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SCHEDULES

SCHEDULE 1

FORFEITURE OF TERRORIST CASH

PART 5

PROPERTY EARMARKED AS TERRORIST PROPERTY

Property obtained through terrorism

- 11 (1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.
- (2) In deciding whether any property was obtained through terrorism—
- (a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts,
 - (b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

Property earmarked as terrorist property

- 12 (1) Property obtained through terrorism is earmarked as terrorist property.
- (2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.
- (3) Earmarked property obtained through terrorism may be followed into the hands of a person obtaining it on a disposal by—
- (a) the person who obtained the property through terrorism, or
 - (b) a person into whose hands it may (by virtue of this sub-paragraph) be followed.

Tracing property

- 13 (1) Where property obtained through terrorism (“the original property”) is or has been earmarked as terrorist property, property which represents the original property is also earmarked.
- (2) If a person enters into a transaction by which—
- (a) he disposes of earmarked property, whether the original property or property which (by virtue of this Part) represents the original property, and
 - (b) he obtains other property in place of it,

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the other property represents the original property.

- (3) If a person disposes of earmarked property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

Mixing property

- 14 (1) Sub-paragraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).
- (2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.
- (3) Property earmarked as terrorist property is mixed with other property if (for example) it is used—
- (a) to increase funds held in a bank account,
 - (b) in part payment for the acquisition of an asset,
 - (c) for the restoration or improvement of land,
 - (d) by a person holding a leasehold interest in the property to acquire the freehold.

Accruing profits

- 15 (1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.
- (2) The further property is to be treated as representing the property obtained through terrorism.

General exceptions

- 16 (1) If—
- (a) a person disposes of property earmarked as terrorist property, and
 - (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked,
- the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.
- (2) If—
- (a) in pursuance of a judgment in civil proceedings (whether in the United Kingdom or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant,
 - (b) the claimant's claim is based on the defendant's criminal conduct, and
 - (c) apart from this sub-paragraph, the sum received, or the property obtained, by the claimant would be earmarked as terrorist property,
- the property ceases to be earmarked.

In relation to Scotland, "claimant" and "defendant" are to be read as "pursuer" and "defender"; and, in relation to Northern Ireland, "claimant" is to be read as "plaintiff".

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- (3) If—
- (a) a payment is made to a person in pursuance of a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)), section 249 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), and
 - (b) apart from this sub-paragraph, the sum received would be earmarked as terrorist property,
- the property ceases to be earmarked.
- (4) If—
- (a) a payment is made to a person in pursuance of a restitution order under section 27 of the Theft Act (Northern Ireland) 1969 (c.16 (NI)) or section 148(2) of the Powers of Criminal Courts (Sentencing) Act 2000 or a person otherwise obtains any property in pursuance of such an order, and
 - (b) apart from this sub-paragraph, the sum received, or the property obtained, would be earmarked as terrorist property,
- the property ceases to be earmarked.
- (5) If—
- (a) in pursuance of an order made by the court under section 382(3) or 383(5) of the Financial Services and Markets Act 2000 (c. 8) (restitution orders), an amount is paid to or distributed among any persons in accordance with the court's directions, and
 - (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,
- the property ceases to be earmarked.
- (6) If—
- (a) in pursuance of a requirement of the Financial Services Authority under section 384(5) of the Financial Services and Markets Act 2000 (c. 8) (power of authority to require restitution), an amount is paid to or distributed among any persons, and
 - (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,
- the property ceases to be earmarked.
- (7) Where—
- (a) a person enters into a transaction to which paragraph 13(2) applies, and
 - (b) the disposal is one to which sub-paragraph (1) applies,
- this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

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