

SCHEDULE

Article 8

1.—(1) The Treasury may, in writing, request a person to provide information or produce documentation to them which they may reasonably need for the purpose of ascertaining whether an offence has been committed under this Order.

(2) The request may be made by the Treasury or by a person authorised by the Treasury.

(3) Any person to whom a request is made under sub-paragraph (1) must comply with it within 14 days and in such manner as may be specified in the request.

2. A relevant institution must disclose information to the Treasury as soon as practicable if the conditions in paragraph 3 are satisfied.

3.—(1) The conditions are that—

(a) the relevant institution knows or suspects, or has grounds for knowing or suspecting, that a specified person—

(i) is or has been a customer of the institution at any time since this Order came into force, or

(ii) is a person with whom it has dealings in the course of its business or has had such dealings at any time since this Order came into force;

(b) the information—

(i) on which the knowledge or suspicion of the relevant institution required to disclose is based, or

(ii) which gives grounds for the knowledge or suspicion,

came to the relevant institution in the course of a business in the regulated sector.

(2) For the purpose of this paragraph, Schedule 3A to the Terrorism Act 2000(1) is to have effect for the purpose of determining what is a business in the regulated sector.

4.—(1) Disclosure of information in accordance with this Schedule is not to be taken to breach any restrictions on the disclosure of information (however imposed).

(2) But nothing in this Schedule authorises a disclosure that—

(a) contravenes the data protection legislation, or

(b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016(2).

(3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000(3) by paragraph 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, sub-paragraph (2)(b) has effect as if it included a reference to that Part.

(4) Nothing in this Schedule is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(5) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.

(1) 2000 c.11. Schedule 3A was inserted by paragraph 5(6) of Schedule 2 to the Anti-terrorism, Crime and Security Act 2001 c.24.

(2) 2016 c.25. Parts 1 to 7 were amended by the Policing and Crime Act 2017 (c.3), section 33(9), Schedule 9, Data Protection Act 2018 (c.12), section 211(1)(a), Schedule 19, the Counter-Terrorism and Border Security Act 2019 (c.3), section 23, Schedule 4, the Crime (Overseas Production Orders) Act 2019, section 16, S.I. 2017/730, S.I. 2018/1123, S.I. 2018/1310, S.I. 2019/419 and S.I. 2019/939.

(3) 2000 c.23. There are amending instruments to Part 1 of this Act which are not relevant to these Regulations.

(6) This Schedule does not limit the powers of the Treasury to impose conditions in connection with the discharge of their functions under article 6.

(7) In this Schedule —

“the data protection legislation” has the same meaning as in the Data Protection Act 2018⁽⁴⁾ (see section 3 of that Act);

“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

5.—(1) This Schedule does not require any person to provide information or produce documentation which is privileged.

(2) Information and documentation is privileged if the person asked to provide or produce it would be entitled to refuse to do so on grounds of legal professional privilege in proceedings in the High Court or (in Scotland) on grounds of confidentiality of communications in proceedings in the Court of Session.

(3) But information or documentation held with the intention of furthering a criminal purpose is not privileged.

6. A person (“P”) who—

(a) fails without reasonable excuse to provide information, or to produce a document, in response to a requirement in this Schedule;

(b) provides information, or produces a document, which P knows is false in a material particular in response to a requirement in this Schedule;

(c) recklessly provides information, or produces a document, which is false in a material particular in response to a requirement in this Schedule;

(d) fails without reasonable excuse to disclose information as required under paragraph 2, is guilty of an offence.

7.—(1) The Treasury may disclose any information given or documentation produced under this Order (including any copy or extract made of any such document)—

(a) to a police officer;

(b) to any person holding or acting in any office under or in the service of—

(i) the Crown in right of the Government of the United Kingdom,

(ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,

(iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,

(iv) the Government of the Isle of Man, or

(v) the Government of any British overseas territory;

(c) to any law officer of the Crown for Jersey, Guernsey or the Isle of Man;

(d) to the Scottish Legal Aid Board;

(e) to the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;

(f) to any other regulatory body.

(4) 2018 c.12.

(2) The purpose of a disclosure referred to in sub-paragraph (1) is limited to the taking of any action with a view to instituting, or otherwise for the purposes of, any proceedings—

- (a) in the United Kingdom, for an offence under this Order, or
- (b) in any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction.

(3) The Treasury may disclose any information obtained by them pursuant to this Order to any person with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract.

(4) In sub-paragraph (3) “in their own right” means not merely in the capacity as a servant or agent of another person.

8. Where a person is convicted of an offence under paragraph 6 of this Schedule the court may make an order requiring that person, within such period as may be specified in the order, to give the requested information or to produce the requested document.