



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 2

#### TERRORIST PROPERTY

##### *Disclosures of information*

### 35 Disclosure orders

Schedule 2 contains amendments to the Terrorism Act 2000 which enable the making of disclosure orders in connection with investigations into terrorist financing offences.

#### **Commencement Information**

- 11** S. 35 in force at Royal Assent for specified purposes, see s. 58  
**12** S. 35 in force at 31.1.2018 in so far as not already in force by S.I. 2018/78, reg. 3(t)

### 36 Sharing of information within the regulated sector

After section 21C of the Terrorism Act 2000 insert—

#### **“21CA Voluntary disclosures within the regulated sector**

- (1) A person (A) may disclose information to one or more other persons if—
- conditions 1 to 4 are met, and
  - where applicable, condition 5 is also met.
- (2) Condition 1 is that—
- A is carrying on a business in the regulated sector as a relevant undertaking,
  - the information on which the disclosure is based came to A in the course of carrying on that business, and

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- (c) the person to whom the information is to be disclosed (or each of them, where the disclosure is to more than one person) is also carrying on a business in the regulated sector as a relevant undertaking (whether or not of the same kind as A).
- (3) Condition 2 is that—
    - (a) a constable has requested A to make the disclosure, or
    - (b) the person to whom the information is to be disclosed (or at least one of them, where the disclosure is to more than one person) has requested A to do so.
  - (4) Condition 3 is that, before A makes the disclosure, the required notification has been made to a constable (see section 21CB(5) to (7)).
  - (5) Condition 4 is that A is satisfied that the disclosure of the information will or may assist in determining any matter in connection with—
    - (a) a suspicion that a person is involved in the commission of a terrorist financing offence, or
    - (b) the identification of terrorist property or of its movement or use.
  - (6) Condition 5 is that, before making the disclosure request, the person making the request (or at least one of them, where the request is made by more than one person) has notified a constable that the request is to be made.
  - (7) Condition 5 does not apply where the disclosure request concerned is made by a constable.
  - (8) A person may disclose information to A for the purposes of making a disclosure request if, and to the extent that, the person has reason to believe that A has in A's possession information that will or may assist in determining any matter of the kind mentioned in paragraph (a) or (b) of subsection (5).

### **21CB Section 21CA: disclosure requests and notifications**

- (1) A disclosure request must—
  - (a) state that it is made in connection with—
    - (i) a suspicion that a person is involved in the commission of a terrorist financing offence, or
    - (ii) the identification of terrorist property or of its movement or use,
  - (b) identify the person or property (so far as known),
  - (c) describe the information that is sought from A, and
  - (d) specify the person or persons to whom it is requested that the information is disclosed.
- (2) Subsections (3) and (4) apply where the disclosure request is made by a person mentioned in section 21CA(3)(b).
- (3) If the request states that it is made in connection with a suspicion that a person is involved in the commission of a terrorist financing offence, the request must also—
  - (a) set out the grounds for the suspicion, or

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- (b) provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 21CA.
- (4) If the request states that it is made in connection with the identification of terrorist property or of its movement or use, the request must also provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 21CA.
- (5) A required notification for the purposes of section 21CA(4) must be made—
- (a) in the case of a disclosure request made by a constable, by the person who is to disclose information under section 21CA as a result of the request;
  - (b) in the case of a disclosure request made by a person mentioned in section 21CA(3)(b), by the person who made the request.
- (6) In a case within subsection (5)(a), the required notification must state that information is to be disclosed under section 21CA.
- (7) In a case within subsection (5)(b), the required notification must—
- (a) state that a disclosure request has been made;
  - (b) specify the person to whom the request was made;
  - (c) where the disclosure request to which the notification relates is made in connection with a suspicion of a person's involvement in the commission of a terrorist financing offence, identify the person (so far as known);
  - (d) where the disclosure request to which the notification relates is made in connection with the identification of terrorist property or of its movement or use, identify the property and the person who holds it (if known).
- (8) A notification for the purposes of condition 5 in subsection (6) of section 21CA must—
- (a) state that a disclosure request is to be made;
  - (b) specify the person to whom it is to be made;
  - (c) describe the information to be sought in the request;
  - (d) explain why the request is being made.

#### **21CC Section 21CA: effect on disclosures under section 21A**

- (1) This section applies if in any proceedings a question arises as to whether the required disclosure has been made—
- (a) by a person (A) who discloses information under section 21CA(1) as a result of a disclosure request,
  - (b) by a person (B) who makes a required notification in accordance with section 21CB(5)(b), or
  - (c) by any other person (C) to whom A discloses information under section 21CA(1) as a result of that request.
- (2) The making of a required notification in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of A, B and C.

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This is subject to section 21CD(1) to (8).

- (3) The making of a joint disclosure report in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of the persons who jointly make the report.

This is subject to section 21CD(10).

- (4) A joint disclosure report is a report to a constable that—
- (a) is made jointly by A and B (whether or not also jointly with other persons to whom A discloses information under section 21CA(1)),
  - (b) satisfies the requirements as to content mentioned in subsection (5) or (as the case may be) subsection (6),
  - (c) is prepared after the making of a disclosure by A to B under section 21CA(1) in connection with—
    - (i) a suspicion of a person's involvement in the commission of a terrorist financing offence, or
    - (ii) the identification of terrorist property or of its movement or use, and
  - (d) is sent to the constable before the end of the applicable period.
- (5) In the case of a joint disclosure report prepared in connection with a suspicion of a person's involvement in the commission of a terrorist financing offence, the requirements as to content are that the report must—
- (a) explain the extent to which there are continuing grounds to suspect that the person is involved in the commission of the offence,
  - (b) identify the person (if known),
  - (c) set out the grounds for the suspicion, and
  - (d) provide any other information relevant to the matter.
- (6) In the case of a joint disclosure report prepared in connection with the identification of terrorist property or of its movement or use, the requirements as to content are that the report must—
- (a) explain the extent to which there are continuing grounds to suspect that the property is terrorist property,
  - (b) identify the property and the person who holds it (if known),
  - (c) provide details of its movement or use (if known), and
  - (d) provide any other information relevant to the matter.
- (7) The applicable period is—
- (a) in a case where the disclosure under section 21CA was made as a result of a request from a constable by virtue of subsection (3)(a) of that section, whatever period may be specified by the constable when making the request;
  - (b) in a case where the disclosure was made as a result of a request from another person by virtue of subsection (3)(b) of that section, the period of 28 days beginning with the day on which the notification is made for the purposes of condition 3 in section 21CA(4).
- (8) A constable may vary the period of 28 days (whether by lengthening or shortening it) by giving written notice to the person who made the required notification.

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- (9) A joint disclosure report must be—
- (a) approved by the nominated officer of each person that jointly makes the report, and
  - (b) signed by the nominated officer on behalf of each such person.

If there is no nominated officer the report must be approved and signed by another senior officer.

- (10) References in this section to A, B or C include—
- (a) a nominated officer acting on behalf of A, B or C, and
  - (b) any other person who is an employee, officer or partner of A, B or C.

### **21CD Limitations on application of section 21CC(2) and (3)**

- (1) Subsections (2) and (3) apply in a case where the required notification is made by A (notification made as a result of disclosure request received from a constable).
- (2) Section 21CC(2) has effect in the case of A, B or C only so far as relating to—
- (a) the suspicion in connection with which the required notification is made, and
  - (b) matters known, suspected or believed as a result of the making of the disclosure request concerned.
- (3) Accordingly, section 21CC(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the disclosure request.
- (4) Subsections (5) to (8) apply in a case where the required notification is made by B (notification made as a result of disclosure request received from another undertaking in the regulated sector).
- (5) Section 21CC(2) has effect in the case of A or C only so far as relating to—
- (a) the suspicion in connection with which the notification by B is made, and
  - (b) matters known, suspected or believed by A or C as a result of the making of that notification.
- (6) Accordingly, section 21CC(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the notification.
- (7) Section 21CC(2) has effect in the case of B only so far as relating to—
- (a) the suspicion in connection with which the notification is made, and
  - (b) matters known, suspected or believed by B at the time of the making of the notification.
- (8) If a joint disclosure report is not made before the end of the applicable period (whether the required notification was made by A or B), section 21CC(2)—
- (a) has effect only so far as relating to any requirement to make the required disclosure that would have otherwise arisen within that period, and

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- (b) does not remove a requirement to make the required disclosure so far as arising after the end of that period on the part of any person in respect of matters that may become known, suspected or believed by the person after the time when the required notification was made.
- (9) If a joint disclosure report is not made before the end of the applicable period, the person who made the required notification must notify a constable that a report is not being made as soon as reasonably practicable after the period ends.
- (10) Section 21CC(3) has effect only so far as relating to—
  - (a) the suspicion in connection with which the report is made, and
  - (b) matters known, suspected or believed at the time of the making of the report.
- (11) Terms used in this section have the same meanings as in section 21CC.

### **21CE Section 21CA: supplementary**

- (1) A relevant disclosure made in good faith does not breach—
  - (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information, however imposed.
- (2) But a relevant disclosure may not include information obtained from a UK law enforcement agency unless that agency consents to the disclosure.
- (3) In a case where a person is acting on behalf of another (“the undertaking”) as a nominated officer—
  - (a) a relevant disclosure by the undertaking must be made by the nominated officer on behalf of the undertaking, and
  - (b) a relevant disclosure to the undertaking must be made to that officer.
- (4) Subsection (1) applies whether or not the conditions in section 21CA were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.
- (5) In this section—
  - “relevant disclosure” means any disclosure made in compliance, or intended compliance, with section 21CA;
  - “UK law enforcement agency” means—
    - (a) the National Crime Agency;
    - (b) a police force in England, Scotland, Northern Ireland or Wales;
    - (c) any other person operating in England, Scotland, Northern Ireland or Wales charged with the duty of preventing, detecting, investigating or prosecuting offences.

### **21CF Sections 21CA to 21CE: interpretation**

- (1) This section applies for the purposes of sections 21CA to 21CE.
- (2) References to a constable include references to a National Crime Agency officer authorised for those purposes by the Director General of that Agency.

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- (3) References to a business in the regulated sector are to be construed in accordance with Schedule 3A.
- (4) “Disclosure request” means a request made for the purposes of condition 2 in section 21CA(3).
- (5) “Nominated officer” means a person nominated to receive disclosures under section 21A.
- (6) “Relevant undertaking” means any of the following—
  - (a) a credit institution;
  - (b) a financial institution;
  - (c) a professional legal adviser;
  - (d) a relevant professional adviser;
  - (e) other persons (not within paragraphs (a) to (d)) whose business consists of activities listed in paragraph 1(1) of Schedule 3A.
- (7) “Required disclosure” means a disclosure that is made—
  - (a) to a constable in connection with a suspicion that a person is involved in the commission of a terrorist financing offence, and
  - (b) for the purposes of avoiding the commission of an offence under section 21A by virtue of not satisfying the third condition in subsection (4) of that section.
- (8) “Required notification” means a notification made for the purposes of condition 3 in section 21CA(4).
- (9) For the purposes of subsection (6)—
  - (a) “credit institution” has the same meaning as in Schedule 3A;
  - (b) “financial institution” means an undertaking that carries on a business in the regulated sector by virtue of any of paragraphs (b) to (i) of paragraph 1(1) of that Schedule;
  - (c) “relevant professional adviser” has the meaning given by section 21H(5).
- (10) “Terrorist financing offence” means an offence under any of sections 15 to 18.”

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**Commencement Information**

- I3** S. 36 in force at Royal Assent for specified purposes, see s. 58
- I4** S. 36 in force at 31.10.2017 for specified purposes by S.I. 2017/991, reg. 2(f)
- I5** S. 36 in force at 31.10.2017 for specified purposes by S.I. 2017/1028, reg. 2(b)

### 37 Further information orders

After section 22A of the Terrorism Act 2000 insert—

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*“Further information orders*

**22B Further information orders**

- (1) A magistrates' court or (in Scotland) the sheriff may, on an application made by a law enforcement officer, make a further information order if satisfied that either condition 1 or condition 2 is met.
- (2) The application must—
  - (a) specify or describe the information sought under the order, and
  - (b) specify the person from whom the information is sought (“the respondent”).
- (3) A further information order is an order requiring the respondent to provide—
  - (a) the information specified or described in the application for the order, or
  - (b) such other information as the court or sheriff making the order thinks appropriate,
 so far as the information is in the possession, or under the control, of the respondent.
- (4) Condition 1 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under section 21A,
  - (b) the respondent is the person who made the disclosure or is otherwise carrying on a business in the regulated sector,
  - (c) the information would assist in—
    - (i) investigating whether a person is involved in the commission of an offence under any of sections 15 to 18 or in determining whether an investigation of that kind should be started, or
    - (ii) identifying terrorist property or its movement or use, and
  - (d) it is reasonable in all the circumstances for the information to be provided.
- (5) Condition 2 for the making of a further information order is met if—
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under a corresponding disclosure requirement,
  - (b) an external request has been made to the National Crime Agency for the provision of information in connection with that disclosure,
  - (c) the respondent is carrying on a business in the regulated sector,
  - (d) the information is likely to be of substantial value to the authority that made the external request in determining any matter in connection with the disclosure, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6) For the purposes of subsection (5), “external request” means a request made by an authority of a foreign country which has responsibility in that country



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for carrying out investigations into whether a corresponding terrorist financing offence has been committed.

- (7) A further information order must specify—
- (a) how the information required under the order is to be provided, and
  - (b) the date by which it is to be provided.
- (8) If a person fails to comply with a further information order made by a magistrates' court, the magistrates' court may order the person to pay an amount not exceeding £5,000.
- (9) The sum mentioned in subsection (8) is to be treated as adjudged to be paid by a conviction of the court for the purposes of the Magistrates' Courts Act 1980 or (as the case may be) the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (10) In order to take account of changes in the value of money the Secretary of State may by regulations made by statutory instrument substitute another sum for the sum for the time being specified in subsection (8).
- (11) A statutory instrument containing regulations under subsection (10) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A law enforcement officer who is a constable, a National Crime Agency officer or a counter-terrorism financial investigator may not make an application under this section unless the officer is a senior law enforcement officer or is authorised to do so by a senior law enforcement officer.
- (13) Schedule 3A has effect for the purposes of this section in determining what is a business in the regulated sector.
- (14) In this section—
- “corresponding disclosure requirement” means a requirement to make a disclosure under the law of the foreign country concerned that corresponds to a requirement imposed by virtue of this Part;
- “corresponding terrorist financing offence” means an offence under the law of the foreign country concerned that would, if done in the United Kingdom, constitute an offence under any of sections 15 to 18;
- “foreign country” means a country or territory outside the United Kingdom;
- “law enforcement officer” means—
- (a) a constable,
  - (b) a National Crime Agency officer authorised for the purposes of this section by the Director General of that Agency,
  - (c) a counter-terrorism financial investigator, or
  - (d) a procurator fiscal;
- “senior law enforcement officer” means—
- (a) a police officer of at least the rank of superintendent;
  - (b) the Director General of the National Crime Agency;
  - (c) any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.

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### **22C Statements**

- (1) A statement made by a person in response to a further information order may not be used in evidence against the person in criminal proceedings.
- (2) Subsection (1) does not apply—
  - (a) in the case of proceedings under this Part,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).
- (3) A statement may not be used by virtue of subsection (2)(c) unless—
  - (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In subsection (2)(b) the reference to a prosecution for perjury is—
  - (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

### **22D Appeals**

- (1) An appeal from a decision on an application for a further information order lies to the relevant appeal court.
- (2) An appeal under this section lies at the instance of any person who was a party to the proceedings on the application.
- (3) The “relevant appeal court” is—
  - (a) the Crown Court, in the case of a decision made by a magistrates' court in England and Wales;
  - (b) a county court, in the case of a decision made by a magistrates' court in Northern Ireland;
  - (c) the Sheriff Appeal Court, in the case of a decision made by the sheriff.
- (4) On an appeal under this section the relevant appeal court may—
  - (a) make or (as the case may be) discharge a further information order, or
  - (b) vary the order.

### **22E Supplementary**

- (1) A further information order does not confer the right to require a person to provide privileged information.
- (2) “Privileged information” is information which a person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in

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the High Court or, in Scotland, legal privilege as defined by section 412 of the Proceeds of Crime Act 2002.

- (3) Information provided in pursuance of a further information order is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (4) An application for a further information order may be heard and determined in private.
- (5) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to further information orders.”

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**Commencement Information**

**I6** S. 37 in force at Royal Assent for specified purposes, see s. 58

**I7** S. 37 in force at 31.10.2017 in so far as not already in force by S.I. 2017/991, reg. 2(g) (with reg. 3(3))

**Changes to legislation:**

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