Northern Ireland department for the purposes of the <sup>M56</sup>Crown Proceedings Act 1947,
  - [<sup>F126</sup>(dd) the reference in paragraph 10(2) to “Criminal Procedure Rules” shall be taken as a reference to Crown Court Rules,]
  - <sup>F127</sup>(e) . . . . .
  - (f) the reference in paragraph 17 to sections 21 and 22 of the <sup>M57</sup>Police and Criminal Evidence Act 1984 shall be taken as a reference to Articles 23 and 24 of the <sup>M58</sup>Police and Criminal Evidence (Northern Ireland) Order 1989, and

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- (g) references to “a Circuit judge” shall be taken as references to a <sup>F128</sup>Crown Court judge].

#### Textual Amendments

- F126** Sch. 5 para. 18(dd) inserted (1.9.2004 subject to art. 3 of the commencing S.I.) by [Courts Act 2003](#) (c. 39), s. 109(1), [Sch. 8 para. 389\(3\)](#); S.I. 2004/2066, [art. 2](#)
- F127** Sch. 5 para. 18(e) repealed (7.7.2002) by [2001 c. 24](#), ss. 121(2)(a), 125, [Sch. 8 Pt. 7](#); S.I. 2002/1558, [art. 2](#)
- F128** Words in Sch. 5 para. 18(g) substituted (7.7.2002) by [2001 c. 24](#), s. 121(2)(b); S.I. 2002/1558, [art. 2](#)

#### Marginal Citations

- M54** [1984 c. 60](#).
- M55** [S.I. 1989/1341 \(N.I. 12\)](#).
- M56** [1947 c. 44](#).
- M57** [1984 c. 60](#).
- M58** [S.I. 1989/1341 \(N.I. 12\)](#).

- <sup>F129</sup>19(1) The Secretary of State may by a written order which relates to specified premises give to any constable in Northern Ireland—
- (a) the authority which may be given by a search warrant under paragraph 1;
  - (b) the authority which may be given by a search warrant under paragraph 11.
- (2) An order shall not be made under this paragraph unless—
- (a) it appears to the Secretary of State that the information which it would be necessary to provide to the court in support of an application for a warrant would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18 or under section 56, and
  - (b) the order is made for the purposes of an investigation of the commission, preparation or instigation of an offence under any of sections 15 to 18 or under section 56.
- (3) The Secretary of State may make an order under sub-paragraph (1)(a) in relation to particular premises only if satisfied—
- (a) that there are reasonable grounds for believing that there is material on the premises which is likely to be of substantial value, whether by itself or together with other material, to the investigation mentioned in sub-paragraph (2)(b), and which does not consist of or include excepted material, and
  - (b) that the authority of an order is likely to be necessary in the circumstances of the case.
- (4) The Secretary of State may make an order under sub-paragraph (1)(b) in relation to particular premises if satisfied that an order made under paragraph 5 in relation to material on the premises has not been complied with.
- (5) The Secretary of State may also make an order under sub-paragraph (1)(b) in relation to particular premises if satisfied that there are reasonable grounds for believing that—
- (a) there is material on the premises which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege,



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- (b) the material is likely to be of substantial value, whether by itself or together with other material, to the investigation mentioned in sub-paragraph (2)(b), and
  - (c) an order under paragraph 5 would not be appropriate in relation to the material for the reason mentioned in paragraph 12(4)(a) or (b) or because the investigation mentioned in sub-paragraph (2)(b) might be seriously prejudiced unless a constable can secure immediate access to the material.
- (6) An order under sub-paragraph (1)(b) may not be made except in the circumstances specified in sub-paragraphs (4) and (5).
- (7) A person commits an offence if he wilfully obstructs a search under this paragraph.
- (8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding three months,
  - (b) a fine not exceeding level 4 on the standard scale, or
  - (c) both.]

#### Textual Amendments

**F129** Sch. 5 paras. 19-21 ceased to have effect (N.I.) (19.2.2003) by virtue of [The Terrorism Act 2000 \(Continuance of Part VII\) Order 2003 \(S.I. 2003/427\)](#), [art. 2\(2\)\(c\)](#); and repealed (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), s. 5(2)(3), [Sch.](#)

#### Modifications etc. (not altering text)

**C29** Sch. 5 para. 19: power(s) of seizure extended (1.4.2003) by [2001 c. 16](#), ss. 50, 52-54, 68, [Sch. 1 Pt. 1 para. 71](#); [S.I. 2003/708](#), [art. 2](#)

**C30** Sch. 5 para. 19: power(s) of seizure extended (1.4.2003) by [2001 c. 16](#), ss. 51-54, 68, [Sch. 1 Pt. 2 para. 83](#); [S.I. 2003/708](#), [art. 2](#)

**C31** Sch. 5 para. 19 modified (1.4.2003) by [2001 c. 16](#), ss. 55, 68, [Sch. 1 Pt. 3 para. 109\(2\)](#) (with s. 57(3)); [S.I. 2003/708](#), [art. 2](#)

- [<sup>F130</sup>20(1) The Secretary of State may exercise the power to make an order under paragraph 5 in relation to any person in Northern Ireland who is specified in the order.
- (2) An order shall not be made by virtue of this paragraph unless it appears to the Secretary of State that the information which it would be necessary to provide to a [<sup>F131</sup>Crown Court judge]] in support of an application for an order under paragraph 5 would, if disclosed—
- (a) be likely to place any person in danger, or
  - (b) be likely to prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under any of sections 15 to 18 or under section 56.
- (3) Paragraphs 5 to 9 shall apply to the making of an order under paragraph 5 by virtue of this paragraph with the following modifications—
- (a) references to a [<sup>F131</sup>Crown Court judge] shall be taken as references to the Secretary of State,
  - (b) the references to “a terrorist investigation” in paragraphs 5(1) and 6(2) (a) shall be taken as references to an investigation of the commission,

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- preparation or instigation of an offence under any of sections 15 to 18 or under section 56, and
- (c) the references to “a terrorist investigation” in paragraphs 6(2)(b) and 6(3)(a) shall be taken as references to the investigation mentioned in paragraph 6(2)(a).
- (4) Paragraph 10 shall not apply in relation to an order made under paragraph 5 by virtue of this paragraph.
- (5) The Secretary of State may vary or revoke an order made by virtue of this paragraph.
- (6) A person commits an offence if he contravenes an order made by virtue of this paragraph.
- (7) A person guilty of an offence under sub-paragraph (6) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

#### Textual Amendments

**F130** Sch. 5 paras. 19-21 ceased to have effect (N.I.) (19.2.2003) by virtue of [The Terrorism Act 2000 \(Continuance of Part VII\) Order 2003 \(S.I. 2003/427\)](#), [art. 2\(2\)\(c\)](#); and repealed (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), s. 5(2)(3), [Sch.](#)

**F131** Words in Sch. 5 para. 20(2)(3)(a) substituted (7.7.2002) by [2001 c. 24, s. 121\(3\)](#); [S.I. 2002/1558](#), [art. 2](#)

- [<sup>F132</sup>21(1) The Secretary of State may by a written order require any person in Northern Ireland who is specified in the order to provide an explanation of any material—
- (a) seized in pursuance of an order under paragraph 19, or
- (b) produced or made available to a constable in pursuance of an order made by virtue of paragraph 20.
- (2) The provisions of paragraphs 13(2) to (4) and 14 shall apply to an order under this paragraph as they apply to an order under paragraph 13.
- (3) The provisions of paragraph 16(3) to (5) shall apply to an order under this paragraph as they apply to a notice under paragraph 16.]

#### Textual Amendments

**F132** Sch. 5 paras. 19-21 ceased to have effect (N.I.) (19.2.2003) by virtue of [The Terrorism Act 2000 \(Continuance of Part VII\) Order 2003 \(S.I. 2003/427\)](#), [art. 2\(2\)\(c\)](#); and repealed (N.I.) (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), s. 5(2)(3), [Sch.](#)

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## PART II

### SCOTLAND

#### *Order for production of material*

- 22 (1) The procurator fiscal may apply to the sheriff for an order under this paragraph for the purposes of a terrorist investigation.
- (2) An application for an order shall relate to particular material, or material of a particular description.
- (3) An order under this paragraph may require a specified person—
- (a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
  - (b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;
  - (c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).
- (4) For the purposes of this paragraph—
- (a) an order may specify a person only if he appears to the sheriff to have in his possession, custody or power any of the material to which the application relates, and
  - (b) a period specified in an order shall be the period of seven days beginning with the date of the order unless it appears to the sheriff that a different period would be appropriate in the particular circumstances of the application.
- (5) Where the sheriff makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of the procurator fiscal, order any person who appears to the sheriff to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.
- 23 (1) The sheriff may grant an application under paragraph 22 if satisfied that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.
- (2) The first condition is that—
- (a) the order is sought for the purposes of a terrorist investigation, and
  - (b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
- (3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard—
- (a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and
  - (b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

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- 24 (1) An order under paragraph 22 may be made in relation to a person who appears to the sheriff to be likely to have any of the material to which the application relates in his possession, custody or power within the period of 28 days beginning with the date of the order.
- (2) Where an order is made under paragraph 22 by virtue of this paragraph, paragraph 22(3) shall apply with the following modifications—
- (a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,
  - (b) the reference in paragraph 22(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and
  - (c) the reference in paragraph 22(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.
- (3) Where an order is made under paragraph 22 by virtue of this paragraph, paragraph 22(4) shall not apply and the order—
- (a) may only specify a person falling within sub-paragraph (1), and
  - (b) shall specify the period of seven days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the sheriff that a different period would be appropriate in the particular circumstances of the application.
- 25 (1) Subject to paragraph 33(1), an order under paragraph 22 shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of the information imposed by statute or otherwise.
- (2) Where the material to which an application under paragraph 22 relates consists of information contained in a computer—
- (a) an order under paragraph 22(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and
  - (b) an order under paragraph 22(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.
- 26 (1) An order under paragraph 22 may be made in relation to material in the possession, custody or power of a government department.
- (2) Where an order is made by virtue of sub-paragraph (1)—
- (a) it shall be served as if the proceedings were civil proceedings against the department, and
  - (b) it may require any officer of the department, whether named in the order or not, who may for the time being have in his possession, custody or power the material concerned, to comply with it.
- (3) In this paragraph “government department” means a public department within the meaning of the Crown Suits Scotland Act 1857 and any part of the Scottish Administration.
- 27 (1) Provision may be made by Act of Adjournal as to—
- (a) the recall and variation of orders under paragraph 22; and
  - (b) proceedings relating to such orders.

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- (2) The following provisions shall have effect pending the coming into force of an Act of Adjournment under sub-paragraph (1)—
- (a) an order under paragraph 22 may be recalled or varied by the sheriff on a written application made to him by any person subject to the order;
  - (b) unless the sheriff otherwise directs on grounds of urgency, the applicant shall, not less than 48 hours before making the application, send a copy of it and a notice in writing of the time and place where the application is to be made to the procurator fiscal on whose application the order was made.

### Searches

- 28 (1) The procurator fiscal may apply to the sheriff to grant a warrant under this paragraph for the purposes of a terrorist investigation.
- (2) A warrant under this paragraph shall authorise any constable—
- (a) to enter [<sup>F133</sup>premises mentioned in sub-paragraph (2A)] ,
  - (b) to search the premises and any person found there, and
  - (c) to seize and retain any relevant material which is found on a search under paragraph (b).
- [<sup>F134</sup>(2A) The premises referred to in sub-paragraph (2)(a) are—
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”); or
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).]

(3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(4) The sheriff may grant an application under this paragraph if satisfied—

    - (a) that the warrant is sought for the purposes of a terrorist investigation,
    - (b) that there are reasonable grounds for believing that there is material on [<sup>F135</sup>premises to which the application relates] which is likely to be of substantial value to a terrorist investigation, <sup>F136</sup> . . .
    - (c) that one of the conditions in paragraph 29 is satisfied [<sup>F137</sup>, and]
    - [<sup>F138</sup>(d) in the case of an application for an all premises warrant, that it is not reasonably practicable to specify in the application all the premises which the person so specified occupies or controls and which might need to be searched.]

(5) Where [<sup>F139</sup>a specific premises warrant] is granted in relation to non-residential premises, the entry and search must be within the period of 24 hours beginning with the time when the warrant is granted.

(6) For the purpose of sub-paragraph (5) “non-residential premises” means any premises other than those which the procurator fiscal has reasonable grounds for believing are used wholly or mainly as a dwelling.

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- [<sup>F140</sup>(6A) Where an all premises warrant is granted, entry and search in pursuance of the warrant of any premises which are non-residential premises must be within the period of 24 hours beginning with the time when the warrant is granted.
- (6B) For the purpose of sub-paragraph (6A) “ non-residential premises ” means any premises other than those which the constable executing the warrant has reasonable grounds for believing are used wholly or mainly as a dwelling. ]
- (7) A warrant under this paragraph may authorise the persons named in the warrant to accompany the constable who is executing it.

#### Textual Amendments

- F133** Words in Sch. 5 para. 28(2)(a) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(2\)](#); S.I. 2006/1013, [art. 2](#)
- F134** Sch. 5 para. 28(2A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(3\)](#); S.I. 2006/1013, [art. 2](#)
- F135** Words in Sch. 5 para. 28(4)(b) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(4\)\(a\)](#); S.I. 2006/1013, [art. 2](#)
- F136** Word in Sch. 5 para. 28(4)(b) repealed (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 37\(5\)](#), [Sch. 3](#); S.I. 2006/1013, [art. 2](#)
- F137** Word in Sch. 5 para. 28(4)(c) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(4\)\(b\)](#); S.I. 2006/1013, [art. 2](#)
- F138** Sch. 5 para. 28(4)(d) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(4\)\(c\)](#); S.I. 2006/1013, [art. 2](#)
- F139** Words in Sch. 5 para. 28(5) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(5\)](#); S.I. 2006/1013, [art. 2](#)
- F140** Sch. 5 para. 28(6A)(6B) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(6\)](#); S.I. 2006/1013, [art. 2](#)

- 29 (1) The conditions referred to in paragraph 28(4)(c) are—
- (a) that an order made under paragraph [<sup>F141</sup>22] in relation to material on the premises has not been complied with [<sup>F142</sup>and, in the case of an application for an all premises warrant, the person specified in the order in pursuance of paragraph 22(3) is also specified in the application] , or
  - (b) that for any of the reasons mentioned in sub-paragraph (2) it would not be appropriate to make such an order.
- (2) The reasons are—
- (a) it is not practicable to communicate with any person entitled to produce the material,
  - (b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises [<sup>F143</sup>to which the application for the warrant relates] , or
  - (c) the investigation for the purposes of which the application is made may be seriously prejudiced unless a constable can secure immediate access to the material.

#### Textual Amendments

- F141** Word in Sch. 5 para. 29(1)(a) substituted (1.4.2003) by [2001 c. 16, s. 70, Sch. 2 Pt. 2 para. 27](#); S.I. 2003/708, [art. 2](#)

*Status: Point in time view as at 23/11/2012.*

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- F142** Words in Sch. 5 para. 29(1)(a) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(7\)\(a\)](#); S.I. 2006/1013, [art. 2](#)
- F143** Words in Sch. 5 para. 29(2)(b) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(7\)\(b\)](#); S.I. 2006/1013, [art. 2](#)

### *Explanations*

- 30 (1) The procurator fiscal may apply to the sheriff for an order under this paragraph requiring any person specified in the order to provide an explanation of any material—
- (a) seized in pursuance of a warrant under paragraph 28, or
  - (b) produced or made available to a constable under paragraph 22.
- (2) Without prejudice to paragraph 33(1), an order under this paragraph may require a lawyer to provide the name and address of his client.
- (3) A statement by a person in response to a requirement imposed by an order under this paragraph may only be used in evidence against him—
- (a) on a prosecution for an offence under [<sup>F144</sup> section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39) ], or
  - (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.
- (4) Paragraphs 26 and 27 shall apply to orders under this paragraph as they apply to orders under paragraph 22.

### **Textual Amendments**

- F144** Words in Sch. 5 para. 30(3)(a) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), s. 206\(1\), sch. 7 para. 69](#); S.S.I. 2011/178, [art. 2, sch.](#)

### *Urgent cases*

- 31 (1) A police officer of at least the rank of superintendent may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 28.
- (2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing—
- (a) that the case is one of great emergency, and
  - (b) that immediate action is necessary.
- (3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Secretary of State.
- 32 (1) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 22.
- (2) Sub-paragraphs (2) and (3) of paragraph 30 shall apply to a notice under this paragraph as they apply to an order under that paragraph.

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- (3) A person commits an offence if he fails to comply with a notice under this paragraph.
- (4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.
- (5) A person guilty of an offence under sub-paragraph (3) is liable on summary conviction to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the standard scale or to both.

#### *Supplementary*

- 33 (1) This Part of this Schedule is without prejudice to any rule of law whereby—
  - (a) communications between a professional legal adviser and his client, or
  - (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings,
 are in legal proceedings protected from disclosure on the ground of confidentiality.
- (2) For the purpose of exercising any powers conferred on him under this Part of this Schedule a constable may, if necessary, open lockfast places on <sup>F145</sup>premises which he is entitled to enter in pursuance of] an order under paragraph 22, a warrant under paragraph 28 or <sup>F146</sup>an order under paragraph 31] .
- (3) A search of a person under this Part of this Schedule may only be carried out by a person of the same sex.

#### **Textual Amendments**

**F145** Words in Sch. 5 para. 33(2) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(8\)\(a\)](#); S.I. 2006/1013, [art. 2](#)

**F146** Words in Sch. 5 para. 33(2) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 27\(8\)\(b\)](#); S.I. 2006/1013, [art. 2](#)

## SCHEDULE 6

Section 38.

### FINANCIAL INFORMATION

#### *Orders*

- 1 (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution <sup>F147</sup>to which the order applies]to provide customer information for the purposes of the investigation.
  - <sup>F148</sup>(1A) The order may provide that it applies to—
    - (a) all financial institutions,
    - (b) a particular description, or particular descriptions, of financial institutions, or
    - (c) a particular financial institution or particular financial institutions.]
  - (2) The information shall be provided—
    - (a) in such manner and within such time as the constable may specify, and



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- (b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (3) An institution which fails to comply with a requirement under this paragraph shall be guilty of an offence.
- (4) It is a defence for an institution charged with an offence under sub-paragraph (3) to prove—
  - (a) that the information required was not in the institution's possession, or
  - (b) that it was not reasonably practicable for the institution to comply with the requirement.
- (5) An institution guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F147** Words in Sch. 6 para. 1(1) inserted (20.12.2001) by 2001 c. 24, s. 3, Sch. 2 Pt. 4 para. 6(2); S.I. 2001/4019, art. 2(1)(c)

**F148** Sch. 6 para. 1(1A) inserted (20.12.2001) by 2001 c. 24, s. 3, Sch. 2 Pt. 4 para. 6(3); S.I. 2001/4019, art. 2(1)(c)

#### Procedure

- 2 An order under paragraph 1 may be made only on the application of—
  - (a) in England and Wales or Northern Ireland, a police officer of at least the rank of superintendent, or
  - (b) in Scotland, the procurator fiscal.
- 3 An order under paragraph 1 may be made only by—
  - (a) in England and Wales, a Circuit judge [<sup>F149</sup>or a District Judge (Magistrates' Courts)] ,
  - (b) in Scotland, the sheriff, or
  - (c) in Northern Ireland, a [<sup>F150</sup>Crown Court judge].

#### Textual Amendments

**F149** Words in Sch. 6 para. 3(a) inserted (1.4.2005) by Courts Act 2003 (c. 39), s. 65(2), Sch. 4 para. 10; S.I. 2005/910, art. 3(u)

**F150** Words in Sch. 6 para. 3(c) substituted (7.7.2002) by 2001 c. 24, ss. 121(4); S.I. 2002/1558, art. 2

- 4 (1) [<sup>F151</sup>Criminal Procedure Rules] may make provision about the procedure for an application under paragraph 1.
- (2) The High Court of Justiciary may, by Act of Adjournal, make provision about the procedure for an application under paragraph 1.
- [<sup>F152</sup>(3) Crown Court Rules may make provision about the procedure for an application under paragraph 1.]

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### Textual Amendments

- F151** Words in Sch. 6 para. 4(1) substituted (1.9.2004 subject to saving in art. 3 of the commencing S.I.) by [Courts Act 2003 \(c. 39\), s. 109\(1\), Sch. 8 para. 390\(2\)](#); S.I. 2004/2066, [art. 2](#)
- F152** Sch. 6 para. 4(3) inserted (1.9.2004 subject to saving in art. 3 of the commencing S.I.) by [Courts Act 2003 \(c. 39\), s. 109\(1\), Sch. 8 para. 390\(3\)](#); S.I. 2004/2066, [art. 2](#)

### *Criteria for making order*

- 5 An order under paragraph 1 may be made only if the person making it is satisfied that—
- (a) the order is sought for the purposes of a terrorist investigation,
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
  - (c) the order will enhance the effectiveness of the investigation.

### *Financial institution*

- 6 (1) In this Schedule “financial institution” means—
- [<sup>F153</sup>(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,]
  - [<sup>F154</sup>(b) .....
  - (c) a credit union (within the meaning of the <sup>M59</sup>Credit Unions Act 1979 or the <sup>M60</sup>Credit Unions (Northern Ireland) Order 1985),
  - [<sup>F155</sup>(d) a person carrying on a relevant regulated activity,]
  - (e) the National Savings Bank,
  - (f) a person who carries out an activity for the purposes of raising money authorised to be raised under the <sup>M61</sup>National Loans Act 1968 under the auspices of the Director of National Savings,
  - (g) a European institution carrying on a home regulated activity (within the meaning of [<sup>F156</sup>Directive [2006/48/ EC](#) of the European Parliament and of the Council of 14 June 2006] relating to the taking up and pursuit of the business of credit institutions[<sup>F157</sup> as last amended by Directive [2009/111/ EC](#)]),
  - (h) a person carrying out an activity specified in any of points 1 to 12 [<sup>F158</sup>, 14 and 15] of [<sup>F159</sup>Annex 1] to that Directive, <sup>F160</sup>...
  - [<sup>F161</sup>(ha) an electronic money institution within the meaning of Directive [2009/110/ EC](#) of the European Parliament and of the Council of 16th September 2009 relating to the taking up, pursuit and prudential supervision of the business of electronic money institutions, and ]
  - (i) a person who carries on an insurance business in accordance with an authorisation pursuant to [<sup>F162</sup>Article 4 or 51 of Directive [2002/83/ EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance] .
- [<sup>F163</sup>(1A) For the purposes of sub-paragraph (1)(d), a relevant regulated activity means—
- (a) dealing in investments as principal or as agent,
  - (b) arranging deals in investments,

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- [ operating a multilateral trading facility,]  
F164 (ba)
- (c) managing investments,
  - (d) safeguarding and administering investments,
  - (e) sending dematerialised instructions,
  - (f) establishing etc. collective investment schemes,
  - (g) advising on investments.
- (1B) Sub-paragraphs (1)(a) and (1A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]
- (2) The Secretary of State may by order provide for a class of person—
- (a) to be a financial institution for the purposes of this Schedule, or
  - (b) to cease to be a financial institution for the purposes of this Schedule.
- (3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of sub-paragraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under paragraph 1 to provide customer information which relates to a time when the institution was a financial institution.

#### Textual Amendments

- F153** Sch. 6 para. 6(1)(a) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(a)
- F154** Sch. 6 para. 6(1)(b) repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(b)
- F155** Sch. 6 para. 6(1)(d) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(2)(c)
- F156** Words in Sch. 6 para. 6(1)(g) substituted (1.1.2007) by The Capital Requirements Regulations 2006 (S.I. 2006/3221), reg. 29(2), Sch. 4 para. 6(3)
- F157** Words in Sch. 6 para. 6(1)(g) inserted (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. 3(b)(i)
- F158** Words in Sch. 6 para. 6(1)(h) 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. 3(b)(iii)
- F159** Words in Sch. 6 para. 6(1)(h) substituted (22.11.2000) by S.I. 2000/2952, reg. 9(b)
- F160** Word in Sch. 6 para. 6(1)(h) omitted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by virtue of The Electronic Money Regulations 2011 (S.I. 2011/99), reg. 1(2), Sch. 4 para. 3(b)(ii)
- F161** Sch. 6 para. 6(1)(ha) inserted (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. 3(b)(ii)
- F162** Words in Sch. 6 para. 6(1)(i) substituted (11.1.2005) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), reg. 7
- F163** Sch. 6 para 6(1A)(1B) inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 361(3)
- F164** Sch. 6 para. 6(1A)(ba) inserted (1.4.2007 for certain purposes and otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment No. 3) Order 2006 (S.I. 2006/3384), art. 33

#### Commencement Information

- I5** Sch. 6 wholly in force at 19.2.2001; Sch. 6 not in force at Royal Assent see s. 128; Sch. 6 para. 6(2) in force at 31.10.2000 by S.I. 2000/2944, art. 2(j)(ii); Sch. 6 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, art. 2

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### Marginal Citations

- M59** 1979 c. 34.  
**M60** S.I. 1985/1205 (N.I.12).  
**M61** 1968 c. 13.

### *Customer information*

- 7 (1) In this Schedule “customer information” means (subject to sub-paragraph (3))—
- (a) information whether a business relationship exists or existed between a financial institution and a particular person (“a customer”),
  - (b) a customer’s account number,
  - (c) a customer’s full name,
  - (d) a customer’s date of birth,
  - (e) a customer’s address or former address,
  - (f) the date on which a business relationship between a financial institution and a customer begins or ends,
  - (g) any evidence of a customer’s identity obtained by a financial institution in pursuance of or for the purposes of any legislation relating to money laundering, and
  - (h) the identity of a person sharing an account with a customer.
- (2) For the purposes of this Schedule there is a business relationship between a financial institution and a person if (and only if)—
- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them, and
  - (b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.
- (3) The Secretary of State may by order provide for a class of information—
- (a) to be customer information for the purposes of this Schedule, or
  - (b) to cease to be customer information for the purposes of this Schedule.

### Commencement Information

- I6** Sch. 6 wholly in force at 19.2.2001; Sch. 6 not in force at Royal Assent see s. 128; Sch. 6 para. 7(3) in force at 31.10.2000 by S.I. 2000/2944, **art. 2(j)(iii)**; Sch 6 para. 7 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, **art. 2**

### *Offence by body corporate, &c.*

- 8 (1) This paragraph applies where an offence under paragraph 1(3) is committed by an institution and it is proved that the offence—
- (a) was committed with the consent or connivance of an officer of the institution, or
  - (b) was attributable to neglect on the part of an officer of the institution.
- (2) The officer, as well as the institution, shall be guilty of the offence.

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- (3) Where an individual is convicted of an offence under paragraph 1(3) by virtue of this paragraph, he shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (4) In the case of an institution which is a body corporate, in this paragraph “officer” includes—
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) if the affairs of the body are managed by its members, a member.
- (5) In the case of an institution which is a partnership, in this paragraph “officer” means a partner.
- (6) In the case of an institution which is an unincorporated association (other than a partnership), in this paragraph “officer” means a person concerned in the management or control of the association.

#### *Self-incrimination*

- 9 (1) Customer information provided by a financial institution under this Schedule shall not be admissible in evidence in criminal proceedings against the institution or any of its officers or employees.
- (2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(3) (including proceedings brought by virtue of paragraph 8).

## <sup>F165</sup>[SCHEDULE 6A

### ACCOUNT MONITORING ORDERS

#### **Textual Amendments**

**F165** Sch. 6A inserted (20.12.2001) by 2001 c. 24, s. 3, **Sch. 2 Pt. 1 para. 1(3)**; S.I. 2001/4019, **art. 2(1)(c)**

#### *Introduction*

- 1 (1) This paragraph applies for the purposes of this Schedule.
- (2) A judge is—
- (a) [<sup>F166</sup>a Circuit judge or a District Judge (Magistrates' Courts),] in England and Wales;
  - (b) the sheriff, in Scotland;
  - (c) a Crown Court judge, in Northern Ireland.
- (3) The court is—
- (a) the Crown Court, in England and Wales or Northern Ireland;
  - (b) the sheriff, in Scotland.

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- (4) An appropriate officer is—
- (a) a police officer, in England and Wales or Northern Ireland;
  - (b) the procurator fiscal, in Scotland.
- (5) “ Financial institution ” has the same meaning as in Schedule 6.

#### **Textual Amendments**

**F166** Words in Sch. 6A para. 1(2)(a) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 65\(2\), Sch. 4 para. 11](#); [S.I. 2005/910, art. 3\(u\)](#)

#### *Account monitoring orders*

- 2 (1) A judge may, on an application made to him by an appropriate officer, make an account monitoring order if he is satisfied that—
- (a) the order is sought for the purposes of a terrorist investigation,
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
  - (c) the order will enhance the effectiveness of the investigation.
- (2) The application for an account monitoring order must state that the order is sought against the financial institution specified in the application in relation to information which—
- (a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another), and
  - (b) is of the description so specified.
- (3) The application for an account monitoring order may specify information relating to—
- (a) all accounts held by the person specified in the application for the order at the financial institution so specified,
  - (b) a particular description, or particular descriptions, of accounts so held, or
  - (c) a particular account, or particular accounts, so held.
- (4) An account monitoring order is an order that the financial institution specified in the application for the order must—
- (a) for the period specified in the order,
  - (b) in the manner so specified,
  - (c) at or by the time or times so specified, and
  - (d) at the place or places so specified,
- provide information of the description specified in the application to an appropriate officer.
- (5) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

#### *Applications*

- 3 (1) An application for an account monitoring order may be made ex parte to a judge in chambers.

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- (2) The description of information specified in an application for an account monitoring order may be varied by the person who made the application.
- (3) If the application was made by a police officer, the description of information specified in it may be varied by a different police officer.

#### *Discharge or variation*

- 4 (1) An application to discharge or vary an account monitoring order may be made to the court by—
  - (a) the person who applied for the order;
  - (b) any person affected by the order.
- (2) If the application for the account monitoring order was made by a police officer, an application to discharge or vary the order may be made by a different police officer.
- (3) The court—
  - (a) may discharge the order;
  - (b) may vary the order.

#### *Rules of court*

- 5 (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.
- (2) In Scotland, rules of court shall, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995 (c. 46), be made by Act of Adjournal.

#### *Effect of orders*

- 6 (1) In England and Wales and Northern Ireland, an account monitoring order has effect as if it were an order of the court.
- (2) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

#### *Statements*

- 7 (1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.
- (2) But sub-paragraph (1) does not apply—
  - (a) in the case of proceedings for contempt of court;
  - (b) in the case of proceedings under section 23 where the financial institution has been convicted of an offence under any of sections 15 to 18;
  - (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used by virtue of sub-paragraph (2)(c) against a financial institution unless—
  - (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,

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by or on behalf of the financial institution in the proceedings arising out of the prosecution.]

## [<sup>F167</sup>SCHEDULE 6B

### SEARCHES IN SPECIFIED AREAS OR PLACES: SUPPLEMENTARY

#### Textual Amendments

**F167** Sch. 6B inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 5](#) (with s. 97); [S.I. 2012/1205](#), art. 4(g)

#### *Extent of search powers: supplementary*

- 1           A constable exercising the power conferred by an authorisation under section 47A may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- 2           (1) Sub-paragraph (2) applies if a constable proposes to search a person or vehicle by virtue of section 47A(2) or (3).
- (2) The constable may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

#### *Requirements as to writing*

- 3           A senior police officer who gives an authorisation under section 47A orally must confirm it in writing as soon as reasonably practicable.
- 4           (1) Where—
- (a) a vehicle or pedestrian is stopped by virtue of section 47A(2) or (3), and
- (b) the driver of the vehicle or the pedestrian applies for a written statement that the vehicle was stopped, or that the pedestrian was stopped, by virtue of section 47A(2) or (as the case may be) (3),
- the written statement must be provided.
- (2) An application under sub-paragraph (1) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

#### *Duration of authorisations*

- 5           (1) An authorisation under section 47A has effect during the period—
- (a) beginning at the time when the authorisation is given, and
- (b) ending with the specified date or at the specified time.
- (2) This paragraph is subject as follows.
- 6           The specified date or time must not occur after the end of the period of 14 days beginning with the day on which the authorisation is given.



*Status: Point in time view as at 23/11/2012.*

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- 7 (1) The senior police officer who gives an authorisation must inform the Secretary of State of it as soon as reasonably practicable.
- (2) An authorisation ceases to have effect at the end of the period of 48 hours beginning with the time when it is given unless it is confirmed by the Secretary of State before the end of that period.
- (3) An authorisation ceasing to have effect by virtue of sub-paragraph (2) does not affect the lawfulness of anything done in reliance on it before the end of the period concerned.
- (4) When confirming an authorisation, the Secretary of State may—
- (a) substitute an earlier date or time for the specified date or time;
  - (b) substitute a more restricted area or place for the specified area or place.
- 8 The Secretary of State may cancel an authorisation with effect from a time identified by the Secretary of State.
- 9 (1) A senior police officer may—
- (a) cancel an authorisation with effect from a time identified by the officer concerned;
  - (b) substitute an earlier date or time for the specified date or time;
  - (c) substitute a more restricted area or place for the specified area or place.
- (2) Any such cancellation or substitution in relation to an authorisation confirmed by the Secretary of State under paragraph 7 does not require confirmation by the Secretary of State.
- 10 An authorisation given by a member of the Civil Nuclear Constabulary does not have effect except in relation to times when the specified area or place is a place where members of that Constabulary have the powers and privileges of a constable.
- 11 The existence, expiry or cancellation of an authorisation does not prevent the giving of a new authorisation.

*Specified areas or places*

- 12 (1) An authorisation given by a senior police officer who is not a member of the British Transport Police Force, the Ministry of Defence Police or the Civil Nuclear Constabulary may specify an area or place together with—
- (a) the internal waters adjacent to that area or place; or
  - (b) a specified area of those internal waters.
- (2) In sub-paragraph (1) “internal waters” means waters in the United Kingdom that are not comprised in any police area.
- 13 Where an authorisation specifies more than one area or place—
- (a) the power of a senior police officer under paragraph 5(1)(b) to specify a date or time includes a power to specify different dates or times for different areas or places (and the other references in this Schedule to the specified date or time are to be read accordingly), and
  - (b) the power of the Secretary of State under paragraph 7(4)(b), and of a senior police officer under paragraph 9(1)(c), includes a power to remove areas or places from the authorisation.

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### *Interpretation*

14 (1) In this Schedule—

“driver” has the meaning given by section 43A(5);

“senior police officer” means—

- (a) in relation to an authorisation where the specified area or place is the whole or part of a police area outside Northern Ireland, other than of a police area mentioned in paragraph (b) or (c), a police officer for the area who is of at least the rank of assistant chief constable;
  - (b) in relation to an authorisation where the specified area or place is the whole or part of the metropolitan police district, a police officer for the district who is of at least the rank of commander of the metropolitan police;
  - (c) in relation to an authorisation where the specified area or place is the whole or part of the City of London, a police officer for the City who is of at least the rank of commander in the City of London police force;
  - (d) in relation to an authorisation where the specified area or place is the whole or part of Northern Ireland, a member of the Police Service of Northern Ireland who is of at least the rank of assistant chief constable;
- “specified” means specified in an authorisation.

(2) References in this Schedule to a senior police officer are to be read as including—

- (a) in relation to an authorisation where the specified area or place is the whole or part of a police area outside Northern Ireland and is in a place described in section 34(1A), a member of the British Transport Police Force who is of at least the rank of assistant chief constable;
- (b) in relation to an authorisation where the specified area or place is a place to which section 2(2) of the Ministry of Defence Police Act 1987 applies, a member of the Ministry of Defence Police who is of at least the rank of assistant chief constable;
- (c) in relation to an authorisation where the specified area or place is a place in which members of the Civil Nuclear Constabulary have the powers and privileges of a constable, a member of that Constabulary who is of at least the rank of assistant chief constable;

but such references are not to be read as including a member of the British Transport Police Force, the Ministry of Defence Police or the Civil Nuclear Constabulary in any other case.]

## SCHEDULE 7

Section 53.

### PORT AND BORDER CONTROLS

**Modifications etc. (not altering text)**

**C32** Sch. 7 modified (19.2.2001) by [S.I. 1993/1813](#), [Sch. 4 para. 3](#) (as substituted by [S.I. 2001/178](#), [art. 4](#))

**C33** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003](#)

*Status: Point in time view as at 23/11/2012.*

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(S.I. 2003/2818), **art. 11(1)(b)**, Sch. 2 (as amended (31.3.2021) by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021 (S.I. 2021/311), arts. 1(2), **2(7)(b)(i)**)

### *Interpretation*

- 1 (1) In this Schedule “examining officer” means any of the following—
  - (a) a constable,
  - (b) an immigration officer, and
  - (c) a customs officer who is designated for the purpose of this Schedule by the Secretary of State and the Commissioners of Customs and Excise.
- (2) In this Schedule—
  - “the border area” has the meaning given by paragraph 4,
  - “captain” means master of a ship or commander of an aircraft,
  - “port” includes an airport and a hoverport,
  - “ship” includes a hovercraft, and
  - “vehicle” includes a train.
- (3) A place shall be treated as a port for the purposes of this Schedule in relation to a person if an examining officer believes that the person—
  - (a) has gone there for the purpose of embarking on a ship or aircraft, or
  - (b) has arrived there on disembarking from a ship or aircraft.

### *Power to stop, question and detain*

- 2 (1) An examining officer may question a person to whom this paragraph applies for the purpose of determining whether he appears to be a person falling within section 40(1)(b).
- (2) This paragraph applies to a person if—
  - (a) he is at a port or in the border area, and
  - (b) the examining officer believes that the person’s presence at the port or in the area is connected with his entering or leaving Great Britain or Northern Ireland [<sup>F168</sup>or his travelling by air within Great Britain or within Northern Ireland].
- (3) This paragraph also applies to a person on a ship or aircraft which has arrived [<sup>F169</sup>at any place in Great Britain or Northern Ireland (whether from within or outside Great Britain or Northern Ireland).]
- (4) An examining officer may exercise his powers under this paragraph whether or not he has grounds for suspecting that a person falls within section 40(1)(b).

#### **Textual Amendments**

**F168** Words in Sch. 7 para. 2(2)(b) inserted (14.12.2001) by 2001 c. 24, s. 118(2)

**F169** Words in Sch. 7 para. 2(3) substituted (14.12.2001) by 2001 c. 24, s. 118(3)

- 3 An examining officer may question a person who is in the border area for the purpose of determining whether his presence in the area is connected with his entering or leaving Northern Ireland.

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- 4 (1) A place in Northern Ireland is within the border area for the purposes of paragraphs 2 and 3 if it is no more than one mile from the border between Northern Ireland and the Republic of Ireland.
- (2) If a train goes from the Republic of Ireland to Northern Ireland, the first place in Northern Ireland at which it stops for the purpose of allowing passengers to leave is within the border area for the purposes of paragraphs 2 and 3.
- 5 A person who is questioned under paragraph 2 or 3 must—
- (a) give the examining officer any information in his possession which the officer requests;
  - (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes his identity;
  - (c) declare whether he has with him documents of a kind specified by the examining officer;
  - (d) give the examining officer on request any document which he has with him and which is of a kind specified by the officer.
- 6 (1) For the purposes of exercising a power under paragraph 2 or 3 an examining officer may—
- (a) stop a person or vehicle;
  - (b) detain a person.
- (2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.
- (3) Where a person is detained under this paragraph the provisions of Part I of Schedule 8 (treatment) shall apply.
- (4) A person detained under this paragraph shall (unless detained under any other power) be released not later than the end of the period of nine hours beginning with the time when his examination begins.

#### *Searches*

- 7 For the purpose of satisfying himself whether there are any persons whom he may wish to question under paragraph 2 an examining officer may—
- (a) search a ship or aircraft;
  - (b) search anything on a ship or aircraft;
  - (c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.
- 8 (1) An examining officer who questions a person under paragraph 2 may, for the purpose of determining whether he falls within section 40(1)(b)—
- (a) search the person;
  - (b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft;
  - (c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft;
  - (d) search a ship or aircraft for anything falling within paragraph (b)
  - <sup>F170</sup>(e) search a vehicle which is on a ship or aircraft;

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- (f) search a vehicle which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft.]
- (2) Where an examining officer questions a person in the border area under paragraph 2 he may (in addition to the matters specified in sub-paragraph (1)), for the purpose of determining whether the person falls within section 40(1)(b)—
  - (a) search a vehicle;
  - (b) search anything in or on a vehicle;
  - (c) search anything which he reasonably believes has been, or is about to be, in or on a vehicle.
- (3) A search of a person under this paragraph must be carried out by someone of the same sex.

#### Textual Amendments

**F170** Sch. 7 para. 8(1)(e)(f) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 29](#); [S.I. 2006/1013, art. 2](#)

- 9 (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of terrorism.
- [<sup>F171</sup>(2) This paragraph applies to—
  - (a) goods which have arrived in or are about to leave Great Britain or Northern Ireland on a ship or vehicle, and
  - (b) goods which have arrived at or are about to leave any place in Great Britain or Northern Ireland on an aircraft (whether the place they have come from or are going to is within or outside Great Britain or Northern Ireland).]
  - (3) In this paragraph “goods” includes—
    - (a) property of any description, and
    - (b) containers.
  - (4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of determining whether to exercise his power under this paragraph.

#### Textual Amendments

**F171** Sch. 7 para. 9(2) substituted (14.12.2001) by [2001 c. 24, s. 118\(4\)](#)

- 10 (1) An examining officer may authorise a person to carry out on his behalf a search or examination under any of paragraphs 7 to 9.
- (2) A person authorised under this paragraph shall be treated as an examining officer for the purposes of—
  - (a) paragraphs 9(4) and 11 of this Schedule, and
  - (b) paragraphs 2 and 3 of Schedule 14.

#### *Detention of property*

- 11 (1) This paragraph applies to anything which—
  - (a) is given to an examining officer in accordance with paragraph 5(d),

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- (b) is searched or found on a search under paragraph 8, or
  - (c) is examined under paragraph 9.
- (2) An examining officer may detain the thing—
- (a) for the purpose of examination, for a period not exceeding seven days beginning with the day on which the detention commences,
  - (b) while he believes that it may be needed for use as evidence in criminal proceedings, or
  - (c) while he believes that it may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the <sup>M62</sup>Immigration Act 1971.

#### Marginal Citations

M62 1971 c. 77.

#### *Designated ports*

- 12 (1) This paragraph applies to a journey—
- (a) to Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands,
  - (b) from Great Britain to any of those places,
  - (c) to Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands, or
  - (d) from Northern Ireland to any of those places.
- (2) Where a ship or aircraft is employed to carry passengers for reward on a journey to which this paragraph applies the owners or agents of the ship or aircraft shall not arrange for it to call at a port in Great Britain or Northern Ireland for the purpose of disembarking or embarking passengers unless—
- (a) the port is a designated port, or
  - (b) an examining officer approves the arrangement.
- (3) Where an aircraft is employed on a journey to which this paragraph applies otherwise than to carry passengers for reward, the captain of the aircraft shall not permit it to call at or leave a port in Great Britain or Northern Ireland unless—
- (a) the port is a designated port, or
  - (b) he gives at least 12 hours' notice in writing to a constable for the police area in which the port is situated (or, where the port is in Northern Ireland, to a member of the Royal Ulster Constabulary).
- (4) A designated port is a port which appears in the Table at the end of this Schedule.
- (5) The Secretary of State may by order—
- (a) add an entry to the Table;
  - (b) remove an entry from the Table.

#### *Embarkation and disembarkation*

- 13 (1) The Secretary of State may by notice in writing to the owners or agents of ships or aircraft—

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- (a) designate control areas in any port in the United Kingdom;
  - (b) specify conditions for or restrictions on the embarkation or disembarkation of passengers in a control area.
- (2) Where owners or agents of a ship or aircraft receive notice under sub-paragraph (1) in relation to a port they shall take all reasonable steps to ensure, in respect of the ship or aircraft—
  - (a) that passengers do not embark or disembark at the port outside a control area, and
  - (b) that any specified conditions are met and any specified restrictions are complied with.
- 14 (1) The Secretary of State may by notice in writing to persons concerned with the management of a port in the United Kingdom (“the port managers”)—
  - (a) designate control areas in the port;
  - (b) require the port managers to provide at their own expense specified facilities in a control area for the purposes of the embarkation or disembarkation of passengers or their examination under this Schedule;
  - (c) require conditions to be met and restrictions to be complied with in relation to the embarkation or disembarkation of passengers in a control area;
  - (d) require the port managers to display, in specified locations in control areas, notices containing specified information about the provisions of this Schedule in such form as may be specified.
- (2) Where port managers receive notice under sub-paragraph (1) they shall take all reasonable steps to comply with any requirement set out in the notice.
- 15 (1) This paragraph applies to a ship employed to carry passengers for reward, or an aircraft, which—
  - (a) arrives in Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands,
  - (b) arrives in Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands,
  - (c) leaves Great Britain for the Republic of Ireland, Northern Ireland or any of the Islands, or
  - (d) leaves Northern Ireland for Great Britain, the Republic of Ireland or any of the Islands.
- (2) The captain shall ensure—
  - (a) that passengers and members of the crew do not disembark at a port in Great Britain or Northern Ireland unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer;
  - (b) that passengers and members of the crew do not embark at a port in Great Britain or Northern Ireland except in accordance with arrangements approved by an examining officer;
  - (c) where a person is to be examined under this Schedule on board the ship or aircraft, that he is presented for examination in an orderly manner.
- (3) Where paragraph 27 of Schedule 2 to the <sup>M63</sup>Immigration Act 1971 (disembarkation requirements on arrival in the United Kingdom) applies, the requirements of sub-paragraph (2)(a) above are in addition to the requirements of paragraph 27 of that Schedule.

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### Marginal Citations

**M63** 1971 c. 77.

### Carding

- 16 (1) The Secretary of State may by order make provision requiring a person to whom this paragraph applies, if required to do so by an examining officer, to complete and produce to the officer a card containing such information in such form as the order may specify.
- (2) An order under this paragraph may require the owners or agents of a ship or aircraft employed to carry passengers for reward to supply their passengers with cards in the form required by virtue of sub-paragraph (1).
- (3) This paragraph applies to a person—
- (a) who disembarks in Great Britain from a ship or aircraft which has come from the Republic of Ireland, Northern Ireland or any of the Islands,
  - (b) who disembarks in Northern Ireland from a ship or aircraft which has come from Great Britain, the Republic of Ireland, or any of the Islands,
  - (c) who embarks in Great Britain on a ship or aircraft which is going to the Republic of Ireland, Northern Ireland or any of the Islands, or
  - (d) who embarks in Northern Ireland on a ship or aircraft which is going to Great Britain, the Republic of Ireland, or any of the Islands.

### Commencement Information

**I7** Sch. 7 para. 16 wholly in force at 19.2.2001; Sch. 7 para. 16 not in force at Royal Assent see s. 128; Sch. 7 para. 16(1)(2) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(k\)\(i\)](#); Sch. 7 in force at 19.2.2002 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

### Provision of passenger information

- 17<sup>F172</sup>(1) This paragraph applies to a ship or aircraft which—
- (a) arrives or is expected to arrive in any place in the United Kingdom (whether from another place in the United Kingdom or from outside the United Kingdom), or
  - (b) leaves or is expected to leave the United Kingdom.]
- (2) If an examining officer gives the owners or agents of a ship or aircraft to which this paragraph applies a written request to provide specified information, the owners or agents shall comply with the request as soon as is reasonably practicable.
- (3) A request to an owner or agent may relate—
- (a) to a particular ship or aircraft,
  - (b) to all ships or aircraft of the owner or agent to which this paragraph applies, or
  - (c) to specified ships or aircraft.
- (4) Information may be specified in a request only if it is of a kind which is prescribed by order of the Secretary of State and which relates—



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- (a) to passengers,
  - (b) to crew, <sup>F173</sup> . . .
  - (c) to vehicles belonging to passengers or crew [<sup>F174</sup>, or
  - (d) to goods.]
- (5) A passenger or member of the crew on a ship or aircraft shall give the captain any information required for the purpose of enabling the owners or agents to comply with a request under this paragraph.
- (6) Sub-paragraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of paragraph 27(2) or 27B of Schedule 2 to the <sup>M64</sup>Immigration Act 1971.

#### Textual Amendments

**F172** Sch. 7 para. 17(1) substituted (14.12.2001) by [2001 c. 24, s. 119\(2\)](#)

**F173** Word in Sch. 7 para. 17(4)(b) repealed (14.12.2001) by [2001 c. 24, ss. 119\(3\)\(a\), 125, Sch. 8 Pt. 7](#)

**F174** Sch. 7 para. 17(4)(d) and word preceding it added (14.12.2001) by [2001 c. 24, s. 119\(3\)\(b\)](#)

#### Commencement Information

**I8** Sch. 7 para. 17 wholly in force at 19.2.2001; Sch. 7 para. 17 not in force at Royal Assent see s. 128; Sch. 7 para. 17(4) in force at 31.10.2000 by [S.I. 2000/2944, art. 2\(k\)\(ii\)](#); Sch. 7 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421, art. 2](#)

#### Marginal Citations

**M64** [1971 c. 77](#).

### Offences

- 18 (1) A person commits an offence if he—
- (a) wilfully fails to comply with a duty imposed under or by virtue of this Schedule,
  - (b) wilfully contravenes a prohibition imposed under or by virtue of this Schedule, or
  - (c) wilfully obstructs, or seeks to frustrate, a search or examination under or by virtue of this Schedule.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding three months,
  - (b) a fine not exceeding level 4 on the standard scale, or
  - (c) both.

#### Table Designated Ports Great Britain

##### *Seaports*

Ardrossan  
Cairnryan  
Campbeltown  
Fishguard  
Fleetwood

##### *Airports*

Aberdeen  
Biggin Hill  
Birmingham  
Blackpool  
Bournemouth (Hurn)

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Heysham	Bristol
Holyhead	Cambridge
[ <sup>F175</sup> Loch Ryan]	Cardiff
Pembroke Dock	Carlisle
Plymouth	Coventry
Poole Harbour	East Midlands
Port of Liverpool	Edinburgh
Portsmouth Continental Ferry Port	Exeter
Southampton	Glasgow
<sup>F176</sup> ...	Gloucester/Cheltenham (Staverton)
Swansea	Humberside
Torquay	Leeds/Bradford
Troon	Liverpool
Weymouth	London-City
	London-Gatwick
	London-Heathrow
	Luton
	Lydd
	Manchester
	Manston
	Newcastle
	Norwich
	Plymouth
	Prestwick
	Sheffield City
	Southampton
	Southend
	Stansted
	Teesside

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#### Northern Ireland

##### *Seaports*

Ballycastle  
Belfast  
Larne  
Port of Londonderry  
Warrenpoint

##### *Airports*

Belfast City  
Belfast International  
City of Derry

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#### Textual Amendments

**F175** Words in Sch. 7 inserted (1.9.2011) by The Terrorism Act 2000 (Designated Ports) Order 2011 (S.I. 2011/1938), arts. 1(2), **2(2)(a)**

**F176** Word in Sch. 7 omitted (1.9.2011) by virtue of The Terrorism Act 2000 (Designated Ports) Order 2011 (S.I. 2011/1938), arts. 1(2), **2(2)(b)**

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## SCHEDULE 8

Section 41 and Schedule 7, para. 6.

### DETENTION

#### Modifications etc. (not altering text)

- C34** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 11\(1\)\(b\)](#), Sch. 2; (as amended (31.3.2021) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2021 \(S.I. 2021/311\)](#)), arts. 1(2), [2\(7\)\(b\)\(i\)](#))
- C35** Sch. 8 applied (with modifications) (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), [s. 25\(1\)\(3\)\(4\)](#); S.I. 2006/1936, [art. 2](#)

### PART I

#### TREATMENT OF PERSONS DETAINED UNDER SECTION 41 OR SCHEDULE 7

##### *Place of detention*

- 1 (1) The Secretary of State shall designate places at which persons may be detained under Schedule 7 or section 41.
- (2) In this Schedule a reference to a police station includes a reference to any place which the Secretary of State has designated under sub-paragraph (1) as a place where a person may be detained under section 41.
- (3) Where a person is detained under Schedule 7, he may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where his attendance is required for the purpose of—
- (a) his examination under that Schedule,
  - (b) establishing his nationality or citizenship, or
  - (c) making arrangements for his admission to a country or territory outside the United Kingdom.
- (4) A constable who arrests a person under section 41 shall take him as soon as is reasonably practicable to the police station which the constable considers the most appropriate.
- (5) In this paragraph “examining officer” has the meaning given in Schedule 7.
- (6) Where a person is arrested in one Part of the United Kingdom and all or part of his detention takes place in another Part, the provisions of this Schedule which apply to detention in a particular Part of the United Kingdom apply in relation to him while he is detained in that Part.

#### Modifications etc. (not altering text)

- C36** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), [s. 5\(8\)](#)

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

- I9** Sch. 8 para. 1 wholly in force at 19.2.2001; Sch. 8 para. 1 not in force at Royal Assent see s. 128; Sch. 8 para. 1(1) in force at 31.10.2000 by [S.I. 2000/2944](#), [art. 2\(I\)\(i\)](#); Sch. 8 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

### Identification

- 2 (1) An authorised person may take any steps which are reasonably necessary for—
- (a) photographing the detained person,
  - (b) measuring him, or
  - (c) identifying him.
- (2) In sub-paragraph (1) “authorised person” means any of the following—
- (a) a constable,
  - (b) a prison officer,
  - (c) a person authorised by the Secretary of State, and
  - (d) in the case of a person detained under Schedule 7, an examining officer (within the meaning of that Schedule).
- (3) This paragraph does not confer the power to take—
- (a) fingerprints, non-intimate samples or intimate samples (within the meaning given by paragraph 15 below), or
  - (b) relevant physical data or samples as mentioned in section 18 of the <sup>M65</sup>Criminal Procedure (Scotland) Act 1995 as applied by paragraph 20 below.

### Modifications etc. (not altering text)

- C37** Sch. 8 para. 2 extended (N.I.) (8.4.2003) by [Police \(Northern Ireland\) Act 2003 \(c. 6\)](#), ss. 30, 31, [Sch. 2 Pt. 2 para. 21](#)
- C38** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 5(8)

### Marginal Citations

- M65** 1995 c. 46.

### Audio and video recording of interviews

- 3 (1) The Secretary of State shall—
- (a) issue a code of practice about the audio recording of interviews to which this paragraph applies, and
  - (b) make an order requiring the audio recording of interviews to which this paragraph applies in accordance with any relevant code of practice under paragraph (a).
- (2) The Secretary of State may make an order requiring the video recording of—
- (a) interviews to which this paragraph applies;
  - (b) interviews to which this paragraph applies which take place in a particular Part of the United Kingdom.

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- (3) An order under sub-paragraph (2) shall specify whether the video recording which it requires is to be silent or with sound.
  - (4) Where an order is made under sub-paragraph (2)—
    - (a) the Secretary of State shall issue a code of practice about the video recording of interviews to which the order applies, and
    - (b) the order shall require the interviews to be video recorded in accordance with any relevant code of practice under paragraph (a).
  - (5) Where the Secretary of State has made an order under sub-paragraph (2) requiring certain interviews to be video recorded with sound—
    - (a) he need not make an order under sub-paragraph (1)(b) in relation to those interviews, but
    - (b) he may do so.
  - (6) This paragraph applies to any interview by a constable of a person detained under Schedule 7 or section 41 if the interview takes place in a police station.
  - (7) A code of practice under this paragraph—
    - (a) may make provision in relation to a particular Part of the United Kingdom;
    - (b) may make different provision for different Parts of the United Kingdom.
- 4
- (1) This paragraph applies to a code of practice under paragraph 3.
  - (2) Where the Secretary of State proposes to issue a code of practice he shall—
    - (a) publish a draft,
    - (b) consider any representations made to him about the draft, and
    - (c) if he thinks it appropriate, modify the draft in the light of any representations made to him.
  - (3) The Secretary of State shall lay a draft of the code before Parliament.
  - (4) When the Secretary of State has laid a draft code before Parliament he may bring it into operation by order.
  - (5) The Secretary of State may revise a code and issue the revised code; and sub-paragraphs (2) to (4) shall apply to a revised code as they apply to an original code.
  - (6) The failure by a constable to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.
  - (7) A code—
    - (a) shall be admissible in evidence in criminal and civil proceedings, and
    - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

#### **Commencement Information**

**110** Sch. 8 Pt. I para. 4 partly in force; Sch. 8 Pt. I para. 4 not in force at Royal Assent see s. 128; Sch. 8 Pt. I para. 4(1)-(5) in force at 12.10.2000 by [S.I. 2000/2800](#), [art. 2\(c\)\(ii\)](#); Sch. 8 in force at 19.2.2001 in so far as not already in force by [S.I. 2001/421](#), [art. 2](#)

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*Status*

- 5 A detained person shall be deemed to be in legal custody throughout the period of his detention.

*Rights: England, Wales and Northern Ireland*

- 6 (1) Subject to paragraph 8, a person detained under Schedule 7 or section 41 at a police station in England, Wales or Northern Ireland shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.
- (2) The person named must be—
- (a) a friend of the detained person,
  - (b) a relative, or
  - (c) a person who is known to the detained person or who is likely to take an interest in his welfare.
- (3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.

**Modifications etc. (not altering text)**

**C39** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\), s. 5\(8\)](#)

- 7 (1) Subject to paragraphs 8 and 9, a person detained under Schedule 7 or section 41 at a police station in England, Wales or Northern Ireland shall be entitled, if he so requests, to consult a solicitor as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under sub-paragraph (1), the request and the time at which it was made shall be recorded.

**Modifications etc. (not altering text)**

**C40** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\), s. 5\(8\)](#)

- 8 (1) Subject to sub-paragraph (2), an officer of at least the rank of superintendent may authorise a delay—
- (a) in informing the person named by a detained person under paragraph 6;
  - (b) in permitting a detained person to consult a solicitor under paragraph 7.
- (2) But where a person is detained under section 41 he must be permitted to exercise his rights under paragraphs 6 and 7 before the end of the period mentioned in subsection (3) of that section.
- (3) Subject to sub-paragraph (5), an officer may give an authorisation under sub-paragraph (1) only if he has reasonable grounds for believing—

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- (a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in sub-paragraph (4), or
  - (b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 7 at the time when the detained person desires to exercise it will have any of the consequences specified in sub-paragraph (4).
- (4) Those consequences are—
- (a) interference with or harm to evidence of a [<sup>F177</sup>serious offence] ,
  - (b) interference with or physical injury to any person,
  - (c) the alerting of persons who are suspected of having committed a [<sup>F177</sup>serious offence] but who have not been arrested for it,
  - (d) the hindering of the recovery of property obtained as a result of a [<sup>F177</sup>serious offence] or in respect of which a forfeiture order could be made under section 23 [<sup>F178</sup>or 23A],
  - (e) interference with the gathering of information about the commission, preparation or instigation of acts of terrorism,
  - (f) the alerting of a person and thereby making it more difficult to prevent an act of terrorism, and
  - (g) the alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.
- [<sup>F179</sup>(5) An officer may also give an authorisation under sub-paragraph (1) if he has reasonable grounds for believing that—
- (a) the detained person has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detained person's detention (in the case of an authorisation under sub-paragraph (1)(a)), or
    - (ii) the exercise of the right under paragraph 7 (in the case of an authorisation under sub-paragraph (1)(b)).
- (5A) For the purposes of sub-paragraph (5) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.]
- (6) If an authorisation under sub-paragraph (1) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.
- (7) Where an authorisation under sub-paragraph (1) is given—
- (a) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
  - (b) the reason shall be recorded as soon as is reasonably practicable.
- (8) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).
- (9) [<sup>F180</sup>In this paragraph, references to a “serious offence” are <sup>F181</sup>... to an indictable offence, <sup>F181</sup>... ; but also include—]

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- (a) an offence under any of the provisions mentioned in section 40(1)(a) of this Act, and
- (b) an attempt or conspiracy to commit an offence under any of the provisions mentioned in section 40(1)(a).

#### Textual Amendments

- F177** Words in Sch. 8 para. 8(4) substituted (1.1.2006 subject to art. 2(2) of the commencing S.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 111, [Sch. 7 para. 48\(1\)\(a\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F178** Words in Sch. 8 para. 8(4)(d) inserted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 39, 100(5), [Sch. 3 para. 6](#) (with s. 101(2)); S.I. 2009/1256, [art. 2\(c\)](#)
- F179** Sch. 8 para. 8(5)(5A) substituted for Sch. 8 para. 8(5) (24.3.2003 subject to certain provisions in the commencing instruments) by [2002 c. 29](#), s. 456, [Sch. 11 para. 39\(2\)](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (as amended by S.I. 2003/531); S.S.I. 2003/210, [art. 2](#), [Sch.](#)
- F180** Words in Sch. 8 para. 8(9) substituted (1.1.2006 subject to art. 2(2) of the commencing S.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 111, [Sch. 7 para. 48\(1\)\(b\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F181** Words in Sch. 8 para. 8(9) repealed (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\)](#), arts. 15, 41, [Sch. 1 para. 35](#), [Sch. 2](#)

#### Modifications etc. (not altering text)

- C41** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 5(8)

- 9 (1) A direction under this paragraph may provide that a detained person who wishes to exercise the right under paragraph 7 may consult a solicitor only in the sight and hearing of a qualified officer.
- (2) A direction under this paragraph may be given—
- (a) where the person is detained at a police station in England or Wales, by an officer of at least the rank of Commander or Assistant Chief Constable, or
  - (b) where the person is detained at a police station in Northern Ireland, by an officer of at least the rank of Assistant Chief Constable.
- [<sup>F182</sup>(3) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing—
- (a) that, unless the direction is given, the exercise of the right by the detained person will have any of the consequences specified in paragraph 8(4), or
  - (b) that the detained person has benefited from his criminal conduct and that, unless the direction is given, the exercise of the right by the detained person will hinder the recovery of the value of the property constituting the benefit.]
- (4) In this paragraph “a qualified officer” means a police officer who—
- (a) is of at least the rank of inspector,
  - (b) is of the uniformed branch of the force of which the officer giving the direction is a member, and
  - (c) in the opinion of the officer giving the direction, has no connection with the detained person’s case.
- (5) A direction under this paragraph shall cease to have effect once the reason for giving it ceases to subsist.



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#### Textual Amendments

**F182** Sch. 8 para. 9(3) substituted (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 82(1), 100(5) (with s. 101(2)); S.I. 2009/58, art. 2(g)

#### Modifications etc. (not altering text)

**C42** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), s. 5(8)

- 10 (1) This paragraph applies where a person is detained in England, Wales or Northern Ireland under Schedule 7 or section 41.
- (2) Fingerprints may be taken from the detained person only if they are taken by a constable—
- (a) with the appropriate consent given in writing, or
  - (b) without that consent under sub-paragraph (4).
- (3) A non-intimate sample may be taken from the detained person only if it is taken by a constable—
- (a) with the appropriate consent given in writing, or
  - (b) without that consent under sub-paragraph (4).
- (4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if—
- (a) he is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken, or
  - (b) he has been convicted of a recordable offence and, where a non-intimate sample is to be taken, he was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).
- (5) An intimate sample may be taken from the detained person only if—
- (a) he is detained at a police station,
  - (b) the appropriate consent is given in writing,
  - (c) a police officer of at least the rank of superintendent authorises the sample to be taken, and
  - (d) subject to paragraph 13(2) and (3), the sample is taken by a constable.
- (6) <sup>F183</sup>Subject to sub-paragraph (6A)] an officer may give an authorisation under sub-paragraph (4)(a) or (5)(c) only if—
- (a) in the case of a person detained under section 41, the officer reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 40(1)(a), and the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove his involvement, or
  - (b) in any case, the officer is satisfied that the taking of the fingerprints or sample from the person is necessary in order to assist in determining whether he falls within section 40(1)(b).

<sup>F184</sup>(6A) An officer may also give an authorisation under sub-paragraph (4)(a) for the taking of fingerprints if—

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- (a) he is satisfied that the fingerprints of the detained person will facilitate the ascertainment of that person's identity; and
  - (b) that person has refused to identify himself or the officer has reasonable grounds for suspecting that that person is not who he claims to be.
- (6B) In this paragraph references to ascertaining a person's identity include references to showing that he is not a particular person.]
- (7) If an authorisation under sub-paragraph (4)(a) or (5)(c) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

#### Textual Amendments

**F183** Words in Sch. 8 para. 10(6) inserted (14.12.2001) by [2001 c. 24, s. 89\(2\)](#)

**F184** Sch. 8 para. 10(6A)(6B) inserted (14.12.2001) by [2001 c. 14, s. 89\(2\)](#)

#### Modifications etc. (not altering text)

**C43** Sch. 8 para. 10(2) extended (N.I.) (8.4.2003) by [Police \(Northern Ireland\) Act 2003 \(c. 6\), ss. 30, 31, Sch. 2 Pt. 2 para. 15](#)

**C44** Sch. 8 para. 10(3) extended (N.I.) (8.4.2003) by [Police \(Northern Ireland\) Act 2003 \(c. 6\), ss. 30, 31, Sch. 2 Pt. 2 para. 18](#)

- 11 (1) Before fingerprints or a sample are taken from a person under paragraph 10, he shall be informed—
- (a) that the fingerprints or sample may be used for the purposes of paragraph 14(4), section 63A(1) of the <sup>M66</sup>Police and Criminal Evidence Act 1984 and Article 63A(1) of the <sup>M67</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples), and
  - (b) where the fingerprints or sample are to be taken under paragraph 10(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a person upon an authorisation given under paragraph 10(4)(a) or (5)(c), he shall be informed—
- (a) that the authorisation has been given,
  - (b) of the grounds upon which it has been given, and
  - (c) where relevant, of the nature of the offence in which it is suspected that he has been involved.
- (3) After fingerprints or a sample are taken under paragraph 10, there shall be recorded as soon as is reasonably practicable any of the following which apply—
- (a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),
  - (b) the reason referred to in sub-paragraph (1)(b),
  - (c) the authorisation given under paragraph 10(4)(a) or (5)(c),
  - (d) the grounds upon which that authorisation has been given, and
  - (e) the fact that the appropriate consent has been given.

#### Marginal Citations

**M66** 1984 c. 60.

**M67** S.I. 1989/1341 (N.I. 12).

*Status: Point in time view as at 23/11/2012.*

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- 12 (1) This paragraph applies where—
- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a person under paragraph 10,
  - (b) those samples have proved insufficient, and
  - (c) the person has been released from detention.
- (2) An intimate sample may be taken from the person if—
- (a) the appropriate consent is given in writing,
  - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
  - (c) subject to paragraph 13(2) and (3), the sample is taken by a constable.
- (3) Paragraphs 10(6) and (7) and 11 shall apply in relation to the taking of an intimate sample under this paragraph; and a reference to a person detained under section 41 shall be taken as a reference to a person who was detained under section 41 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.
- 13 (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence—
- (a) the court, in determining whether to commit him for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
  - (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.
- (2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.
- (3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.
- (4) Where a sample of hair other than pubic hair is to be taken under paragraph 10 the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- 14 (1) This paragraph applies to—
- (a) fingerprints or samples taken under paragraph 10 or 12, and
  - (b) information derived from those samples.
- [<sup>F185</sup>(2) The fingerprints and samples may be retained but shall not be used by any person except for the purposes of a terrorist investigation or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.]
- (3) In particular, a check may not be made against them under—
- (a) section 63A(1) of the <sup>M68</sup>Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), or
  - (b) Article 63A(1) of the <sup>M69</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples),

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except for the purpose of a terrorist investigation [<sup>F186</sup>or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.].

- (4) The fingerprints, samples or information may be checked, subject to sub-paragraph (2), against—
- (a) other fingerprints or samples taken under paragraph 10 or 12 or information derived from those samples,
  - (b) relevant physical data or samples taken by virtue of paragraph 20,
  - (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the <sup>M70</sup>Police and Criminal Evidence Act 1984 (checking of fingerprints and samples),
  - (d) any of the fingerprints, samples and information mentioned in Article 63A(1)(a) and (b) of the <sup>M71</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples), and

[<sup>F187</sup>(4A) In this paragraph—

- (a) a reference to crime includes a reference to any conduct which—
  - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or
  - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;
- and
- (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.]

- (5) This paragraph (other than sub-paragraph (4)) shall apply to fingerprints or samples taken under section 15(9) of, or paragraph 7(5) of Schedule 5 to, the <sup>M72</sup>Prevention of Terrorism (Temporary Provisions) Act 1989 and information derived from those samples as it applies to fingerprints or samples taken under paragraph 10 or 12 and the information derived from those samples.

#### Textual Amendments

**F185** Sch. 8 para. 14(2) substituted (E.W.N.I.) (11.5.2001) by [2001 c. 16, s. 84\(2\)](#)

**F186** Words in Sch. 8 para. 14(3) inserted (E.W.N.I.) (11.5.2001) by [2001 c. 16, s. 84\(3\)](#)

**F187** Sch. 8 para. 14(4A) inserted (E.W.N.I.) (11.5.2001) by [2001 c. 16, s. 84\(4\)](#)

#### Marginal Citations

**M68** 1984 c. 60.

**M69** S.I. 1989/1341 (N.I.12).

**M70** 1984 c. 60.

**M71** S.I. 1989/1341 (N.I. 12).

**M72** 1989 c. 4.

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- 15 (1) In the application of paragraphs 10 to 14 in relation to a person detained in England or Wales the following expressions shall have the meaning given by section 65 of the <sup>M73</sup>Police and Criminal Evidence Act 1984 (Part V definitions)—
- (a) “appropriate consent”,
  - (b) “fingerprints”,
  - (c) “insufficient”,
  - (d) “intimate sample”,
  - (e) “non-intimate sample”,
  - (f) “registered dentist”, and
  - (g) “sufficient”.
- (2) In the application of paragraphs 10 to 14 in relation to a person detained in Northern Ireland the expressions listed in sub-paragraph (1) shall have the meaning given by Article 53 of the <sup>M74</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 (definitions).
- (3) In paragraph 10 “recordable offence” shall have—
- (a) in relation to a person detained in England or Wales, the meaning given by section 118(1) of the <sup>M75</sup>Police and Criminal Evidence Act 1984 (general interpretation), and
  - (b) in relation to a person detained in Northern Ireland, the meaning given by Article 2(2) of the <sup>M76</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 (definitions).

#### Marginal Citations

**M73** 1984 c. 60.

**M74** S.I. 1989/1341 (N.I. 12).

**M75** 1984 c. 60.

**M76** S.I. 1989/1341 (N.I. 12).

#### *Rights: Scotland*

- 16 (1) A person detained under Schedule 7 or section 41 at a police station in Scotland shall be entitled to have intimation of his detention and of the place where he is being detained sent without delay to a solicitor and to another person named by him.
- (2) The person named must be—
- (a) a friend of the detained person,
  - (b) a relative, or
  - (c) a person who is known to the detained person or who is likely to take an interest in his welfare.
- (3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under sub-paragraph (1) in respect of the police station to which he is transferred.
- (4) A police officer not below the rank of superintendent may authorise a delay in making intimation where, in his view, the delay is necessary on one of the grounds mentioned in paragraph 17(3) or where paragraph 17(4) applies.

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- (5) Where a detained person requests that the intimation be made, there shall be recorded the time when the request is—
  - (a) made, and
  - (b) complied with.
- (6) A person detained shall be entitled to consult a solicitor at any time, without delay.
- (7) A police officer not below the rank of superintendent may authorise a delay in holding the consultation where, in his view, the delay is necessary on one of the grounds mentioned in paragraph 17(3) or where paragraph 17(4) applies.
- (8) Subject to paragraph 17, the consultation shall be private.
- (9) Where a person is detained under section 41 he must be permitted to exercise his rights under this paragraph before the end of the period mentioned in subsection (3) of that section.

**Modifications etc. (not altering text)**

**C45** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 5(8)

- 17 (1) An officer not below the rank of Assistant Chief Constable may direct that the consultation mentioned in paragraph 16(6) shall be in the presence of a uniformed officer not below the rank of inspector if it appears to the officer giving the direction to be necessary on one of the grounds mentioned in sub-paragraph (3).
- (2) A uniformed officer directed to be present during a consultation shall be an officer who, in the opinion of the officer giving the direction, has no connection with the case.
- (3) The grounds mentioned in paragraph 16(4) and (7) and in sub-paragraph (1) are—
  - (a) that it is in the interests of the investigation or prevention of crime;
  - (b) that it is in the interests of the apprehension, prosecution or conviction of offenders;
  - (c) that it will further the recovery of property obtained as a result of the commission of an offence or in respect of which a forfeiture order could be made under section 23 [<sup>F188</sup>or 23A];
  - (d) that it will further the operation of [<sup>F189</sup>Part 2 or 3 of the Proceeds of Crime Act 2002] or the <sup>M77</sup>Proceeds of Crime (Northern Ireland) Order 1996 (confiscation of the proceeds of an offence).
- <sup>F190</sup>(4) This sub-paragraph applies where an officer mentioned in paragraph 16(4) or (7) has reasonable grounds for believing that—
  - (a) the detained person has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detained person's detention (in the case of an authorisation under paragraph 16(4)), or
    - (ii) the exercise of the entitlement under paragraph 16(6) (in the case of an authorisation under paragraph 16(7)).

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- (4A) For the purposes of sub-paragraph (4) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.]
- (5) Where delay is authorised in the exercising of any of the rights mentioned in paragraph 16(1) and (6)—
- (a) if the authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable,
  - (b) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
  - (c) the reason shall be recorded as soon as is reasonably practicable.

#### Textual Amendments

- F188** Words in Sch. 8 para. 17(3)(c) inserted (18.6.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 39, 100(5), [Sch. 3 para. 6](#) (with s. 101(2)); S.I. 2009/1256, [art. 2\(c\)](#)
- F189** Words in Sch. 8 para. 17(3)(d) substituted (24.3.2003 subject to certain provisions in the commencing instruments) by 2002 c. 29, s. 456, [Sch. 11 para. 39\(3\)](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (as amended by S.I. 2003/531); S.S.I. 2003/210, [art. 2](#), [Sch.](#)
- F190** Sch. 8 para. 17(4)(4A) substituted for Sch. 8 para. 17(4) (24.3.2003 subject to certain provisions in the commencing instruments) by 2002 c. 29, s. 456, [Sch. 11 para. 39\(4\)](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (as amended by S.I. 2003/531); S.S.I. 2003/210, [art. 2](#), [Sch.](#)

#### Modifications etc. (not altering text)

- C46** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 5(8)

#### Marginal Citations

- M77** [S.I. 1996/1299 \(N.I.9\)](#).

- 18 (1) Paragraphs 16 and 17 shall have effect, in relation to a person detained under section 41 or Schedule 7, in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.
- (2) But, where a person detained under Schedule 7 or section 41 at a police station in Scotland appears to a constable to be a child—
- (a) the other person named by the person detained in pursuance of paragraph 16(1) shall be that person’s parent, and
  - (b) section 15(4) of the <sup>M78</sup>Criminal Procedure (Scotland) Act 1995 shall apply to the person detained as it applies to a person who appears to a constable to be a child who is being detained as mentioned in paragraph (b) of section 15(1) of that Act,
- and in this sub-paragraph “child” and “parent” have the same meaning as in section 15(4) of that Act.

#### Modifications etc. (not altering text)

- C47** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 5(8)

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### Marginal Citations

**M78** 1995 c. 46.

- 19 The Secretary of State shall, by order, make provision to require that—
- (a) except in such circumstances, and
  - (b) subject to such conditions,
- as may be specified in the order, where a person detained has been permitted to consult a solicitor, the solicitor shall be allowed to be present at any interview carried out in connection with a terrorist investigation or for the purposes of Schedule 7.

### Modifications etc. (not altering text)

**C48** Sch. 8 paras. 1(6), 2, 6-9, 16-19 applied (with modifications) (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\), s. 5\(8\)](#)

- 20 (1) Subject to the modifications specified in sub-paragraphs (2) and (3), section 18 of the <sup>M79</sup>Criminal Procedure (Scotland) Act 1995 (procedure for taking certain prints and samples) shall apply to a person detained under Schedule 7 or section 41 at a police station in Scotland as it applies to a person arrested or a person detained under section 14 of that Act.
- [<sup>F191</sup>(2) Subject to subsection (2A), a constable may take from a detained person or require a detained person to provide relevant physical data only if—
- (a) in the case of a person detained under section 41 of the Terrorism Act 2000, he reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 40(1)(a) of that Act and he reasonably believes that the relevant physical data will tend to confirm or disprove his involvement; or
  - (b) in any case, he is satisfied that it is necessary to do so in order to assist in determining whether the person falls within section 40(1)(b).
- (2A) A constable may also take fingerprints from a detained person or require him to provide them if—
- (a) he is satisfied that the fingerprints of that person will facilitate the ascertainment of that person's identity; and
  - (b) that person has refused to identify himself or the constable has reasonable grounds for suspecting that that person is not who he claims to be.
- (2B) In this section references to ascertaining a person's identity include references to showing that he is not a particular person.']
- [<sup>F192</sup>(3) Subsections (3) to (5) shall not apply, but any relevant physical data or sample taken in pursuance of section 18 as applied by this paragraph may be retained but shall not be used by any person except for the purposes of a terrorist investigation or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.
- (4) In this paragraph—
- (a) a reference to crime includes a reference to any conduct which—



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- (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or
  - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences; and
- (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.]

#### Textual Amendments

**F191** Sch. 8 para. 20(2)-(2B) substituted for Sch. 8 para. 20(2) (14.12.2001) by [2001 c. 24, s. 89\(3\)](#)

**F192** Sch. 8 para. 20(3)(4) substituted for Sch. 8 para. 20(3) (14.12.2001) by [2001 c. 24, s. 89\(4\)](#)

#### Marginal Citations

**M79** [1995 c. 46.](#)

## PART II

### REVIEW OF DETENTION UNDER SECTION 41

#### *Requirement*

- 21 (1) A person's detention shall be periodically reviewed by a review officer.
- (2) The first review shall be carried out as soon as is reasonably practicable after the time of the person's arrest.
  - (3) Subsequent reviews shall, subject to paragraph 22, be carried out at intervals of not more than 12 hours.
  - (4) No review of a person's detention shall be carried out after a warrant extending his detention has been issued under Part III.

#### *Postponement*

- 22 (1) A review may be postponed if at the latest time at which it may be carried out in accordance with paragraph 21—
- (a) the detained person is being questioned by a police officer and an officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
  - (b) no review officer is readily available, or
  - (c) it is not practicable for any other reason to carry out the review.
- (2) Where a review is postponed it shall be carried out as soon as is reasonably practicable.

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- (3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review shall be deemed to have been carried out at the latest time at which it could have been carried out in accordance with paragraph 21.

*Grounds for continued detention*

- 23 (1) A review officer may authorise a person’s continued detention only if satisfied that it is necessary—
- (a) to obtain relevant evidence whether by questioning him or otherwise,
  - (b) to preserve relevant evidence,
  - [<sup>F193</sup>(ba) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence;]
  - (c) pending a decision whether to apply to the Secretary of State for a deportation notice to be served on the detained person,
  - (d) pending the making of an application to the Secretary of State for a deportation notice to be served on the detained person,
  - (e) pending consideration by the Secretary of State whether to serve a deportation notice on the detained person, or
  - (f) pending a decision whether the detained person should be charged with an offence.
- (2) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(a) or (b) unless he is satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (3) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(c) to (f) unless he is satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.
- (4) In [<sup>F194</sup>this paragraph]“relevant evidence” means evidence which—
- (a) relates to the commission by the detained person of an offence under any of the provisions mentioned in section 40(1)(a), or
  - (b) indicates that the detained person falls within section 40(1)(b).
- (5) In sub-paragraph (1) “deportation notice” means notice of a decision to make a deportation order under the Immigration Act 1971.

**Textual Amendments**

**F193** Sch. 8 para. 23(1)(ba) inserted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 24\(1\)](#) (with s. 24(6)); [S.I. 2006/1936, art. 2](#)

**F194** Words in Sch. 8 para. 23(4) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 24\(4\)](#) (with s. 24(6)); [S.I. 2006/1936, art. 2](#)

*Review officer*

- 24 (1) The review officer shall be an officer who has not been directly involved in the investigation in connection with which the person is detained.

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- (2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer shall be an officer of at least the rank of inspector.
  - (3) In the case of any other review, the review officer shall be an officer of at least the rank of superintendent.
- 25 (1) This paragraph applies where—
- (a) the review officer is of a rank lower than superintendent,
  - (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
  - (c) those directions are at variance with the performance by the review officer of a duty imposed on him under this Schedule.
- (2) The review officer shall refer the matter at once to an officer of at least the rank of superintendent.

#### *Representations*

- 26 (1) Before determining whether to authorise a person's continued detention, a review officer shall give either of the following persons an opportunity to make representations about the detention—
- (a) the detained person, or
  - (b) a solicitor representing him who is available at the time of the review.
- (2) Representations may be oral or written.
- (3) A review officer may refuse to hear oral representations from the detained person if he considers that he is unfit to make representations because of his condition or behaviour.

#### *Rights*

- 27 (1) Where a review officer authorises continued detention he shall inform the detained person—
- (a) of any of his rights under paragraphs 6 and 7 which he has not yet exercised, and
  - (b) if the exercise of any of his rights under either of those paragraphs is being delayed in accordance with the provisions of paragraph 8, of the fact that it is being so delayed.
- (2) Where a review of a person's detention is being carried out at a time when his exercise of a right under either of those paragraphs is being delayed—
- (a) the review officer shall consider whether the reason or reasons for which the delay was authorised continue to subsist, and
  - (b) if in his opinion the reason or reasons have ceased to subsist, he shall inform the officer who authorised the delay of his opinion (unless he was that officer).
- (3) In the application of this paragraph to Scotland, for the references to paragraphs 6, 7 and 8 substitute references to paragraph 16.
- (4) The following provisions (requirement to bring an accused person before the court after his arrest) shall not apply to a person detained under section 41—

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- (a) section 135(3) of the <sup>M80</sup>Criminal Procedure (Scotland) Act 1995, and
  - (b) Article 8(1) of the <sup>M81</sup>Criminal Justice (Children) (Northern Ireland) Order 1998.
- (5) Section 22(1) of the <sup>M82</sup>Criminal Procedure (Scotland) Act 1995 (interim liberation by officer in charge of police station) shall not apply to a person detained under section 41.

#### Marginal Citations

**M80** 1995 c. 46.

**M81** S.I. 1998/1504 (N.I. 9).

**M82** 1995 c. 46.

#### Record

- 28 (1) A review officer carrying out a review shall make a written record of the outcome of the review and of any of the following which apply—
- (a) the grounds upon which continued detention is authorised,
  - (b) the reason for postponement of the review,
  - (c) the fact that the detained person has been informed as required under paragraph 27(1),
  - (d) the officer's conclusion on the matter considered under paragraph 27(2)(a),
  - (e) the fact that he has taken action under paragraph 27(2)(b), and
  - (f) the fact that the detained person is being detained by virtue of section 41(5) or (6).
- (2) The review officer shall—
- (a) make the record in the presence of the detained person, and
  - (b) inform him at that time whether the review officer is authorising continued detention, and if he is, of his grounds.
- (3) Sub-paragraph (2) shall not apply where, at the time when the record is made, the detained person is—
- (a) incapable of understanding what is said to him,
  - (b) violent or likely to become violent, or
  - (c) in urgent need of medical attention.

### PART III

#### EXTENSION OF DETENTION UNDER SECTION 41

##### *Warrants of further detention*

- 29 (1) <sup>F195</sup>Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
  - (b) in Scotland, the Lord Advocate or a procurator fiscal,
  - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,

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- (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,  
may] apply to a judicial authority for the issue of a warrant of further detention under this Part.
- (2) A warrant of further detention—
- (a) shall authorise the further detention under section 41 of a specified person for a specified period, and
- (b) shall state the time at which it is issued.
- (3) [<sup>F196</sup>Subject to sub-paragraph (3A) and paragraph 36], the specified period in relation to a person shall [<sup>F197</sup>be] the period of seven days beginning—
- (a) with the time of his arrest under section 41, or
- (b) if he was being detained under Schedule 7 when he was arrested under section 41, with the time when his examination under that Schedule began.
- [<sup>F198</sup>(3A) A judicial authority may issue a warrant of further detention in relation to a person which specifies a shorter period as the period for which that person's further detention is authorised if—
- (a) the application for the warrant is an application for a warrant specifying a shorter period; or
- (b) the judicial authority is satisfied that there are circumstances that would make it inappropriate for the specified period to be as long as the period of seven days mentioned in sub-paragraph (3).]
- (4) In this Part “judicial authority” means—
- (a) in England and Wales, <sup>F199</sup>. . . a District Judge (Magistrates’ Courts) who is designated for the purpose of this Part [<sup>F200</sup>by the Lord Chief Justice of England and Wales <sup>F201</sup>. . . ],
- (b) in Scotland, the sheriff, and
- (c) in Northern Ireland, a county court judge, or a resident magistrate who is designated for the purpose of this Part [<sup>F202</sup>by the Lord Chief Justice of Northern Ireland <sup>F201</sup>. . . ].
- [<sup>F203</sup>(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (4)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (4)(c)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

**F195** Words in Sch. 8 para. 29(1) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), s. 23(2) (with (12)); [S.I. 2006/1936](#), art. 2

**F196** Words in Sch. 8 para. 29(3) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), s. 23(3)(a) (with (12)); [S.I. 2006/1936](#), art. 2

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- F197** Words in Sch. 8 para. 29(3) substituted (25.7.2006) by **Terrorism Act 2006 (c. 11), s. 23(3)(b)** (with (12)); S.I. 2006/1936, **art. 2**
- F198** Sch. 8 para. 29(3A) inserted (25.7.2006) by **Terrorism Act 2006 (c. 11), s. 23(4)** (with (12)); S.I. 2006/1936, **art. 2**
- F199** Words in Sch. 8 para. 29(4)(a) repealed (1.4.2005) by **Courts Act 2003 (c. 39), s. 109(1)(3), Sch. 8 para. 391, Sch. 10; S.I. 2005/910, art. 3(y)(bb)**
- F200** Words in Sch. 8 para. 29(4)(a) substituted (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), s. 15(1), Sch. 4 para. 290(2)(a); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 11(x)**
- F201** Words in Sch. 8 para. 29(4)(a)(c) repealed (16.2.2009) by **Counter-Terrorism Act 2008 (c. 28), ss. 82(2), 99, 100(5), Sch. 9 Pt. 6 (with s. 101(2)); S.I. 2009/58, art. 2(g)**
- F202** Words in Sch. 8 para. 29(4)(c) substituted (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), s. 15(1), Sch. 4 para. 290(2)(b); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 11(x)**
- F203** Sch. 8 para. 29(5)(6) inserted (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), s. 15(1), Sch. 4 para. 290(2)(c); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 11(x)**

#### *Time limit*

- 30 (1) An application for a warrant shall be made—
- (a) during the period mentioned in section 41(3), or
  - (b) within six hours of the end of that period.
- (2) The judicial authority hearing an application made by virtue of sub-paragraph (1) (b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 41(3).
- (3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to a judicial authority.

#### *Notice*

- 31 An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating—
- (a) that the application has been made,
  - (b) the time at which the application was made,
  - (c) the time at which it is to be heard, and
  - (d) the grounds upon which further detention is sought.

#### *Grounds for extension*

- 32 (1) A judicial authority may issue a warrant of further detention only if satisfied that—
- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary [<sup>F204</sup>as mentioned in sub-paragraph (1A)], and
  - (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

[<sup>F205</sup>(1A) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary—

- (a) to obtain relevant evidence whether by questioning him or otherwise;
- (b) to preserve relevant evidence; or

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- (c) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence.]
- (2) In [<sup>F206</sup>this paragraph]“relevant evidence” means, in relation to the person to whom the application relates, evidence which—
  - (a) relates to his commission of an offence under any of the provisions mentioned in section 40(1)(a), or
  - (b) indicates that he is a person falling within section 40(1)(b).

#### Textual Amendments

- F204** Words in Sch. 8 para. 32(1) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 24\(2\)](#) (with (6)); [S.I. 2006/1936, art. 2](#)
- F205** Sch. 8 para. 32(1A) inserted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 24\(3\)](#) (with (6)); [S.I. 2006/1936, art. 2](#)
- F206** Words in Sch. 8 para. 32(2) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 24\(5\)](#) (with (6)); [S.I. 2006/1936, art. 2](#)

#### Representation

- 33 (1) The person to whom an application relates shall—
- (a) be given an opportunity to make oral or written representations to the judicial authority about the application, and
  - (b) subject to sub-paragraph (3), be entitled to be legally represented at the hearing.
- (2) A judicial authority shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where—
- (a) he is not legally represented,
  - (b) he is entitled to be legally represented, and
  - (c) he wishes to be so represented.
- (3) A judicial authority may exclude any of the following persons from any part of the hearing—
- (a) the person to whom the application relates;
  - (b) anyone representing him.
- [<sup>F207</sup>(4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—
- (a) that the hearing of the application must be conducted, and
  - (b) that all representations by or on behalf of a person for the purposes of the hearing must be made,
- by such means (whether a live television link or other means) falling within sub-paragraph (5) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.
- (5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal

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- representative of his (without being present at the hearing and to the extent that they are not excluded from it under sub-paragraph (3))—
- (a) to see and hear the judicial authority and the making of representations to it by other persons; and
  - (b) to be seen and heard by the judicial authority.
- (6) If the person to whom the application relates wishes to make representations about whether a direction should be given under sub-paragraph (4), he must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.
- (7) Sub-paragraph (2) applies to the hearing of representations about whether a direction should be given under sub-paragraph (4) in the case of any application as it applies to a hearing of the application.
- (8) A judicial authority shall not give a direction under sub-paragraph (4) unless—
- (a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within sub-paragraph (5); and
  - (b) that notification has not been withdrawn.
- (9) If in a case where it has power to do so a judicial authority decides not to give a direction under sub-paragraph (4), it shall state its reasons for not giving it.]

#### Textual Amendments

**F207** Sch. 8 paras. 33(4)-(9) inserted (E.W.N.I.) (1.8.2001) by [2001 c. 16, s. 75](#); [S.I. 2001/2223, art. 3\(d\)](#)

#### Information

- 34 (1) The [<sup>F208</sup>person] who has made an application for a warrant may apply to the judicial authority for an order that specified information upon which he intends to rely be withheld from—
- (a) the person to whom the application relates, and
  - (b) anyone representing him.
- (2) Subject to sub-paragraph (3), a judicial authority may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed—
- (a) evidence of an offence under any of the provisions mentioned in section 40(1)(a) would be interfered with or harmed,
  - (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
  - (c) the recovery of property in respect of which a forfeiture order could be made under section 23 [<sup>F209</sup>or 23A] would be hindered,
  - (d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 40(1)(a) or (b) would be made more difficult as a result of his being alerted,
  - (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,



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- (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or
  - (g) a person would be interfered with or physically injured.
- [<sup>F210</sup>(3) A judicial authority may also make an order under sub-paragraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that—
- (a) the detained person has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.
- (3A) For the purposes of sub-paragraph (3) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 or 3 of the Proceeds of Crime Act 2002.]
- (4) The judicial authority shall direct that the following be excluded from the hearing of the application under this paragraph—
- (a) the person to whom the application for a warrant relates, and
  - (b) anyone representing him.

#### Textual Amendments

- F208** Word in Sch. 8 para. 34(1) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 23\(5\)](#); S.I. 2006/1936, [art. 2](#)
- F209** Words in Sch. 8 para. 34(2)(c) inserted (18.6.2009) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 39, 100\(5\), Sch. 3 para. 6](#) (with s. 101(2)); S.I. 2009/1256, [art. 2\(c\)](#)
- F210** Sch. 8 para. 34(3)(3A) substituted for Sch. 8 para. 34(3) (24.3.2003 subject to certain provisions in the commencing instruments) by [2002 c. 29, s. 456, Sch. 11 para. 39\(5\)](#); S.I. 2003/333, [art. 2](#), Sch. (as amended by S.I. 2003/531); S.S.I. 2003/210, [art. 2](#), Sch.

#### Adjournments

- 35 (1) A judicial authority may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 41(3).
- (2) This paragraph shall not apply to an adjournment under paragraph 33(2).

#### Extensions of warrants

- 36 [<sup>F211</sup>(1) Each of the following—
- (a) in England and Wales, a Crown Prosecutor,
  - (b) in Scotland, the Lord Advocate or a procurator fiscal,
  - (c) in Northern Ireland, the Director of Public Prosecutions for Northern Ireland,
  - (d) in any part of the United Kingdom, a police officer of at least the rank of superintendent,
- may] apply <sup>F212</sup> . . . for the extension or further extension of the period specified in a warrant of further detention.
- [<sup>F213</sup>(1A) The person to whom an application under sub-paragraph (1) may be made [<sup>F214</sup> is a judicial authority ]

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<sup>F215</sup>(1B).....]

- (2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.
- [<sup>F216</sup>(3) Subject to sub-paragraph (3AA), the period by which the specified period is extended or further extended shall be the period which—
- (a) begins with the time specified in sub-paragraph (3A); and
  - (b) ends with whichever is the earlier of—
    - (i) the end of the period of seven days beginning with that time; and
    - (ii) the end of the period of [<sup>F217</sup>14 days ] beginning with the relevant time.
- (3A) The time referred to in sub-paragraph (3)(a) is—
- (a) in the case of a warrant specifying a period which has not previously been extended under this paragraph, the end of the period specified in the warrant, and
  - (b) in any other case, the end of the period for which the period specified in the warrant was last extended under this paragraph.
- (3AA) A judicial authority <sup>F218</sup>... may extend or further extend the period specified in a warrant by a shorter period than is required by sub-paragraph (3) if—
- (a) the application for the extension is an application for an extension by a period that is shorter than is so required; or
  - (b) the judicial authority <sup>F218</sup>... is satisfied that there are circumstances that would make it inappropriate for the period of the extension to be as long as the period so required.]

[<sup>F219</sup>(3B) In this paragraph “ the relevant time ”, in relation to a person, means—

    - (a) the time of his arrest under section 41, or
    - (b) if he was being detained under Schedule 7 when he was arrested under section 41, the time when his examination under that Schedule began.]

(4) Paragraphs 30(3) and 31 to 34 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention <sup>F220</sup>...

(5) A judicial authority <sup>F221</sup>... may adjourn the hearing of an application under sub-paragraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.

(6) Sub-paragraph (5) shall not apply to an adjournment under paragraph 33(2).

<sup>F222</sup>(7).....

#### Textual Amendments

**F211** Words in Sch. 8 para. 36(1) substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 23\(2\)](#) (with (12)); [S.I. 2006/1936, art. 2](#)

**F212** Words in Sch. 8 para. 36(1) repealed (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), ss. 23(6), 37, Sch. 3 (with s. 23(12)); [S.I. 2006/1936, art. 2](#)

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- F213** Sch. 8 para. 36(1A)(1B) inserted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 23\(6\)](#) (with (12)); S.I. 2006/1936, [art. 2](#)
- F214** Words in Sch. 8 para. 36(1A) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(2\)](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)
- F215** Sch. 8 para. 36(1B) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(3\)\(a\), Sch. 10 Pt. 4](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)
- F216** Sch. 8 para. 36(3)-(3AA) substituted for Sch. 8 para. 36(3)(3A) (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 23\(7\)](#) (with (12)); S.I. 2006/1936, [art. 2](#)
- F217** Words in Sch. 8 para. 36(3)(b)(ii) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 57\(1\), 120](#) (with s. 97); S.I. 2012/1205, [art. 4\(a\)](#)
- F218** Words in Sch. 8 para. 36(3AA) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(3\)\(b\), Sch. 10 Pt. 4](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)
- F219** Sch. 8 para. 36(3A)(3B) inserted (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 306\(4\)](#); S.I. 2004/81, [art. 2\(2\)](#) (with [art. 2\(8\)](#))
- F220** Words in Sch. 8 para. 36(4) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(3\)\(c\), Sch. 10 Pt. 4](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)
- F221** Words in Sch. 8 para. 36(5) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(3\)\(d\), Sch. 10 Pt. 4](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)
- F222** Sch. 8 para. 36(7) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 26\(3\)\(e\), Sch. 10 Pt. 4](#) (with s. 97); S.I. 2012/1205, [art. 4\(k\)\(l\)](#)

#### Modifications etc. (not altering text)

- C49** S. 36 extended (E.W.) (2.12.2002) by [2002 c. 30, s. 38, Sch. 4 Pt. 1 para. 14](#); S.I. 2002/2750, [art. 2\(a\)\(ii\)\(d\)](#)

#### *Detention - conditions*

- [<sup>F223</sup>37(1) This paragraph applies where—
- (a) a person (“the detained person”) is detained by virtue of a warrant issued under this Part of this Schedule; and
  - (b) his detention is not authorised by virtue of section 41(5) or (6) or otherwise apart from the warrant.
- (2) If it at any time appears to the police officer or other person in charge of the detained person's case that any of the matters mentioned in paragraph 32(1)(a) and (b) on which the judicial authority <sup>F224</sup>... last authorised his further detention no longer apply, he must—
- (a) if he has custody of the detained person, release him immediately; and
  - (b) if he does not, immediately inform the person who does have custody of the detained person that those matters no longer apply in the detained person's case.
- (3) A person with custody of the detained person who is informed in accordance with this paragraph that those matters no longer apply in his case must release that person immediately.]

#### Textual Amendments

- F223** Sch. 8 para. 37 substituted (25.7.2006) by [Terrorism Act 2006 \(c. 11\), s. 23\(11\)](#) (with (12)); S.I. 2006/1936, [art. 2](#)

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**F224** Words in Sch. 8 para. 37(2) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 26(4), **Sch. 10 Pt. 4** (with s. 97); S.I. 2012/1205, art. 4(k)(l)

## [<sup>F225</sup>PART 4

### EMERGENCY POWER WHEN PARLIAMENT DISSOLVED ETC. FOR TEMPORARY EXTENSION OF MAXIMUM PERIOD FOR DETENTION UNDER SECTION 41

#### Textual Amendments

**F225** Sch. 8 Pt. 4 inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 58(1), 120 (with s. 97); S.I. 2012/1205, art. 4(b)

- 38 (1) The Secretary of State may make a temporary extension order if—
- (a) either—
    - (i) Parliament is dissolved, or
    - (ii) Parliament has met after a dissolution but the first Queen's Speech of the Parliament has not yet taken place, and
  - (b) the Secretary of State considers that it is necessary by reason of urgency to make such an order.
- (2) A temporary extension order is an order which provides, in relation to the period of three months beginning with the coming into force of the order, for paragraphs 36 and 37 to be read as if—
- (a) in paragraph 36(3)(b)(ii) for “14 days” there were substituted “28 days”, and
  - (b) the other modifications in sub-paragraphs (3) and (4) were made.
- (3) The other modifications of paragraph 36 are—
- (a) the insertion at the beginning of sub-paragraph (1) of “Subject to sub-paragraphs (1ZA) to (1ZI),”
  - (b) the insertion, after sub-paragraph (1), of—
 

“(1ZA) Sub-paragraph (1ZB) applies in relation to any proposed application under sub-paragraph (1) for the further extension of the period specified in a warrant of further detention where the grant (otherwise than in accordance with sub-paragraph (3AA)(b)) of the application would extend the specified period to a time that is more than 14 days after the relevant time.

(1ZB) No person may make such an application—

    - (a) in England and Wales, without the consent of the Director of Public Prosecutions,
    - (b) in Scotland, without the consent of the Lord Advocate, and
    - (c) in Northern Ireland, without the consent of the Director of Public Prosecutions for Northern Ireland,

unless the person making the application is the person whose consent is required.

(1ZC) The Director of Public Prosecutions must exercise personally any function under sub-paragraph (1ZB) of giving consent.

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- (1ZD) The only exception is if—
- (a) the Director is unavailable, and
  - (b) there is another person who is designated in writing by the Director acting personally as the person who is authorised to exercise any such function when the Director is unavailable.
- (1ZE) In that case—
- (a) the other person may exercise the function but must do so personally, and
  - (b) the Director acting personally—
    - (i) must review the exercise of the function as soon as practicable, and
    - (ii) may revoke any consent given.
- (1ZF) Where the consent is so revoked after an application has been made or extension granted, the application is to be dismissed or (as the case may be) the extension is to be revoked.
- (1ZG) Sub-paragraphs (1ZC) to (1ZF) apply instead of any other provisions which would otherwise have enabled any function of the Director of Public Prosecutions under sub-paragraph (1ZB) of giving consent to be exercised by a person other than the Director.
- (1ZH) The Director of Public Prosecutions for Northern Ireland must exercise personally any function under sub-paragraph (1ZB) of giving consent unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of the Justice (Northern Ireland) Act 2002 (powers of Deputy Director to exercise functions of Director).
- (1ZI) Sub-paragraph (1ZH) applies instead of section 36 of the Act of 2002 (delegation of the functions of the Director of Public Prosecutions for Northern Ireland to persons other than the Deputy Director) in relation to the functions of the Director of Public Prosecutions for Northern Ireland and the Deputy Director of Public Prosecutions for Northern Ireland under, or (as the case may be) by virtue of, sub-paragraph (1ZB) above of giving consent.”
- (c) the substitution, for “a judicial authority” in sub-paragraph (1A), of “—
    - “(a) in the case of an application falling within sub-paragraph (1B), a judicial authority; and
    - (b) in any other case, a senior judge”
  - (d) the insertion, after sub-paragraph (1A), of—

“(1B) An application for the extension or further extension of a period falls within this sub-paragraph if—

    - (a) the grant of the application otherwise than in accordance with sub-paragraph (3AA)(b) would extend that period to a time that is no more than 14 days after the relevant time; and
    - (b) no application has previously been made to a senior judge in respect of that period.”
  - (e) the insertion, after “judicial authority” in both places in sub-paragraph (3AA) where it appears, of “or senior judge”

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- (f) the insertion, after “detention” in sub-paragraph (4), of
  - “but, in relation to an application made by virtue of sub-paragraph (1A)(b) to a senior judge, as if—
    - (a) references to a judicial authority were references to a senior judge; and
    - (b) references to the judicial authority in question were references to the senior judge in question”,
- (g) the insertion, after “judicial authority” in sub-paragraph (5), of “or senior judge”, and
- (h) the insertion, after sub-paragraph (6), of—

“(7) In this paragraph and paragraph 37 “senior judge” means a judge of the High Court or of the High Court of Justiciary.”

- (4) The modification of paragraph 37 is the insertion, in sub-paragraph (2), after “judicial authority”, of “or senior judge”.
- (5) A temporary extension order applies, except so far as it provides otherwise, to any person who is being detained under section 41 when the order comes into force (as well as any person who is subsequently detained under that section).
- (6) The Secretary of State may by order revoke a temporary extension order if the Secretary of State considers it appropriate to do so (whether or not the conditions mentioned in paragraphs (a) and (b) of sub-paragraph (1) are met).
- (7) Sub-paragraph (8) applies if—
  - (a) any of the following events occurs—
    - (i) the revocation without replacement of a temporary extension order,
    - (ii) the expiry of the period of three months mentioned in sub-paragraph (2) in relation to such an order,
    - (iii) the ceasing to have effect of such an order by virtue of section 123(6B) and (6C), and
  - (b) at that time—
    - (i) a person is being detained by virtue of a further extension under paragraph 36,
    - (ii) the person's further detention was authorised by virtue of the temporary extension order concerned (before its revocation, expiry or ceasing to have effect) for a period ending more than 14 days after the relevant time (within the meaning given by paragraph 36(3B)),
    - (iii) that 14 days has expired, and
    - (iv) the person's detention is not otherwise authorised by law.
- (8) The person with custody of that individual must release the individual immediately.
- (9) Subject to sub-paragraphs (7) and (8), the fact that—
  - (a) a temporary extension order is revoked,
  - (b) the period of three months mentioned in sub-paragraph (2) has expired in relation to such an order, or
  - (c) such an order ceases to have effect by virtue of section 123(6B) and (6C),
 is without prejudice to anything previously done by virtue of the order or to the making of a new order.]

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## [F226] SCHEDULE 8A

### OFFENCE UNDER SECTION 58A: SUPPLEMENTARY PROVISIONS

#### Textual Amendments

**F226** Sch. 8A inserted (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 76(4), 100(5), **Sch. 8** (with s. 101(2)); S.I. 2009/58, **art. 2(d)**

#### *Introduction*

- 1 (1) This Schedule makes supplementary provision relating to the offence in section 58A (eliciting, publishing or communicating information about members of the armed forces etc).
- (2) The purpose of this Schedule is to comply with Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“ the E-Commerce Directive ”).

#### *Domestic service providers: extension of liability*

- 2 (1) This paragraph applies where a service provider is established in the United Kingdom (a “domestic service provider”).
- (2) Section 58A applies to a domestic service provider who—
  - (a) commits any of the acts specified in subsection (1) of that section in an EEA state other than the United Kingdom, and
  - (b) does so in the course of providing information society services, as it applies to a person who commits such an act in the United Kingdom.
- (3) In such a case—
  - (a) proceedings for the offence may be taken at any place in the United Kingdom, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.

#### *Non-UK service providers: restriction on proceedings*

- 3 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).
- (2) Proceedings for an offence under section 58A must not be brought against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the following conditions are met.
- (3) The conditions are—
  - (a) that the bringing of proceedings is necessary for one of the following reasons—
    - (i) public policy,
    - (ii) public security, including the safeguarding of national security and defence;

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- (b) that the proceedings are brought against an information society service that prejudices the objectives referred to in paragraph (a) or presents a serious and grave risk of prejudice to those objectives;
- (c) that the bringing of the proceedings is proportionate to those objectives.

*Exceptions for mere conduits*

- 4 (1) A service provider is not guilty of an offence under section 58A in respect of anything done in the course of providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the following condition is satisfied.
- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
  - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

*Exception for caching*

- 5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not guilty of an offence under section 58A in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the following conditions are satisfied.
- (3) The first condition is that the service provider does not modify the information.
- (4) The second condition is that the service provider complies with any conditions attached to having access to the information.
- (5) The third condition is that if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or



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- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information,  
the service provider expeditiously removes the information or disables access to it.

*Exception for hosting*

- 6 (1) A service provider is not guilty of an offence under section 58A in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.
- (2) The condition is that—
- (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
- (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (3) “Offending material” means information about a person who is or has been—
- (a) a member of Her Majesty's forces,
- (b) a member of any of the intelligence services, or
- (c) a constable,
- which is of a kind likely to be useful to a person committing or preparing an act of terrorism.
- (4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.
- (5) In this paragraph “the intelligence services” means the Security Service, the Secret Intelligence Service and GCHQ (within the meaning of section 3 of the Intelligence Services Act 1994 (c. 13)).

*Interpretation*

- 7 (1) In this Schedule—
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
- (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
- “service provider” means a person providing an information society service.

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- (2) For the purposes of this Schedule whether a service provider is established in the United Kingdom, or in some other EEA state, shall be determined in accordance with the following provisions—
- (a) a service provider is established in the United Kingdom, or in a particular EEA state, if the service provider—
    - (i) effectively pursues an economic activity using a fixed establishment in the United Kingdom, or that EEA state, for an indefinite period, and
    - (ii) is a national of an EEA state or a company or firm mentioned in [<sup>F227</sup>Article 54 of the Treaty on the Functioning of the European Union] ;
  - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
  - (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.]

#### Textual Amendments

**F227** Words in Sch. 8A para. 7(2)(a)(ii) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

## SCHEDULE 9

Section 65.

### SCHEDULED OFFENCES

#### PART I

#### SUBSTANTIVE OFFENCES

##### *Common law offences*

1 Murder <sup>F228</sup> . . . .

#### Textual Amendments

**F228** Words in Sch. 9 Pt. I para. 1 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

2 Manslaughter <sup>F229</sup> . . . .

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F229** Words in Sch. 9 Pt. I para. 2 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

3 Riot <sup>F230</sup> . . . .

**Textual Amendments**

**F230** Words in Sch. 9 Pt. I para. 3 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

4 Kidnapping <sup>F231</sup> . . . .

**Textual Amendments**

**F231** Words in Sch. 9 Pt. I para. 4 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

5 False imprisonment <sup>F232</sup> . . . .

**Textual Amendments**

**F232** Words in Sch. 9 Pt. I para. 5 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

*Malicious Damage Act 1861 (c. 97)*

6 Offences under section 35 of the <sup>M83</sup>Malicious Damage Act 1861 (interference with railway) <sup>F233</sup> . . . .

**Textual Amendments**

**F233** Words in Sch. 9 Pt. I para. 6 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

**Marginal Citations**

**M83** [1861 c. 97](#)

*Offences against the Person Act 1861 (c. 100)*

7 Offences under the following provisions of the <sup>M84</sup>Offences against the Person Act 1861 <sup>F234</sup> . . . —

- (a) section 4 (offences relating to murder),
- (b) section 16 (threats to kill),
- (c) section 18 (wounding with intent to cause grievous bodily harm),
- (d) section 20 (causing grievous bodily harm),

*Status: Point in time view as at 23/11/2012.*

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- (e) section 29 (causing explosion or sending explosive substance or throwing corrosive liquid with intent to cause grievous bodily harm), and
- (f) section 47 (assault occasioning actual bodily harm).

#### Textual Amendments

**F234** Words in Sch. 9 Pt. I para. 7 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M84** [1861 c. 100](#).

#### *Explosive Substances Act 1883 (c. 3)*

- 8 Offences under the following provisions of the <sup>M85</sup>Explosive Substances Act 1883  
F235 . . . —
- (a) section 2 (causing explosion likely to endanger life or damage property),
  - (b) section 3 (intending or conspiring to cause any such explosion, and making or possessing explosive with intent to endanger life or cause serious damage to property), and
  - (c) section 4 (making or possessing explosives in suspicious circumstances).

#### Textual Amendments

**F235** Words in Sch. 9 Pt. I para. 8 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M85** [1883 c. 3](#).

#### *Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))*

- 9 Offences under the following provisions of the <sup>M86</sup>Prison Act (Northern Ireland) 1953 <sup>F236</sup>. . . —
- (a) section 25 (being unlawfully at large while under sentence),
  - (b) section 26 (escaping from lawful custody and failing to surrender to bail),
  - (c) section 27 (attempting to break prison),
  - (d) section 28 (breaking prison by force or violence),
  - (e) section 29 (rescuing or assisting or permitting to escape from lawful custody persons under sentence of death or life imprisonment),
  - (f) section 30 (rescuing or assisting or permitting to escape from lawful custody persons other than persons under sentence of death or life imprisonment),
  - (g) section 32 (causing discharge of prisoner under pretended authority), and
  - (h) section 33 (assisting prisoners to escape by conveying things into prisons).

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F236** Words in Sch. 9 Pt. 1 para. 9 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M86** [1953 c. 18\(N.I.\)](#).

#### *Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))*

- 10 <sup>F237</sup>Subject to notes 2 and 3 below,] offences under the following provisions of the <sup>M87</sup>Theft Act (Northern Ireland) 1969—
- (a) section 1 (theft) <sup>F238</sup> . . . . ,
  - (b) section 8 (robbery) <sup>F238</sup> . . . . ,
  - (c) section 9 (burglary) <sup>F238</sup> . . . . ,
  - (d) section 10 (aggravated burglary) <sup>F238</sup> . . . . , [<sup>F239</sup> and]
  - (e) <sup>F240</sup> . . . . .
  - (f) section 20 (blackmail) <sup>F238</sup> . . . . .

#### Textual Amendments

**F237** Words in Sch. 9 Pt. 1 para. 10 inserted (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(2)(a)}, 5(3)

**F238** Words in Sch. 9 Pt. 1 para. 10 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(2)(b)}, 5(2)(3), {Sch.}

**F239** Word in Sch. 9 Pt. 1 para. 10(d) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), s. 14(1), **Sch. 1 para. 30(1)**; [S.I. 2006/3200, art. 2](#)

**F240** Sch. 9 Pt. 1 para. 10(e) repealed (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), s. 14(1)(3), **Sch. 1 para. 30(1)**, **Sch. 3**; [S.I. 2006/3200, art. 2](#)

#### Marginal Citations

**M87** [1969 c. 16\(N.I.\)](#).

#### *Protection of the Person and Property Act (Northern Ireland) 1969 (c. 29 (N.I.))*

- 11 Offences under the following provisions of the <sup>M88</sup>Protection of the Person and Property Act (Northern Ireland) 1969 <sup>F241</sup> . . . —
- (a) section 1 (intimidation),
  - (b) section 2 (making or possessing petrol bomb, etc. in suspicious circumstances), and
  - (c) section 3 (throwing or using petrol bomb, etc.).

#### Textual Amendments

**F241** Words in Sch. 9 Pt. 1 para. 11 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

*Status: Point in time view as at 23/11/2012.*

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#### Marginal Citations

**M88** 1969 c. 29(N.I.).

### Hijacking

- 12 Offences under section 1 of the <sup>M89</sup>Aviation Security Act 1982 (aircraft) <sup>F242</sup> . . . .

#### Textual Amendments

**F242** Words in Sch. 9 Pt. I para. 12 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M89** 1982 c. 36.

- 13 Offences in Northern Ireland under section 2 of the <sup>M90</sup>Criminal Jurisdiction Act 1975 (vehicles or ships) <sup>F243</sup> . . . .

#### Textual Amendments

**F243** Words in Sch. 9 Pt. I para. 13 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M90** 1975 c. 59.

### *Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))*

- 14 Offences under the following provisions of the <sup>M91</sup>Criminal Damage (Northern Ireland) Order 1977 <sup>F244</sup> . . . —
- (a) Article 3(1) and (3) or Article 3(2) and (3) (arson),
  - (b) Article 3(2) (destroying or damaging property with intent to endanger life),
  - (c) Article 4 (threats to destroy or damage property), and
  - (d) Article 5 (possessing anything with intent to destroy or damage property).

#### Textual Amendments

**F244** Words in Sch. 9 Pt. I para. 14 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M91** [S.I. 1977/426 \(N.I. 4\)](#).

### *Criminal Law (Amendment) (Northern Ireland) Order 1977 (S.I. 1977/1249 (N.I. 16))*

- 15 Offences under Article 3 of the <sup>M92</sup>Criminal Law (Amendment) (Northern Ireland) Order 1977 (bomb hoaxes) <sup>F245</sup> . . . .

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F245** Words in Sch. 9 Pt. I para. 15 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M92** [S.I. 1977/1249](#) (N.I. 16)

### *[<sup>F246</sup> Firearms (Northern Ireland) Order 2004 (S.I. 2004/ (N.I. )) ]*

#### Textual Amendments

**F246** Cross-heading substituted (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), art. 82(1), [Sch. 7 para. 24](#) (with art. 81); S.R. 2005/4, [art. 3](#)

[<sup>F247</sup>16 Offences under the following provisions of the Firearms (Northern Ireland) Order 2004 <sup>F248</sup> . . . —

- (a) Article 24(1)(manufacturing, dealing in, repairing, etc. , firearm or ammunition without firearms dealer’s certificate),
- (b) Article 37(1), (2) or (4)(sale, etc. , of firearm or ammunition),
- (c) Article 45(1)(manufacturing, dealing in or possessing certain weapons, etc. ),
- (d) Article 58(1)(possessing firearm or ammunition with intent to endanger life or cause serious damage to property),
- (e) Article 59 (use or attempted use of firearm or imitation firearm to prevent arrest of self or another),
- (f) Article 60 (carrying firearm or imitation firearm with intent to commit indictable offence or prevent arrest of self or another),
- (g) Article 61 (carrying firearm, etc. in public place) subject to note 4 below,
- (h) Article 63 (possession of firearm or ammunition by person who has been sentenced to imprisonment, etc. and sale of firearm or ammunition to such a person),
- (i) Article 64 (possessing firearm or ammunition in suspicious circumstances), and
- (j) Article 67 (shortening barrel of shotgun or converting imitation firearm into firearm).]

#### Textual Amendments

**F247** Sch. 9 para. 16 substituted (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), art. 82(1), [Sch. 7 para. 24](#) (with art. 81); S.R. 2005/4, [art. 3](#)

**F248** Words in Sch. 9 Pt. I para. 16 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

### *Taking of Hostages Act 1982 (c. 28)*

17 Offences under the <sup>M93</sup>Taking of Hostages Act 1982 <sup>F249</sup> . . . .

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F249** Words in Sch. 9 Pt. I para. 17 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M93** [1982 c. 28](#)

#### *Nuclear Material (Offences) Act 1983 (c. 18)*

- 18 Offences under section 2 of the <sup>M94</sup>Nuclear Material (Offences) Act 1983 (offences involving nuclear material: preparatory acts and threats) <sup>F250</sup> . . . .

#### Textual Amendments

**F250** Words in Sch. 9 Pt. I para. 18 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M94** [1983 c. 18](#)

#### *Computer Misuse Act 1990 (c. 18)*

- 19 Offences under the following provisions of the <sup>M95</sup>Computer Misuse Act 1990 <sup>F251</sup> . . . . —
- (a) section 1 (unauthorised access to computer material),
  - (b) section 2 (unauthorised access with intent to commit further offence), and
  - (c) section 3 (unauthorised modification).

#### Textual Amendments

**F251** Words in Sch. 9 Pt. I para. 19 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M95** [1990 c. 18](#)

#### *Aviation and Maritime Security Act 1990 (c. 31)*

- 20 Offences under the following provisions of the <sup>M96</sup>Aviation and Maritime Security Act 1990 <sup>F252</sup> . . . . —
- (a) section 1 (endangering safety at aerodromes),
  - (b) section 9 (hijacking of ships), and
  - (c) section 10 (seizing or exercising control of fixed platforms).



*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F252** Words in Sch. 9 Pt. I para. 20 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M96** [1990 c. 31](#)

#### *Channel Tunnel (Security) Order 1994 (S.I. 1994/570)*

- 21 Offences under the following provisions of <sup>M97</sup>the Channel Tunnel (Security) Order 1994 <sup>F253</sup>. . . —
- (a) Article 4 (hijacking of Channel Tunnel trains), and
  - (b) Article 5 (seizing or exercising control of the tunnel system).

#### Textual Amendments

**F253** Words in Sch. 9 Pt. I para. 21 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M97** [S.I. 1994/570](#)

#### *This Act*

- 22 Offences under the following provisions of this Act—
- (a) section 11,
  - (b) section 12,
  - (c) section 13,
  - (d) sections 15 to 19,
  - (e) section 54,
  - (f) section 56,
  - (g) section 57,
  - (h) section 58,
  - (i) section 103,
  - (j) paragraph 37 of Schedule 4,
  - (k) Schedule 5,
  - (l) paragraph 10 of Schedule 10 <sup>F254</sup>. . . , and
  - (m) paragraphs 2 and 3 of Schedule 13 <sup>F254</sup>. . . .

#### Textual Amendments

**F254** Words in Sch. 9 Pt. I para. 22 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *[<sup>F255</sup>Justice (Northern Ireland) Act 2004*

#### **Textual Amendments**

**F255** Sch. 9 Pt. 1 para. 22A and preceding cross-heading inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\), s. 11, Sch. 2 para. 1\(5\)](#) (with para. 5); S.R. 2004/267, [art. 2](#)

22A Offences under paragraph 1(1) or (2) of Schedule 2 to the Justice (Northern Ireland) Act 2004 (absconding by persons admitted to bail in respect of a scheduled offence),  
<sup>F256</sup> . . . . ]

#### **Textual Amendments**

**F256** Words in Sch. 9 Pt. I para. 22A repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

### *[<sup>F257</sup>Prevention of Terrorism Act 2005*

#### **Textual Amendments**

**F257** Sch. 9 Pt. 1 para. 22B and preceding cross-heading inserted (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(3)}, 5(3)

22B Offences under section 9 of the Prevention of Terrorism Act 2005 (contravention of control order obligations and obstruction of persons serving control order).]

### *[<sup>F258</sup>Terrorism Act 2006*

#### **Textual Amendments**

**F258** Sch. 9 Pt. 1 para. 22C and preceding cross-heading inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), [s. 37\(4\)](#); S.I. 2006/1013, [art. 2](#)

22C Offences under Part 1 of the Terrorism Act 2006 (terrorism-related offences).]

### *[<sup>F259</sup>Fraud Act 2006*

#### **Textual Amendments**

**F259** Sch. 9 Pt. 1 para. 23 and preceding cross-heading inserted after para. 22 (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 14\(1\), Sch. 1 para. 30\(2\)](#); S.I. 2006/3200, [art. 2](#)

23 Offences under section 1 of the Fraud Act 2006 (fraud) subject to note 2 below.]

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Notes

- 1 Any offence specified in this Part of this Schedule <sup>F260</sup> . . . is not a scheduled offence in any particular case in which the [<sup>F261</sup> Advocate General for Northern Ireland] certifies that it is not to be treated as a scheduled offence.

#### Textual Amendments

**F260** Words in Sch. 9 Pt. 1 Note 1 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(a)}, 5(2)(3), {Sch.}

**F261** Words in Sch. 9 Pt. 1 substituted (12.4.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), s. 87(1), [Sch. 7 para. 23](#); [S.R. 2010/113](#), art. 2, Sch. para. 19(d)

- 2 An offence specified in [<sup>F262</sup> paragraph 10(a) or (c) or 23] is a scheduled offence only where it is charged that the offence was committed in relation to or by means of nuclear material within the meaning of the <sup>M98</sup> Nuclear Material (Offences) Act 1983 <sup>F263</sup> . . .

#### Textual Amendments

**F262** Words in Sch. 9 Pt. 1 note 2 substituted (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), s. 14(1), [Sch. 1 para. 30\(3\)](#); [S.I. 2006/3200](#), art. 2

**F263** Words in Sch. 9 Pt. 1 note 2 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006](#), ss. {3(1)(b)}, 5(2)(3), {Sch.}

#### Marginal Citations

**M98** 1983 c. 18.

- 3 An offence specified in paragraph 10(b) or (d) is a scheduled offence only where it is charged—
- (a) that an explosive, firearm, imitation firearm or weapon of offence was used to commit the offence, or
  - (b) that the offence was committed in relation to or by means of nuclear material within the meaning of the <sup>M99</sup> Nuclear Material (Offences) Act 1983;

and expressions defined in section 10 of the <sup>M100</sup> Theft Act (Northern Ireland) 1969 have the same meaning when used in this note.

#### Marginal Citations

**M99** 1983 c. 18.

**M100** 1969 c. 16(N.I.).

- 4 The offence specified in paragraph 16(g) is a scheduled offence only where it is charged that the offence relates to a weapon other than an air weapon.

[<sup>F2645</sup> Notes 2 to 4 are subject to note 1.]

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F264** Sch. 9 Pt. I Note 5 inserted (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {3(1)(c)}, 5(3)

## PART II

### INCHOATE AND RELATED OFFENCES

Each of the following offences, that is to say—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in Part I of this Schedule (hereafter in this paragraph referred to as a “substantive offence”),
- (b) attempting or conspiring to commit a substantive offence,
- (c) an offence under section 4 of the <sup>M101</sup>Criminal Law Act (Northern Ireland) 1967 of doing any act with intent to impede the arrest or prosecution of a person who has committed a substantive offence, and
- (d) an offence under section 5(1) of the <sup>M102</sup>Criminal Law Act (Northern Ireland) 1967 of failing to give information to a constable which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of a person for a substantive offence,

shall be treated for the purposes of Part VII of this Act as if it were the substantive offence.

### Marginal Citations

**M101** 1967 c. 18(N.I.).

**M102** 1967 c. 18(N.I.).

### Marginal Citations

**M101** 1967 c. 18(N.I.).

**M102** 1967 c. 18(N.I.).

## PART III

### EXTRA-TERRITORIAL OFFENCES

Any extra-territorial offence as defined in section 1(3) of the <sup>M103</sup>Criminal Jurisdiction Act 1975.

### Marginal Citations

**M103** 1975 c. 59.

### Marginal Citations

**M103** 1975 c. 59.

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Note

An extra-territorial offence is not a scheduled offence in any particular case in which the [F265 Advocate General for Northern Ireland ] certifies that it is not to be treated as a scheduled offence.

#### Textual Amendments

**F265** Words in Sch. 9 Pt. 3 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 7 para. 23; S.R. 2010/113, art. 2, Sch. para. 19(d)

#### Textual Amendments

**F265** Words in Sch. 9 Pt. 3 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 7 para. 23; S.R. 2010/113, art. 2, Sch. para. 19(d)

## SCHEDULE 10

Section 84.

### MUNITIONS AND TRANSMITTERS: SEARCH AND SEIZURE

#### Interpretation

- 1 (1) In this Schedule “officer” means—
- (a) a member of Her Majesty’s forces on duty, and
  - (b) a constable.
- (2) In this Schedule “authorised officer” means—
- (a) a member of Her Majesty’s forces who is on duty and is authorised by a commissioned officer of those forces, and
  - (b) a constable who is authorised by an officer of the Royal Ulster Constabulary of at least the rank of inspector.
- (3) In this Schedule—
- “munitions” means—
    - (a) explosives, firearms and ammunition, and
    - (b) anything used or capable of being used in the manufacture of an explosive, a firearm or ammunition,
  - “scanning receiver” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted,
  - “transmitter” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for emission, as opposed to reception,
  - “wireless apparatus” means a scanning receiver or a transmitter, and
  - “wireless telegraphy” [F266] has the meaning given by section 116 of the Wireless Telegraphy Act 2006].

*Status: Point in time view as at 23/11/2012.*

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### Textual Amendments

**F266** Words in Sch. 10 para. 1(3) in definition of "wireless telegraphy" substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 123, 126(2), [Sch. 7 para. 20](#)

### *Entering premises*

- 2 (1) An officer may enter and search any premises for the purpose of ascertaining—
- (a) whether there are any munitions unlawfully on the premises, or
  - (b) whether there is any wireless apparatus on the premises.
- (2) An officer may not enter a dwelling under this paragraph unless he is an authorised officer and he reasonably suspects that the dwelling—
- (a) unlawfully contains munitions, or
  - (b) contains wireless apparatus.
- 3 If it is necessary for the purpose of carrying out a search under paragraph 2 (including a search of a dwelling) an officer may be accompanied by other persons.
- 4 (1) If the officer carrying out a search of premises under paragraph 2 reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated, he may—
- (a) require a person who is on the premises when the search begins, or who enters during the search, to remain on the premises;
  - (b) require a person mentioned in paragraph (a) to remain in a specified part of the premises;
  - (c) require a person mentioned in paragraph (a) to refrain from entering a specified part of the premises;
  - (d) require a person mentioned in paragraph (a) to go from one specified part of the premises to another;
  - (e) require a person who is not a resident of the premises to refrain from entering them.
- (2) A requirement imposed under this paragraph shall cease to have effect after the conclusion of the search in relation to which it was imposed.
- (3) Subject to sub-paragraph (4), no requirement under this paragraph for the purposes of a search shall be imposed or have effect after the end of the period of four hours beginning with the time when the first (or only) requirement is imposed in relation to the search.
- (4) An officer of the Royal Ulster Constabulary of at least the rank of superintendent may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
- (5) The power to extend a period conferred by sub-paragraph (4) may be exercised only once in relation to a particular search.
- 5 Section 114(2) has effect for the purposes of this Schedule in relation to a member of Her Majesty's forces as it has effect in relation to a constable.

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### *Stopping and searching persons*

- 6 (1) An officer may—
- (a) stop a person in a public place, and
  - (b) search him for the purpose of ascertaining whether he has munitions unlawfully with him or wireless apparatus with him.
- (2) An officer may search a person who—
- (a) is not in a public place, and
  - (b) whom the officer reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.
- (3) An officer may search a person entering or found in a dwelling entered under paragraph 2.

### *Seizure*

- 7 (1) This paragraph applies where an officer is empowered by virtue of any provision of Part VII of this Act to search premises or a person.
- (2) The officer may—
- (a) seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully), and
  - (b) retain and, if necessary, destroy them.
- (3) The officer may—
- (a) seize any wireless apparatus found in the course of the search (unless it appears to him that the apparatus is being, has been and will be used only lawfully), and
  - (b) retain it.

### *Records*

- 8 (1) Where an officer carries out a search of premises under this Schedule he shall, unless it is not reasonably practicable, make a written record of the search.
- (2) The record shall specify—
- (a) the address of the premises searched,
  - (b) the date and time of the search,
  - (c) any damage caused in the course of the search, and
  - (d) anything seized in the course of the search.
- (3) The record shall also include the name (if known) of any person appearing to the officer to be the occupier of the premises searched; but—
- (a) a person may not be detained in order to discover his name, and
  - (b) if the officer does not know the name of a person appearing to him to be the occupier of the premises searched, he shall include in the record a note describing him.
- (4) The record shall identify the officer—
- (a) in the case of a constable, by reference to his police number, and

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- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.
- 9 (1) Where an officer makes a record of a search in accordance with paragraph 8, he shall supply a copy to any person appearing to him to be the occupier of the premises searched.
- (2) The copy shall be supplied immediately or as soon as is reasonably practicable.

#### *Offence*

- 10 (1) A person commits an offence if he—
- (a) knowingly fails to comply with a requirement imposed under paragraph 4, or
- (b) wilfully obstructs, or seeks to frustrate, a search of premises under this Schedule.
- (2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- 11 (1) A person commits an offence if he fails to stop when required to do so under paragraph 6.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### SCHEDULE 11

Section 98.

#### INDEPENDENT ASSESSOR OF MILITARY COMPLAINTS PROCEDURES IN NORTHERN IRELAND

#### *Tenure*

- 1 (1) The Independent Assessor of Military Complaints Procedures in Northern Ireland shall hold and vacate office in accordance with the terms of his appointment.
- (2) The Independent Assessor shall be appointed for a term not exceeding three years (but may be reappointed).
- (3) The Independent Assessor may at any time resign his office by written notice to the Secretary of State.
- (4) The Secretary of State may remove the Independent Assessor from office—
- (a) if he has failed without reasonable excuse to carry out his duties for a continuous period of six months or more,
- (b) if he has been convicted of a criminal offence,
- (c) if a bankruptcy order has been made against him, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
- (d) if the Secretary of State is satisfied that he is otherwise unable or unfit to perform his functions.



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### *Remuneration*

- 2 (1) The Secretary of State shall pay to the Independent Assessor—
- (a) such remuneration, and
  - (b) such allowances,
- as the Secretary of State may determine.
- (2) The Secretary of State may make payments to or in respect of the Independent Assessor in connection with pensions and gratuities.

### *Staff*

- 3 (1) The Independent Assessor may appoint such number of employees, on such terms and conditions, as he may determine with the approval of the Secretary of State.
- (2) The Secretary of State may make payments to or in respect of persons appointed under this paragraph.

### *Reports*

- 4 (1) The Independent Assessor shall send the Secretary of State an annual report on the performance of his functions.
- (2) Where the Secretary of State receives a report under sub-paragraph (1) he shall—
- (a) publish it, and
  - (b) lay it before Parliament.
- (3) The Independent Assessor may report to the Secretary of State on any matter which comes to his attention in the course of the performance of his functions.

### *Disqualification*

- 5 In Part III of Schedule 1 to the <sup>M104</sup>Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) the following entry shall be inserted at the appropriate place—

“Independent Assessor of Military Complaints Procedures in Northern Ireland.”

#### **Marginal Citations**

**M104** 1975 c. 25.

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## SCHEDULE 12

Section 102.

## COMPENSATION

**Modifications etc. (not altering text)**

**C50** Sch. 12: power to apply conferred (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\)](#), ss. {4(2)(f)}, 5(3)

*Right to compensation*

- 1 (1) This paragraph applies where under Part VII of this Act—
- (a) real or personal property is taken, occupied, destroyed or damaged, or
  - (b) any other act is done which interferes with private rights of property.
- (2) Where this paragraph applies in respect of an act taken in relation to any property or rights the Secretary of State shall pay compensation to any person who—
- (a) has an estate or interest in the property or is entitled to the rights, and
  - (b) suffers loss or damage as a result of the act.
- 2 No compensation shall be payable unless an application is made to the Secretary of State in such manner as he may specify.

*Time limit*

- 3 (1) Subject to sub-paragraphs (2) and (3), an application for compensation in respect of an act must be made within the period of 28 days beginning with the date of the act.
- (2) The Secretary of State may, in response to a request made to him in writing, permit an application to be made—
- (a) after the expiry of the period mentioned in sub-paragraph (1), and
  - (b) within such longer period, starting from the date of the act and not exceeding six months, as he may specify.
- (3) Where the Secretary of State refuses a request under sub-paragraph (2)—
- (a) he shall serve a notice of refusal on the person who made the request,
  - (b) that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the refusal, and
  - (c) the county court may exercise the power of the Secretary of State under sub-paragraph (2).

*Determination*

- 4 Where the Secretary of State determines an application for compensation he shall serve on the applicant a notice—
- (a) stating that he has decided to award compensation and specifying the amount of the award, or
  - (b) stating that he has decided to refuse the application.
- 5 (1) An applicant may appeal to the county court against—
- (a) the amount of compensation awarded, or
  - (b) the refusal of compensation.

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- (2) An appeal must be brought within the period of six weeks beginning with the date of service of the notice under paragraph 4.
- 6 (1) This paragraph applies where the Secretary of State considers that in the course of an application for compensation the applicant—
- (a) knowingly made a false or misleading statement,
  - (b) made a statement which he did not believe to be true, or
  - (c) knowingly failed to disclose a material fact.
- (2) The Secretary of State may—
- (a) refuse to award compensation,
  - (b) reduce the amount of compensation which he would otherwise have awarded, or
  - (c) withhold all or part of compensation which he has awarded.
- 7 Where the Secretary of State makes an award of compensation he may make a payment to the applicant in respect of all or part of the costs of the application.

#### *Assignment of right*

- 8 (1) This paragraph applies where—
- (a) a person has made an application for compensation, and
  - (b) his right to compensation has passed to another person by virtue of an assignment or the operation of law.
- (2) The Secretary of State shall treat the person mentioned in sub-paragraph (1)(b) as the applicant.

#### *Offenders*

- 9 (1) This paragraph applies where a person has a right to compensation in respect of an act and—
- (a) the act was done in connection with, or revealed evidence of the commission of, a scheduled offence or a non-scheduled offence under this Act, and
  - (b) proceedings for the offence are brought against the person.
- (2) The person's right to compensation shall not be enforceable while the proceedings have not been concluded.
- (3) If the person stands convicted of the offence he shall have no right to compensation.

#### *Notices*

- 10 A notice served under paragraph 3(3)(a) or 4 shall contain particulars of the right of appeal under paragraph 3(3)(b) or 5.
- 11 (1) The Secretary of State may serve a notice under this Schedule on an individual—
- (a) by delivering it to him,
  - (b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
  - (c) by leaving it for him there.
- (2) The Secretary of State may serve a notice under this Schedule on a partnership—

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- (a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
  - (b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.
- (3) The Secretary of State may serve a notice under this Schedule on a body corporate—
- (a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
  - (b) by addressing it to the secretary or clerk of the body and leaving it at that office.
- (4) The Secretary of State may serve a notice under this Schedule on any person—
- (a) by delivering it to his solicitor,
  - (b) by sending it by post to his solicitor at his solicitor's office, or
  - (c) by leaving it for his solicitor there.

### *Offences*

- 12 (1) A person commits an offence if he obtains compensation or increased compensation for himself or another person by deception <sup>F267</sup> . . . .
- [<sup>F268</sup>(1A) “ Deception ” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person. ]
- (2) A person commits an offence if for the purposes of obtaining compensation he—
- (a) knowingly makes a false or misleading statement,
  - (b) makes a statement which he does not believe to be true, or
  - (c) knowingly fails to disclose a material fact.
- (3) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding one year, to a fine not exceeding the statutory maximum or to both.
- (4) Section 82 shall not apply in relation to an offence under this paragraph.

#### **Textual Amendments**

**F267** Words in Sch. 12 para. 12(1) repealed (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 14\(1\)\(3\)](#), [Sch. 1 para. 31\(1\)](#), [Sch. 3](#); [S.I. 2006/3200, art. 2](#)

**F268** Sch. 12 para. 12(1A) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 14\(1\)](#), [Sch. 1 para. 31\(2\)](#); [S.I. 2006/3200, art. 2](#)

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## SCHEDULE 13

Section 106.

### PRIVATE SECURITY SERVICES

#### *Security services: interpretation*

- 1 In this Schedule “security services” means the services of one or more individuals as security guards (whether or not provided together with other services relating to the protection of property or persons).

#### *Unlicensed services: offences*

- 2 A person commits an offence if he provides or offers to provide security services for reward unless he—
- (a) holds a licence under this Schedule, or
  - (b) acts on behalf of someone who holds a licence under this Schedule.
- 3 (1) A person commits an offence if he publishes or causes to be published an advertisement for the provision for reward of security services by a person who does not hold a licence under this Schedule.
- (2) It is a defence for a person charged with an offence under this paragraph to prove—
- (a) that his business is publishing advertisements or arranging for their publication,
  - (b) that he received the advertisement for publication in the ordinary course of business, and
  - (c) that he reasonably believed that the person mentioned in the advertisement as the provider of security services held a licence under this Schedule.
- 4 (1) A person commits an offence if he pays money, in respect of the provision of security services, to a person who—
- (a) does not hold a licence under this Schedule, and
  - (b) is not acting on behalf of someone who holds a licence under this Schedule.
- (2) It is a defence for a person charged with an offence under this paragraph to prove that he reasonably believed that the person to whom he paid the money—
- (a) held a licence under this Schedule, or
  - (b) was acting on behalf of someone who held a licence under this Schedule.
- 5 (1) A person guilty of an offence under paragraph 2 or 3 shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (2) A person guilty of an offence under paragraph 4 is liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.

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### *Application for licence*

- 6 (1) An application for a licence under this Schedule shall be made to the Secretary of State—
- (a) in such manner and form as he may specify, and
  - (b) accompanied by such information as he may specify.
- (2) The Secretary of State may specify information only if it concerns—
- (a) the applicant,
  - (b) a business involving the provision of security services for reward which is, was or is proposed to be carried on by the applicant,
  - (c) a person whom the applicant employs or proposes to employ as a security guard,
  - (d) a partner or proposed partner of the applicant (where the applicant is an individual),
  - (e) a member or proposed member of the applicant (where the applicant is a partnership),
  - (f) an officer or proposed officer of the applicant (where the applicant is a body corporate).
- (3) A person commits an offence if in connection with an application for a licence he—
- (a) makes a statement which he knows to be false or misleading in a material particular, or
  - (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person guilty of an offence under sub-paragraph (3) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (5) For the purposes of this paragraph—
- (a) a reference to employment or proposed employment by an applicant for a licence shall, where the applicant is a partnership or a member of a partnership, be construed as a reference to employment or proposed employment by the partnership or any of the partners,
  - (b) “officer” includes a director, manager or secretary,
  - (c) a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act shall be treated as an officer of that body, and
  - (d) the reference to directions or instructions in paragraph (c) does not include a reference to advice given in a professional capacity.

### *Issue of licence*

- 7 (1) The Secretary of State shall grant an application for a licence unless satisfied that—
- (a) an organisation within sub-paragraph (4) would be likely to benefit from the licence (whether or not a condition were imposed under sub-paragraph (2)),
  - (b) that the applicant has persistently failed to comply with the requirements of this Schedule, or

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- (c) that the applicant has failed to comply with a condition imposed under sub-paragraph (2).
- (2) The Secretary of State may on granting a licence impose a condition if satisfied that it is necessary in order to prevent an organisation within sub-paragraph (4) from benefiting from the licence.
- (3) If the Secretary of State refuses an application for a licence he shall notify the applicant of the refusal.
- (4) An organisation is within this sub-paragraph if—
  - (a) it is a proscribed organisation, or
  - (b) it appears to the Secretary of State to be closely associated with a proscribed organisation.
- (5) In this paragraph a reference to a benefit is a reference to any benefit—
  - (a) whether direct or indirect, and
  - (b) whether financial or not.
- (6) In this paragraph a reference to the requirements of this Schedule includes a reference to the requirements of—
  - (a) Part V of the <sup>M105</sup>Northern Ireland (Emergency Provisions) Act 1991 (private security services), and
  - (b) Part V of the <sup>M106</sup>Northern Ireland (Emergency Provisions) Act 1996 (private security services).

#### Marginal Citations

**M105** 1991 c. 24.

**M106** 1996 c. 22.

#### *Duration of licence*

- 8 (1) A licence—
  - (a) shall come into force at the beginning of the day on which it is issued, and
  - (b) subject to sub-paragraph (2), shall expire at the end of the period of 12 months beginning with that day.
- (2) Where a licence is issued to a person who already holds a licence, the new licence shall expire at the end of the period of 12 months beginning with the day after the day on which the current licence expires.
- (3) The Secretary of State may by order substitute a period exceeding 12 months for the period for the time being specified in sub-paragraphs (1)(b) and (2).

#### *Revocation of licence*

- 9 (1) The Secretary of State may revoke a licence if satisfied that—
  - (a) an organisation within paragraph 7(4) would be likely to benefit from the licence remaining in force,
  - (b) the holder of the licence has persistently failed to comply with the requirements of this Schedule, or

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- (c) the holder of the licence has failed to comply with a condition imposed under paragraph 7(2).
- (2) The Secretary of State shall not revoke a licence unless the holder—
  - (a) has been notified of the Secretary of State’s intention to revoke the licence, and
  - (b) has been given a reasonable opportunity to make representations to the Secretary of State.
- (3) If the Secretary of State revokes a licence he shall notify the holder immediately.
- (4) Sub-paragraphs (5) and (6) of paragraph 7 shall apply for the purposes of this paragraph.

### *Appeal*

- 10 The applicant for a licence may appeal to the High Court if—
  - (a) the application is refused,
  - (b) a condition is imposed on the grant of the licence, or
  - (c) the licence is revoked.
- 11 (1) Where an appeal is brought under paragraph 10, the Secretary of State may issue a certificate that the decision to which the appeal relates—
  - (a) was taken for the purpose of preventing benefit from accruing to an organisation which was proscribed or which appeared to the Secretary of State to be closely associated with an organisation which was proscribed, and
  - (b) was justified by that purpose.
- (2) If he intends to rely on a certificate under this paragraph, the Secretary of State shall notify the appellant.
- (3) Where the appellant is notified of the Secretary of State’s intention to rely on a certificate under this paragraph—
  - (a) he may appeal against the certificate to the Tribunal established under section 91 of the <sup>M107</sup>Northern Ireland Act 1998, and
  - (b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure, and further appeal) shall apply.
- (4) Rules made under section 91 or 92 of that Act which are in force immediately before this paragraph comes into force shall have effect in relation to a certificate under this paragraph—
  - (a) with any necessary modifications, and
  - (b) subject to any later rules made by virtue of sub-paragraph (3)(b).

#### **Marginal Citations**

M107 1998 c. 47.

### *Change of personnel*

- 12 Paragraphs 13 and 14 apply to a person who—
  - (a) holds a licence, or



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- (b) has made an application for a licence which has not yet been determined.
- 13 (1) If a person to whom this paragraph applies proposes to employ a security guard about whom information was not given under paragraph 6, he shall give the Secretary of State such information about the security guard as the Secretary of State may specify.
- (2) The information shall be given not less than 14 days before the employment is to begin.
- (3) For the purposes of this paragraph the provisions of paragraph 6(5) shall have effect in relation to a holder of or an applicant for a licence as they have effect for the purposes of paragraph 6 in relation to an applicant.
- 14 (1) A person to whom this paragraph applies shall give the Secretary of State such information about a relevant change of personnel as the Secretary of State may specify.
- (2) The information shall be given—
- (a) not less than 14 days before the change, or
- (b) if that is not reasonably practicable, as soon as is reasonably practicable.
- (3) A relevant change of personnel is—
- (a) where the application for the licence was made by a partnership or a member of a partnership, a change in the members of the partnership, and
- (b) where the application for the licence was made by a body corporate, a change in the officers of the body (within the meaning of paragraph 6).
- (4) But a change of personnel is not relevant if it was mentioned in the information given under paragraph 6.
- 15 (1) A person commits an offence if he fails to comply with paragraph 13 or 14.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

#### *Records*

- 16 (1) A constable may—
- (a) enter premises where a business involving the provision of security services is being carried on, and
- (b) require records kept there of a person employed as a security guard to be produced for the constable's inspection.
- (2) A constable exercising the power under this paragraph—
- (a) shall identify himself to a person appearing to be in charge of the premises, and
- (b) if the constable is not in uniform, shall produce to that person documentary evidence that he is a constable.
- (3) A person commits an offence if he fails to comply with a requirement under this paragraph.

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- (4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.
- (5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- 17 (1) A person who provides security services for reward commits an offence if he makes or keeps a record of a person employed by him as a security guard which he knows to be false or misleading in a material particular.
- (2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

*Offence: body corporate*

- 18 (1) This paragraph applies where an offence under this Schedule committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
  - (b) to be attributable to neglect on the part of an officer of the body corporate.
- (2) The officer, as well as the body corporate, shall be guilty of the offence.
- (3) In this paragraph “officer” includes—
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) a member of a body corporate the affairs of which are managed by its members.

*Notice*

- 19 (1) A notice under this Schedule shall be in writing.
- (2) Information required to be given to the Secretary of State under this Schedule—
- (a) shall be in writing, and
  - (b) may be sent to him by post.
- (3) The Secretary of State may serve a notice under this Schedule on an individual—
- (a) by delivering it to him,
  - (b) by sending it by post addressed to him at his usual or last-known place of residence or business, or
  - (c) by leaving it for him there.
- (4) The Secretary of State may serve a notice under this Schedule on a partnership—

*Status: Point in time view as at 23/11/2012.*

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- (a) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
  - (b) by addressing it to a partner or to a person mentioned in paragraph (a) and leaving it at that office.
- (5) The Secretary of State may serve a notice under this Schedule on a body corporate—
- (a) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
  - (b) by addressing it to the secretary or clerk of the body and leaving it at that office.
- (6) The Secretary of State may serve a notice under this Schedule on any person—
- (a) by delivering it to his solicitor,
  - (b) by sending it by post to his solicitor at his solicitor’s office, or
  - (c) by leaving it for his solicitor there.
- (7) Sub-paragraphs (3) to (6) do not apply in relation to a notice under paragraph 11.

## SCHEDULE 14

Section 115.

### EXERCISE OF OFFICERS’ POWERS

#### Modifications etc. (not altering text)

**C51** Schs. 7, 8, 14 extended (with modifications) (coming into force in accordance with art. 1(2) of the extending S.I.) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 11\(1\)\(b\)](#), Sch. 2

#### General

- 1 In this Schedule an “officer” means—
- (a) an authorised officer within the meaning given by [<sup>F269</sup>the terrorist cash provisions], and
  - (b) an examining officer within the meaning of Schedule 7.
- [<sup>F270</sup> and “ the terrorist cash provisions ” means Schedule 1 to the Anti-terrorism, Crime and Security Act 2001. ]

#### Textual Amendments

**F269** Words in Sch. 14 para. 1(a) substituted (20.12.2001) by [2001 c. 24, s. 2\(5\)\(a\)](#), S.I. 2001/4019, art. 2(1)(b)  
**F270** Words in Sch. 14 para. 1 inserted (20.12.2001) by [2001 c. 24, s. 2\(5\)\(b\)](#); S.I. 2001/4019, [art. 2\(1\)\(b\)](#)

- 2 An officer may enter a vehicle (within the meaning of section 121) for the purpose of exercising any of the functions conferred on him by virtue of this Act [<sup>F271</sup>or the terrorist cash provisions].

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F271** Words in Sch. 14 para. 2 inserted (20.12.2001) by 2001 c. 24, s. 2(6); S.I. 2001/4019, art. 2(1)(b)

- 3 An officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Act (apart from paragraphs 2 and 3 of Schedule 7) [<sup>F272</sup>or the terrorist cash provisions].

#### Textual Amendments

**F272** Words in Sch. 14 para. 3 inserted (20.12.2001) by 2001 c. 24, s. 2(6); S.I. 2001/4019, art. 2(1)(b)

#### Information

- 4 (1) Information acquired by an officer may be supplied—
- (a) to the Secretary of State for use in relation to immigration;
  - (b) to the Commissioners of Customs and Excise or a customs officer;
  - (c) to a constable;
  - [<sup>F273</sup>(d) to the Serious Organised Crime Agency;]
  - (e) to a person specified by order of the Secretary of State for use of a kind specified in the order.
- (2) Information acquired by a customs officer or an immigration officer may be supplied to an examining officer within the meaning of Schedule 7.

#### Textual Amendments

**F273** Sch. 14 para. 4(1)(d) substituted (1.4.2006 subject to art. 4(2)-(7) of the commencing S.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 59, Sch. 4 para. 130; S.I. 2006/378, art. 4(1), Sch.

#### Modifications etc. (not altering text)

**C52** Sch. 14 para. 4(2) restricted (7.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 17(6), Sch. 2 Pt. 2 para. 19; S.I. 2005/1126, art. 2

#### Code of practice

- 5 An officer shall perform functions conferred on him by virtue of this Act [<sup>F274</sup>or the terrorist cash provisions] in accordance with any relevant code of practice in operation under paragraph 6.

#### Textual Amendments

**F274** Words in Sch. 14 para. 5 inserted (20.12.2001) by 2001 c. 24, s. 2(7); S.I. 2001/4019, art. 2(1)(b)

- 6 (1) The Secretary of State shall issue codes of practice about the exercise by officers of functions conferred on them by virtue of this Act [<sup>F275</sup>or the terrorist cash provisions].
- (2) The failure by an officer to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.

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- (3) A code—
- (a) shall be admissible in evidence in criminal and civil proceedings, and
  - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- (4) The Secretary of State may revise a code and issue the revised code.

#### Textual Amendments

**F275** Words in Sch. 14 para. 6(1) inserted (20.12.2001) by 2001 c. 24, s. 2(6); S.I. 2001/4019, art. 2(1)(b)

#### Commencement Information

**III** Sch. 14 para. 6 wholly in force at 19.2.2001; Sch. 14 para. 6 not in force at Royal Assent see s. 128; Sch. 14 para. 6(1)(4) in force at 12.10.2000 by S.I. 2000/2800, art. 2(d)(ii); Sch. 14 para. 6 in force at 19.2.2001 in so far as not already in force by S.I. 2001/421, art. 2

- 7 (1) Before issuing a code of practice the Secretary of State shall—
- (a) publish a draft code,
  - (b) consider any representations made to him about the draft, and
  - (c) if he thinks it appropriate, modify the draft in the light of any representations made to him.
- (2) The Secretary of State shall lay a draft of the code before Parliament.
- (3) When the Secretary of State has laid a draft code before Parliament he may bring it into operation by order.
- (4) This paragraph has effect in relation to the issue of a revised code as it has effect in relation to the first issue of a code.

## SCHEDULE 15

Section 125.

### CONSEQUENTIAL AMENDMENTS

#### *Criminal Justice Act 1967 (c. 80)*

- 1 (1) The <sup>M108</sup>Criminal Justice Act 1967 shall be amended as follows.
- (2) In section 67(7)(b) (computation of sentences) for “section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “section 41 of the Terrorism Act 2000”.

#### Marginal Citations

**M108** 1967 c. 80.

*Status: Point in time view as at 23/11/2012.*

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*Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))*

- 2 (1) The <sup>M109</sup>Treatment of Offenders Act (Northern Ireland) 1968 shall be amended as follows.
- (2) In section 26(6)(b) (definition of police detention) for “section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “ section 41 of the Terrorism Act 2000 ”.

**Marginal Citations**

**M109** 1968 c. 29(N.I.).

*Suppression of Terrorism Act 1978 (c. 26)*

- 3 (1) The <sup>M110</sup>Suppression of Terrorism Act 1978 shall be amended as follows.
- (2) For paragraph 19A of Schedule 1 (list of offences) substitute—

*“ Financing terrorism*

19A An offence under any of sections 15 to 18 of the Terrorism Act 2000.”

**Marginal Citations**

**M110** 1978 c. 26.

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I.8))*

- 4 (1) In Schedule 1 to the <sup>M111</sup>Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings for which legal aid may be given under Part II of that Order) at the end of Part I insert—
- “8. Proceedings brought by an individual before the Proscribed Organisations Appeal Commission.”
- (2) The amendment made by sub-paragraph (1) is without prejudice to the power to make regulations under Article 10(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 amending or revoking the provision inserted by that sub-paragraph.

**Marginal Citations**

**M111** S.I. 1981/228 (N.I. 8)

*Police and Criminal Evidence Act 1984 (c. 60)*

- 5 (1) The <sup>M112</sup>Police and Criminal Evidence Act 1984 shall be amended as follows.
- (2) For section 30(12)(c) (arrest elsewhere than at a police station) substitute—
- “(c) any provision of the Terrorism Act 2000.”

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- (3) In section 32(10) (search upon arrest) for “section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “ section 43 of the Terrorism Act 2000 ”.
- (4) For section 51(b) (savings: Part IV) substitute—  
“(b) the powers conferred by virtue of section 41 of, or Schedule 7 to, the Terrorism Act 2000 (powers of arrest and detention);”.
- (5) For section 56(10) and (11) (application of right to have someone informed) substitute—  
“(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions.”
- (6) For section 58(12) to (18) (application of right of access to legal advice) substitute—  
“(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions.”
- (7) For section 61(9)(b) (fingerprinting: disapplication) substitute—  
“(b) applies to a person arrested or detained under the terrorism provisions.”
- (8) For section 62(12) (intimate samples: disapplication) substitute—  
“(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions; and subsection (1A) shall not apply where the non-intimate samples mentioned in that subsection were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000.”
- (9) For section 63(10) (non-intimate samples: disapplication) substitute—  
“(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions.”
- (10) In section 65 (interpretation) for the definitions of “the terrorism provisions” and “terrorism” substitute—  
““the terrorism provisions” means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention; and  
“terrorism” has the meaning given in section 1 of that Act.”
- (11) <sup>F276</sup> .....
- (12) For section 118(2)(a) (definition of police detention) substitute—  
“(a) he has been taken to a police station after being arrested for an offence or after being arrested under section 41 of the Terrorism Act 2000, or.”

#### Textual Amendments

**F276** Sch. 15 para. 5(11) repealed (1.1.2006 subject to art. 2(2) of the commencing S.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 174(2), [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), [art. 2\(1\)](#)

*Status: Point in time view as at 23/11/2012.*

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### Marginal Citations

M112 1984 c. 60

### *Criminal Justice Act 1988 (c. 33)*

6 F277 .....

### Textual Amendments

F277 Sch. 15 para. 6 repealed (24.3.2003 subject to transitional provisions and savings in the commencing S.I.) by 2002 c. 29, s. 457, Sch. 12; S.I. 2003/333, art. 2, Sch. (with art. 10(1)(n)) (as amended by S.I. 2003/531)

### *Elected Authorities (Northern Ireland) Act 1989 (c. 3)*

- 7 (1) The Elected Authorities (Northern Ireland) Act 1989 shall be amended as follows.
- (2) In section 6(5) (breach of terms of declaration), in the definition of “proscribed organisation” for “section 30 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 3 of the Terrorism Act 2000 ”.
- (3) In Schedule 2 (declaration against terrorism) for “Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1996” substitute “ Schedule 2 to the Terrorism Act 2000 ”.

### *Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 8 (1) The <sup>M113</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as follows.
- (2) In Article 2(2) (interpretation) for the definitions of “the terrorism provisions” and “terrorism” substitute—
- ““the terrorism provisions” means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention;
- “terrorism” has the meaning given in section 1 of that Act.”
- (3) In Article 2(3) (definition of police detention) for “section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 or under paragraph 6 of Schedule 5 to that Act by an examining officer who is a constable” substitute “ section 41 of the Terrorism Act 2000 ”.
- (4) For Article 4(3)(b) (provisions relating to powers to stop and search) substitute—
- “(b) sections 85, 95 and 116 of and Schedule 10 to the Terrorism Act 2000, and”.
- (5) In Article 11(3) (special provisions as to access) for “section 17 of, and Schedule 7 to, the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “ sections 37 and 38 of, and Schedules 5 and 6 to, the Terrorism Act 2000 ”.



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- (6) In Article 30(3) (information to be given on arrest) for “section 19(2) of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 83(2) of the Terrorism Act 2000 ”.
- (7) For Article 32(15)(b) (arrest elsewhere than at a police station) substitute—  
“(b) any provision of the Terrorism Act 2000.”
- (8) In Article 34(10) (search upon arrest) for “section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “ section 43 of the Terrorism Act 2000 ”.
- (9) For Article 51(b) (savings: Part V) substitute—  
“(b) the powers conferred by virtue of section 41 of, or Schedule 7 to, the Terrorism Act 2000 (powers of arrest and detention);”.
- (10) In Article 60 (tape-recording of interviews), omit paragraph (2).
- (11) For Article 61(9)(b) (fingerprinting: application) substitute—  
“(b) applies to a person arrested or detained under the terrorism provisions”.
- (12) For Article 62(12) (intimate samples: application) substitute—  
“(12) Nothing in this Article applies to a person arrested or detained under the terrorism provisions; and paragraph (1A) shall not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000.”
- (13) For Article 63(11) (non-intimate samples: application) substitute—  
“(11) Nothing in this Article applies to a person arrested or detained under the terrorism provisions”.
- (14) In Article 66 (codes of practice), omit paragraph (12).
- (15) In Article 74(9) (confessions) for “section 12 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 76 of the Terrorism Act 2000 ”.
- (16) In Article 76(2)(b) (exclusion of unfair evidence) for “subsection (1) of section 12 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ subsection (1) of section 76 of the Terrorism Act 2000 ”.

**Marginal Citations**

M113 S.I. 1989/1341 (N.I. 12).

*Criminal Justice and Public Order Act 1994 (c. 33)*

- 9 In section 139(11) of the <sup>M114</sup>Criminal Justice and Public Order Act 1994 (search powers available on arrests under sections 136 and 137) for “section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989” there shall be substituted “ section 43 of the Terrorism Act 2000 ”.

*Status: Point in time view as at 23/11/2012.*

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#### Marginal Citations

M114 1994 c. 33.

#### *Drug Trafficking Act 1994 (c. 37)*

10

F278

#### Textual Amendments

**F278** Sch. 15 para. 10 repealed (24.3.2003 subject to transitional provisions and savings in the commencing S.I.) by 2002 c. 29, s. 457, Sch. 12; S.I. 2003/333, art. 2, Sch. (with art. 10(1)(n)) (as amended by S.I. 2003/531)

#### *Proceeds of Crime (Scotland) Act 1995 (c. 43)*

11

(1) The <sup>M115</sup>Proceeds of Crime (Scotland) Act 1995 shall be amended as follows.

(2) <sup>F279</sup> .....

(3) In subsection (1)(c) of section 42 (reciprocal enforcement of orders), for “1989 Act” substitute “Terrorism Act 2000”.

(4) In subsection (1) of section 49 (interpretation), the definition of “the 1989 Act” shall cease to have effect.

#### Textual Amendments

**F279** Sch. 15 para. 11(2) repealed (24.3.2003 for S. subject to certain provisions in the commencing S.S.I.) by 2002 c. 29, s. 457, Sch. 12; S.S.I. 2003/210, art. 2(1)

#### Marginal Citations

M115 1995 c. 43.

#### *Northern Ireland (Remission of Sentences) Act 1995 (c. 47)*

12

(1) The following shall be substituted for section 1(1) and (2) of the <sup>M116</sup>Northern Ireland (Remission of Sentences) Act 1995 (release on licence of persons subject to restricted remission)—

“1 (1) This section applies to persons serving sentences to which section 79 of the Terrorism Act 2000 applies (restricted remission for persons sentenced for scheduled offences).

(2) A person to whom this section applies shall be released on licence for the period (or, where that period has partly elapsed, for the remainder of the period) during which, by reason only of section 79, he is prevented from being discharged in pursuance of prison rules.”

(2) The following shall be substituted for section 1(6) of that Act—

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“(6) Section 80 of the Terrorism Act 2000 and Part II of the Treatment of Offenders (Northern Ireland) Order 1976 (conviction within certain period after discharge from prison, &c.) shall apply in relation to a person released on licence under this section as if he had been discharged in pursuance of prison rules.”

**Marginal Citations**

M116 1995 c. 47.

*Criminal Procedure and Investigations Act 1996 (c. 25)*

- 13 (1) The <sup>M117</sup>Criminal Procedure and Investigations Act 1996 shall, in its application to Northern Ireland (as set out in Schedule 4 to that Act), be amended as follows.
- (2) In section 14A(1) (public interest: review for scheduled offences) for “section 1 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 65 of the Terrorism Act 2000 ”.
- (3) In section 39(3)(a) (start of trial on indictment without a jury) for “section 11 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 75 of the Terrorism Act 2000 ”.

**Marginal Citations**

M117 1996 c. 25.

*Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9))*

- 14 (1) The <sup>M118</sup>Proceeds of Crime (Northern Ireland) Order 1996 shall be amended as follows.
- (2) In Article 2(4)(b) (offences to which Order does not apply) for “Part III of the Prevention of Terrorism (Temporary Provisions) Act 1989” substitute “ any of sections 15 to 18 of the Terrorism Act 2000 ”.
- (3) In Article 5(3) (realisable property) for sub-paragraph (c) substitute—  
“(c) section 23 or 111 of the Terrorism Act 2000 (forfeiture orders).”

**Marginal Citations**

M118 S.I. 1996/1299 (N.I. 9)

*Northern Ireland Arms Decommissioning Act 1997 (c. 7)*

- 15 (1) This paragraph applies to a reference in paragraph 9 or 10 of the Schedule to the <sup>M119</sup>Northern Ireland Arms Decommissioning Act 1997 (amnesty) to an offence under a provision (“the old provision”) of—
- (a) the <sup>M120</sup>Prevention of Terrorism (Temporary Provisions) Act 1989, or
- (b) the <sup>M121</sup>Northern Ireland (Emergency Provisions) Act 1996.

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- (2) The reference shall be taken as a reference to an offence under this Act which is committed in circumstances which would have amounted to the commission of an offence under the old provision before it ceased to have effect.
- (3) Sub-paragraph (2) has effect for the purpose of the application of section 4(1) of the <sup>M122</sup>Northern Ireland Arms Decommissioning Act 1997 (amnesty) in relation to anything done after the old provision ceases to have effect.

#### Marginal Citations

- M119 1997 c. 7  
M120 1989 c. 4.  
M121 1996 c. 22.  
M122 1997 c. 7)

#### *Northern Ireland (Sentences) Act 1998 (c. 35)*

- 16 (1) The <sup>M123</sup>Northern Ireland (Sentences) Act 1998 shall be amended as follows.
- (2) In section 5 (fixed term prisoners: special cases)—
- (a) in subsection (2) for “section 16(2) of the Northern Ireland (Emergency Provisions) Act 1996” substitute “section 80(2) of the Terrorism Act 2000”,
  - (b) in subsection (3)(a) for “section 16(2) of the 1996 Act” substitute “section 80(2) of the 2000 Act”,
  - (c) in subsection (4) for “section 16(2) of the 1996 Act” substitute “section 80(2) of the 2000 Act”, and
  - (d) at the end of subsection (4)(b) insert “, and
    - (c) section 16(2) of the <sup>M124</sup>Northern Ireland (Emergency Provisions) Act 1996.”
- (3) For section 14(3)(a) (inadmissibility of evidence or information in certain proceedings) substitute—
- “(a) be admissible in proceedings on applications made under paragraph 1, 2, 5, 11, 13, 22, 28 or 30 of Schedule 5 to the Terrorism Act 2000.”

#### Marginal Citations

- M123 1998 c. 35  
M124 1996 c. 22

- 17 (1) This paragraph applies to a reference in section 14(2) of the Northern Ireland (Sentences) Act 1998 (inadmissibility of evidence or information in certain proceedings) to an offence under a provision (“the old provision”) of—
- (a) the <sup>M125</sup>Prevention of Terrorism (Temporary Provisions) Act 1989, or
  - (b) the <sup>M126</sup>Northern Ireland (Emergency Provisions) Act 1996.
- (2) The reference shall be taken as including a reference to an offence under this Act which is committed in circumstances which would have amounted to the commission of an offence under the old provision before it ceased to have effect.

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**Marginal Citations**

[M125 1989 c. 4.](#)

[M126 1996 c. 22.](#)

*Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))*

- 18 (1) The <sup>M127</sup>Criminal Justice (Children) (Northern Ireland) Order 1998 shall be amended as follows.
- (2) In Article 12(4) (release on bail) for “section 3 of the Northern Ireland (Emergency Provisions) Act 1996” substitute “ section 67 of the Terrorism Act 2000 ”.

**Marginal Citations**

[M127 S.I. 1998/1504 \(N.I. 9\)](#)

*Access to Justice Act 1999 (c. 22)*

- 19 (1) In paragraph 2(1) of Schedule 2 to the <sup>M128</sup>Access to Justice Act 1999 (Community Legal Service: exceptions to excluded services) after paragraph (h) insert—
- “or
- (i) the Proscribed Organisations Appeal Commission”.
- (2) The amendment made by sub-paragraph (1) is without prejudice to the power to make regulations under section 6(7) of the Access to Justice Act 1999 amending or revoking the provision inserted by that sub-paragraph.

**Marginal Citations**

[M128 1999 c. 22](#)

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 20 <sup>F280</sup> .....

**Textual Amendments**

**F280** Sch. 15 para. 20 repealed (4.4.2005 subject to art. 2(2) and Sch. 2 of the commencing S.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 332, [Sch. 37 Pt. 7](#); S.I. 2005/950, {art. 2}, Sch. 1 (with transitional provisions in Sch. 2 (as amended by [S.I. 2005/2122](#)))

*Status: Point in time view as at 23/11/2012.**Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 16

Section 125.

## REPEALS AND REVOCATIONS

## PART I

## ACTS

Chapter	Short title	Extent of repeal
1980 c. 62.	Criminal Justice (Scotland) Act 1980.	Sections 3A to 3D.
1984 c. 60.	Police and Criminal Evidence Act 1984.	Section 116(5).
1985 c. 73.	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.	Section 35.
1988 c. 33.	Criminal Justice Act 1988.	Section 74(2)(e).
1989 c. 4.	Prevention of Terrorism (Temporary Provisions) Act 1989.	The whole Act.
1993 c. 36.	Criminal Justice Act 1993.	Sections 49 to 51. Section 78(11). In Schedule 4, paragraph 4. In Schedule 5, paragraph 15.
1994 c. 33.	Criminal Justice and Public Order Act 1994.	Sections 81 to 83.  In Schedule 10, paragraphs 62 (other than sub-paragraph (4)(a) and (b)) and 63.
1995 c. 40.	Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.	In Schedule 4, paragraph 72.
1995 c. 43.	Proceeds of Crime (Scotland) Act 1995.	In section 49(1), the definition of “the 1989 Act”.
1996 c. 7.	Prevention of Terrorism (Additional Powers) Act 1996.	The whole Act.
1996 c. 22.	Northern Ireland (Emergency Provisions) Act 1996.	The whole Act.
1998 c. 9.	Northern Ireland (Emergency Provisions) Act 1998.	The whole Act.

*Status: Point in time view as at 23/11/2012.*

*Changes to legislation: Terrorism Act 2000 is up to date with all changes known to be in force on or before 31 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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1998 c. 40.	Criminal Justice (Terrorism and Conspiracy) Act 1998.	Sections 1 to 4.  Part I of Schedule 1. Part I of Schedule 2.
1999 c. 22.	Access to Justice Act 1999.	In paragraph 2(1) of Schedule 2, the word “or” after paragraph (f).
1999 c. 33.	Immigration and Asylum Act 1999.	In Schedule 14, paragraph 89.

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## PART II

### ORDERS

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Reference	Title	Extent of revocation
S.I. 1989/1341 (N.I. 12).	Police and Criminal Evidence (Northern Ireland) Order 1989.	In Article 54(1) the words “Subject to paragraph (2)”.  Article 54(2). Article 60(2). Article 66(12). In Schedule 2, the entry relating to the Prevention of Terrorism (Temporary Provisions) Act 1989. In Schedule 6, paragraph 18.
S.I. 1989/2405 (N.I. 19).	Insolvency (Northern Ireland) Order 1989.	In Schedule 9, paragraph 62.
S.I. 1995/2993 (N.I. 17).	Police (Amendment) (Northern Ireland) Order 1995.	Article 10(8).  Article 11(7).
S.I. 1998/1504 (N.I. 9).	Criminal Justice (Children) (Northern Ireland) Order 1998.	In Schedule 5, paragraphs 39, 47 and 48.

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**Status:**

Point in time view as at 23/11/2012.

**Changes to legislation:**

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