

Status: Point in time view as at 10/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Terrorism Act 2006, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 28

SEIZURE AND FORFEITURE OF TERRORIST PUBLICATIONS

Application of Schedule

- 1 This Schedule applies where an article—
- (a) has been seized under the authority of a warrant under section 28; and
 - (b) is being retained in the custody of a constable (“the relevant constable”).

Commencement Information

II Sch. 2 para. 1 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Notice of seizure

- 2 (1) The relevant constable must give notice of the article's seizure to—
- (a) every person whom he believes to have been the owner of the article, or one of its owners, at the time of the seizure; and
 - (b) if there is no such person or it is not reasonably practicable to give him notice, every person whom the relevant constable believes to have been an occupier at that time of the premises where the article was seized.
- (2) The notice must set out what has been seized and the grounds for the seizure.
- (3) The notice may be given to a person only by—
- (a) delivering it to him personally;
 - (b) addressing it to him and leaving it for him at the appropriate address; or
 - (c) addressing it to him and sending it to him at that address by post.
- (4) But where it is not practicable to give a notice in accordance with sub-paragraph (3), a notice given by virtue of sub-paragraph (1)(b) to the occupier of the premises where the article was seized may be given by—
- (a) addressing it to “the occupier” of those premises, without naming him; and
 - (b) leaving it for him at those premises or sending it to him at those premises by post.
- (5) An article may be treated or condemned as forfeited under this Schedule only if—
- (a) the requirements of this paragraph have been complied with in the case of that article; or
 - (b) it was not reasonably practicable for them to be complied with.
- (6) In this paragraph “the appropriate address”, in relation to a person, means—
- (a) in the case of a body corporate, its registered or principal office in the United Kingdom;

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- (b) in the case of a firm, the principal office of the partnership;
- (c) in the case of an unincorporated body or association, the principal office of the body or association; and
- (d) in any other case, his usual or last known place of residence in the United Kingdom or his last known place of business in the United Kingdom.

(7) In the case of—

- (a) a company registered outside the United Kingdom,
- (b) a firm carrying on business outside the United Kingdom, or
- (c) an unincorporated body or association with offices outside the United Kingdom,

the references in this paragraph to its principal office include references to its principal office within the United Kingdom (if any).

Commencement Information

I2 Sch. 2 para. 2 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Notice of claim

- 3 (1) A person claiming that the seized article is not liable to forfeiture may give notice of his claim to a constable at any police station in the police area in which the premises where the seizure took place are located.
- (2) Oral notice is not sufficient for these purposes.

Commencement Information

I3 Sch. 2 para. 3 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

- 4 (1) A notice of claim may not be given more than one month after—
- (a) the day of the giving of the notice of seizure; or
 - (b) if no such notice has been given, the day of the seizure.
- (2) A notice of claim must specify—
- (a) the name and address of the claimant; and
 - (b) in the case of a claimant who is outside the United Kingdom, the name and address of a solicitor in the United Kingdom who is authorised to accept service, and to act, on behalf of the claimant.
- (3) Service upon a solicitor so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule.
- (4) In a case in which notice of the seizure was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference—
- (a) in relation to a person to whom notice of the seizure was given, to the day on which that notice was given to that person; and
 - (b) in relation to any other person, to the day on which notice of the seizure was given to the last person to be given such a notice.

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I4 Sch. 2 para. 4 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Automatic forfeiture in a case where no claim is made

- 5 The article is to be treated as forfeited if, by the end of the period for the giving of a notice of claim in respect of it—
- (a) no such notice has been given; or
 - (b) the requirements of paragraphs 3 and 4 have not been complied with in relation to the only notice or notices of claim that have been given.

Commencement Information

I5 Sch. 2 para. 5 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Forfeiture by the court in other cases

- 6 (1) Where a notice of claim in respect of an article is duly given in accordance with paragraphs 3 and 4, the relevant constable must decide whether to take proceedings to ask the court to condemn the article as forfeited.
- (2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim.
- (3) If the relevant constable takes such proceedings and the court—
- (a) finds that the article was liable to forfeiture at the time of its seizure, and
 - (b) is not satisfied that its forfeiture would be inappropriate,
- the court must condemn the article as forfeited.
- (4) If that constable takes such proceedings and the court—
- (a) finds that the article was not liable to forfeiture at the time of its seizure, or
 - (b) is satisfied that its forfeiture would be inappropriate,
- the court must order the return of the article to the person who appears to the court to be entitled to it.
- (5) If the relevant constable decides not to take proceedings for condemnation in a case in which a notice of claim has been given, he must return the article to the person who appears to him to be the owner of the article, or to one of the persons who appear to him to be owners of it.
- (6) An article required to be returned in accordance with sub-paragraph (5) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation.

Commencement Information

I6 Sch. 2 para. 6 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

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Forfeiture proceedings

- 7 Proceedings by virtue of this Schedule are civil proceedings and may be instituted—
- (a) in England or Wales, either in the High Court or in a magistrates' court;
 - (b) in Scotland, either in the Court of Session or in the sheriff court; and
 - (c) in Northern Ireland, either in the High Court or in a court of summary jurisdiction.

Commencement Information

I7 Sch. 2 para. 7 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

- 8 Proceedings by virtue of this Schedule in—
- (a) a magistrates' court in England or Wales,
 - (b) the sheriff court in Scotland, or
 - (c) a court of summary jurisdiction in Northern Ireland,
- may be instituted in that court only if it has jurisdiction in relation to the place where the article to which they relate was seized.

Commencement Information

I8 Sch. 2 para. 8 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

- 9 (1) In proceedings by virtue of this Schedule that are instituted in England and Wales or Northern Ireland, the claimant or his solicitor must make his oath that, at the time of the seizure, the seized article was, or was to the best of his knowledge and belief, the property of the claimant.
- (2) In any such proceedings instituted in the High Court—
- (a) the court may require the claimant to give such security for the costs of the proceedings as may be determined by the court; and
 - (b) the claimant must comply with any such requirement.
- (3) If a requirement of this paragraph is not complied with, the court must find against the claimant.

Commencement Information

I9 Sch. 2 para. 9 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

- 10 (1) In the case of proceedings by virtue of this Schedule that are instituted in a magistrates' court in England or Wales, either party may appeal against the decision of that court to the Crown Court.
- (2) In the case of such proceedings that are instituted in a court of summary jurisdiction in Northern Ireland, either party may appeal against the decision of that court to the county court.
- (3) This paragraph does not affect any right to require the statement of a case for the opinion of the High Court.

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I10 Sch. 2 para. 10 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

- 11 Where an appeal has been made (whether by case stated or otherwise) against the decision of the court in proceedings by virtue of this Schedule in relation to an article, the article is to be left in the custody of a constable pending the final determination of the matter.

Commencement Information

I11 Sch. 2 para. 11 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Effect of forfeiture

- 12 Where an article is treated or condemned as forfeited under this Schedule, the forfeiture is to be treated as having taken effect as from the time of the seizure.

Commencement Information

I12 Sch. 2 para. 12 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Disposal of unclaimed property

- 13 (1) This paragraph applies where the article seized under the authority of a warrant under section 28 is required to be returned to a person.
- (2) If—
- (a) the article is (without having been returned) still in the custody of a constable after the end of the period of 12 months beginning with the day after the requirement to return it arose, and
 - (b) it is not practicable to dispose of the article by returning it immediately to the person to whom it is required to be returned,
- the constable may dispose of it in any manner he thinks fit.

Commencement Information

I13 Sch. 2 para. 13 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Provisions as to proof

- 14 In proceedings arising out of the seizure of an article, the fact, form and manner of the seizure is to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.

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I14 Sch. 2 para. 14 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

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- 15 In proceedings, the condemnation by a court of an article as forfeited under this Schedule may be proved by the production of either—
- (a) the order of condemnation; or
 - (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made.

Commencement Information

I15 Sch. 2 para. 15 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Special provisions as to certain claimants

- 16 (1) This paragraph applies where, at the time of the seizure of the article, it was—
- (a) the property of a body corporate;
 - (b) the property of two or more partners; or
 - (c) the property of more than five persons.
- (2) The oath required by paragraph 9, and any other thing required by this Schedule or by rules of court to be done by an owner of the article, may be sworn or done by—
- (a) a person falling within sub-paragraph (3); or
 - (b) a person authorised to act on behalf of a person so falling.
- (3) The persons falling within this sub-paragraph are—
- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
 - (b) where the owners are in partnership, any one or more of the owners;
 - (c) where there are more than five owners and they are not in partnership, any two or more of the owners acting on behalf of themselves and any of their co-owners who are not acting on their own behalf.

Commencement Information

I16 Sch. 2 para. 16 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

Saving for owner's rights

- 17 Neither the imposition of a requirement by virtue of this Schedule to return an article to a person nor the return of an article to a person in accordance with such a requirement affects—
- (a) the rights in relation to that article of any other person; or
 - (b) the right of any other person to enforce his rights against the person to whom it is returned.

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I17 Sch. 2 para. 17 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

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Interpretation of Schedule

- 18 In this Schedule—
- “article” has the same meaning as in Part 1 of this Act;
 - “the court” is to be construed in accordance with paragraph 7.

Commencement Information

I18 Sch. 2 para. 18 in force at 13.4.2006 by S.I. 2006/1013, art. 2(2)(b)

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