

Status: Point in time view as at 16/02/2009.

Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 1

FORFEITURE OF TERRORIST CASH

PART 2

SEIZURE AND DETENTION

Seizure of cash

- 2 (1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.
- (2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

Detention of seized cash

- 3 (1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.

[^{F1}(1A) In determining the period of 48 hours specified in sub-paragraph (1) there shall be disregarded—

- (a) any Saturday or Sunday;
- (b) Christmas Day;
- (c) Good Friday;
- (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the cash is seized;
- (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the sheriff court district in which the cash is seized.]

- (2) The period for which the cash or any part of it may be detained may be extended by an order made by a magistrates' court or (in Scotland) the sheriff, but the order may not authorise the detention of any of the cash—

- (a) beyond the end of the period of three months beginning with the date of the order, and
- (b) in the case of any further order under this paragraph, beyond the end of the period of two years beginning with the date of the first order.

- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (2) extending the period.

[^{F2}(3A) An application to a justice of the peace or the sheriff for an order under sub-paragraph (2) making the first extension of the period—

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- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representative of such a person, and
 - (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.]
- (4) An order under sub-paragraph (2) must provide for notice to be given to persons affected by it.
- (5) An application for an order under sub-paragraph (2)—
- (a) in relation to England and Wales and Northern Ireland, may be made by the Commissioners of Customs and Excise or an authorised officer,
 - (b) in relation to Scotland, may be made by a procurator fiscal,
- and the court, sheriff or justice may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.
- (6) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either—
- (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (7) The second condition is that there are reasonable grounds for suspecting that the cash consists of resources of an organisation which is a proscribed organisation and that either—
- (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (8) The third condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either—
- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

Textual Amendments

- F1** Sch. 1 para. 3(1A) inserted (with application in accordance with s. 83(4) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), **ss. 83(2), 100(5)** (with s. 101(2)); [S.I. 2009/58](#), **art. 2(h)**
- F2** Sch. 1 para. 3(3A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 35(1), 39(2)** (with s. 35(2)); [S.I. 2006/1013](#), **art. 2**

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Payment of detained cash into an account

- 4 (1) If cash is detained under this Schedule for more than 48 hours [^{F3}(determined in accordance with paragraph 3(1A))], it is to be held in an interest-bearing account and the interest accruing on it is to be added to it on its forfeiture or release.
- (2) In the case of cash seized under paragraph 2(2), the authorised officer must, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.
- (3) Sub-paragraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

Textual Amendments

- F3** Words in Sch. 1 para. 4(1) inserted (with application in accordance with s. 83(4) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), **ss. 83(3), 100(5)** (with s. 101(2)); S.I. 2009/58, art. 2(h)

Release of detained cash

- 5 (1) This paragraph applies while any cash is detained under this Schedule.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.
- (3) A authorised officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order cash is being detained, release the whole or any part of it if satisfied that the detention of the cash to be released is no longer justified.
- (4) But cash is not to be released—
- (a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded,
 - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.

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