

Status: Point in time view as at 31/03/2012.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, Part 5. (See end of Document for details)

SCHEDULES

SCHEDULE 7

TERRORIST FINANCING AND MONEY LAUNDERING

PART 5

ENFORCEMENT: INFORMATION POWERS

Enforcement authorities and officers

- 18 (1) In this Schedule “enforcement authority” means—
- (a) the Financial Services Authority (“the FSA”),
 - (b) the Commissioners for Her Majesty's Revenue and Customs (“HMRC”),
[^{F1}or]
 - (c) the Office of Fair Trading (“the OFT”), ^{F2}...
 - ^{F2}(d)
- (2) In this Part of this Schedule “enforcement officer” means—
- (a) an officer of the FSA, including a member of the staff or an agent of the FSA,
 - (b) an officer of Revenue and Customs,
 - (c) an officer of the OFT,
 - ^{F3}(d) or
 - (e) a local enforcement officer.
- (3) A “local enforcement officer” means—
- (a) in Great Britain, an officer of a local weights and measures authority;
 - (b) in Northern Ireland, an officer of [^{F4}the Department of Enterprise, Trade and Investment in Northern Ireland (“DETINI”)] acting pursuant to arrangements made with the OFT for the purposes of this Schedule.

Textual Amendments

- F1** Word in Sch. 7 para. 18(1)(b) inserted (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [ss. 51\(1\)\(a\), 55\(2\)](#); S.I. 2011/2835, art. 2(a)
- F2** Sch. 7 para. 18(1)(d) and preceding word repealed (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [ss. 51\(1\)\(b\), 55\(2\)](#), [Sch. 2 Pt. 2](#); S.I. 2011/2835, art. 2(a)(d)
- F3** Sch. 7 para. 18(2)(d) repealed (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [s. 55\(2\)](#), [Sch. 1 para. 11\(1\)](#), [Sch. 2 Pt. 2](#); S.I. 2011/2835, art. 2(c)(d)
- F4** Words in Sch. 7 para. 18(3)(b) substituted (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [s. 55\(2\)](#), [Sch. 1 para. 11\(2\)](#); S.I. 2011/2835, art. 2(c)

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Power to require information or documents

- 19 (1) An enforcement officer may by notice to a relevant person require the person—
- (a) to provide such information as may be specified in the notice, or
 - (b) to produce such documents as may be so specified.
- (2) An officer may exercise powers under this paragraph only if the information or documents sought to be obtained as a result are reasonably required in connection with the exercise by the enforcement authority for whom the officer acts of its functions under this Schedule.
- (3) Where an officer requires information to be provided or documents produced under this paragraph—
- (a) the notice must set out the reasons why the officer requires the information to be provided or the documents produced, and
 - (b) the information must be provided or the documents produced—
 - (i) before the end of such reasonable period as may be specified in the notice; and
 - (ii) at such place as may be so specified.
- (4) In relation to a document in electronic form the power to require production of it includes a power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.
- (5) An enforcement officer may take copies of, or make extracts from, any document produced under this paragraph.
- (6) The production of a document does not affect any lien which a person has on the document.

Entry, inspection without a warrant etc

- 20 (1) Where an enforcement officer has reasonable cause to believe that any premises are being used by a relevant person in connection with the person's business activities, the officer may on producing evidence of authority at any reasonable time—
- (a) enter the premises;
 - (b) inspect the premises;
 - (c) observe the carrying on of business activities by the relevant person;
 - (d) inspect any document found on the premises;
 - (e) require any person on the premises to provide an explanation of any document or to state where it may be found.
- (2) An enforcement officer may take copies of, or make extracts from, any document found under sub-paragraph (1).
- (3) An officer may exercise powers under this paragraph only if the information or document sought to be obtained as a result is reasonably required in connection with the exercise by the enforcement authority for whom the officer acts of its functions under this Schedule.
- (4) In this paragraph “premises” means any premises other than premises used only as a dwelling.

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Entry to premises under warrant

- 21 (1) A justice may issue a warrant under this paragraph if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.
- (2) The first set of conditions is—
- (a) that there is on the premises specified in the warrant a document in relation to which a requirement could be imposed under paragraph 19(1)(b), and
 - (b) that if such a requirement were to be imposed—
 - (i) it would not be complied with, or
 - (ii) the document to which it relates would be removed, tampered with or destroyed.
- (3) The second set of conditions is—
- (a) that a person on whom a requirement has been imposed under paragraph 19(1)(b) has failed (wholly or in part) to comply with it, and
 - (b) that there is on the premises specified in the warrant a document that has been required to be produced.
- (4) The third set of conditions is—
- (a) that an enforcement officer has been obstructed in the exercise of a power under paragraph 20, and
 - (b) that there is on the premises specified in the warrant a document that could be inspected under paragraph 20(1)(d).
- (5) A justice may issue a warrant under this paragraph if satisfied on information on oath given by an officer that there are reasonable grounds for suspecting that—
- (a) an offence under this Schedule has been, is being or is about to be committed by a relevant person, and
 - (b) there is on the premises specified in the warrant a document relevant to whether that offence has been, or is being or is about to be committed.
- (6) A warrant issued under this paragraph shall authorise an enforcement officer—
- (a) to enter the premises specified in the warrant;
 - (b) to search the premises and take possession of anything appearing to be a document specified in the warrant or to take, in relation to any such document, any other steps which may appear to be necessary for preserving it or preventing interference with it;
 - (c) to take copies of, or extracts from, any document specified in the warrant;
 - (d) to require any person on the premises to provide an explanation of any document appearing to be of the kind specified in the warrant or to state where it may be found;
 - (e) to use such force as may reasonably be necessary.
- (7) Where a warrant is issued by a justice under sub-paragraph (1) or (5) on the basis of information on oath given by an officer of the FSA, for “an enforcement officer” in sub-paragraph (6) substitute “a constable”.
- (8) In sub-paragraphs (1), (5) and (7), “justice” means—
- (a) in relation to England and Wales, a justice of the peace;
 - (b) in relation to Scotland, a justice within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (interpretation);

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(c) in relation to Northern Ireland, a lay magistrate.

(9) In the application of this paragraph to Scotland, the references in sub-paragraphs (1), (5) and (7) to information on oath are to be read as references to evidence on oath.

Restrictions on powers

- 22 (1) This paragraph applies in relation to the powers conferred by—
- (a) paragraph 19 (power to require information or documents),
 - (b) paragraph 20 (entry, inspection without warrant etc), or
 - (c) paragraph 21 (entry to premises under warrant).
- (2) Those powers are not exercisable in relation to information or documents in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (3) The exercise of those powers and the provision of information or production of documents under them is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

Failure to comply with information requirement

- 23 (1) If on an application made by—
- (a) an enforcement authority, or
 - (b) a local weights and measures authority or DETINI pursuant to arrangements made with the OFT—
 - (i) by or on behalf of the authority; or
 - (ii) by DETINI,
 it appears to the court that a person (the “information defaulter”) has failed to do something that they were required to do under paragraph 19(1), the court may make an order under this paragraph.
- (2) An order under this paragraph may require the information defaulter—
- (a) to do the thing that they failed to do within such period as may be specified in the order;
 - (b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.
- (3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons that is not a partnership, the order may require any officer of the body corporate, partnership or body, who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.
- (4) In this paragraph “the court” means—
- (a) in England and Wales and Northern Ireland, the High Court or the county court;
 - (b) in Scotland, the Court of Session or the sheriff court.

Powers of local enforcement officers

- 24 (1) A local enforcement officer may only exercise powers under this Part of this Schedule pursuant to arrangements made with the OFT—

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- (a) by or on behalf of the relevant local weights and measures authority, or
 - (b) by DETINI.
- (2) Anything done or omitted to be done by, or in relation to, a local enforcement officer in the exercise or purported exercise of a power in this Part of this Schedule is treated for all purposes as if done or omitted to be done by, or in relation to, an officer of the OFT.
- (3) Sub-paragraph (2) does not apply for the purposes of criminal proceedings brought against the local enforcement officer, the relevant local weights and measures authority, DETINI or the OFT, in respect of anything done or omitted to be done by the officer.
- (4) A local enforcement officer must not disclose to any person other than the OFT and the relevant local weights and measures authority or, as the case may be, DETINI information obtained by the officer in the exercise of powers under this Part of this Schedule unless—
- (a) the officer has the approval of the OFT to do so, or
 - (b) the officer is under a duty to make the disclosure.
- (5) In this paragraph “the relevant local weights and measures authority”, in relation to a local enforcement officer, means the authority of which the officer is an officer.

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