

SCHEDULES

SCHEDULE 4

Section 25

CUSTOMER INFORMATION ORDERS

Customer information orders

- 1 (1) An appropriate officer may apply to a judge for a customer information order.
- (2) The judge may grant the application if satisfied that—
 - (a) the order is sought for the purposes of an investigation into foreign power threat activity, and
 - (b) the order will enhance the effectiveness of the investigation.
- (3) “Appropriate officer” means—
 - (a) in relation to England and Wales or Northern Ireland, a constable or a National Crime Agency officer;
 - (b) in relation to Scotland, the procurator fiscal.
- (4) The application must state that—
 - (a) a person specified in the application is subject to an investigation within sub-paragraph (2)(a) and the order is sought for the purposes of the investigation;
 - (b) the order is sought against the financial institution or financial institutions specified in the application.
- (5) The application may specify—
 - (a) all financial institutions,
 - (b) a particular description, or particular descriptions, of financial institutions, or
 - (c) a particular financial institution or particular financial institutions.
- (6) A customer information order is an order authorising an appropriate officer to give to a financial institution covered by the application notice in writing requiring it to provide any customer information it has relating to the person specified in the application.
- (7) The financial institution must provide the information at or by the time, and in a manner, specified in the notice.
- (8) A financial institution is not bound to comply with a requirement imposed by a notice given under a customer information order unless evidence of authority to give the notice is produced.
- (9) An appropriate officer may not make an application under this paragraph unless the officer is a senior officer or is authorised to do so by a senior officer.
- (10) Sub-paragraph (9) does not apply in relation to Scotland.

Status: This is the original version (as it was originally enacted).

Supplementary provision

- 2 A customer information order has effect despite any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.

Applications

- 3 An application for a customer information order may be made without notice to a judge in chambers.

Discharge or variation

- 4 (1) An application to discharge or vary a customer information 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 customer information order was made by a constable, an application to discharge or vary the order may be made by a different constable.
- (3) If the application for the customer information order was made by a National Crime Agency officer, an application to discharge or vary the order may be made by a different National Crime Agency officer.
- (4) An appropriate officer may not make an application under this paragraph unless the officer is a senior officer or is authorised to do so by a senior officer.
- (5) Sub-paragraph (4) does not apply in relation to Scotland.
- (6) The court may—
- (a) discharge the order;
 - (b) 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 customer information orders.
- (2) In Scotland rules of court are, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, to be made by Act of Adjournal.

Offences

- 6 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a customer information order.
- (2) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);

- (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

Statements

- 7 (1) A statement made by a person in response to a requirement imposed under a customer information order may not be used in evidence against them in criminal proceedings.
- (2) Sub-paragraph (1) does not apply on a prosecution for an offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used against a person by virtue of sub-paragraph (2) unless—
 - (a) evidence relating to it is adduced, or
 - (b) a question relating to it is asked,by or on behalf of the person in the proceedings arising out of the prosecution.

Interpretation

- 8 (1) This paragraph applies for the interpretation of this Schedule.
- (2) “Appropriate officer” has the meaning given by paragraph 1(3).
- (3) “The court” means—
 - (a) in relation to England and Wales or Northern Ireland, the Crown Court;
 - (b) in relation to Scotland, the sheriff.
- (4) “Customer information”—
 - (a) in relation to England and Wales or Northern Ireland, has the meaning given by section 364 of the Proceeds of Crime Act 2002;
 - (b) in relation to Scotland, has the meaning given by section 398 of that Act.
- (5) “Financial institution” has the same meaning as in Schedule 6 to the Terrorism Act 2000 (see paragraph 6 of that Schedule).
- (6) “Judge” means—
 - (a) in relation to England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;
 - (b) in relation to Northern Ireland, a judge of the Crown Court;
 - (c) in relation to Scotland, the sheriff.
- (7) “Senior officer” means—
 - (a) a constable of at least the rank of superintendent;
 - (b) the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.