

**Changes to legislation:** There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

Section 1

#### FORFEITURE OF TERRORIST <sup>F1</sup>PROPERTY]

##### Textual Amendments

- F1** Word in Sch. 1 heading substituted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(2\)](#); S.I. 2018/78, reg. 5(1)(c)

### PART 1

#### INTRODUCTORY<sup>F2</sup>: FORFEITURE OF TERRORIST CASH]

##### Textual Amendments

- F2** Words in Sch. 1 Pt. 1 heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(3\)](#); S.I. 2018/78, reg. 5(1)(c)

#### *Terrorist cash*

- 1 (1) This Schedule <sup>F3</sup>(other than Parts 4A <sup>F4</sup>and 4B<sup>F4</sup>to 4BD<sup>F4</sup>)] applies to cash (“terrorist cash”) which—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (2) “Cash” means—
- (a) coins and notes in any currency,
  - (b) postal orders,
  - (c) cheques of any kind, including travellers’ cheques,
  - (d) bankers’ drafts,
  - (e) bearer bonds and bearer shares,
  - <sup>F5</sup>(f) gaming vouchers,
  - (g) fixed-value casino tokens,
  - (h) betting receipts,
- found at any place in the United Kingdom.
- (3) Cash also includes any kind of monetary instrument which is found at any place in the United Kingdom, if the instrument is specified by the Secretary of State by order.

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- (4) The power to make an order under sub-paragraph (3) is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F6</sup>(5) For the purposes of sub-paragraph (2)—

- (a) “gaming voucher” means a voucher in physical form issued by a gaming machine that represents a right to be paid the amount stated on it;
- (b) “fixed-value casino token” means a casino token that represents a right to be paid the amount stated on it;
- (c) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.

(6) In sub-paragraph (5)—

“bet”—

- (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;
- (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);

“betting licence”—

- (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;
- (b) in relation to Northern Ireland, means a bookmaker's licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

“gaming machine”—

- (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);
- (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).

- (7) In the application of sub-paragraph (5) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).]

#### Textual Amendments

- F3** Words in Sch. 1 para. 1(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(4\)](#); S.I. 2018/78, reg. 5(1)(c)
- F4** Words in [Sch. 1 para. 1\(1\)](#) substituted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 10 para. 3](#)
- F5** Sch. 1 para. 1(2)(f)-(h) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 38\(2\)\(a\)](#), 58(1)(6); S.I. 2018/78, reg. 3(u)
- F6** Sch. 1 para. 1(5)-(7) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 38\(2\)\(b\)](#), 58(1)(6); S.I. 2018/78, reg. 3(u)

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## PART 2

### SEIZURE AND DETENTION [F7] OF TERRORIST CASH]

#### Textual Amendments

- F7** Words in Sch. 1 Pt. 2 heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(5\)](#); [S.I. 2018/78](#), reg. 5(1)(c)

#### *Seizure of cash*

- 2 (1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.
- (2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

#### *Detention of seized cash*

- 3 (1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.

[F8(1A) In determining the period of 48 hours specified in sub-paragraph (1) there shall be disregarded—

- (a) any Saturday or Sunday;
- (b) Christmas Day;
- (c) Good Friday;
- (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the cash is seized;
- (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the sheriff court district in which the cash is seized.]

- (2) The period for which the cash or any part of it may be detained may be extended by an order made by a magistrates' court or (in Scotland) the sheriff, but the order may not authorise the detention of any of the cash—

- (a) beyond the end of the period of [F9]6] months beginning with the date of the order, and
- (b) in the case of any further order under this paragraph, beyond the end of the period of two years beginning with the date of the first order.

- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (2) extending the period.

[F10(3A) An application to [F11]a magistrates' court,] a justice of the peace or the sheriff for an order under sub-paragraph (2) making the first extension of the period—

- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representative of such a person, and
- (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.]

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- (4) An order under sub-paragraph (2) must provide for notice to be given to persons affected by it.
- (5) An application for an order under sub-paragraph (2)—
  - (a) in relation to England and Wales and Northern Ireland, may be made by the Commissioners of Customs and Excise or an authorised officer,
  - (b) in relation to Scotland, may be made by a procurator fiscal,
 and the court, sheriff or justice may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.
- (6) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either—
  - (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
  - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (7) The second condition is that there are reasonable grounds for suspecting that the cash consists of resources of an organisation which is a proscribed organisation and that either—
  - (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
  - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- (8) The third condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either—
  - (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
  - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.
- [<sup>F12</sup>(9) Where an application for an order under sub-paragraph (2) relates to cash seized under paragraph 2(2), the court, sheriff or justice may make the order if satisfied that—
  - (a) the condition in sub-paragraph (6), (7) or (8) is met in respect of part of the cash, and
  - (b) it is not reasonably practicable to detain only that part.]

#### Textual Amendments

- F8** Sch. 1 para. 3(1A) inserted (with application in accordance with s. 83(4) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), **ss. 83(2), 100(5)** (with [s. 101\(2\)](#)); [S.I. 2009/58](#), art. 2(h)
- F9** Word in Sch. 1 para. 3(2)(a) substituted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 38(3)(a), 58(1)(6)**; [S.I. 2018/78](#), reg. 3(u)

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- F10** Sch. 1 para. 3(3A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 35(1), 39(2)** (with s. 35(2)); [S.I. 2006/1013](#), **art. 2**
- F11** Words in Sch. 1 para. 3(3A) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 16(6)**; [S.I. 2018/78](#), **reg. 5(1)(c)**
- F12** Sch. 1 para. 3(9) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 38(3)(b), 58(1)(6)**; [S.I. 2018/78](#), **reg. 3(u)**

#### *Payment of detained cash into an account*

- 4 (1) If cash is detained under this Schedule for more than 48 hours [<sup>F13</sup>(determined in accordance with paragraph 3(1A))], it is to be held in an interest-bearing account and the interest accruing on it is to be added to it on its forfeiture or release.
- (2) In the case of cash seized under paragraph 2(2), the authorised officer must, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.
- (3) Sub-paragraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

#### **Textual Amendments**

- F13** Words in Sch. 1 para. 4(1) inserted (with application in accordance with s. 83(4) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), **ss. 83(3), 100(5)** (with s. 101(2)); [S.I. 2009/58](#), **art. 2(h)**

#### *Release of detained cash*

- 5 (1) This paragraph applies while any cash is detained under [<sup>F14</sup>any provision of this Schedule other than Part 2A].
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.
- (3) A authorised officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order cash is being detained, release the whole or any part of it if satisfied that the detention of the cash to be released is no longer justified.

<sup>F15</sup>(4) . . . . .

#### **Textual Amendments**

- F14** Words in Sch. 1 para. 5(1) substituted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 16(7)**; [S.I. 2018/78](#), **reg. 5(1)(c)**
- F15** Sch. 1 para. 5(4) omitted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by virtue of [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 16(8)**; [S.I. 2018/78](#), **reg. 5(1)(c)**

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## [<sup>F16</sup>PART 2A

### FORFEITURE OF TERRORIST CASH WITHOUT COURT ORDER

#### Textual Amendments

**F16** Sch. 1 Pt. 2A inserted (27.4.2017 for specified purposes, 30.1.2018 for the insertion of Sch. 1 para. 5A(10), 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 38\(4\), 58\(1\)\(6\)](#); [S.I. 2018/78](#), [regs. 2\(d\), 3\(u\)](#)

#### *Cash forfeiture notice*

- 5A (1) This paragraph applies while any cash is detained in pursuance of an order under paragraph 3(2).
- (2) A senior officer may give a notice for the purpose of forfeiting the cash or any part of it if satisfied that the cash or part is terrorist cash.
- (3) A notice given under sub-paragraph (2) is referred to in this Schedule as a cash forfeiture notice.
- (4) A cash forfeiture notice must—
- state the amount of cash in respect of which it is given,
  - state when and where the cash was seized,
  - confirm that the senior officer is satisfied as mentioned in sub-paragraph (2),
  - specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - explain that the cash will be forfeited unless an objection is received at that address within the period for objecting.
- (5) The period for objecting must be at least 30 days starting with the day after the notice is given.
- (6) The Secretary of State must by regulations made by statutory instrument make provision about how a cash forfeiture notice is to be given.
- (7) The regulations may (amongst other things) provide—
- for a cash forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;
  - for a cash forfeiture notice to be given by publication in such manner as may be prescribed;
  - for circumstances in which, and the time at which, a cash forfeiture notice is to be treated as having been given.
- (8) The regulations must ensure that where a cash forfeiture notice is given it is, if possible, given to every person to whom notice of an order under paragraph 3(2) in respect of the cash has been given.
- (9) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this Part of this Schedule—  
“senior officer” means—

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- (a) a senior police officer;
  - (b) an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;
  - (c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;
- “senior police officer” means a police officer of at least the rank of superintendent.

*Effect of cash forfeiture notice*

- 5B (1) This paragraph applies if a cash forfeiture notice is given in respect of any cash.
- (2) The cash is to be detained until—
- (a) the cash is forfeited under this paragraph,
  - (b) the notice lapses under this paragraph, or
  - (c) the cash is released under a power conferred by this Schedule.
- (3) If no objection is made within the period for objecting specified in the notice under paragraph 5A(4)(d), and the notice has not lapsed, the cash is forfeited (subject to paragraph 5D).
- (4) If an objection is made within the period for objecting, the notice lapses.
- (5) If an application is made for the forfeiture of the whole or any part of the cash under paragraph 6, the notice lapses.
- (6) If the cash or any part of it is released under a power conferred by this Schedule, the notice lapses or (as the case may be) lapses in relation to that part.
- (7) An objection may be made by anyone (whether a recipient of the notice or not).
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the cash under paragraph 6.
- (10) Nothing in this paragraph affects the validity of an order under paragraph 3(2).

*Detention following lapse of cash forfeiture notice*

- 5C (1) This paragraph applies if—
- (a) a cash forfeiture notice is given in respect of any cash,
  - (b) the notice lapses under paragraph 5B(4), and
  - (c) the period for which detention of the cash was authorised under paragraph 3(2) has expired.
- (2) The cash may be detained for a further period of up to 48 hours (calculated in accordance with paragraph 3(1A)).
- (3) But if within that period it is decided that neither of the applications mentioned in sub-paragraph (4) is to be made, the cash must be released.
- (4) The applications are—

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- (a) an application for a further order under paragraph 3(2);
  - (b) an application for forfeiture of the cash under paragraph 6.
- (5) If within that period an application is made for a further order under paragraph 3(2), the cash may be detained until the application is determined or otherwise disposed of.

*Application to set aside forfeiture*

- 5D (1) A person aggrieved by the forfeiture of cash in pursuance of paragraph 5B(3) may apply to a magistrates' court or (in Scotland) the sheriff for an order setting aside the forfeiture of the cash or any part of it.
- (2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended ("the 30-day period").
- (3) But the court or sheriff may give permission for an application to be made after the 30-day period has ended if the court or sheriff thinks that there are exceptional circumstances to explain why the applicant—
- (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (4) On an application under this paragraph the court or sheriff must consider whether the cash to which the application relates could be forfeited under paragraph 6 (ignoring the forfeiture mentioned in sub-paragraph (1)).
- (5) If the court or sheriff is satisfied that the cash to which the application relates or any part of it could not be forfeited under that paragraph the court or sheriff must set aside the forfeiture of that cash or part.
- (6) Where the court or sheriff sets aside the forfeiture of any cash—
- (a) the court or sheriff must order the release of that cash, and
  - (b) the cash is to be treated as never having been forfeited.

*Release of cash subject to cash forfeiture notice*

- 5E (1) This paragraph applies while any cash is detained under paragraph 5B or 5C.
- (2) The person from whom the cash was seized may apply to a magistrates' court or (in Scotland) the sheriff for the cash to be released.
- (3) On an application under sub-paragraph (2), the court or sheriff may direct the release of the cash or any part of it if not satisfied that the cash to be released is terrorist cash.
- (4) An authorised officer may release the cash or any part of it if satisfied that the detention of the cash to be released is no longer justified.

*Application of cash forfeited under cash forfeiture notice*

- 5F (1) Cash forfeited in pursuance of paragraph 5B(3), and any accrued interest on it—
- (a) if first detained in pursuance of an order under paragraph 3(2) made by a magistrates' court or a justice of the peace, is to be paid into the Consolidated Fund;
  - (b) if first detained in pursuance of an order under paragraph 3(2) made by the sheriff, is to be paid into the Scottish Consolidated Fund.



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- (2) But it is not to be paid in—
- (a) before the end of the period within which an application under paragraph 5D may be made (ignoring the possibility of an application by virtue of paragraph 5D(3)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.]

### PART 3

#### FORFEITURE [<sup>F17</sup>OF TERRORIST CASH]

##### Textual Amendments

- F17** Words in Sch. 1 Pt. 3 heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(9\)](#); [S.I. 2018/78](#), reg. 5(1)(c)

##### *Forfeiture*

- 6 (1) While cash is detained under this Schedule, an application for the forfeiture of the whole or any part of it may be made—
- (a) to a magistrates’ court by the Commissioners of Customs and Excise or an authorised officer,
  - (b) (in Scotland) to the sheriff by the Scottish Ministers.
- (2) The court or sheriff may order the forfeiture of the cash or any part of it if satisfied that the cash or part is terrorist cash.
- (3) In the case of property earmarked as terrorist property which belongs to joint tenants one of whom is an excepted joint owner, the order may not apply to so much of it as the court or sheriff thinks is attributable to the excepted joint owner’s share.
- (4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him) be earmarked; and references to his share of the earmarked property are to so much of the property as would have been his if the joint tenancy had been severed.

##### *[<sup>F18</sup>Appeal against decision in forfeiture proceedings]*

##### Textual Amendments

- F18** Sch. 1 paras. 7, 7A substituted for Sch. 1 para. 7 (with application in accordance with s. 84(2) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), [ss. 84\(1\), 100\(5\)](#) (with s. 101(2)); [S.I. 2009/58](#), art. 2(h)

- 7 (1) A party to proceedings for an order under paragraph 6 (“a forfeiture order”) who is aggrieved by a forfeiture order made in the proceedings or by the decision of the court or sheriff not to make a forfeiture order may appeal—
- (a) in England and Wales, to the Crown Court;

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- (b) in Scotland, to the sheriff principal;
  - (c) in Northern Ireland, to a county court.
- (2) The appeal must be brought before the end of the period of 30 days beginning with the date on which the order is made or, as the case may be, the decision is given.
- This is subject to paragraph 7A (extended time for appealing in certain cases of deproscription).
- (3) The court or sheriff principal hearing the appeal may make any order that appears to the court or sheriff principal to be appropriate.
- (4) If an appeal against a forfeiture order is upheld, the court or sheriff principal may order the release of [<sup>F19</sup>the whole or any part of] the cash.

#### Textual Amendments

**F19** Words in Sch. 1 para. 7(4) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), ss. **38(5)**, **58(1)(6)**; S.I. 2018/78, reg. 3(u)

#### *Extended time for appealing in certain cases where deproscription order made*

- 7A (1) This paragraph applies where—
- (a) a successful application for a forfeiture order relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,
  - (c) the forfeited cash is seized under this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of that Act,
  - (e) a deproscription order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of that Act, a resolution is passed by each House of Parliament under section 123(5)(b).
- (2) Where this paragraph applies, an appeal under paragraph 7 above against the forfeiture order may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.]

#### *Application of forfeited cash*

- 8 (1) Cash forfeited under [<sup>F20</sup>paragraph 6], and any accrued interest on it—
- (a) if forfeited by a magistrates’ court in England and Wales or Northern Ireland, is to be paid into the Consolidated Fund,
  - (b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
- (a) before the end of the period within which an appeal under paragraph 7 may be made, or

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- (b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

#### Textual Amendments

**F20** Words in Sch. 1 para. 8(1) substituted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(10\)](#); S.I. 2018/78, reg. 5(1)(c)

## PART 4

### MISCELLANEOUS<sup>[F21]</sup>: TERRORIST CASH]

#### Textual Amendments

**F21** Words in Sch. 1 Pt. 4 heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(11\)](#); S.I. 2018/78, reg. 5(1)(c)

#### *Victims*

- 9 (1) A person who claims that any cash detained under this Schedule, or any part of it, belongs to him may apply to a magistrates' court or (in Scotland) the sheriff for the cash or part to be released to him.
- (2) The application may be made in the course of proceedings under paragraph 3 or 6 or at any other time.
- (3) If it appears to the court or sheriff concerned that—
- (a) the applicant was deprived of the cash claimed, or of property which it represents, by criminal conduct,
  - (b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
  - (c) the cash claimed belongs to him,
- the court or sheriff may order the cash to be released to the applicant.
- <sup>[F22]</sup>(4) If sub-paragraph (5) applies, the court or sheriff may order the cash to be released to the applicant or to the person from whom it was seized.
- (5) This sub-paragraph applies where—
- (a) the applicant is not the person from whom the cash claimed was seized,
  - (b) it appears to the court or sheriff that the cash belongs to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to the cash, and
  - (d) no objection to the making of an order under sub-paragraph (4) has been made by the person from whom the cash was seized.
- (6) The release condition is met—
- (a) in relation to cash detained under paragraph 3, if the conditions in that paragraph for the detention of the cash are no longer met,

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- (b) in relation to cash detained under paragraph 5B or 5C, if the cash is not terrorist cash, and
- (c) in relation to cash detained pending the conclusion of proceedings in pursuance of an application under paragraph 6, if the court or sheriff decides not to make an order under that paragraph in relation to the cash.]

#### Textual Amendments

**F22** Sch. 1 para. 9(4)-(6) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), ss. **38(6)**, **58(1)(6)**; S.I. 2018/78, reg. 3(u)

#### *[<sup>F23</sup>Restrictions on release*

#### Textual Amendments

**F23** Sch. 1 para. 9A and cross-heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. **58(5)(6)**, **Sch. 5 para. 16(12)**; S.I. 2018/78, reg. 5(1)(c)

- 9A Cash is not to be released under any power or duty conferred or imposed by this Schedule (and so is to continue to be detained)—
- (a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.]

#### *Compensation*

- 10 (1) If no forfeiture order is made in respect of any cash detained under this Schedule, [<sup>F24</sup>and the cash is not otherwise forfeited in pursuance of a cash forfeiture notice,] the person to whom the cash belongs or from whom it was seized may make an application to the magistrates' court or (in Scotland) the sheriff for compensation.
- (2) If, for any period after the initial detention of the cash for 48 hours [<sup>F25</sup>(determined in accordance with paragraph 3(1A))], the cash was not held in an interest-bearing account while detained, the court or sheriff may order an amount of compensation to be paid to the applicant.
- (3) The amount of compensation to be paid under sub-paragraph (2) is the amount the court or sheriff thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.
- (4) If the court or sheriff is satisfied that, taking account of any interest to be paid under this Schedule or any amount to be paid under sub-paragraph (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the court or sheriff may order compensation (or additional compensation) to be paid to him .

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- (5) The amount of compensation to be paid under sub-paragraph (4) is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (6) If the cash was seized by a customs officer, the compensation is to be paid by the Commissioners of Customs and Excise.
- (7) If the cash was seized by a constable, the compensation is to be paid as follows—
- (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met,
  - (b) in the case of a constable of [<sup>F26</sup>the Police Service of Scotland, it is to be paid by the Scottish Police Authority,]
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000 (c. 32), it is to be paid out of money provided by the Chief Constable.
- [<sup>F27</sup>(7A) If the cash was seized by a counter-terrorism financial investigator, the compensation is to be paid as follows—
- (a) in the case of a counter-terrorism financial investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force,it is to be paid out of the police fund from which the expenses of the police force are met,
  - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.]
- (8) If the cash was seized by an immigration officer, the compensation is to be paid by the Secretary of State.
- [<sup>F28</sup>(8A) If any cash is detained under this Schedule and part only of the cash is forfeited in pursuance of a cash forfeiture notice, this paragraph has effect in relation to the other part.]
- (9) If a forfeiture order is made in respect only of a part of any cash detained under this Schedule, this paragraph has effect in relation to the other part.
- (10) This paragraph does not apply if the court or sheriff makes an order under paragraph 9.

#### Textual Amendments

- F24** Words in Sch. 1 para. 10(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(13\)](#); [S.I. 2018/78](#), reg. 5(1)(c)
- F25** Words in Sch. 1 para. 10(2) inserted (with application in accordance with s. 83(4) of the amending Act) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. [83\(3\)](#), 100(5) (with s. 101(2)); [S.I. 2009/58](#), art. 2(h)
- F26** Words in Sch. 1 para. 10(7)(b) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 37\(4\)](#)
- F27** Sch. 1 para. 10(7A) inserted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), ss. [41\(6\)\(a\)](#), 58(4)(6)

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**F28** Sch. 1 para. 10(8A) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(14\)](#); S.I. 2018/78, reg. 5(1)(c)

## [<sup>F29</sup>PART 4A

### FORFEITURE OF TERRORIST ASSETS

#### Textual Amendments

**F29** Sch. 1 Pt. 4A inserted (27.4.2017 for specified purposes, 30.1.2018 for the insertion of Sch. 1 para. 10G(9), 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 3 para. 2](#); S.I. 2018/78, regs. 2(h), 3(cc)

#### *Definition of “listed asset”*

- 10A (1) In this Part of this Schedule, a “listed asset” means an item of property that falls within one of the following descriptions of property—
- (a) precious metals;
  - (b) precious stones;
  - (c) watches;
  - (d) artistic works;
  - (e) face-value vouchers;
  - (f) postage stamps.
- (2) The Secretary of State may by regulations made by statutory instrument amend sub-paragraph (1)—
- (a) by removing a description of property;
  - (b) by adding a description of tangible personal (or corporeal moveable) property.
- (3) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) In this paragraph—
- (a) “precious metal” means gold, silver or platinum (whether in an unmanufactured or a manufactured state);
  - (b) “artistic work” means a piece of work falling within section 4(1)(a) of the Copyright, Designs and Patents Act 1988;
  - (c) “face-value voucher” means a voucher in physical form that represents a right to receive goods or services to the value of an amount stated on it.

#### *Seizure of listed assets*

- 10B (1) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that—
- (a) it is a listed asset, and
  - (b) it is within subsection (1)(a) or (b) of section 1 or it is property earmarked as terrorist property.

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- (2) An authorised officer may also seize any item of property if—
- (a) the authorised officer has reasonable grounds for suspecting the item to be a listed asset,
  - (b) the authorised officer has reasonable grounds for suspecting that part of the item is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
  - (c) it is not reasonably practicable to seize only that part.

*Initial detention of seized property*

- 10C (1) Property seized under paragraph 10B may be detained for an initial period of 48 hours.
- (2) Sub-paragraph (1) authorises the detention of property only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to that property as described in paragraph 10B(1) or (2) (as the case may be).
- (3) In calculating a period of hours for the purposes of this paragraph, no account shall be taken of—
- (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
  - (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

*Further detention of seized property*

- 10D (1) The period for which property seized under paragraph 10B, or any part of that property, may be detained may be extended by an order made—
- (a) in England and Wales or Northern Ireland, by a magistrates' court;
  - (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any property—
- (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order.
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1) extending a particular period of detention.
- (4) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—
- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and

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- (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (5) An application for an order under sub-paragraph (1) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for Her Majesty's Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (6) The court, sheriff or justice may make the order if satisfied, in relation to the item of property to be further detained, that—
  - (a) it is a listed asset, and
  - (b) condition 1, condition 2 or condition 3 is met.
- (7) Condition 1 is that there are reasonable grounds for suspecting that the property is intended to be used for the purposes of terrorism and that either—
  - (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (8) Condition 2 is that there are reasonable grounds for suspecting that the property consists of resources of an organisation which is a proscribed organisation and that either—
  - (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (9) Condition 3 is that there are reasonable grounds for suspecting that the property is property earmarked as terrorist property and that either—
  - (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (10) Where an application for an order under sub-paragraph (1) relates to an item of property seized under paragraph 10B(2), the court, sheriff or justice may make the order if satisfied that—
  - (a) the item of property is a listed asset,
  - (b) condition 1, 2 or 3 is met in respect of part of the item, and
  - (c) it is not reasonably practicable to detain only that part.
- (11) An order under sub-paragraph (1) must provide for notice to be given to persons affected by it.



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*Testing and safekeeping of property seized under paragraph 10B*

- 10E (1) An authorised officer may carry out (or arrange for the carrying out of) tests on any item of property seized under paragraph 10B for the purpose of establishing whether it is a listed asset.
- (2) An authorised officer must arrange for any item of property seized under paragraph 10B to be safely stored throughout the period during which it is detained under this Part of this Schedule.

*Release of detained property*

- 10F (1) This paragraph applies while any property is detained under this Part of this Schedule.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the property if satisfied, on an application by the person from whom the property was seized, that the conditions in paragraph 10C or 10D (as the case may be) for the detention of the property are no longer met in relation to the property to be released.
- (3) An authorised officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of it if satisfied that the detention of the property to be released is no longer justified.
- (4) But property is not to be released under this paragraph—
- (a) if an application for its release under paragraph 10O is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, until the proceedings are concluded.

See also paragraph 10G(7).

*Forfeiture*

- 10G (1) While property is detained under this Part of this Schedule, an application for the forfeiture of the whole or any part of it may be made—
- (a) to a magistrates' court, by the Commissioners for Her Majesty's Revenue and Customs or an authorised officer;
  - (b) to the sheriff, by the Scottish Ministers.
- (2) The court or sheriff may order the forfeiture of the property or any part of it if satisfied that—
- (a) the property is a listed asset, and
  - (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (3) An order under sub-paragraph (2) made by a magistrates' court may provide for payment under paragraph 10N of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
- (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.

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- (4) A sum in respect of a relevant item of expenditure is not payable under paragraph 10N in pursuance of provision under sub-paragraph (3) unless—
  - (a) the person who applied for the order under sub-paragraph (2) agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (5) For the purposes of sub-paragraph (4)—
  - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (2) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
  - (c) if the person who applied for the order under sub-paragraph (2) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (6) Sub-paragraph (2) ceases to apply on the transfer of an application made under this paragraph in accordance with paragraph 10J(1)(a) or (b).
- (7) Where an application for the forfeiture of any property is made under this paragraph, the property is to be detained (and may not be released under any power conferred by this Part of this Schedule) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.
- (8) Where the property to which the application relates is being detained under this Part of this Schedule as part of an item of property, having been seized under paragraph 10B(2), sub-paragraph (7) is to be read as if it required the continued detention of the whole of the item of property.
- (9) For the purposes of sub-paragraph (5)(c), a “senior officer” means—
  - (a) in relation to an application made by a constable or a counter-terrorism financial investigator, a senior police officer;
  - (b) in relation to an application made by an officer of Revenue and Customs, such an officer of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;
  - (c) in relation to an application made by an immigration officer, such an officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer.
- (10) In sub-paragraph (9), a “senior police officer” means a police officer of at least the rank of superintendent.

*Associated and joint property*

- 10H (1) Paragraphs 10I and 10J apply if—
- (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court or sheriff is satisfied that the property is a listed asset,

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- (c) the court or sheriff is satisfied that all or part of the property is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
  - (d) there exists property that is associated with the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c).
- (2) Paragraphs 10I and 10J also apply in England and Wales and Northern Ireland if—
  - (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court is satisfied that the property is a listed asset,
  - (c) the court is satisfied that all or part of the property is property earmarked as terrorist property, and
  - (d) the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c) belongs to joint tenants and one of the tenants is an excepted joint owner.
- (3) In this paragraph and paragraphs 10I and 10J “associated property” means property of any of the following descriptions that is not itself the forfeitable property—
  - (a) any interest in the forfeitable property;
  - (b) any other interest in the property in which the forfeitable property subsists;
  - (c) if the forfeitable property is a tenancy in common, the tenancy of the other tenant;
  - (d) if (in Scotland) the forfeitable property is owned in common, the interest of the other owner;
  - (e) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

- (4) In this paragraph and paragraphs 10I and 10J the “forfeitable property” means the property in relation to which the court or sheriff is satisfied as mentioned in subparagraph (1)(c) or (2)(c) (as the case may be).
- (5) For the purposes of this paragraph and paragraphs 10I and 10J—
  - (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him or her) be earmarked, and
  - (b) references to the excepted joint owner's share of property are to so much of the property as would have been his or hers if the joint tenancy had been severed.

*Agreements about associated and joint property*

- 10I (1) Where—
- (a) this paragraph applies, and
  - (b) the person who applied for the order under paragraph 10G (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,
- the magistrates' court or sheriff may, instead of making an order under paragraph 10G(2), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.

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- (2) The amount of the payment is (subject to sub-paragraph (3)) to be the amount which the persons referred to in sub-paragraph (1)(b) agree represents—
  - (a) in a case where this paragraph applies by virtue of paragraph 10H(1), the value of the forfeitable property;
  - (b) in a case where this paragraph applies by virtue of paragraph 10H(2), the value of the forfeitable property less the value of the excepted joint owner's share.
- (3) The amount of the payment may be reduced if the person who applied for the order under paragraph 10G agrees that the other party to the agreement has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention.
- (4) The reduction that is permissible by virtue of sub-paragraph (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) An order under sub-paragraph (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.
- (6) An order under sub-paragraph (1) made by a magistrates' court may provide for payment under sub-paragraph (11) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
  - (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.
- (7) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (11) in pursuance of provision under sub-paragraph (6) unless—
  - (a) the person who applied for the order under paragraph 10G agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (8) For the purposes of sub-paragraph (7)—
  - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.
- (9) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under sub-paragraph (1), and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under paragraph 10G.
- (10) If the person who applied for the order under paragraph 10G was an authorised officer, that person may enter into an agreement for the purposes of any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.

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- (11) An amount received under an order under sub-paragraph (1) must be applied as follows—
- (a) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (7), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (6);
  - (b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Part of this Schedule;
  - (c) third, it must be paid—
    - (i) if the order was made by a magistrates' court, into the Consolidated Fund;
    - (ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

*Associated and joint property: default of agreement*

- 10J (1) Where this paragraph applies and there is no agreement under paragraph 10I, the magistrates' court or sheriff—
- (a) must transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is £10,000 or more;
  - (b) may transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is less than £10,000.
- (2) The “relevant court” is—
- (a) the High Court, where the application under paragraph 10G was made to a magistrates' court;
  - (b) the Court of Session, where the application under paragraph 10G was made to the sheriff.
- (3) Where (under sub-paragraph (1)(a) or (b)) an application made under paragraph 10G is transferred to the relevant court, the relevant court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that—
- (a) the property is a listed asset, and
  - (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (4) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10G(2) made by a magistrates' court by virtue of paragraph 10G(3).
- (5) If provision is included in an order of the High Court by virtue of sub-paragraph (4) of this paragraph, paragraph 10G(4) and (5) apply with the necessary modifications.
- (6) The relevant court may, as well as making an order under sub-paragraph (3), make an order—
- (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.

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- (7) Where (under sub-paragraph (1)(b)) the magistrates' court or sheriff decides not to transfer an application made under paragraph 10G to the relevant court, the magistrates' court or sheriff may, as well as making an order under paragraph 10G(2), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.
- (8) An order under sub-paragraph (6) or (7) may be made only if the relevant court, the magistrates' court or the sheriff (as the case may be) thinks it just and equitable to do so.
- (9) An order under sub-paragraph (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.
- (10) In making an order under sub-paragraph (6) or (7), and including provision in it by virtue of sub-paragraph (9), the relevant court, the magistrates' court or the sheriff (as the case may be) must have regard to—
  - (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may be) of that person's share (including any value that cannot be assessed in terms of money), and
  - (b) the interest of the person who applied for the order under paragraph 10G in realising the value of the forfeitable property.
- (11) If the relevant court, the magistrates' court or the sheriff (as the case may be) is satisfied that—
  - (a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention, and
  - (b) the circumstances are exceptional,
 an order under sub-paragraph (6) or (7) may require the payment of compensation to that person.
- (12) The amount of compensation to be paid by virtue of sub-paragraph (11) is the amount the relevant court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (13) Compensation to be paid by virtue of sub-paragraph (11) is to be paid in the same way that compensation is to be paid under paragraph 10P.

#### *Paragraphs 10G to 10J: appeals*

- 10K (1) Any party to proceedings for an order for the forfeiture of property under paragraph 10G may appeal against—
- (a) the making of an order under paragraph 10G;
  - (b) the making of an order under paragraph 10J(7);
  - (c) a decision not to make an order under paragraph 10G unless the reason that no order was made is that an order was instead made under paragraph 10I;
  - (d) a decision not to make an order under paragraph 10J(7).

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Paragraphs (c) and (d) do not apply if the application for the order under paragraph 10G was transferred in accordance with paragraph 10J(1)(a) or (b).

- (2) Where an order under paragraph 10I is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10G that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under sub-paragraph (6) of paragraph 10I.
- (3) An appeal under this paragraph lies—
  - (a) in relation to England and Wales, to the Crown Court;
  - (b) in relation to Scotland, to the Sheriff Appeal Court;
  - (c) in relation to Northern Ireland, to a county court.
- (4) An appeal under this paragraph must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (5) Sub-paragraph (4) is subject to paragraph 10L.
- (6) The court hearing the appeal may make any order it thinks appropriate.
- (7) If the court upholds an appeal against an order forfeiting property, it may order the release of the whole or any part of the property.

*Extended time for appealing in certain cases where depreservation order made*

- 10L (1) This paragraph applies where—
- (a) a successful application for an order under paragraph 10G relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a depreservation order in respect of the organisation is refused by the Secretary of State,
  - (c) the property forfeited by the order under paragraph 10G was seized under this Part of this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a depreservation order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10K against the making of an order under paragraph 10G, and against the making (in addition) of any order under paragraph 10J(7), may be brought at any time before the end of the period of 30 days beginning with the date on which the depreservation order comes into force.
  - (3) In this paragraph a “depreservation order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

*Realisation of forfeited property*

- 10M (1) If property is forfeited under paragraph 10G or 10J, an authorised officer must realise the property or make arrangements for its realisation.
- (2) But the property is not to be realised—

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- (a) before the end of the period within which an appeal may be made (whether under paragraph 10K or otherwise), or
  - (b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (3) The realisation of property under sub-paragraph (1) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.

#### *Proceeds of realisation*

- 10N (1) The proceeds of property realised under paragraph 10M must be applied as follows—
- (a) first, they must be applied in making any payment required to be made by virtue of paragraph 10J(9);
  - (b) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10G(4) (including as applied by paragraph 10J(5)), are payable under this sub-paragraph in pursuance of provision under paragraph 10G(3) or, as the case may be, 10J(4);
  - (c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Part of this Schedule and in realising the property;
  - (d) fourth, they must be paid—
    - (i) if the property was forfeited by a magistrates' court or the High Court, into the Consolidated Fund;
    - (ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.
- (2) If what is realised under paragraph 10M represents part only of an item of property seized under paragraph 10B and detained under this Part of this Schedule, the reference in sub-paragraph (1)(c) to costs incurred in storing or insuring the property is to be read as a reference to costs incurred in storing or insuring the whole of the item of property.

#### *Victims*

- 10O (1) A person who claims that any property detained under this Part of this Schedule, or any part of it, belongs to him or her may apply for the property or part to be released.
- (2) An application under sub-paragraph (1) is to be made—
- (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) The application may be made in the course of proceedings under paragraph 10D or 10G or at any other time.
- (4) The court or sheriff may order the property to which the application relates to be released to the applicant if it appears to the court or sheriff that—
- (a) the applicant was deprived of the property to which the application relates, or of property which it represents, by criminal conduct,
  - (b) the property the applicant was deprived of was not, immediately before the applicant was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and



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- (c) the property belongs to the applicant.
- (5) If sub-paragraph (6) applies, the court or sheriff may order the property to which the application relates to be released to the applicant or to the person from whom it was seized.
- (6) This sub-paragraph applies where—
  - (a) the applicant is not the person from whom the property to which the application relates was seized,
  - (b) it appears to the court or sheriff that the property belongs to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to the property, and
  - (d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom the property was seized.
- (7) The release condition is met—
  - (a) in relation to property detained under paragraph 10C or 10D, if the conditions in paragraph 10C or (as the case may be) 10D for the detention of the property are no longer met, and
  - (b) in relation to property detained under paragraph 10G, if the court or sheriff decides not to make an order under that paragraph in relation to the property.

#### *Compensation*

- 10P (1) If no order under paragraph 10G, 10I or 10J is made in respect of any property detained under this Part of this Schedule, the person to whom the property belongs or from whom it was seized may make an application for compensation.
- (2) An application under sub-paragraph (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) If the court or sheriff is satisfied that the applicant has suffered loss as a result of the detention of the property and that the circumstances are exceptional, the court or sheriff may order compensation to be paid to the applicant.
- (4) The amount of compensation to be paid is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) If the property was seized by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for Her Majesty's Revenue and Customs.
- (6) If the property was seized by a constable, the compensation is to be paid as follows—
  - (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (7) If the property was seized by a counter-terrorism financial investigator, the compensation is to be paid as follows—

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- (a) in the case of a counter-terrorism financial investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force,
 it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (8) If the property was seized by an immigration officer, the compensation is to be paid by the Secretary of State.
- (9) If an order under paragraph 10G, 10I or 10J is made in respect only of a part of any property detained under this Part, this paragraph has effect in relation to the other part.
- (10) This paragraph does not apply if the court or sheriff makes an order under paragraph 10O.]

## [<sup>F30</sup>PART 4B

### FORFEITURE OF TERRORIST MONEY HELD IN [<sup>F31</sup>CERTAIN] ACCOUNTS

#### Textual Amendments

- F30** Sch. 1 Pt. 4B inserted (27.4.2017 for specified purposes, 30.1.2018 for the insertion of Sch. 1 para. 10X so far as not already in force, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017](#) (c. 22), s. 58(1)(6), [Sch. 4 para. 2](#); S.I. 2018/78, regs. 2(i), 3(dd)
- F31** Word in Sch. 1 Pt. 4B heading substituted (retrospectively) by [Financial Services Act 2021](#) (c. 22), s. 33(2), [Sch. 12 para. 3](#) (with s. 33(4))

#### *Application for account freezing order*

- 10Q (1) This paragraph applies if an enforcement officer has reasonable grounds for suspecting that money held in an account maintained with a [<sup>F32</sup>relevant financial institution]—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- [ In this Part of this Schedule, “relevant financial institution” means—
- <sup>F33</sup>(1A) (a) a bank,
- (b) a building society,
  - (c) an electronic money institution, or
  - (d) a payment institution.]
- (2) Where this paragraph applies the enforcement officer may apply to the relevant court for an account freezing order in relation to the account in which the money is held.
- (3) But—

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- (a) an enforcement officer may not apply for an account freezing order unless the officer is a senior officer or is authorised to do so by a senior officer, and
  - (b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.
- (4) For the purposes of this Part of this Schedule—
  - (a) an account freezing order is an order that, subject to any exclusions (see paragraph 10U), prohibits each person by or for whom the account to which the order applies is operated from making withdrawals or payments from the account;
  - (b) an account is operated by or for a person if the person is an account holder or a signatory or identified as a beneficiary in relation to the account.
- (5) An application for an account freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Part of this Schedule to forfeit money that is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (6) The money referred to in sub-paragraph (1) may be all or part of the credit balance of the account.
- (7) In this Part of this Schedule—
  - “bank” has the meaning given by paragraph 10R;
  - “building society” has the same meaning as in the Building Societies Act 1986;
  - [<sup>F34</sup>“electronic money institution” has the same meaning as in the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations);]
  - “enforcement officer” means—
    - (a) a constable, or
    - (b) a counter-terrorism financial investigator;
  - [<sup>F34</sup>“payment institution” means an authorised payment institution or a small payment institution (each as defined in regulation 2 of the Payment Services Regulations 2017 (S.I. 2017/752));]
  - “relevant court”—
    - (a) in England and Wales and Northern Ireland, means a magistrates' court, and
    - (b) in Scotland, means the sheriff;
  - “senior officer” means a police officer of at least the rank of superintendent.

#### Textual Amendments

- F32** Words in Sch. 1 para. 10Q(1) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 4\(2\)](#) (with s. 33(4))
- F33** Sch. 1 para. 10Q(1A) inserted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 4\(3\)](#) (with s. 33(4))
- F34** Words in Sch. 1 para. 10Q(1A) inserted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 4\(4\)](#) (with s. 33(4))

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*Meaning of “bank”*

- 10R (1) “Bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom.
- (2) In sub-paragraph (1), “authorised deposit-taker” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits;
  - (b) a person who—
    - (i) is specified, or is within a class of persons specified, by an order under section 38 of that Act (exemption orders), and
    - (ii) accepts deposits;
- <sup>F35</sup>(c) . . . . .
- (3) A reference in sub-paragraph (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

**Textual Amendments**

**F35** Sch. 1 para. 10R(2)(c) omitted (31.12.2020) by virtue of [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1149\)](#), reg. 1(3), [Sch. para. 37](#) (with reg. 4); 2020 c. 1, Sch. 5 para. 1(1)

*Making of account freezing order*

- 10S (1) This paragraph applies where an application for an account freezing order is made under paragraph 10Q in relation to an account.
- (2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that money held in the account (whether all or part of the credit balance of the account)—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (3) An account freezing order ceases to have effect at the end of the period specified in the order (which may be varied under paragraph 10T) unless it ceases to have effect at an earlier or later time in accordance with the provision made by paragraphs 10W(6)(c), 10Y(2) to (7), 10Z2(6) to (8) and 10Z3.
- (4) The period specified by the relevant court for the purposes of sub-paragraph (3) (whether when the order is first made or on a variation under paragraph 10T) may not exceed the period of 2 years, starting with the day on which the account freezing order is (or was) made.
- (5) An account freezing order must provide for notice to be given to persons affected by the order.

*Variation and setting aside of account freezing order*

- 10T (1) The relevant court may at any time vary or set aside an account freezing order on an application made by—
- (a) an enforcement officer, or

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- (b) any person affected by the order.
- (2) But an enforcement officer may not make an application under sub-paragraph (1) unless the officer is a senior officer or is authorised to do so by a senior officer.
- (3) Before varying or setting aside an account freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.
- (4) In relation to Scotland, the references in this paragraph to setting aside an order are to be read as references to recalling it.

#### *Exclusions*

- 10U (1) The power to vary an account freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the account to which the order applies.
- (2) Exclusions from the prohibition may also be made when the order is made.
- (3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the account is operated—
- (a) to meet the person's reasonable living expenses, or
  - (b) to carry on any trade, business, profession or occupation.
- (4) An exclusion may be made subject to conditions.
- (5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Schedule, it must ensure that the exclusion—
- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,
  - (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
  - (c) is made subject to the same conditions as would be the required conditions (see section 286A of the Proceeds of Crime Act 2002) if the order had been made under section 245A of that Act (in addition to any conditions imposed under sub-paragraph (4)).
- (6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Schedule—
- (a) must have regard to the desirability of the person being represented in any proceedings under this Schedule in which the person is a participant, and
  - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—
    - (i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
    - (ii) be funded by the Northern Ireland Legal Services Commission.
- (7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Schedule.

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- (8) The power to make exclusions must, subject to sub-paragraph (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Part of this Schedule to forfeit money that is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.

*Restriction on proceedings and remedies*

- 10V (1) If a court in which proceedings are pending in respect of an account maintained with a [<sup>F36</sup>relevant financial institution] is satisfied that an account freezing order has been applied for or made in respect of the account, it may either stay the proceedings or allow them to continue on any terms it thinks fit.
- (2) Before exercising the power conferred by sub-paragraph (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.
- (3) In relation to Scotland, the reference in sub-paragraph (1) to staying the proceedings is to be read as a reference to sisting the proceedings.

**Textual Amendments**

- F36** Words in Sch. 1 para. 10V(1) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\), s. 33\(2\)](#), [Sch. 12 para. 5](#) (with [s. 33\(4\)](#))

*Account forfeiture notice*

- 10W (1) This paragraph applies while an account freezing order has effect.
- (2) A senior officer may give a notice for the purpose of forfeiting money held in the frozen account (whether all or part of the credit balance of the account) if satisfied that the money—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (3) A notice given under sub-paragraph (2) is referred to in this Part of this Schedule as an account forfeiture notice.
- (4) An account forfeiture notice must—
- (a) state the amount of money held in the frozen account which it is proposed be forfeited,
  - (b) confirm that the senior officer is satisfied as mentioned in sub-paragraph (2),
  - (c) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - (d) explain that the money will be forfeited unless an objection is received at that address within the period for objecting.
- (5) The period for objecting must be at least 30 days starting with the day after the notice is given.
- (6) If no objection is made within the period for objecting, and the notice has not lapsed under paragraph 10Y—

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- (a) the amount of money stated in the notice is forfeited (subject to paragraph 10Z),
  - (b) the [<sup>F37</sup>relevant financial institution] with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and
  - (c) immediately after the transfer has been made, the account freezing order made in relation to the frozen account ceases to have effect.
- (7) An objection may be made by anyone (whether a recipient of the notice or not).
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the money held in the frozen account under paragraph 10Z2.

#### Textual Amendments

- F37** Words in Sch. 1 para. 10W(6)(b) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\), s. 33\(2\)](#), [Sch. 12 para. 6](#) (with [s. 33\(4\)](#))

#### *Giving of account forfeiture notice*

- 10X (1) The Secretary of State must by regulations made by statutory instrument make provision about how an account forfeiture notice is to be given.
- (2) The regulations may (amongst other things) provide—
- (a) for an account forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;
  - (b) for circumstances in which, and the time at which, an account forfeiture notice is to be treated as having been given.
- (3) The regulations must ensure that where an account forfeiture notice is given it is, if possible, given to every person to whom notice of the account freezing order was given.
- (4) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Lapse of account forfeiture notice*

- 10Y (1) An account forfeiture notice lapses if—
- (a) an objection is made within the period for objecting specified in the notice under paragraph 10W(4)(c),
  - (b) an application is made under paragraph 10Z2 for the forfeiture of money held in the frozen account, or
  - (c) an order is made under paragraph 10T setting aside (or recalling) the relevant account freezing order.
- (2) If an account forfeiture notice lapses under sub-paragraph (1)(a), the relevant account freezing order ceases to have effect at the end of the period of 48 hours starting with the making of the objection (“the 48-hour period”).

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- (3) If within the 48-hour period an application is made—
  - (a) for a variation of the relevant account freezing order under paragraph 10T so as to extend the period specified in the order, or
  - (b) for forfeiture of money held in the frozen account under paragraph 10Z2, the order continues to have effect until the relevant time (and then ceases to have effect).
- (4) In the case of an application of the kind mentioned in sub-paragraph (3)(a), the relevant time means—
  - (a) if an extension is granted, the time determined in accordance with paragraph 10S(3), or
  - (b) if an extension is not granted, the time when the application is determined or otherwise disposed of.
- (5) In the case of an application of the kind mentioned in sub-paragraph (3)(b), the relevant time is the time determined in accordance with paragraph 10Z2(6).
- (6) If within the 48-hour period it is decided that no application of the kind mentioned in sub-paragraph (3)(a) or (b) is to be made, an enforcement officer must, as soon as possible, notify the [<sup>F38</sup>relevant financial institution] with which the frozen account is maintained of that decision.
- (7) [<sup>F39</sup>If the relevant financial institution] is notified in accordance with sub-paragraph (6) before the expiry of the 48-hour period, the relevant account freezing order ceases to have effect [<sup>F40</sup>on the institution] being so notified.
- (8) In relation to an account forfeiture notice—
  - (a) “the frozen account” is the account in which the money to which the account forfeiture notice relates is held;
  - (b) “the relevant account freezing order” is the account freezing order made in relation to the frozen account.
- (9) In calculating a period of 48 hours for the purposes of this paragraph no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday, or
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the account freezing order was made.

#### Textual Amendments

- F38** Words in Sch. 1 para. 10Y(6) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 7\(2\)](#) (with s. 33(4))
- F39** Words in Sch. 1 para. 10Y(7) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 7\(3\)\(a\)](#) (with s. 33(4))
- F40** Words in Sch. 1 para. 10Y(7) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 7\(3\)\(b\)](#) (with s. 33(4))



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*Application to set aside forfeiture*

- 10Z (1) A person aggrieved by the forfeiture of money in pursuance of paragraph 10W(6)(a) may apply to the relevant court for an order setting aside the forfeiture of the money or any part of it.
- (2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended (“the 30-day period”).
- (3) But the relevant court may give permission for an application to be made after the 30-day period has ended if it thinks that there are exceptional circumstances to explain why the applicant—
- (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (4) On an application under this paragraph the relevant court must consider whether the money to which the application relates could be forfeited under paragraph 10Z2 (ignoring the forfeiture mentioned in sub-paragraph (1)).
- (5) If the relevant court is satisfied that the money to which the application relates or any part of it could not be forfeited under that paragraph it must set aside the forfeiture of that money or part.
- (6) Where the relevant court sets aside the forfeiture of any money—
- (a) it must order the release of that money, and
  - (b) the money is to be treated as never having been forfeited.
- (7) Where money is released by virtue of sub-paragraph (6)(a), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10W(6)(b).

*Application of money forfeited under account forfeiture notice*

- 10Z1 (1) Money forfeited in pursuance of paragraph 10W(6)(a), and any interest accrued on it whilst in the account referred to in paragraph 10W(6)(b)—
- (a) if, before being forfeited, the money was held in an account in relation to which an account freezing order made by a magistrates' court had effect, is to be paid into the Consolidated Fund;
  - (b) if, before being forfeited, the money was held in an account in relation to which an account freezing order made by the sheriff had effect, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
- (a) before the end of the period within which an application under paragraph 10Z may be made (ignoring the possibility of an application by virtue of paragraph 10Z(3)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.

*Forfeiture order*

- 10Z2 (1) This paragraph applies while an account freezing order has effect.
- (2) An application for the forfeiture of money held in the frozen account (whether all or part of the credit balance of the account) may be made—

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- (a) to a magistrates' court, by an enforcement officer, or
  - (b) to the sheriff, by the Scottish Ministers.
- (3) The court or sheriff may order the forfeiture of the money or any part of it if satisfied that the money or part—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (4) But in the case of property earmarked as terrorist property which belongs to joint tenants, one of whom is an excepted joint owner, an order by a magistrates' court may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.
- (5) For the purposes of sub-paragraph (4)—
- (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him or her) be earmarked, and
  - (b) references to the excepted joint owner's share of property are to so much of the property as would have been his or hers if the joint tenancy had been severed.
- (6) Where an application is made under sub-paragraph (2), the account freezing order is to continue to have effect until the time referred to in sub-paragraph (7)(b) or (8).
- (7) Where money held in a frozen account is ordered to be forfeited under sub-paragraph (3)—
- (a) the [<sup>F41</sup>relevant financial institution] with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and
  - (b) immediately after the transfer has been made the account freezing order made in relation to the frozen account ceases to have effect.
- (8) Where, other than by the making of an order under sub-paragraph (3), an application under sub-paragraph (2) is determined or otherwise disposed of, the account freezing order ceases to have effect immediately after that determination or other disposal.

#### Textual Amendments

**F41** Words in Sch. 1 para. 10Z2(7)(a) substituted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), [Sch. 12 para. 8](#) (with s. 33(4))

#### *Continuation of account freezing order pending appeal*

- 10Z3 (1) This paragraph applies where, on an application under sub-paragraph (2) of paragraph 10Z2 in relation to an account to which an account freezing order applies, the court or sheriff decides—
- (a) to make an order under sub-paragraph (3) of that paragraph in relation to part only of the money to which the application related, or
  - (b) not to make an order under sub-paragraph (3) of that paragraph.

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- (2) The person who made the application under paragraph 10Z2(2) may apply without notice to the court or sheriff that made the decision referred to in sub-paragraph (1) (a) or (b) for an order that the account freezing order is to continue to have effect.
- (3) Where the court or sheriff makes an order under sub-paragraph (2) the account freezing order is to continue to have effect until—
  - (a) the end of the period of 48 hours starting with the making of the order under sub-paragraph (2), or
  - (b) if within that period of 48 hours an appeal is brought under paragraph 10Z4 against the decision referred to in sub-paragraph (1)(a) or (b), the time when the appeal is determined or otherwise disposed of.
- (4) Sub-paragraph (9) of paragraph 10Y applies for the purposes of sub-paragraph (3) as it applies for the purposes of that paragraph.

*Appeal against decision under paragraph 10Z2*

- 10Z4 (1) Any party to proceedings for an order for the forfeiture of money under paragraph 10Z2 who is aggrieved by an order under that paragraph or by the decision of the court not to make such an order may appeal—
- (a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;
  - (b) from an order or decision of the sheriff, to the Sheriff Appeal Court;
  - (c) from an order or decision of a magistrates' court in Northern Ireland, to a county court.
- (2) An appeal under sub-paragraph (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
  - (3) Sub-paragraph (2) is subject to paragraph 10Z5.
  - (4) The court hearing the appeal may make any order it thinks appropriate.
  - (5) If the court upholds an appeal against an order forfeiting the money, it may order the release of the whole or any part of the money.
  - (6) Where money is released by virtue of sub-paragraph (5), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10Z2(7)(a).

*Extended time for appealing in certain cases where depreservation order made*

- 10Z5 (1) This paragraph applies where—
- (a) a successful application for an order under paragraph 10Z2 relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a depreservation order in respect of the organisation is refused by the Secretary of State,
  - (c) the money forfeited by the order under paragraph 10Z2 was made subject to an account freezing order on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a depreservation order is made accordingly, and

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- (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10Z4 against the making of an order under paragraph 10Z2 may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

*Application of money forfeited under account forfeiture order*

- 10Z6 (1) Money forfeited by an order under paragraph 10Z2, and any interest accrued on it whilst in the account referred to in sub-paragraph (7)(a) of that paragraph—
- (a) if forfeited by a magistrates' court, is to be paid into the Consolidated Fund, and
  - (b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
- (a) before the end of the period within which an appeal under paragraph 10Z4 may be made, or
  - (b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

*<sup>F42</sup>Victims etc*

**Textual Amendments**

**F42** Sch. 1 para. 10Z6A and cross-heading inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 10 para. 4](#)

- 10Z6A(1) A person who claims that money in respect of which an account freezing order has effect belongs to them may apply to the relevant court for the money to be released.
- (2) The application may be made in the course of proceedings under paragraph 10S or 10Z2 or at any other time.
  - (3) The court may, subject to sub-paragraph (7), order the money to which the application relates to be released to the applicant if it appears to the court that—
    - (a) the applicant was deprived of the money to which the application relates, or of property which it represents, by criminal conduct,
    - (b) the money the applicant was deprived of was not, immediately before the applicant was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
    - (c) the money belongs to the applicant.
  - (4) If sub-paragraph (5) applies, the court may, subject to sub-paragraph (7), order the money to which the application relates to be released to the applicant.
  - (5) This sub-paragraph applies where—

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- (a) the applicant is not the person from whom the money to which the application relates was seized,
  - (b) it appears to the court that the money belongs to the applicant,
  - (c) the court is satisfied that the release condition is met in relation to the money, and
  - (d) no objection to the making of an order under sub-paragraph (4) has been made by the person from whom the money was seized.
- (6) The release condition is met—
  - (a) in relation to money held in a frozen account, if the conditions for making an order under paragraph 10S in relation to the money are no longer met, or
  - (b) in relation to money held in a frozen account which is subject to an application for forfeiture under paragraph 10Z2, if the court or sheriff decides not to make an order under that paragraph in relation to the money.
- (7) Money is not to be released under this paragraph—
  - (a) if an account forfeiture notice under paragraph 10W is given in respect of the money, until any proceedings in pursuance of the notice (including any proceedings on appeal) are concluded;
  - (b) if an application for its forfeiture under paragraph 10Z2, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (c) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.
- (8) In relation to money held in an account that is subject to an account freezing order, references in this paragraph to a person from whom money was seized include a reference to a person by or for whom the account was operated immediately before the account freezing order was made.]

### *Compensation*

- 10Z7 (1) This paragraph applies if—
- (a) an account freezing order is made, and
    - (b) none of the money held in the account to which the order applies is forfeited in pursuance of an account forfeiture notice or by an order under paragraph 10Z2.
  - (2) Where this paragraph applies a person by or for whom the account to which the account freezing order applies is operated may make an application to the relevant court for compensation.
  - (3) If the relevant court is satisfied that the applicant has suffered loss as a result of the making of the account freezing order and that the circumstances are exceptional, the relevant court may order compensation to be paid to the applicant.
  - (4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
  - (5) If the account freezing order was applied for by a constable, the compensation is to be paid as follows—

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- (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (6) If the account freezing order was applied for by a counter-terrorism financial investigator, the compensation is to be paid as follows—
- (a) in the case of an investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force,
 it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of an investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.]

## [<sup>F43</sup>PART 4BA

### SEIZURE AND DETENTION OF TERRORIST CRYPTOASSETS

#### Textual Amendments

**F43** Sch. 1 Pts. 4BA-4BD inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 10 para. 2](#)

#### Interpretation

10Z7A(1) In this Schedule—

“cryptoasset” means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;

“crypto wallet” means—

- (a) software,
- (b) hardware,
- (c) a physical item, or
- (d) any combination of the things mentioned in paragraphs (a) to (c),

which is used to store the cryptographic private key that allows cryptoassets to be accessed;

“terrorist cryptoasset” means a cryptoasset which—

- (a) is within subsection (1)(a) or (b) of section 1, or
- (b) is earmarked as terrorist property.

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- (2) The Secretary of State may by regulations made by statutory instrument amend the definitions of “cryptoasset” and “crypto wallet” in sub-paragraph (1).
- (3) Regulations under sub-paragraph (2)—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) In this Part—
  - “cryptoasset-related item” means an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under this Part of terrorist cryptoassets;
  - “senior officer” means—
    - (a) a senior police officer;
    - (b) an officer of Revenue and Customs of a rank designated by the Commissioners for His Majesty’s Revenue and Customs as equivalent to that of a senior police officer;
    - (c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;
  - “senior police officer” means a police officer of at least the rank of superintendent.

#### *Seizure of cryptoasset-related items*

- 10Z7A(A) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that the item is a cryptoasset-related item.
- (2) If an authorised officer is lawfully on any premises, the officer may, for the purpose of—
    - (a) determining whether any property is a cryptoasset-related item, or
    - (b) enabling or facilitating the seizure under this Part of any terrorist cryptoasset,require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.
  - (3) But sub-paragraph (2) does not authorise an authorised officer to require a person to produce privileged information.
  - (4) In this paragraph “privileged information” means information which a person would be entitled to refuse to provide—
    - (a) in England and Wales and Northern Ireland, on grounds of legal professional privilege in proceedings in the High Court;
    - (b) in Scotland, on grounds of confidentiality of communications in proceedings in the Court of Session.

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- (5) Where an authorised officer has seized a cryptoasset-related item under sub-paragraph (1), the officer may use any information obtained from the item for the purpose of—
- (a) identifying or gaining access to a crypto wallet, and
  - (b) by doing so, enabling or facilitating the seizure under this Part of any cryptoassets.

#### *Initial detention of cryptoasset-related items*

10Z7A(B) Property seized under paragraph 10Z7AA may be detained for an initial period of 48 hours.

- (2) Sub-paragraph (1) authorises the detention of property only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to that property as described in paragraph 10Z7AA(1).
- (3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
  - (e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

#### *Further detention of cryptoasset-related items*

10Z7A(C) The period for which property seized under paragraph 10Z7AA may be detained may be extended by an order made—

- (a) in England and Wales or Northern Ireland, by a magistrates' court;
- (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any property—
  - (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).
- (4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2) (b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—



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- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and
  - (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (6) An application for an order under sub-paragraph (1) or (4) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the item of property to be further detained, that—
  - (a) there are reasonable grounds for suspecting that it is a cryptoasset-related item, and
  - (b) its continuing detention is justified.
- (8) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the item of property to be further detained.
- (9) A “request for assistance” in sub-paragraph (8) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).
- (10) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

### *Seizure of cryptoassets*

- 10Z7A(1D) An authorised officer may seize cryptoassets if the authorised officer has reasonable grounds for suspecting that the cryptoassets are terrorist cryptoassets.
- (2) The circumstances in which a cryptoasset is “seized” for the purposes of sub-paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the authorised officer.

### *Prior authorisation for detention of cryptoassets*

- 10Z7A(1E) Where an order is made under paragraph 10Z7AC in respect of a cryptoasset-related item, the court, sheriff or justice making the order may, at the same time, make an order to authorise the detention of any cryptoassets that may be seized as a result of information obtained from that item.

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- (2) An application for an order under this paragraph may be made, by a person mentioned in paragraph 10Z7AC(6), at the same time as an application for an order under paragraph 10Z7AC is made by that person.
- (3) The court, sheriff or justice may make an order under this paragraph if satisfied that there are reasonable grounds for suspecting that the cryptoassets that may be seized are terrorist cryptoassets.
- (4) An order under this paragraph authorises detention of the cryptoassets for the same period of time as the order under paragraph 10Z7AC authorises detention in respect of the cryptoasset-related item to which those cryptoassets relate.

#### *Initial detention of cryptoassets*

10Z7A(H) Cryptoassets seized under paragraph 10Z7AD may be detained for an initial period of 48 hours.

- (2) Sub-paragraph (1) authorises the detention of cryptoassets only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to those cryptoassets as described in paragraph 10Z7AD(1).
- (3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—
  - (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
  - (e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.
- (4) This paragraph is subject to paragraph 10Z7AE.

#### *Further detention of cryptoassets*

10Z7A(G) The period for which cryptoassets seized under paragraph 10Z7AD may be detained may be extended by an order made—

- (a) in England and Wales or Northern Ireland, by a magistrates' court;
- (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any cryptoassets—
  - (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).

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- (4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2) (b) to be extended to a period of up to 3 years beginning with the date of the first order.
- (5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—
  - (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and
  - (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (6) An application for an order under sub-paragraph (1) or (4) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the cryptoassets to be further detained, that condition 1, condition 2 or condition 3 is met.
- (8) Condition 1 is that there are reasonable grounds for suspecting that the cryptoassets are intended to be used for the purposes of terrorism and that either—
  - (a) their continued detention is justified while their intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
  - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (9) Condition 2 is that there are reasonable grounds for suspecting that the cryptoassets consist of resources of an organisation which is a proscribed organisation and that either—
  - (a) their continued detention is justified while investigation is made into whether or not they consist of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
  - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (10) Condition 3 is that there are reasonable grounds for suspecting that the cryptoassets are property earmarked as terrorist property and that either—
  - (a) their continued detention is justified while their derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or
  - (b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.
- (11) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the cryptoassets to be further detained.

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- (12) A “request for assistance” in sub-paragraph (11) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —
- (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).
- (13) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

#### *Safekeeping of cryptoasset-related items and cryptoassets*

- 10Z7A(H) An authorised officer must arrange for any item of property seized under paragraph 10Z7AA to be safely stored throughout the period during which it is detained under this Part.
- (2) An authorised officer must arrange for any cryptoassets seized under paragraph 10Z7AD to be safely stored throughout the period during which they are detained under this Part.

#### *Release of cryptoasset-related items and cryptoassets*

- 10Z7A(I) This paragraph applies while any cryptoasset or other item of property is detained under this Part.
- (2) A magistrates’ court or (in Scotland) the sheriff may, subject to sub-paragraph (9), direct the release of the whole or any part of the property if the following condition is met.
  - (3) The condition is that the court or sheriff is satisfied, on an application by the person from whom the property was seized, that the conditions for the detention of the property in this Part are no longer met in relation to the property to be released.
  - (4) A person within sub-paragraph (5) may, subject to sub-paragraph (9) and after notifying the magistrates’ court, sheriff or justice under whose order property is being detained, release the whole or any part of the property if satisfied that the detention of the property to be released is no longer justified.
  - (5) The following persons are within this sub-paragraph—
    - (a) in relation to England and Wales and Northern Ireland, an authorised officer;
    - (b) in relation to Scotland, a procurator fiscal.
  - (6) If any cryptoasset-related item which has been released is not claimed within the period of a year beginning with the date on which it was released, an authorised officer may—
    - (a) retain the item and deal with it as they see fit,
    - (b) dispose of the item, or

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- (c) destroy the item.
- (7) The powers in sub-paragraph (6) may be exercised only—
  - (a) where the authorised officer has taken reasonable steps to notify—
    - (i) the person from whom the item was seized, and
    - (ii) any other persons who the authorised officer has reasonable grounds to believe have an interest in the item,that the item has been released, and
  - (b) with the approval of a senior officer.
- (8) Any proceeds of a disposal of the item are to be paid—
  - (a) into the Consolidated Fund if—
    - (i) the item was directed to be released by a magistrates’ court, or
    - (ii) a magistrates’ court or justice was notified under sub-paragraph (4) of the release;
  - (b) into the Scottish Consolidated Fund if—
    - (i) the item was directed to be released by the sheriff, or
    - (ii) the sheriff was notified under sub-paragraph (4) of the release.
- (9) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, the property is not to be released under this paragraph (and so is to continue to be detained) until the proceedings are concluded.

## PART 4BB

### TERRORIST CRYPTOASSETS: CRYPTO WALLET FREEZING ORDERS

#### *Interpretation*

10Z7B(1) In this Part—

- (a) “cryptoasset exchange provider” means a firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—
    - (i) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,
    - (ii) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or
    - (iii) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;
  - (b) “custodian wallet provider” means a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer—
    - (i) cryptoassets on behalf of its customers, or
    - (ii) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets;
  - (c) “cryptoasset service provider” includes cryptoasset exchange provider and custodian wallet provider.
- (2) In the definition of “cryptoasset exchange provider” in sub-paragraph (1)—

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- (a) “cryptoasset” includes a right to, or interest in, a cryptoasset;
- (b) “money” means—
  - (i) money in sterling,
  - (ii) money in any other currency, or
  - (iii) money in any other medium of exchange,
 but does not include a cryptoasset.
- (3) The Secretary of State may by regulations made by statutory instrument amend the definitions in sub-paragraphs (1) and (2).
- (4) Regulations under sub-paragraph (3)—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (5) A statutory instrument containing regulations under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) For the purposes of this Part—
  - (a) a crypto wallet freezing order is an order that, subject to any exclusions (see paragraph 10Z7BD), prohibits each person by or for whom the crypto wallet to which the order applies is administered from—
    - (i) making withdrawals or payments from the crypto wallet, or
    - (ii) using the crypto wallet in any other way;
  - (b) a crypto wallet is administered by or for a person if the person is the person to whom services are being provided by a cryptoasset service provider in relation to that crypto wallet.
- (7) In this Part—
  - “enforcement officer” means—
    - (a) a constable, or
    - (b) a counter-terrorism financial investigator;
  - “relevant court” means—
    - (a) in England and Wales and Northern Ireland, a magistrates’ court, and
    - (b) in Scotland, the sheriff;
  - “senior officer” means a police officer of at least the rank of superintendent;
  - “UK-connected cryptoasset service provider” means a cryptoasset service provider which—
    - (a) is acting in the course of business carried on by it in the United Kingdom,
    - (b) has terms and conditions with the persons to whom it provides services which provide for a legal dispute to be litigated in the courts of a part of the United Kingdom,
    - (c) holds, in the United Kingdom, any data relating to the persons to whom it provides services, or
    - (d) meets the condition in sub-paragraph (8).
- (8) The condition in this sub-paragraph is that—

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- (a) the cryptoasset service provider has its registered office, or if it does not have one, its head office in the United Kingdom, and
- (b) the day-to-day management of the provider's business is the responsibility of that office or another establishment maintained by it in the United Kingdom.

*Application for crypto wallet freezing order*

10Z7B(A) This paragraph applies if an enforcement officer has reasonable grounds for suspecting that cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider are terrorist cryptoassets.

- (2) Where this paragraph applies the enforcement officer may apply to the relevant court for a crypto wallet freezing order in relation to the crypto wallet in which the cryptoassets are held.
- (3) But—
  - (a) an enforcement officer may not apply for a crypto wallet freezing order unless the officer is a senior officer or is authorised to do so by a senior officer, and
  - (b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.
- (4) An application for a crypto wallet freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.
- (5) An application for a crypto wallet freezing order under this paragraph may be combined with an application for an account freezing order under paragraph 10Q where a single entity—
  - (a) is both a relevant financial institution for the purposes of paragraph 10Q and a cryptoasset service provider for the purposes of this Part, and
  - (b) operates or administers, for the same person, both an account holding money and a crypto wallet.

*Making of crypto wallet freezing order*

10Z7B(B) This paragraph applies where an application for a crypto wallet freezing order is made under paragraph 10Z7BA in relation to a crypto wallet.

- (2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that some or all of the cryptoassets held in the crypto wallet are terrorist cryptoassets.
- (3) A crypto wallet freezing order ceases to have effect at the end of the period specified in the order (which may be varied under paragraph 10Z7BC) unless it ceases to have effect at an earlier or later time in accordance with this Part or Part 4BC or 4BD.
- (4) The period specified by the relevant court for the purposes of sub-paragraph (3) (whether when the order is first made or on a variation under paragraph 10Z7BC) may not exceed the period of 2 years, beginning with the day on which the crypto wallet freezing order is (or was) made; but this is subject to sub-paragraph (5).



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- (5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the day on which the crypto wallet freezing order is (or was) made.
- (6) The relevant court may make an order under sub-paragraph (5) if satisfied that a request for assistance is outstanding in relation to some or all of the cryptoassets held in the crypto wallet.
- (7) A “request for assistance” in sub-paragraph (6) means a request for assistance in obtaining evidence (including information in any form or article) in connection with some or all of the cryptoassets held in the crypto wallet, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an enforcement officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).
- (8) A crypto wallet freezing order must provide for notice to be given to persons affected by the order.

#### *Variation and setting aside of crypto wallet freezing order*

- 10Z7B(1) The relevant court may at any time vary or set aside a crypto wallet freezing order on an application made by—
- (a) an enforcement officer, or
  - (b) any person affected by the order.
- (2) But an enforcement officer may not make an application under sub-paragraph (1) unless the officer is a senior officer or is authorised to do so by a senior officer.
  - (3) Before varying or setting aside a crypto wallet freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.
  - (4) In relation to Scotland, the references in this paragraph to setting aside an order are to be read as references to recalling it.

#### *Exclusions*

- 10Z7B(2) The power to vary a crypto wallet freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the crypto wallet to which the order applies.
- (2) Exclusions from the prohibition may also be made when the order is made.
  - (3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the crypto wallet is administered—
    - (a) to meet the person’s reasonable living expenses, or
    - (b) to carry on any trade, business, profession or occupation.



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- (4) An exclusion may be made subject to conditions.
- (5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Schedule, it must ensure that the exclusion—
  - (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,
  - (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
  - (c) is made subject to the same conditions as would be the required conditions (see section 286A of the Proceeds of Crime Act 2002) if the order had been made under section 245A of that Act (in addition to any conditions imposed under sub-paragraph (4)).
- (6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Schedule—
  - (a) must have regard to the desirability of the person being represented in any proceedings under this Schedule in which the person is a participant, and
  - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—
    - (i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
    - (ii) be funded by the Department of Justice in Northern Ireland.
- (7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Schedule.
- (8) The power to make exclusions must, subject to sub-paragraph (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.

#### *Restriction on proceedings and remedies*

- 10Z7B(1) If a court in which proceedings are pending in respect of a crypto wallet administered by a UK-connected cryptoasset service provider is satisfied that a crypto wallet freezing order has been applied for or made in respect of the crypto wallet, it may either stay the proceedings or allow them to continue on any terms it thinks fit.
- (2) Before exercising the power conferred by sub-paragraph (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.
  - (3) In relation to Scotland, the reference in sub-paragraph (1) to staying the proceedings is to be read as a reference to sisting the proceedings.

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## PART 4BC

### FORFEITURE OF TERRORIST CRYPTOASSETS

#### *Interpretation*

10Z7C(1) In this Part—

“cryptoasset service provider” has the same meaning as in Part 4BB (see paragraph 10Z7B(1));

“crypto wallet freezing order” has the same meaning as in Part 4BB (see paragraph 10Z7B(6));

“senior officer” means—

- (a) a senior police officer;
- (b) an officer of Revenue and Customs of a rank designated by the Commissioners for His Majesty’s Revenue and Customs as equivalent to that of a senior police officer;
- (c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;

“senior police officer” means a police officer of at least the rank of superintendent.

- (2) Paragraph 10Z7B(6)(b) (administration of crypto wallets) applies in relation to this Part as it applies in relation to Part 4BB.

#### *Forfeiture*

10Z7C(A) This paragraph applies—

- (a) while any cryptoassets are detained under Part 4BA, or
- (b) while a crypto wallet freezing order made under paragraph 10Z7BB has effect.

- (2) An application for the forfeiture of some or all of the cryptoassets that are detained or held in the crypto wallet that is subject to the crypto wallet freezing order may be made—

- (a) to a magistrates’ court by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer, or
- (b) to the sheriff by the Scottish Ministers.

- (3) The court or sheriff may order the forfeiture of some or all of the cryptoassets if satisfied that the cryptoassets are terrorist cryptoassets.

- (4) An order under sub-paragraph (3) made by a magistrates’ court may provide for payment under paragraph 10Z7CJ of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—

- (a) the proceedings in which the order is made, or
- (b) any related proceedings under this Part.

- (5) A sum in respect of a relevant item of expenditure is not payable under paragraph 10Z7CJ in pursuance of provision under sub-paragraph (4) unless—

- (a) the person who applied for the order under sub-paragraph (3) agrees to its payment, or

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- (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (6) For the purposes of sub-paragraph (5)—
  - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (3) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
  - (c) if the person who applied for the order under sub-paragraph (3) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (7) Sub-paragraph (3) ceases to apply on the transfer of an application made under this paragraph in accordance with paragraph 10Z7CE.

*Forfeiture: supplementary*

10Z7C(B) Sub-paragraph (2) applies where an application is made under paragraph 10Z7CA for the forfeiture of any cryptoassets detained under Part 4BA.

- (2) The cryptoassets are to continue to be detained under Part 4BA (and may not be released under any power conferred by this Schedule) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.

This is subject to Part 4BD (conversion to money).

- (3) Where an application is made under paragraph 10Z7CA in relation to cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order—
  - (a) sub-paragraphs (4) and (5) apply, and
  - (b) the crypto wallet freezing order is to continue to have effect until the time referred to in sub-paragraph (4)(b) or (5).
- (4) Where the cryptoassets are ordered to be forfeited under paragraph 10Z7CA(3) or 10Z7CE(3)—
  - (a) the cryptoasset service provider that administers the crypto wallet must transfer the cryptoassets into a crypto wallet nominated by an authorised officer, and
  - (b) immediately after the transfer has been made, the freezing order ceases to have effect.
- (5) Where the application is determined or otherwise disposed of other than by the making of an order under paragraph 10Z7CA(3) or 10Z7CE(3), the crypto wallet freezing order ceases to have effect immediately after that determination or other disposal.
- (6) Sub-paragraphs (4)(b) and (5) are subject to paragraph 10Z7CF and Part 4BD.
- (7) The Secretary of State may by regulations made by statutory instrument amend this paragraph to make provision about the forfeiture of cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order.
- (8) Regulations under sub-paragraph (7) may in particular make provision about—
  - (a) the process for the forfeiture of cryptoassets;

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- (b) the realisation of forfeited cryptoassets;
  - (c) the application of the proceeds of such realisation.
- (9) Regulations under sub-paragraph (7) may—
- (a) make different provision for different purposes;
  - (b) make consequential, supplementary, incidental, transitional, transitory or saving provision, including provision which makes consequential amendments to this Part.
- (10) A statutory instrument containing regulations under sub-paragraph (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

#### *Associated and joint property*

10Z7CQ(1) Paragraphs 10Z7CD and 10Z7CE apply if—

- (a) an application is made under paragraph 10Z7CA in respect of cryptoassets,
  - (b) the court or sheriff is satisfied that some or all of the cryptoassets are terrorist cryptoassets, and
  - (c) there exists property that is associated with the cryptoassets in relation to which the court or sheriff is satisfied as mentioned in paragraph (b).
- (2) Paragraphs 10Z7CD and 10Z7CE also apply in England and Wales and Northern Ireland if—
- (a) an application is made under paragraph 10Z7CA in respect of cryptoassets,
  - (b) the court is satisfied that some or all of the cryptoassets are earmarked as terrorist property, and
  - (c) the cryptoassets in relation to which the court is satisfied as mentioned in paragraph (b) belong to joint tenants and one of the tenants is an excepted joint owner.
- (3) In this paragraph and paragraphs 10Z7CD and 10Z7CE, “associated property” means property of any of the following descriptions that is not itself the forfeitable property—
- (a) any interest in the forfeitable property;
  - (b) any other interest in the property in which the forfeitable property subsists;
  - (c) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

- (4) In this paragraph and paragraphs 10Z7CD and 10Z7CE, the “forfeitable property” means the cryptoassets in relation to which the court or sheriff is satisfied as mentioned in sub-paragraph (1)(b) or (2)(b) (as the case may be).
- (5) For the purposes of this paragraph and paragraphs 10Z7CD and 10Z7CE—
- (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against them) be earmarked, and
  - (b) references to the excepted joint owner’s share of property are to so much of the property as would have been theirs if the joint tenancy had been severed.

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*Agreements about associated and joint property*

10Z7C(1) Where—

- (a) this paragraph applies, and
  - (b) the person who applied for the order under paragraph 10Z7CA (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,  
the magistrates’ court or sheriff may, instead of making an order under paragraph 10Z7CA(3), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.
- (2) The amount of the payment is (subject to sub-paragraph (3)) to be the amount which the persons referred to in sub-paragraph (1)(b) agree represents—
  - (a) in a case where this paragraph applies by virtue of paragraph 10Z7CC(1), the value of the forfeitable property;
  - (b) in a case where this paragraph applies by virtue of paragraph 10Z7CC(2), the value of the forfeitable property less the value of the excepted joint owner’s share.
- (3) The amount of the payment may be reduced if the person who applied for the order under paragraph 10Z7CA agrees that the other party to the agreement has suffered loss as a result of—
  - (a) the seizure of the forfeitable property under paragraph 10Z7AD and its subsequent detention, or
  - (b) the making of a crypto wallet freezing order under paragraph 10Z7BB.
- (4) The reduction that is permissible by virtue of sub-paragraph (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) An order under sub-paragraph (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.
- (6) An order under sub-paragraph (1) made by a magistrates’ court may provide for payment under sub-paragraph (11) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
  - (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part.
- (7) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (11) in pursuance of provision under sub-paragraph (6) unless—
  - (a) the person who applied for the order under paragraph 10Z7CA agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (8) For the purposes of sub-paragraph (7)—
  - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;

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- (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.
- (9) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under sub-paragraph (1), and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under paragraph 10Z7CA.
- (10) If the person who applied for the order under paragraph 10Z7CA was an authorised officer, that person may enter into an agreement for the purposes of any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.
- (11) An amount received under an order under sub-paragraph (1) must be applied as follows—
  - (a) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (7), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (6);
  - (b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Schedule;
  - (c) third, it must be paid—
    - (i) if the order was made by a magistrates’ court, into the Consolidated Fund;
    - (ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

*Associated and joint property: default of agreement*

- 10Z7C(1) Where this paragraph applies and there is no agreement under paragraph 10Z7CD, the magistrates’ court or sheriff may transfer the application made under paragraph 10Z7CA to the appropriate court.
- (2) The “appropriate court” is—
    - (a) the High Court, where the application under paragraph 10Z7CA was made to a magistrates’ court;
    - (b) the Court of Session, where the application under paragraph 10Z7CA was made to the sheriff.
  - (3) Where (under sub-paragraph (1)) an application made under paragraph 10Z7CA is transferred to the appropriate court, the appropriate court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that what is to be forfeited—
    - (a) is within subsection (1)(a) or (b) of section 1, or
    - (b) is property earmarked as terrorist property.
  - (4) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10Z7CA(3) made by a magistrates’ court by virtue of paragraph 10Z7CA(4).



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- (5) If provision is included in an order of the High Court by virtue of sub-paragraph (4) of this paragraph, paragraph 10Z7CA(5) and (6) apply with the necessary modifications.
- (6) The appropriate court may, as well as making an order under sub-paragraph (3), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.
- (7) Where (under sub-paragraph (1)) the magistrates' court or sheriff decides not to transfer an application made under paragraph 10Z7CA to the appropriate court, the magistrates' court or sheriff may, as well as making an order under paragraph 10Z7CA(3), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or
  - (b) providing for the excepted joint owner's interest to be severed.
- (8) An order under sub-paragraph (6) or (7) may be made only if the appropriate court, the magistrates' court or the sheriff (as the case may be) thinks it just and equitable to do so.
- (9) An order under sub-paragraph (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.
- (10) In making an order under sub-paragraph (6) or (7), and including provision in it by virtue of sub-paragraph (9), the appropriate court, the magistrates' court or the sheriff (as the case may be) must have regard to—
  - (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may be) of that person's share (including any value that cannot be assessed in terms of money), and
  - (b) the interest of the person who applied for the order under paragraph 10Z7CA in realising the value of the forfeitable property.
- (11) If the appropriate court, the magistrates' court or the sheriff (as the case may be) is satisfied that—
  - (a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of—
    - (i) the seizure of the forfeitable property under paragraph 10Z7AD and its subsequent detention, or
    - (ii) the making of the crypto wallet freezing order under paragraph 10Z7BB, and
  - (b) the circumstances are exceptional,an order under sub-paragraph (6) or (7) may require the payment of compensation to that person.
- (12) The amount of compensation to be paid by virtue of sub-paragraph (11) is the amount the appropriate court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (13) Compensation to be paid by virtue of sub-paragraph (11) is to be paid in the same way that compensation is to be paid under paragraph 10Z7CM.

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*Continuation of crypto wallet freezing order pending appeal*

- 10Z7C(H) This paragraph applies where, on an application under paragraph 10Z7CA in relation to a crypto wallet to which a crypto wallet freezing order applies—
- (a) the magistrates' court or sheriff decides—
    - (i) to make an order under paragraph 10Z7CA(3) in relation to some but not all of the cryptoassets to which the application related, or
    - (ii) not to make an order under paragraph 10Z7CA(3), or
  - (b) if the application is transferred in accordance with paragraph 10Z7CE(1), the High Court or Court of Session decides—
    - (i) to make an order under paragraph 10Z7CE(3) in relation to some but not all of the cryptoassets to which the application related, or
    - (ii) not to make an order under paragraph 10Z7CE(3).
- (2) The person who made the application under paragraph 10Z7CA may apply without notice to the court or sheriff that made the decision referred to in sub-paragraph (1) for an order that the crypto wallet freezing order is to continue to have effect.
- (3) Where the court or sheriff makes an order under sub-paragraph (2) the crypto wallet freezing order is to continue to have effect until—
- (a) the end of the period of 48 hours starting with the making of the order under sub-paragraph (2), or
  - (b) if within that period of 48 hours an appeal is brought (whether under paragraph 10Z7CG or otherwise) against the decision referred to in sub-paragraph (1), the time when the appeal is determined or otherwise disposed of.
- (4) Sub-paragraph (3) of paragraph 10Z7AF applies for the purposes of sub-paragraph (3) as it applies for the purposes of that paragraph.

*Paragraphs 10Z7CA to 10Z7CE: appeals*

- 10Z7C(G) Any party to proceedings for an order for the forfeiture of cryptoassets under paragraph 10Z7CA may appeal against—
- (a) the making of an order under paragraph 10Z7CA;
  - (b) the making of an order under paragraph 10Z7CE(7);
  - (c) a decision not to make an order under paragraph 10Z7CA unless the reason that no order was made is that an order was instead made under paragraph 10Z7CD;
  - (d) a decision not to make an order under paragraph 10Z7CE(7).

Paragraphs (c) and (d) do not apply if the application for the order under paragraph 10Z7CA was transferred in accordance with paragraph 10Z7CE(1).

- (2) Where an order under paragraph 10Z7CD is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10Z7CA that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under paragraph 10Z7CD(6).
- (3) An appeal under this paragraph lies—
- (a) in relation to England and Wales, to the Crown Court;
  - (b) in relation to Scotland, to the Sheriff Appeal Court;



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- (c) in relation to Northern Ireland, to a county court.
- (4) An appeal under this paragraph must be made before the end of the period of 30 days starting with the day on which the court or sheriff makes the order or decision.
- (5) Sub-paragraph (4) is subject to paragraph 10Z7CH.
- (6) The court hearing the appeal may make any order it thinks appropriate.
- (7) If the court upholds an appeal against an order forfeiting any cryptoasset or other item of property, it may, subject to sub-paragraph (8), order the release of the whole or any part of the property.
- (8) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, the property is not to be released under this paragraph (and so is to continue to be detained) until the proceedings are concluded.

*Extended time for appealing in certain cases where depreservation order made*

10Z7C(H) This paragraph applies where—

- (a) a successful application for an order under paragraph 10Z7CA relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a depreservation order in respect of the organisation is refused by the Secretary of State,
  - (c) the property forfeited by the order under paragraph 10Z7CA was seized under this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a depreservation order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10Z7CG against the making of an order under paragraph 10Z7CA, and against the making (in addition) of any order under paragraph 10Z7CE(7), may be brought at any time before the end of the period of 30 days beginning with the date on which the depreservation order comes into force.
  - (3) In this paragraph a “depreservation order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

*Realisation or destruction of forfeited cryptoassets etc*

10Z7C(I) This paragraph applies where any cryptoasset or other item of property is forfeited under this Part.

- (2) An authorised officer must—
  - (a) realise the property, or
  - (b) make arrangements for its realisation.

This is subject to sub-paragraphs (3) to (5).

- (3) The property is not to be realised—

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- (a) before the end of the period within which an appeal may be made (whether under paragraph 10Z7CG or otherwise), or
  - (b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (4) The realisation of property under sub-paragraph (2) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.
- (5) Where an authorised officer is satisfied that—
  - (a) it is not reasonably practicable to realise any cryptoasset, or
  - (b) there are reasonable grounds to believe that the realisation of any cryptoasset would be contrary to the public interest,
 the authorised officer may destroy the cryptoasset.
- (6) But—
  - (a) the authorised officer may destroy the cryptoasset only if the officer is a senior officer or is authorised to do so by a senior officer, and
  - (b) the cryptoasset is not to be destroyed—
    - (i) before the end of the period within which an appeal may be made (whether under paragraph 10Z7CG or otherwise), or
    - (ii) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (7) The question of whether the realisation of the cryptoasset would be contrary to the public interest is to be determined with particular reference to how likely it is that the entry of the cryptoasset into general circulation would facilitate criminal conduct by any person.

#### *Proceeds of realisation*

10Z7CQI) This paragraph applies where any cryptoasset or other item of property is realised under paragraph 10Z7CI.

- (2) The proceeds of the realisation must be applied as follows—
  - (a) first, they must be applied in making any payment required to be made by virtue of paragraph 10Z7CE(9);
  - (b) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10Z7CA(5) (including as applied by paragraph 10Z7CE(5)), are payable under this sub-paragraph in pursuance of provision under paragraph 10Z7CA(4) or, as the case may be, 10Z7CE(4);
  - (c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Schedule and in realising the property;
  - (d) fourth, they must be paid—
    - (i) if the property was forfeited by a magistrates’ court or the High Court, into the Consolidated Fund;
    - (ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.
- (3) If what is realised under paragraph 10Z7CI represents part only of an item of property, the reference in sub-paragraph (2)(c) to costs incurred in storing or insuring

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the property is to be read as a reference to costs incurred in storing or insuring the whole of the property.

*Victims etc: detained cryptoassets*

**10Z7C(1)** A person who claims that any cryptoassets detained under this Schedule belong to the person may apply for some or all of the cryptoassets to be released.

- (2) An application under sub-paragraph (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) The application may be made in the course of proceedings under paragraph **10Z7AG** or **10Z7CA** or at any other time.
- (4) The court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant if it appears to the court or sheriff that—
  - (a) the applicant was deprived of the cryptoassets to which the application relates, or of property which they represent, by criminal conduct,
  - (b) the cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and
  - (c) the cryptoassets belong to the applicant.
- (5) If sub-paragraph (6) applies, the court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant or to the person from whom they were seized.
- (6) This sub-paragraph applies where—
  - (a) the applicant is not the person from whom the cryptoassets to which the application relates were seized,
  - (b) it appears to the court or sheriff that those cryptoassets belong to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to those cryptoassets, and
  - (d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom those cryptoassets were seized.
- (7) The release condition is met—
  - (a) if the conditions in Part **4BA** for the detention of the cryptoassets are no longer met, or
  - (b) in relation to cryptoassets which are subject to an application for forfeiture under paragraph **10Z7CA**, if the court or sheriff decides not to make an order under that paragraph in relation to the cryptoassets.
- (8) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cryptoassets are connected, the cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded.

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*Victims etc.: crypto wallet freezing orders*

10Z7C(1) A person who claims that any cryptoassets held in a crypto wallet in respect of which a crypto wallet freezing order has effect belong to the person may apply for some or all of the cryptoassets to be released.

- (2) An application under sub-paragraph (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) The application may be made in the course of proceedings under paragraph 10Z7BB or 10Z7CA or at any other time.
- (4) The court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant if it appears to the court or sheriff that—
  - (a) the applicant was deprived of the cryptoassets to which the application relates, or of property which they represent, by criminal conduct,
  - (b) the cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and
  - (c) the cryptoassets belong to the applicant.
- (5) If sub-paragraph (6) applies, the court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant.
- (6) This sub-paragraph applies where—
  - (a) the applicant is not the person from whom the cryptoassets to which the application relates were seized,
  - (b) it appears to the court or sheriff that those cryptoassets belong to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to those cryptoassets, and
  - (d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom those cryptoassets were seized.
- (7) The release condition is met—
  - (a) if the conditions for the making of the crypto wallet freezing order are no longer met in relation to the cryptoassets to which the application relates, or
  - (b) in relation to cryptoassets held in a crypto wallet subject to a crypto wallet freezing order which are subject to an application for forfeiture under paragraph 10Z7CA, if the court or sheriff decides not to make an order under that paragraph in relation to the cryptoassets.
- (8) Cryptoassets are not to be released under this paragraph—
  - (a) if an application for their forfeiture under paragraph 10Z7CA is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cryptoassets are connected, until the proceedings are concluded.
- (9) In relation to cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order, references in this paragraph to a person from whom cryptoassets

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were seized include a reference to a person by or for whom the crypto wallet was administered immediately before the crypto wallet freezing order was made.

### Compensation

10Z7C(M) This paragraph applies if no order is made under paragraph 10Z7CA, 10Z7CD or 10Z7CE in respect of cryptoassets detained under this Schedule or held in a crypto wallet that is subject to a crypto wallet freezing order under paragraph 10Z7BB.

- (2) Where this paragraph applies, the following may make an application to the relevant court for compensation—
  - (a) a person to whom the cryptoassets belong or from whom they were seized;
  - (b) a person by or for whom a crypto wallet to which the crypto wallet freezing order applies is administered.
- (3) If the relevant court is satisfied that the applicant has suffered loss as a result of the detention of the cryptoassets or the making of the crypto wallet freezing order and that the circumstances are exceptional, the relevant court may order compensation to be paid to the applicant.
- (4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for His Majesty's Revenue and Customs.
- (6) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by a constable, the compensation is to be paid as follows—
  - (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (7) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by a counter-terrorism financial investigator, the compensation is to be paid as follows—
  - (a) in the case of a counter-terrorism financial investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force,it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.

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- (8) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by an immigration officer, the compensation is to be paid by the Secretary of State.
- (9) If an order under paragraph 10Z7BB, 10Z7CA, 10Z7CD or 10Z7CE is made in respect of some of the cryptoassets detained or held, this paragraph has effect in relation to the remainder.
- (10) This paragraph does not apply if the relevant court makes an order under paragraph 10Z7CK or 10Z7CL.
- (11) In this paragraph “relevant court” means—
  - (a) in England and Wales and Northern Ireland, a magistrates’ court;
  - (b) in Scotland, the sheriff.

## PART 4BD

### CONVERSION OF CRYPTOASSETS

#### *Interpretation*

10Z7D(1) In this Part—

“converted cryptoassets” is to be read in accordance with paragraphs 10Z7DD and 10Z7DE;

“crypto wallet freezing order” has the same meaning as in Part 4BB (see paragraph 10Z7B(6));

“relevant court” means—

- (a) in England and Wales and Northern Ireland, a magistrates’ court;
- (b) in Scotland, the sheriff;

“relevant financial institution” has the same meaning as in Part 4B (see paragraph 10Q);

“UK-connected cryptoasset service provider” has the same meaning as in Part 4BB (see paragraph 10Z7B(7)).

- (2) Paragraph 10Z7B(6)(b) (administration of crypto wallets) applies in relation to this Part as it applies in relation to Part 4BB.
- (3) In this Part references to the conversion of cryptoassets into money are references to the conversion of cryptoassets into—
  - (a) cash, or
  - (b) money held in an account maintained with a relevant financial institution.
- (4) For the purposes of Parts 2 to 4, converted cryptoassets detained under this Part are not to be treated as cash detained under this Schedule.

#### *Detained cryptoassets: conversion*

10Z7D(A) Sub-paragraph (2) applies while any cryptoassets are detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG (including where cryptoassets are subject to forfeiture proceedings).

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- (2) A person within sub-paragraph (3) may apply to the relevant court for an order requiring all of the cryptoassets detained pursuant to the order to be converted into money.
- (3) The following persons are within this sub-paragraph—
  - (a) an authorised officer;
  - (b) a person from whom the cryptoassets were seized.
- (4) In deciding whether to make an order under this paragraph, the court must have regard to whether the cryptoassets (as a whole) are likely to suffer a significant loss in value during the period before they are released or forfeited (including the period during which an appeal against an order for forfeiture may be made).
- (5) Before making an order under this paragraph the court must give an opportunity to be heard to—
  - (a) the parties to the proceedings, and
  - (b) any other person who may be affected by its decision.
- (6) As soon as practicable after an order is made under this paragraph, an authorised officer must convert the cryptoassets, or arrange for the cryptoassets to be converted, into money.
- (7) The conversion of cryptoassets under sub-paragraph (6) must be carried out, so far as practicable, in the manner best calculated to maximise the amount of money obtained for the cryptoassets.
- (8) At the first opportunity after the cryptoassets are converted, the authorised officer must arrange for the amount of money obtained for the cryptoassets to be paid into an interest-bearing account and held there.
- (9) Interest accruing on the amount is to be added to it on its forfeiture or release.
- (10) Where cryptoassets are converted into money in accordance with an order made under this paragraph—
  - (a) the cryptoassets are no longer to be treated as being detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG, and
  - (b) any application made under paragraph 10Z7CA(2) in relation to the cryptoassets which has not yet been determined or otherwise disposed of (including under paragraph 10Z7CD or 10Z7CE) is to be treated as if it were an application made under paragraph 10Z7DG(2) in relation to the converted cryptoassets.
- (11) An order made under this paragraph must provide for notice to be given to persons affected by the order.
- (12) No appeal may be made against an order made under this paragraph.

*Frozen crypto wallet: conversion*

- 10Z7DB) This paragraph applies while a crypto wallet freezing order under paragraph 10Z7BB has effect (including where cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order are subject to forfeiture proceedings).
- (2) A person within sub-paragraph (3) may apply to the relevant court for an order requiring all of the cryptoassets held in the crypto wallet to be converted into money.



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- (3) The following persons are within this sub-paragraph—
  - (a) an authorised officer;
  - (b) a person by or for whom the crypto wallet is administered.
- (4) In deciding whether to make an order under this paragraph, the court must have regard to whether the cryptoassets (as a whole) are likely to suffer a significant loss in value during the period before—
  - (a) the crypto wallet freezing order ceases to have effect, or
  - (b) the cryptoassets are forfeited (including the period during which an appeal against an order for forfeiture may be made).
- (5) Before making an order under this paragraph the court must give an opportunity to be heard to—
  - (a) the parties to the proceedings, and
  - (b) any other person who may be affected by its decision.
- (6) As soon as practicable after an order is made under this paragraph, the UK-connected cryptoasset service provider that administers the crypto wallet must convert the cryptoassets, or arrange for the cryptoassets to be converted, into money.
- (7) The conversion of cryptoassets under sub-paragraph (6) must be carried out, so far as practicable, in the manner best calculated to maximise the amount of money obtained for the cryptoassets.
- (8) At the first opportunity after the cryptoassets are converted, the UK-connected cryptoasset service provider must arrange for the amount of money obtained for the cryptoassets to be paid into an interest-bearing account nominated by an authorised officer and held there.
- (9) But—
  - (a) the UK-connected cryptoasset service provider may deduct any reasonable expenses incurred by the provider in connection with the conversion of the cryptoassets, and
  - (b) the amount to be treated as the proceeds of the conversion of the cryptoassets is to be reduced accordingly.
- (10) Interest accruing on the amount obtained for the cryptoassets is to be added to it on its forfeiture or release.
- (11) Where cryptoassets are converted in accordance with an order made under this paragraph—
  - (a) the crypto wallet freezing order ceases to have effect,
  - (b) any application made under paragraph 10Z7CA(2) in relation to the cryptoassets which has not yet been determined or otherwise disposed of (including under paragraph 10Z7CD or 10Z7CE) is to be treated as if it were an application made under paragraph 10Z7DG(2) in relation to the converted cryptoassets, and
  - (c) any application made under paragraph 10Z7CF(2) in relation to the crypto wallet which has not yet been determined or otherwise disposed of may not be proceeded with.
- (12) An order made under this paragraph must provide for notice to be given to persons affected by the order.



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(13) No appeal may be made against an order made under this paragraph.

*Conversion: existing forfeiture proceedings*

10Z7D(1) Where—

- (a) cryptoassets are forfeited under paragraph 10Z7CA or 10Z7CE, and
- (b) before the cryptoassets are realised or destroyed in accordance with paragraph 10Z7CI, an order is made under paragraph 10Z7DA requiring the cryptoassets to be converted into money,

paragraph 10Z7DJ(1) applies in relation to the converted cryptoassets as if they had been detained under paragraph 10Z7DD and forfeited under paragraph 10Z7DG (and accordingly paragraph 10Z7CI ceases to apply).

(2) Where—

- (a) cryptoassets are forfeited under paragraph 10Z7CA or 10Z7CE, and
- (b) before the cryptoassets are realised or destroyed in accordance with paragraph 10Z7CI, an order is made under paragraph 10Z7DB requiring the cryptoassets to be converted into money,

paragraph 10Z7DJ(2) applies in relation to the converted cryptoassets as if they had been detained under paragraph 10Z7DE and forfeited under paragraph 10Z7DG (and accordingly paragraph 10Z7CI ceases to apply).

(3) Where—

- (a) an appeal may be made under paragraph 10Z7CG(1) or (2) in relation to the determination of an application under paragraph 10Z7CA(2) for the forfeiture of cryptoassets (including where paragraph 10Z7CD or 10Z7CE applies), and
- (b) an order is made under paragraph 10Z7DA or 10Z7DB requiring the cryptoassets to be converted into money,

the appeal may instead be made under paragraph 10Z7DH (within the time allowed by paragraph 10Z7CG(4)) as if it were an appeal against the determination of an application under paragraph 10Z7DG.

(4) Where—

- (a) an appeal is made under paragraph 10Z7CG(1) or (2) in relation to the determination of an application under paragraph 10Z7CA(2) for the forfeiture of cryptoassets (including where paragraph 10Z7CD or 10Z7CE applies), and
- (b) before the appeal is determined or otherwise disposed of, an order is made under paragraph 10Z7DA or 10Z7DB requiring the cryptoassets to be converted into money,

the appeal is to be treated as if it had been made under paragraph 10Z7DH(1) in relation to the determination of an application under paragraph 10Z7DG for the forfeiture of the converted cryptoassets.

*Detained cryptoassets: detention of proceeds of conversion*

10Z7D(10) This paragraph applies where cryptoassets are converted into money in accordance with an order under paragraph 10Z7DA.

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- (2) The proceeds of the conversion (the “converted cryptoassets”) may be detained initially until the end of the period that the cryptoassets could, immediately before the conversion, have been detained under Part 4BA (ignoring the possibility of any extension of that period).
- (3) The period for which the converted cryptoassets may be detained may be extended by an order made by the relevant court.
- (4) An order under sub-paragraph (3) may not authorise the detention of the converted cryptoassets beyond the end of the period of 2 years beginning with the relevant date; but this is subject to sub-paragraph (5).
- (5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the relevant date.
- (6) In sub-paragraphs (4) and (5) “the relevant date” means the date on which the first order under paragraph 10Z7AE or 10Z7AG (as the case may be) was made in relation to the cryptoassets.
- (7) An application for an order under sub-paragraph (3) or (5) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (8) The relevant court may make an order under sub-paragraph (3) only if satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be further detained—
  - (a) are within subsection (1)(a) or (b) of section 1, or
  - (b) are property earmarked as terrorist property.
- (9) The relevant court may make an order under sub-paragraph (5) only if satisfied that a request for assistance is outstanding in relation to the cryptoassets mentioned in sub-paragraph (1).
- (10) A “request for assistance” in sub-paragraph (9) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the cryptoassets, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).

*Frozen crypto wallets: detention of proceeds of conversion*

10Z7DE) This paragraph applies where cryptoassets held in a crypto wallet subject to a crypto wallet freezing order are converted into money in accordance with an order under paragraph 10Z7DB.

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- (2) The proceeds of the conversion (the “converted cryptoassets”) may be detained initially until the end of the period that the crypto wallet freezing order was, immediately before the conversion, due to have effect under Part 4BB (ignoring the possibility of any extension of that period).
- (3) The period for which the converted cryptoassets may be detained may be extended by an order made by the relevant court.
- (4) An order under sub-paragraph (3) may not authorise the detention of the converted cryptoassets beyond the end of the period of 2 years beginning with the day on which the crypto wallet freezing order was made; but this is subject to sub-paragraph (5).
- (5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the day on which the crypto wallet freezing order was made.
- (6) An application for an order under sub-paragraph (3) or (5) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (7) The relevant court may make an order under sub-paragraph (3) only if satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be further detained—
  - (a) are within subsection (1)(a) or (b) of section 1, or
  - (b) are property earmarked as terrorist property.
- (8) The relevant court may make an order under sub-paragraph (5) only if satisfied that a request for assistance is outstanding in relation to the cryptoassets mentioned in sub-paragraph (1).
- (9) A “request for assistance” in sub-paragraph (8) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the cryptoassets, made—
  - (a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003,
  - (b) by an authorised officer, to an authority exercising equivalent functions in a foreign country,
  - (c) by the Scottish Ministers in connection with their functions under this Schedule, to an authority exercising equivalent functions in a foreign country, or
  - (d) by a person under section 375A or 408A of the Proceeds of Crime Act 2002 (evidence overseas).

#### *Release of detained converted cryptoassets*

10Z7D(H) This paragraph applies while any converted cryptoassets are detained under paragraph 10Z7DD or 10Z7DE.

- (2) The relevant court may, subject to sub-paragraph (7), direct the release of the whole or any part of the converted cryptoassets if the following condition is met.

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- (3) The condition is that, on an application by the relevant person, the court is not satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be released—
  - (a) are within subsection (1)(a) or (b) of section 1, or
  - (b) are property earmarked as terrorist property.
- (4) In sub-paragraph (3) “the relevant person” means—
  - (a) in the case of converted cryptoassets detained under paragraph 10Z7DD, the person from whom the cryptoassets mentioned in sub-paragraph (1) of that paragraph were seized, and
  - (b) in the case of converted cryptoassets detained under paragraph 10Z7DE, any person affected by the crypto wallet freezing order mentioned in sub-paragraph (1) of that paragraph.
- (5) A person within sub-paragraph (6) may, subject to sub-paragraph (7) and after notifying the magistrates’ court or sheriff under whose order converted cryptoassets are being detained, release the whole or any part of the converted cryptoassets if satisfied that the detention is no longer justified.
- (6) The following persons are within this sub-paragraph—
  - (a) in relation to England and Wales or Northern Ireland, an authorised officer;
  - (b) in relation to Scotland, a procurator fiscal.
- (7) Converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained)—
  - (a) if an application for their forfeiture under paragraph 10Z7DG is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, until the proceedings are concluded.

### *Forfeiture*

10Z7D(G) This paragraph applies while any converted cryptoassets are detained under paragraph 10Z7DD or 10Z7DE.

- (2) An application for the forfeiture of some or all of the converted cryptoassets may be made—
  - (a) to a magistrates’ court, by the Commissioners for His Majesty’s Revenue and Customs or an authorised officer;
  - (b) to the sheriff, by the Scottish Ministers.
- (3) The court or sheriff may order the forfeiture of some or all of the converted cryptoassets if satisfied that the converted cryptoassets to be forfeited—
  - (a) are within subsection (1)(a) or (b) of section 1, or
  - (b) are property earmarked as terrorist property.
- (4) But in the case of property which belongs to joint tenants, one of whom is an excepted joint owner, the order may not apply to so much of it as the court thinks is attributable to the excepted joint owner’s share.

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**Changes to legislation:** There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- (5) Where an application for forfeiture is made under this paragraph, the converted cryptoassets are to continue to be detained under paragraph 10Z7DD or 10Z7DE (and may not be released under any power conferred by this Part) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.
- (6) For the purposes of this paragraph—
- (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against them) be earmarked, and
  - (b) references to the excepted joint owner's share of property are to so much of the property as would have been theirs if the joint tenancy had been severed.

*Forfeiture: appeals*

- 10Z7D(H) Any party to proceedings for an order for the forfeiture of converted cryptoassets under paragraph 10Z7DG who is aggrieved by an order under that paragraph or by the decision of the court not to make such an order may appeal—
- (a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;
  - (b) from an order or decision of the sheriff, to the Sheriff Appeal Court;
  - (c) from an order or decision of a magistrates' court in Northern Ireland, to a county court.
- (2) An appeal under sub-paragraph (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (3) The court hearing the appeal may make any order it thinks appropriate.
- (4) If the court upholds an appeal against an order forfeiting the converted cryptoassets, it may, subject to sub-paragraph (5), order the release of some or all of the converted cryptoassets.
- (5) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, the converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded.

*Extended time for appealing in certain cases where deproscription order made*

- 10Z7D(I) This paragraph applies where—
- (a) a successful application for an order under paragraph 10Z7DG relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,
  - (c) the converted cryptoassets forfeited by the order under paragraph 10Z7DG were converted from cryptoassets which were seized under this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a deproscription order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.

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*Changes to legislation:* There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- (2) Where this paragraph applies, an appeal under paragraph 10Z7DH against the making of an order under paragraph 10Z7DG may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

*Application of forfeited converted cryptoassets*

10Z7D(I) Converted cryptoassets detained under paragraph 10Z7DD and forfeited under paragraph 10Z7DG, and any accrued interest on them, must be applied as follows—

- (a) first, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the safe storage of the cryptoassets mentioned in paragraph 10Z7DD(1) during the period the cryptoassets were detained under Part 4BA;
- (b) second, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the conversion of those cryptoassets under paragraph 10Z7DA(6);
- (c) third, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the detention of the converted cryptoassets under this Part;
- (d) fourth, they must be paid—
  - (i) if forfeited by a magistrates’ court in England and Wales or Northern Ireland, into the Consolidated Fund, and
  - (ii) if forfeited by the sheriff, into the Scottish Consolidated Fund.

(2) Converted cryptoassets detained under paragraph 10Z7DE and forfeited under paragraph 10Z7DG, and any accrued interest on them, must be applied as follows—

- (a) first, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the detention of the converted cryptoassets under this Part;
- (b) second, they must be paid—
  - (i) if forfeited by a magistrates’ court in England and Wales or Northern Ireland, into the Consolidated Fund, and
  - (ii) if forfeited by the sheriff, into the Scottish Consolidated Fund.

(3) But converted cryptoassets are not to be applied or paid under sub-paragraph (1) or (2)—

- (a) before the end of the period within which an appeal under paragraph 10Z7DH may be made, or
- (b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

*Victims etc*

10Z7D(K) This paragraph applies where converted cryptoassets are detained under this Part.

(2) Where this paragraph applies, a person (“P”) who claims that the relevant cryptoassets belonged to P immediately before—

- (a) the relevant cryptoassets were seized, or



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**Changes to legislation:** There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- (b) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held,

may apply to the relevant court for some or all of the converted cryptoassets to be released to P.
- (3) The application may be made in the course of proceedings under paragraph 10Z7DD, 10Z7DE or 10Z7DG or at any other time.
- (4) The relevant court may, subject to sub-paragraph (9), order the converted cryptoassets to which the application relates to be released to the applicant if it appears to the relevant court that the condition in sub-paragraph (5) is met.
- (5) The condition in this sub-paragraph is that—
  - (a) the applicant was deprived of the relevant cryptoassets, or of property which they represent, by criminal conduct,
  - (b) the relevant cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and
  - (c) the relevant cryptoassets belonged to the applicant immediately before—
    - (i) the relevant cryptoassets were seized, or
    - (ii) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held.
- (6) If sub-paragraph (7) applies, the relevant court may, subject to sub-paragraph (9), order the converted cryptoassets to which the application relates to be released to the applicant or to the person from whom the relevant cryptoassets were seized.
- (7) This sub-paragraph applies where—
  - (a) the applicant is not the person from whom the relevant cryptoassets were seized,
  - (b) it appears to the relevant court that the relevant cryptoassets belonged to the applicant immediately before—
    - (i) the relevant cryptoassets were seized, or
    - (ii) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held,
  - (c) the relevant court is satisfied that the release condition is met in relation to the converted cryptoassets, and
  - (d) no objection to the making of an order under sub-paragraph (6) has been made by the person from whom the relevant cryptoassets were seized.
- (8) The release condition is met—
  - (a) if the conditions in this Part for the detention of the converted cryptoassets are no longer met, or
  - (b) in relation to converted cryptoassets which are subject to an application for forfeiture under paragraph 10Z7DG, if the court or sheriff decides not to make an order under that paragraph in relation to the converted cryptoassets.
- (9) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, the converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded

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*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

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- (10) Where sub-paragraph (2)(b) applies, references in this paragraph to a person from whom relevant cryptoassets were seized include a reference to a person by or for whom the crypto wallet mentioned in that provision was administered immediately before the crypto wallet freezing order was made in relation to the crypto wallet.
- (11) In this paragraph “the relevant cryptoassets” means—
  - (a) in relation to converted cryptoassets detained under paragraph 10Z7DD, some or all of the cryptoassets mentioned in sub-paragraph (1) of that paragraph, and
  - (b) in relation to converted cryptoassets detained under paragraph 10Z7DE, some or all of the cryptoassets mentioned in sub-paragraph (1) of that paragraph.

### Compensation

10Z7D(1) This paragraph applies if no order is made under paragraph 10Z7DG in respect of converted cryptoassets detained under this Part.

- (2) Where this paragraph applies, the following may make an application to the relevant court for compensation—
  - (a) a person to whom the relevant cryptoassets belonged immediately before they were seized;
  - (b) a person from whom the relevant cryptoassets were seized;
  - (c) a person by or for whom the crypto wallet mentioned in paragraph 10Z7DE(1) was administered immediately before the crypto wallet freezing order was made in relation to the crypto wallet.
- (3) If the relevant court is satisfied that—
  - (a) the applicant has suffered loss as a result of—
    - (i) the conversion of the relevant cryptoassets into money, or
    - (ii) the detention of the converted cryptoassets, and
  - (b) the circumstances are exceptional,
 the relevant court may order compensation to be paid to the applicant.
- (4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for His Majesty’s Revenue and Customs.
- (6) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by a constable, the compensation is to be paid as follows—
  - (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
  - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.



*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

- (7) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by a counter-terrorism financial investigator, the compensation is to be paid as follows—
- (a) in the case of a counter-terrorism financial investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force,it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (8) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by an immigration officer, the compensation is to be paid by the Secretary of State.
- (9) This paragraph does not apply if the relevant court makes an order under paragraph 10Z7DK.
- (10) In this paragraph—
- “the relevant cryptoassets” means—
    - (a) in relation to converted cryptoassets detained under paragraph 10Z7DD, the cryptoassets mentioned in sub-paragraph (1) of that paragraph;
    - (b) in relation to converted cryptoassets detained under paragraph 10Z7DE, the cryptoassets mentioned in sub-paragraph (1) of that paragraph;
  - “the relevant crypto wallet freezing order”, in relation to converted cryptoassets detained under paragraph 10Z7DE, means the crypto wallet freezing order mentioned in sub-paragraph (1) of that paragraph.]

## [<sup>F44</sup>PART 4C

### OFFENCES

#### Textual Amendments

- F44** Sch. 1 Pt. 4C inserted (E.W.N.I.) (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), ss. 42(2), 58(4)(6)

#### *Offences in relation to counter-terrorism financial investigators*

- 10Z8 (1) A person commits an offence if the person assaults a counter-terrorism financial investigator who is acting in the exercise of a power under this Schedule.
- (2) A person commits an offence if the person resists or wilfully obstructs a counter-terrorism financial investigator who is acting in the exercise of a power under this Schedule.

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*Changes to legislation:* There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- (3) 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 51 weeks, or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) A person guilty of an offence under sub-paragraph (2) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—
  - (a) the reference to 51 weeks in sub-paragraph (3)(a) is to be read as a reference to 6 months;
  - (b) the reference to 51 weeks in sub-paragraph (4)(a) is to be read as a reference to 1 month.]

## [<sup>F45</sup>PART 4D

### PROCEEDINGS UNDER THIS SCHEDULE

#### Textual Amendments

**F45** Sch. 1 Pt. 4D inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 16\(15\)](#); S.I. 2018/78, reg. 5(1)(c)

#### *Powers for prosecutors to appear in proceedings*

- 10Z9 (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a person mentioned in sub-paragraph (2) in proceedings under this Schedule if the Director—
- (a) is asked by, or on behalf of, the person to do so, and
  - (b) considers it appropriate to do so.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) a constable;
  - (b) a counter-terrorism financial investigator;
  - (c) the Commissioners for Her Majesty's Revenue and Customs;
  - (d) an officer of Revenue and Customs;
  - (e) an immigration officer.

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*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

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- (3) The Director of Public Prosecutions may authorise a person (generally or specifically) to carry out the functions of the Director under sub-paragraph (1) if the person is—
- (a) a member of the Director's staff;
  - (b) a person providing services under arrangements made by the Director.
- (4) The Director of Public Prosecutions and the Director of Public Prosecutions for Northern Ireland may charge fees for the provision of services under this paragraph.]

## PART 5

### PROPERTY EARMARKED AS TERRORIST PROPERTY

#### *Property obtained through terrorism*

- 11 (1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.
- (2) In deciding whether any property was obtained through terrorism—
- (a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts,
  - (b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

#### *Property earmarked as terrorist property*

- 12 (1) Property obtained through terrorism is earmarked as terrorist property.
- (2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.
- (3) Earmarked property obtained through terrorism may be followed into the hands of a person obtaining it on a disposal by—
- (a) the person who obtained the property through terrorism, or
  - (b) a person into whose hands it may (by virtue of this sub-paragraph) be followed.

#### *Tracing property*

- 13 (1) Where property obtained through terrorism (“the original property”) is or has been earmarked as terrorist property, property which represents the original property is also earmarked.
- (2) If a person enters into a transaction by which—
- (a) he disposes of earmarked property, whether the original property or property which (by virtue of this Part) represents the original property, and
  - (b) he obtains other property in place of it,
- the other property represents the original property.

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*Changes to legislation:* There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- (3) If a person disposes of earmarked property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

*Mixing property*

- 14 (1) Sub-paragraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).
- (2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.
- (3) Property earmarked as terrorist property is mixed with other property if (for example) it is used—
- (a) to increase funds held in a bank account,
  - (b) in part payment for the acquisition of an asset,
  - (c) for the restoration or improvement of land,
  - (d) by a person holding a leasehold interest in the property to acquire the freehold.

*Accruing profits*

- 15 (1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.
- (2) The further property is to be treated as representing the property obtained through terrorism.

*General exceptions*

- 16 (1) If—
- (a) a person disposes of property earmarked as terrorist property, and
  - (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked,
- the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.
- (2) If—
- (a) in pursuance of a judgment in civil proceedings (whether in the United Kingdom or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant,
  - (b) the claimant's claim is based on the defendant's criminal conduct, and
  - (c) apart from this sub-paragraph, the sum received, or the property obtained, by the claimant would be earmarked as terrorist property,
- the property ceases to be earmarked.

In relation to Scotland, "claimant" and "defendant" are to be read as "pursuer" and "defender"; and, in relation to Northern Ireland, "claimant" is to be read as "plaintiff".

- (3) If—

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- (a) a payment is made to a person in pursuance of a compensation order under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)), section 249 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or [<sup>F46</sup>Chapter 2 of Part 7 of the Sentencing Code], [<sup>F47</sup>or in pursuance of a service compensation order under the Armed Forces Act 2006,] and

- (b) apart from this sub-paragraph, the sum received would be earmarked as terrorist property,

the property ceases to be earmarked.

(4) If—

- (a) a payment is made to a person in pursuance of a restitution order under section 27 of the Theft Act (Northern Ireland) 1969 (c.16 (NI)) [<sup>F48</sup>or a restitution order within the meaning given by section 147 of the Sentencing Code] or a person otherwise obtains any property in pursuance of such an order, and

- (b) apart from this sub-paragraph, the sum received, or the property obtained, would be earmarked as terrorist property,

the property ceases to be earmarked.

(5) If—

- (a) in pursuance of an order made by the court under section 382(3) or 383(5) of the Financial Services and Markets Act 2000 (c. 8) (restitution orders), an amount is paid to or distributed among any persons in accordance with the court's directions, and

- (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,

the property ceases to be earmarked.

(6) If—

- (a) in pursuance of a requirement of the [<sup>F49</sup>Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England under or by virtue of] section 384(5) of the Financial Services and Markets Act 2000 (c. 8) (power <sup>F50</sup>... to require restitution), an amount is paid to or distributed among any persons, and

- (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,

the property ceases to be earmarked.

(7) Where—

- (a) a person enters into a transaction to which paragraph 13(2) applies, and
- (b) the disposal is one to which sub-paragraph (1) applies,

this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

#### Textual Amendments

**F46** Words in Sch. 1 para. 16(3)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 180\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

- F47** Words in Sch. 1 para. 16(3)(a) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 196](#); S.I. 2009/812, art. 3(a) (b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F48** Words in Sch. 1 para. 16(4)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 180\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F49** Words in Sch. 1 para. 16(6) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 93\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F50** Words in Sch. 1 para. 16(6) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 93\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C1** Sch. 1 para. 16(3) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 1 para. 50](#)

## PART 6

### INTERPRETATION

#### *Property*

- 17 (1) Property is all property wherever situated and includes—
- (a) money,
  - (b) all forms of property, real or personal, heritable or moveable,
  - (c) things in action and other intangible or incorporeal property.
- (2) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.
- (3) In relation to land, it is a reference to any interest which he holds in the land.
- (4) In relation to property other than land, it is a reference—
- (a) to the property (if it belongs to him), or
  - (b) to any other interest which he holds in the property.

#### *Obtaining and disposing of property*

- 18 (1) References to a person disposing of his property include a reference—
- (a) to his disposing of a part of it, or
  - (b) to his granting an interest in it,
- (or to both); and references to the property disposed of are to any property obtained on the disposal.
- (2) If a person grants an interest in property of his which is earmarked as terrorist property, the question whether the interest is also earmarked is to be determined in the same manner as it is on any other disposal of earmarked property.
- (3) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.
- (4) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.

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*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

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- (5) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

### *General interpretation*

19 (1) In this Schedule—

[<sup>F51</sup>“account forfeiture notice” (in Part 4B) has the meaning given by paragraph 10W(3),]

[<sup>F51</sup>“account freezing order” (in Part 4B) has the meaning given by paragraph 10Q(4)(a),]

“authorised officer” means a constable [<sup>F52</sup>, a counter-terrorism financial investigator], a customs officer or an immigration officer,

[<sup>F51</sup>“bank” (in Part 4B) has the meaning given by paragraph 10R,]

[<sup>F51</sup>“building society” (in Part 4B) has the meaning given by paragraph 10Q(7),]

“cash” has the meaning given by paragraph 1,

[<sup>F53</sup>“cash forfeiture notice” has the meaning given by paragraph 5A(3),]

“constable”, in relation to Northern Ireland, means a police officer within the meaning of the Police (Northern Ireland) Act 2000 (c. 32),

[<sup>F54</sup>“counter-terrorism financial investigator” is to be read in accordance with section 63F of the Terrorism Act 2000,]

“criminal conduct” means conduct which constitutes an offence in any part of the United Kingdom, or would constitute an offence in any part of the United Kingdom if it occurred there,

[<sup>F55</sup>“cryptoasset” has the meaning given by paragraph 10Z7A(1);

“crypto wallet” has the meaning given by paragraph 10Z7A(1);]

“customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2),

[<sup>F56</sup>“electronic money institution” (in Part 4B) has the meaning given by paragraph 10Q(7),]

[<sup>F51</sup>“enforcement officer” (in Part 4B) has the meaning given by paragraph 10Q(7),]

“forfeiture order” has the meaning given by paragraph 7,

“immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 (c. 77),

“interest”, in relation to land—

(a) in the case of land in England and Wales or Northern Ireland, means any legal estate and any equitable interest or power,

(b) in the case of land in Scotland, means any estate, interest, servitude or other heritable right in or over land, including a heritable security,

“interest”, in relation to property other than land, includes any right (including a right to possession of the property),

[<sup>F55</sup>“justice of the peace”, in relation to Northern Ireland, means lay magistrate;]

[<sup>F57</sup>“listed asset” has the meaning given by paragraph 10A,]

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*Changes to legislation: There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)*

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“part”, in relation to property, includes a portion,

[<sup>F56</sup>“payment institution” (in Part 4B) has the meaning given by paragraph 10Q(7),]

“property obtained through terrorism” has the meaning given by paragraph 11,

“property earmarked as terrorist property” is to be read in accordance with Part 5,

“proscribed organisation” has the same meaning as in the Terrorism Act 2000 (c. 11),

[<sup>F51</sup>“relevant court” (in Part 4B) has the meaning given by paragraph 10Q(7),]

[<sup>F56</sup>“relevant financial institution” (in Part 4B) has the meaning given by paragraph 10Q(1A),]

[<sup>F53</sup>“senior officer” (in Part 2A) has the meaning given by paragraph 5A(10),]

[<sup>F51</sup>“senior officer” (in Part 4B) has the meaning given by paragraph 10Q(7),]

“terrorism” has the same meaning as in the Terrorism Act 2000,

“terrorist cash” has the meaning given by paragraph 1,

[<sup>F55</sup>“terrorist cryptoasset” has the meaning given by paragraph 10Z7A(1);]

“value” means market value.

- (2) Paragraphs 17 and 18 and the following provisions apply for the purposes of this Schedule.
- (3) For the purpose of deciding whether or not property was earmarked as terrorist property at any time (including times before commencement), it is to be assumed that this Schedule was in force at that and any other relevant time.
- (4) References to anything done or intended to be done for the purposes of terrorism include anything done or intended to be done for the benefit of a proscribed organisation.
- (5) An organisation’s resources include any cash which is applied or made available, or is to be applied or made available, for use by the organisation.
- (6) Proceedings against any person for an offence are concluded when—
  - (a) the person is convicted or acquitted,
  - (b) the prosecution is discontinued or, in Scotland, the trial diet is deserted simpliciter, or
  - (c) the jury is discharged without a finding [<sup>F58</sup>otherwise than in circumstances where the proceedings are continued without a jury] .
- [<sup>F59</sup>(7) References (in Part 4B) to an account being operated by or for a person are to be read in accordance with paragraph 10Q(4)(b).]

#### Textual Amendments

**F51** Words in Sch. 1 para. 19(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 4 para. 3\(2\)](#); S.I. 2018/78, reg. 3(dd)



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**Changes to legislation:** There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1. (See end of Document for details)

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- F52** Words in Sch. 1 para. 19(1) inserted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 41(6)(b)(i)**, 58(4)(6)
- F53** Words in Sch. 1 para. 19(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 38(7)**, 58(1)(6); S.I. 2018/78, reg. 3(u)
- F54** Words in Sch. 1 para. 19(1) inserted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 41(6)(b)(ii)**, 58(4)(6)
- F55** Words in [Sch. 1 para. 19\(1\)](#) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), **Sch. 10 para. 5**
- F56** Words in Sch. 1 para. 19(1) inserted (retrospectively) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2), **Sch. 12 para. 9** (with s. 33(4))
- F57** Words in Sch. 1 para. 19(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 3 para. 3**; S.I. 2018/78, reg. 3(cc)
- F58** Words in Sch. 1 para. 19(6)(c) inserted (24.7.2006 for E.W. and otherwise 8.1.2007) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336, **Sch. 36 para. 77**; S.I. 2006/1835, **art. 2(h)**; S.I. 2006/3422, **art. 2(c)**
- F59** Sch. 1 para. 19(7) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), **Sch. 4 para. 3(3)**; S.I. 2018/78, reg. 3(dd)

**Changes to legislation:**

There are currently no known outstanding effects for the Anti-terrorism, Crime and Security Act 2001, SCHEDULE 1.