

## SCHEDULES

### SCHEDULE 6

Section 38.

#### FINANCIAL INFORMATION

##### *Orders*

- 1 (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution to provide customer information for the purposes of the investigation.
- (2) The information shall be provided—
- (a) in such manner and within such time as the constable may specify, and
  - (b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (3) An institution which fails to comply with a requirement under this paragraph shall be guilty of an offence.
- (4) It is a defence for an institution charged with an offence under sub-paragraph (3) to prove—
- (a) that the information required was not in the institution's possession, or
  - (b) that it was not reasonably practicable for the institution to comply with the requirement.
- (5) An institution guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

##### *Procedure*

- 2 An order under paragraph 1 may be made only on the application of—
- (a) in England and Wales or Northern Ireland, a police officer of at least the rank of superintendent, or
  - (b) in Scotland, the procurator fiscal.
- 3 An order under paragraph 1 may be made only by—
- (a) in England and Wales, a Circuit judge,
  - (b) in Scotland, the sheriff, or
  - (c) in Northern Ireland, a county court judge.
- 4 (1) Crown Court Rules may make provision about the procedure for an application under paragraph 1.
- (2) The High Court of Justiciary may, by Act of Adjournal, make provision about the procedure for an application under paragraph 1.

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*Criteria for making order*

- 5 An order under paragraph 1 may be made only if the person making it is satisfied that—
- (a) the order is sought for the purposes of a terrorist investigation,
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
  - (c) the order will enhance the effectiveness of the investigation.

*Financial institution*

- 6 (1) In this Schedule “financial institution” means—
- (a) a person who carries on a business of taking deposits for which he is authorised under the Banking Act 1987,
  - (b) a building society (within the meaning of the Building Societies Act 1986),
  - (c) a credit union (within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985),
  - (d) a person carrying on investment business within the meaning of the Financial Services Act 1986,
  - (e) the National Savings Bank,
  - (f) a person who carries out an activity for the purposes of raising money authorised to be raised under the National Loans Act 1968 under the auspices of the Director of National Savings,
  - (g) a European institution carrying on a home regulated activity (within the meaning of the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions),
  - (h) a person carrying out an activity specified in any of points 1 to 12 and 14 of the Annex to that Directive, and
  - (i) a person who carries on an insurance business in accordance with an authorisation pursuant to Article 6 or 27 of the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance.
- (2) The Secretary of State may by order provide for a class of person—
- (a) to be a financial institution for the purposes of this Schedule, or
  - (b) to cease to be a financial institution for the purposes of this Schedule.
- (3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of sub-paragraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under paragraph 1 to provide customer information which relates to a time when the institution was a financial institution.

*Customer information*

- 7 (1) In this Schedule “customer information” means (subject to sub-paragraph (3))—
- (a) information whether a business relationship exists or existed between a financial institution and a particular person (“a customer”),
  - (b) a customer’s account number,
  - (c) a customer’s full name,

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- (d) a customer's date of birth,
  - (e) a customer's address or former address,
  - (f) the date on which a business relationship between a financial institution and a customer begins or ends,
  - (g) any evidence of a customer's identity obtained by a financial institution in pursuance of or for the purposes of any legislation relating to money laundering, and
  - (h) the identity of a person sharing an account with a customer.
- (2) For the purposes of this Schedule there is a business relationship between a financial institution and a person if (and only if)—
- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them, and
  - (b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.
- (3) The Secretary of State may by order provide for a class of information—
- (a) to be customer information for the purposes of this Schedule, or
  - (b) to cease to be customer information for the purposes of this Schedule.

*Offence by body corporate, &c.*

- 8 (1) This paragraph applies where an offence under paragraph 1(3) is committed by an institution and it is proved that the offence—
- (a) was committed with the consent or connivance of an officer of the institution, or
  - (b) was attributable to neglect on the part of an officer of the institution.
- (2) The officer, as well as the institution, shall be guilty of the offence.
- (3) Where an individual is convicted of an offence under paragraph 1(3) by virtue of this paragraph, he shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding six months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (4) In the case of an institution which is a body corporate, in this paragraph “officer” includes—
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) if the affairs of the body are managed by its members, a member.
- (5) In the case of an institution which is a partnership, in this paragraph “officer” means a partner.
- (6) In the case of an institution which is an unincorporated association (other than a partnership), in this paragraph “officer” means a person concerned in the management or control of the association.

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*Self-incrimination*

- 9 (1) Customer information provided by a financial institution under this Schedule shall not be admissible in evidence in criminal proceedings against the institution or any of its officers or employees.
- (2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(3) (including proceedings brought by virtue of paragraph 8).