

SCHEDULES

SCHEDULE 5

Section 26

ACCOUNT MONITORING ORDERS

Account monitoring orders

- 1 (1) An appropriate officer may apply to a judge for an account monitoring 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 the order is sought against the financial institution specified in the application in relation to information which—
 - (a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another), and
 - (b) is of the description so specified.
- (5) The application may specify information relating to—
 - (a) all accounts held by the person specified in the application at the financial institution so specified,
 - (b) a particular description, or particular descriptions, of accounts so held, or
 - (c) a particular account, or particular accounts, so held.
- (6) An account monitoring order is an order that the financial institution specified in the application must—
 - (a) for the period specified in the order,
 - (b) in the manner so specified,
 - (c) at or by the time or times so specified, and
 - (d) at the place or places so specified,provide information of the description specified in the application to an appropriate officer.
- (7) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

Status: This is the original version (as it was originally enacted).

Applications

- 2 An application for an account monitoring order may be made without notice to a judge in chambers.

Discharge or variation

- 3 (1) An application to discharge or vary an account monitoring 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 account monitoring 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 account monitoring 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) The court may—
- (a) discharge the order;
 - (b) vary the order.

Rules of court

- 4 (1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring 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.

Effect of orders

- 5 (1) In England and Wales and Northern Ireland, an account monitoring order has effect as if it were an order of the court.
- (2) An account monitoring order has effect in spite of any obligation as to secrecy or other restriction on the disclosure of information imposed by an enactment or otherwise.

Statements

- 6 (1) A statement made by a person in response to an account monitoring order may not be used in evidence against them in criminal proceedings.
- (2) But sub-paragraph (1) does not apply—
- (a) in the case of proceedings for contempt of court;
 - (b) 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)(b) 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

- 7 (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) “Financial institution” has the same meaning as in Schedule 6 to the Terrorism Act 2000 (see paragraph 6 of that Schedule).
- (5) “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.