

SCHEDULES

SCHEDULE 5

Section 53

MINOR AND CONSEQUENTIAL AMENDMENTS

Prescription and Limitation (Scotland) Act 1973 (c. 52)

- 1 In section 19B of the Prescription and Limitation (Scotland) Act 1973 (actions for recovery of property obtained through unlawful conduct etc), after subsection (4) insert—

“(4A) Subsection (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

Limitation Act 1980 (c. 58)

- 2 (1) Section 27A of the Limitation Act 1980 (actions for recovery of property obtained through unlawful conduct etc) is amended as follows.

- (2) After subsection (4) insert—

“(4A) Subsection (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

- (3) In subsection (8), after paragraph (d) insert—

“(e) Her Majesty’s Revenue and Customs, or
(f) the Financial Conduct Authority.”

Civil Jurisdiction and Judgments Act 1982 (c. 27)

- 3 (1) Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.

- (2) In subsection (2)(f), at the end insert “or an unexplained wealth order made under that Part (see sections 362A and 396A of that Act)”.

- (3) In subsection (2)(g)—

- (a) after “investigation” insert “, a detained property investigation or a frozen funds investigation”;
(b) for “meaning” substitute “meanings”.

Status: This is the original version (as it was originally enacted).

- (4) In subsection (3) for “and (4ZA)” substitute “, (4ZA) and (4ZB)”.
- (5) After subsection (4ZA) insert—
- “(4ZB) This section applies to the following orders made by a magistrates’ court in England and Wales or Northern Ireland—
- (a) an account freezing order made under section 303Z3 of the Proceeds of Crime Act 2002;
 - (b) an order for the forfeiture of money made under section 303Z14 of that Act;
 - (c) an account freezing order made under paragraph 10S of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;
 - (d) an order for the forfeiture of money made under paragraph 10Z2 of that Schedule.”
- (6) In subsection (5)(d), for the words after “measure” substitute “other than an order of any of the following kinds—
- (i) a freezing order of the kind mentioned in paragraph (a) or (c) of subsection (4ZB) made (in Scotland) by the sheriff (in addition to such orders made by a magistrates’ court in England and Wales or Northern Ireland);
 - (ii) an order for the making of an interim payment;
 - (iii) an interim order made in connection with the civil recovery of proceeds of unlawful conduct;
 - (iv) an interim freezing order under section 362J of the Proceeds of Crime Act 2002;
 - (v) an interim freezing order under section 396J of that Act.”

Criminal Justice Act 1987 (c. 38)

- 4 In section 1 of the Criminal Justice Act 1987 (establishment of the Serious Fraud Office), in subsection (6A)—
- (a) for “Part 5” substitute “Part 2, 4, 5, 7”;
 - (b) for the words in brackets substitute “confiscation proceedings in England and Wales and Northern Ireland, civil recovery proceedings, money laundering and investigations”.

Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))

- 5 In Article 72A of the Limitation (Northern Ireland) Order 1989 (actions for recovery of property obtained through unlawful conduct etc), after paragraph (4) insert—
- “(4A) Paragraph (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

Data Protection Act 1998 (c. 29)

- 6 The Data Protection Act 1998 is amended as follows.

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

- 7 In Schedule 2 (conditions relevant for purposes of the first principle: processing of any personal data), after paragraph 6 insert—
- “7 The processing is necessary for the purposes of making a disclosure in good faith under a power conferred by—
- (a) section 21CA of the Terrorism Act 2000 (disclosures between certain entities within regulated sector in relation to suspicion of commission of terrorist financing offence or for purposes of identifying terrorist property), or
 - (b) section 339ZB of the Proceeds of Crime Act 2002 (disclosures between certain entities within regulated sector in relation to money laundering suspicion).”
- 8 In Schedule 3 (conditions relevant for purposes of the first principle: processing of sensitive personal data), after paragraph 7A insert—
- “7B The processing is necessary for the purposes of making a disclosure in good faith under a power conferred by—
- (a) section 21CA of the Terrorism Act 2000 (disclosures between certain entities within regulated sector in relation to suspicion of commission of terrorist financing offence or for purposes of identifying terrorist property), or
 - (b) section 339ZB of the Proceeds of Crime Act 2002 (disclosures within regulated sector in relation to money laundering suspicion).”

Terrorism Act 2000 (c. 11)

- 9 The Terrorism Act 2000 is amended as follows.
- 10 In section 21G (tipping off: other permitted disclosures)—
- (a) omit “or” at the end of paragraph (a);
 - (b) after that paragraph insert—
 - “(aa) made in good faith by virtue of section 21CA (disclosures within the regulated sector); or”.
- 11 In section 115 (officers’ powers)—
- (a) for “sections 25 to 31” substitute “Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist property)”;
 - (b) after “Schedule 7” insert “to this Act (port and border controls)”.
- 12 In section 121 (interpretation), insert at the appropriate place—
““counter-terrorism financial investigator” is to be read in accordance with section 63F;”.
- 13 In Schedule 14 (exercise of officers’ powers)—
- (a) for “terrorist cash”, in each place, substitute “terrorist property”;
 - (b) in paragraph 1(a), after “provisions” insert “(including when referred to in those provisions as an “enforcement officer” or a “senior officer”)”.

Anti-terrorism, Crime and Security Act 2001 (c. 24)

- 14 The Anti-terrorism, Crime and Security Act 2001 is amended as follows.
- 15 (1) Section 1 (forfeiture of terrorist cash) is amended as follows.

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- (2) In the heading, for “cash” substitute “property”.
 - (3) In subsection (1), in the words before paragraph (a), for “cash” substitute “property”.
 - (4) In subsection (2)—
 - (a) for “any cash” substitute “property”;
 - (b) for “the cash” substitute “the property”.
- 16 (1) Schedule 1 (forfeiture of terrorist cash) is amended as follows.
- (2) In the heading of the Schedule, for “cash” substitute “property”.
 - (3) In the heading of Part 1, after “Introductory” insert “: forfeiture of terrorist cash”.
 - (4) In paragraph 1(1), after “Schedule” insert “(other than Parts 4A and 4B)”.
 - (5) In the heading of Part 2, after “Detention” insert “of terrorist cash”.
 - (6) In paragraph 3(3A), in the words before paragraph (a), after “application to” insert “a magistrates’ court,”.
 - (7) In paragraph 5, in sub-paragraph (1), for “this Schedule” substitute “any provision of this Schedule other than Part 2A”.
 - (8) In that paragraph, omit sub-paragraph (4).
 - (9) In the heading of Part 3, after “Forfeiture” insert “of terrorist cash”.
 - (10) In paragraph 8(1), for “this Schedule” substitute “paragraph 6”.
 - (11) In the heading of Part 4, after “Miscellaneous” insert “: terrorist cash”.
 - (12) After paragraph 9 insert—

“Restrictions on release

- 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.”
- (13) In paragraph 10, in sub-paragraph (1) after “Schedule,” insert “and the cash is not otherwise forfeited in pursuance of a cash forfeiture notice,”.
 - (14) In that paragraph, after sub-paragraph (8) insert—
 - “(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.”
 - (15) After paragraph 10Z8 (inserted by section 42) insert—

“PART 4D

PROCEEDINGS UNDER THIS SCHEDULE

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.
- (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.”

Proceeds of Crime Act 2002 (c. 29)

17 The Proceeds of Crime Act 2002 is amended as follows.

18 (1) Section 2A (contribution to the reduction of crime) is amended as follows.

(2) In subsection (2)—

- (a) omit “or” before paragraph (e);
- (b) after paragraph (e) insert—
 - “(f) Her Majesty’s Revenue and Customs, or
 - (g) the Financial Conduct Authority.”

(3) In subsection (3)—

- (a) omit “and” at the end of paragraph (b);
- (b) after paragraph (c) insert “, and
- (d) in the case of Her Majesty’s Revenue and Customs or the Financial Conduct Authority, the Treasury.”

19 (1) Section 2C (prosecuting authorities) is amended as follows.

(2) In subsection (2), after “5,” insert “7”.

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- (3) In subsection (3A), after “302A” insert “, 303X or 303Z19”.
- 20 In section 7 (recoverable amount for purposes of confiscation order in England and Wales), in subsection (4)—
- (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) omit “and” at the end of paragraph (b);
 - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
 - (d) after paragraph (c) insert “, and
 - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 21 In section 47G (appropriate approval for exercise of search and seizure powers in England and Wales), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- 22 (1) Section 82 (meaning of free property for purposes of Part 2) is amended as follows.
- (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) in paragraph (b) (as amended by section 34(2) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
 - (c) after paragraph (b) insert—
 - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”
- 23 In section 93 (recoverable amount for purposes of confiscation order in Scotland), in subsection (4)—
- (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) omit “and” at the end of paragraph (b);
 - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
 - (d) after paragraph (c) insert “, and
 - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 24 (1) Section 148 (meaning of free property for purposes of Part 3) is amended as follows.
- (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) in paragraph (b) (as amended by section 34(3) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
 - (c) after paragraph (b) insert—
 - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”

- 25 In section 157 (recoverable amount for purposes of confiscation order in Northern Ireland), in subsection (4)—
- (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) omit “and” at the end of paragraph (b);
 - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
 - (d) after paragraph (c) insert “, and
 - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 26 In section 195G (appropriate approval for exercise of search and seizure powers in Northern Ireland), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- 27 (1) Section 230 (meaning of free property for purposes of Part 4) is amended as follows.
- (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) in paragraph (b) (as amended by section 34(4) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
 - (c) after paragraph (b) insert—
 - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”
- 28 In section 240 (general purpose of Part 5), in subsection (1)(b)—
- (a) for “cash” substitute “property”;
 - (b) at the end insert “and, in certain circumstances, to be forfeited by the giving of a notice”.
- 29 In section 241 (“unlawful conduct”), in subsection (3)(b), for “cash” substitute “property”.
- 30 (1) Section 278 (limit on recovery) is amended as follows.
- (2) In subsection (6A)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
 - (b) in the words after paragraph (b), for “forfeiture notice” substitute “notice”.
- (3) In subsection (7)—
- (a) in paragraph (a), after “section 298” insert “, 303O or 303Z14”;
 - (b) in the words after paragraph (b), for “section 298” substitute “that section”.
- (4) After subsection (7) insert—
- “(7A) If—
 - (a) an order is made under section 303Q instead of an order being made under section 303O for the forfeiture of recoverable property, and
 - (b) the enforcement authority subsequently seeks a recovery order in respect of related property,

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the order under section 303Q is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the property that was the forfeitable property in relation to the order under section 303Q.”

- 31 In section 289 (searches), in subsection (5)(b) for “a customs officer” substitute “an officer of Revenue and Customs”.
- 32 (1) Section 290 (prior approval) is amended as follows.
- (2) In subsection (4)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- (3) After subsection (6) insert—
- “(6A) But the duty in subsection (6) does not apply if, during the course of exercising the powers conferred by section 289, the relevant officer seizes property by virtue of section 303J and the property so seized is detained for more than 48 hours (calculated in accordance with section 303K(5)).”
- 33 In section 302 (compensation), in subsection (7A), for “or a constable” substitute “, a constable, an SFO officer or a National Crime Agency officer”.
- 34 (1) Section 311 (insolvency) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) An application for an order for the further detention of any property to which subsection (3) applies may not be made under section 303L unless the appropriate court gives leave.
- (2B) An application for the making of an account freezing order under section 303Z3 in respect of an account in which is held money to which subsection (3) applies, or an application under section 303Z4 for the extension of the period specified in such an order, may not be made unless the appropriate court gives leave.”
- (3) In subsection (4), after “recovery order” insert “, or to apply for an account freezing order under section 303Z3,”.
- 35 In section 312 (performance of functions of Scottish Ministers by constables in Scotland: excluded functions), in subsection (2), after paragraph (j) insert—
- “(k) section 303B(3) (listed asset);
- (l) section 303H(1) (code of practice);
- (m) section 303O(1)(b) (forfeiture);
- (n) section 303Y(3) (minimum value);
- (o) section 303Z8(3) (minimum amount);
- (p) section 303Z14(2)(b) (forfeiture).”
- 36 (1) Section 316 (general interpretation of Part 5) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “associated property”, after “property” insert “(in Chapter 2)”;
- (b) in the definition of “court”, for “Chapter 3” substitute “Chapters 3, 3A and 3B”;
- (c) at the appropriate places insert—

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““account forfeiture notice” (in Chapter 3B) has the meaning given by section 303Z9(3),”;

““account freezing order” (in Chapter 3B) has the meaning given by section 303Z1(3)(a),”;

““bank” (in Chapter 3B) has the meaning given by section 303Z7,”;

““building society” (in Chapter 3B) has the meaning given by section 303Z1(6),”;

““enforcement officer” (in Chapter 3B) has the meaning given by section 303Z1(6),”;

““listed asset” (in Chapter 3A) has the meaning given by section 303B,”;

““the minimum amount” (in Chapter 3B) has the meaning given by section 303Z8,”;

““the minimum value” (in Chapter 3A) has the meaning given by section 303Y,”;

““relevant court” (in Chapter 3B) has the meaning given by section 303Z1(6),”;

““relevant officer” (in Chapter 3A) has the meaning given by section 303C(9),”;

““senior officer” (in Chapter 3B) has the meaning given by section 303Z2(4),”.

(3) After subsection (9) insert—

“(10) References (in Chapter 3B) to an account being operated by or for a person are to be read in accordance with section 303Z1(3)(b).”

37 (1) Section 333D (tipping off: other permitted disclosures) is amended as follows.

(2) In subsection (1)—

- (a) omit “or” at the end of paragraph (a);
- (b) after that paragraph insert—

“(aa) for the purposes of proceedings under section 336A (power of court to extend moratorium period);

(ab) made in good faith by virtue of section 339ZB (disclosures within the regulated sector); or”.

(3) After subsection (1) insert—

“(1A) Where an application is made to extend a moratorium period under section 336A, a person does not commit an offence under section 333A if—

- (a) the disclosure is made to a customer or client of the person,
- (b) the customer or client appears to the person making the disclosure to have an interest in the relevant property, and
- (c) the disclosure contains only such information as is necessary for the purposes of notifying the customer or client that the application under section 336A has been made.

“Moratorium period” and “relevant property” have the meanings given in section 336D.”

38 In section 340 (Part 7: interpretation), after subsection (14) insert—

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“(15) “Further information order” means an order made under section 339ZH.”

39 (1) Section 341 (investigations for purposes of Part 8) is amended as follows.

(2) In subsection (3)—

- (a) omit “or” at the end of paragraph (c);
- (b) in paragraph (d), after “295” insert “, 303K or 303L”;
- (c) at the end of paragraph (d) insert “, or
- (e) property held in an account in relation to which an account freezing order made under section 303Z3 has effect.”

(3) After subsection (3A) insert—

“(3B) For the purposes of this Part a detained property investigation is an investigation for the purposes of Chapter 3A of Part 5 into—

- (a) the derivation of property detained under that Chapter, or a part of such property, or
- (b) whether property detained under that Chapter, or a part of such property, is intended by any person to be used in unlawful conduct.

(3C) For the purposes of this Part a frozen funds investigation is an investigation for the purposes of Chapter 3B of Part 5 into—

- (a) the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”) or of a part of such money, or
- (b) whether money held in a frozen account, or a part of such money, is intended by any person to be used in unlawful conduct.”

40 In section 342 (offences of prejudicing investigation), in subsection (1), after “a detained cash investigation” insert “, a detained property investigation, a frozen funds investigation”.

41 In section 343 (judges), in subsection (2), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

42 In section 344 (courts), in paragraph (a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

43 In section 345 (production orders), in subsection (2)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

44 In section 346 (requirements for making of production order), in subsection (2), after paragraph (bb) insert—

- “(bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bd) in the case of a detained property investigation into the intended use of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;
- (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing

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- order made under section 303Z3 has effect (a “frozen account”), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.
- 45 In section 350 (government departments), in subsection (5)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 46 In section 351 (production orders: supplementary), for subsection (5) substitute—
- “(5) An application to discharge or vary a production order or an order to grant entry need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
- (5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
- 47 (1) Section 352 (search and seizure warrants) is amended as follows.
- (2) In subsection (2)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- (3) In subsection (5)—
- (a) at the beginning of paragraph (b) insert “a Financial Conduct Authority officer;”;
- (b) in that paragraph, after “National Crime Agency officer” insert “, an officer of Revenue and Customs”;
- (c) in paragraph (c), after “constable,” insert “an SFO officer;”;
- (d) after paragraph (c) insert—
- “(ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;
- (cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;”.
- (4) In subsection (7), for “paragraph (c)” substitute “paragraphs (c), (ca) and (cb)”.
- 48 (1) Section 353 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bd) in the case of a detained property investigation into the intended use of property, the property specified in the application for the warrant,

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or a part of it, is intended by any person to be used in unlawful conduct;

- (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.

(3) In subsection (5)(a), after “(7B)” insert “, (7C), (7D), (7E), (7F)”.

(4) After subsection (7B) insert—

“(7C) In the case of a detained property investigation into the derivation of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7D) In the case of a detained property investigation into the intended use of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”

(5) In subsection (10)—

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- (a) at the beginning of paragraph (b) insert “a Financial Conduct Authority officer.”;
 - (b) in that paragraph, after “National Crime Agency officer” insert “, an officer of Revenue and Customs”;
 - (c) in paragraph (c), after “constable,” insert “an SFO officer.”;
 - (d) after paragraph (c) insert—
 - “(ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;
 - (cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation.”.
- (6) In subsection (11), for “paragraph (c)” substitute “paragraphs (c), (ca) and (cb)”.
- 49 (1) Section 355 (further provisions: confiscation and money laundering) is amended as follows.
- (2) In the heading, for “and money laundering” substitute “, money laundering, detained cash, detained property and frozen funds investigations”.
 - (3) In subsection (1)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 50 In section 356 (further provisions: civil recovery), in the heading, at the end insert “and exploitation proceeds investigations”.
- 51 (1) Section 357 (disclosure orders) is amended as follows.
- (2) In subsection (2), after “detained cash investigation” insert “, a detained property investigation or a frozen funds investigation”.
 - (3) In subsection (7), in paragraph (b)—
 - (a) after “investigation,” insert “a Financial Conduct Authority officer.”;
 - (b) after “National Crime Agency officer” insert “, an officer of Revenue and Customs”.
- 52 In section 363 (customer information orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 53 (1) Section 369 (customer information orders: supplementary) is amended as follows.
- (2) For subsection (5) substitute—
 - “(5) An application to discharge or vary a customer information order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
 - (5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
 - (3) In subsection (7)—

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- (a) after “National Crime Agency officer,” insert “a Financial Conduct Authority officer.”;
 - (b) after “constable” insert “, an SFO officer”.
- 54 In section 370 (account monitoring orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 55 In section 375 (account monitoring orders: supplementary), for subsection (4) substitute—
- “(4) An application to discharge or vary an account monitoring order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
 - (4A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (4) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
- 56 (1) Section 375A (evidence overseas) is amended as follows.
- (2) In subsection (1), after “detained cash investigation” insert “, a detained property investigation, a frozen funds investigation”.
 - (3) In subsection (5), after paragraph (b) insert—
 - “(ba) in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);
 - (bb) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);”.
- 57 In section 375B (evidence overseas: restrictions on use), in subsection (3), after paragraph (b) insert—
- “(ba) if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;
 - (bb) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;”.
- 58 (1) Section 377 (code of practice of Secretary of State) is amended as follows.
- (2) In subsection (1) after paragraph (f) insert—
 - “(g) Financial Conduct Authority officers.”
 - (3) After subsection (2) insert—
 - “(2A) The Secretary of State must also consult the Treasury about the draft in its application to functions that Financial Conduct Authority officers have under this Chapter.”
 - (4) In subsection (3) for “subsection (2)” insert “subsections (2) and (2A)”.
- 59 In section 378 (officers), after subsection (3B) insert—
- “(3C) In relation to a detained property investigation these are appropriate officers—

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- (a) a constable;
 - (b) an SFO officer;
 - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
 - (d) an officer of Revenue and Customs.
- (3D) In relation to a detained property investigation these are senior appropriate officers—
- (a) a police officer who is not below the rank of inspector;
 - (b) the Director of the Serious Fraud Office;
 - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
 - (d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to the police rank of inspector.
- (3E) In relation to a frozen funds investigation these are appropriate officers—
- (a) a constable;
 - (b) an SFO officer;
 - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
 - (d) an officer of Revenue and Customs.
- (3F) In relation to a frozen funds investigation these are senior appropriate officers—
- (a) a police officer who is not below the rank of inspector;
 - (b) the Director of the Serious Fraud Office;
 - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
 - (d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to the police rank of inspector.”
- 60 In section 380 (production orders), in subsections (2) and (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 61 In section 381 (requirements for making of production order), in subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
 - (bd) in the case of a detained property investigation into the intended use of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;
 - (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing

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- order made under section 303Z3 has effect (a “frozen account”), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.
- 62 In section 385 (Government departments), in subsection (4)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 63 In section 386 (production orders: supplementary), in subsection (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 64 In section 387 (search warrants), in subsections (2) and (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 65 (1) Section 388 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bd) in the case of a detained property investigation into the intended use of property, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;
- (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (3) In subsection (5)(a), after “(7B)” insert “, (7C), (7D), (7E), (7F)”.
- (4) After subsection (7B) insert—
- “(7C) In the case of a detained property investigation into the derivation of property, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

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- (7D) In the case of a detained property investigation into the intended use of property, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”
- 66 (1) Section 390 (further provisions: confiscation, civil recovery, detained cash and money laundering) is amended as follows.
- (2) In the heading, after “detained cash” insert “, detained property, frozen funds”.
 - (3) In subsection (1), after “detained cash investigations” insert “, detained property investigations, frozen funds investigations”.
 - (4) In subsections (5), (6) and (7), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 67 In section 391 (disclosure orders), in subsection (2), after “detained cash investigation” insert “, a detained property investigation or a frozen funds investigation”.
- 68 In section 397 (customer information orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 69 In section 404 (account monitoring orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 70 (1) Section 408A (evidence overseas) is amended as follows.
- (2) In subsection (1), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
 - (3) In subsection (5), after paragraph (b) insert—

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- “(c) in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);
- (d) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);”.
- 71 In section 408B (evidence overseas: restrictions on use), in subsection (3), after paragraph (b) insert—
- “(c) if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;
- (d) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;”.
- 72 In section 412 (interpretation), in paragraph (b) of the definitions of “appropriate person” and “proper person”, for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 73 In the title of Chapter 4 of Part 8, before “Interpretation” insert “Supplementary and”.
- 74 Before section 413 (in Chapter 4 of Part 8), insert—

“412A Power to vary monetary amounts

- (1) In order to take account of changes in the value of money, the Secretary of State may by regulations substitute another sum for the sum for the time being specified in—
- (a) section 362B(2)(b) (minimum value of property for purposes of making unexplained wealth order in England and Wales or Northern Ireland), and
- (b) section 396B(2)(b) (minimum value of property for purposes of making unexplained wealth order in Scotland).
- (2) The Secretary of State must consult the Department of Justice in Northern Ireland and the Scottish Ministers before making regulations under subsection (1).”
- 75 In section 414 (property), in subsection (3) before paragraph (a) insert—
- “(za) property is held by a person if he holds an interest in it;”.
- 76 (1) Section 416 (Part 8: other interpretative provisions) is amended as follows.
- (2) In subsection (1), after the entry for “detained cash investigation” insert—
- “detained property investigation: section 341(3B)
- frozen funds investigation: section 341(3C)”.
- (3) In subsection (2), at the appropriate places in the list insert—
- “enforcement authority: section 362A(7)”;
- “interim freezing order: section 362J(3)”;
- “unexplained wealth order: section 362A(3)”.
- (4) In subsection (3), at the appropriate places in the list insert—

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

“interim freezing order: section 396J(3)”;
“unexplained wealth order: section 396A(3)”.

(5) After subsection (3A) insert—

“(3B) In relation to an order in England and Wales or Northern Ireland that is an interim freezing order or an unexplained wealth order, references to the enforcement authority are to the enforcement authority that is seeking, or (as the case may be) has obtained, the order.”

(6) In subsection (7), after “Recovery order,” insert “property freezing order”.

(7) After subsection (7) insert—

“(7ZA) “Settlement” has the meaning given by section 620 of the Income Tax (Trading and Other Income) Act 2005.”

77 (1) Section 435 (use of information by certain Directors) is amended as follows.

(2) In the heading for “Directors” substitute “authorities”.

(3) In subsection (1)—

- (a) for “the Director” substitute “a relevant authority”;
- (b) for “his”, in each place, substitute “the authority’s”;
- (c) for “him” substitute “the authority”.

(4) In subsection (2)—

- (a) for “the Director” substitute “a relevant authority”;
- (b) for “his”, in each place, substitute “the authority’s”;
- (c) for “him” substitute “the authority”.

(5) In subsection (4)—

- (a) in the words before paragraph (a), for ““the Director”” substitute ““relevant authority””;
- (b) omit “or” at the end of paragraph (b);
- (c) after paragraph (c) insert—
 - “(d) Her Majesty’s Revenue and Customs; or
 - (e) the Financial Conduct Authority.”

(6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.

78 (1) Section 436 (disclosure of information to certain Directors) is amended as follows.

(2) In the heading for “Directors” substitute “authorities”.

(3) In subsection (1)—

- (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
- (b) for “the Director”, in the second place it occurs, substitute “the authority”;
- (c) for “his” substitute “the authority’s”.

(4) In subsection (5), after paragraph (h) insert—

“(i) the Financial Conduct Authority.”

(5) In subsection (10) for ““the Director”” substitute ““relevant authority””.

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

- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 79 (1) Section 437 (further disclosure) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “the Director’s” substitute “a relevant authority’s”.
- (3) In subsection (6)—
- (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
- (b) for “the Director”, in the second place it occurs, substitute “the authority”.
- (4) In subsection (7) for ““the Director”” substitute ““relevant authority””.
- 80 (1) Section 438 (disclosure of information by certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.
- (3) In subsection (1)—
- (a) in the words before paragraph (a)—
- (i) for “the Director” substitute “a relevant authority”;
- (ii) for “his” substitute “the authority’s”;
- (iii) for “him” substitute “the authority”;
- (b) in paragraph (c) for “Director’s” substitute “authority’s”;
- (c) in paragraph (e) after “Part 5” insert “or 8”;
- (d) in paragraph (f)—
- (i) for “or a constable” substitute “, a constable or an SFO officer”;
- (ii) after “Chapter 3” insert “, 3A or 3B”;
- (e) in paragraph (fa) for “Director” substitute “relevant authority”.
- (4) In subsection (5)—
- (a) for “the Director” substitute “a relevant authority”;
- (b) for “he”, in each place, substitute “the authority”.
- (5) In subsection (10) for ““the Director”” substitute ““relevant authority””.
- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 81 (1) Section 439 (disclosure of information to Lord Advocate and to Scottish Ministers) is amended as follows.
- (2) In subsection (1), after “Part 5” insert “or 8”.
- (3) In subsection (5), after paragraph (h) insert—
- “(i) the Financial Conduct Authority.”
- (4) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 82 (1) Section 441 (disclosure of information by Lord Advocate and by Scottish Ministers) is amended as follows.
- (2) In subsection (1), after “Chapter 3” insert “or 3A”.

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- (3) In subsection (2)—
- (a) in the words before paragraph (a), after “5” insert “or 8”;
 - (b) in paragraph (d), after “5” insert “or 8”;
 - (c) in paragraph (fa), for the words from “functions” to “Ireland” substitute “functions of a relevant authority, as defined by section 435(4),”;
 - (d) in paragraph (g)—
 - (i) omit “a customs officer or”;
 - (ii) after “Chapter 3” insert “, 3A or 3B”.
- 83 In section 443 (enforcement in different parts of the United Kingdom), in subsection (1) after paragraph (c) insert—
- “(ca) for an order made by a court under Part 7 in one part of the United Kingdom to be enforced in another part;”.
- 84 In section 445 (external investigations), omit subsection (3).
- 85 In section 450 (pseudonyms: Scotland), in subsection (1)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 86 In section 453A (certain offences in relation to financial investigators), in subsection (5), at the end of paragraph (d) (before the “or”) insert—
- “(da) section 303C (powers to search for a listed asset);
(db) section 303J (powers to seize property);
(dc) section 303K (powers to detain seized property);”.
- 87 (1) Section 459 (orders and regulations) is amended as follows.
- (2) In subsection (3A), at the end insert “or regulations under section 131ZA(7)”.
- (3) In subsection (4), after paragraph (a) insert—
- “(aza) regulations under section 303B(2), 303G(5), 303W(10), 303Y(2), 303Z8(2) or 303Z18(10);”.
- (4) In subsection (5), in paragraph (a)—
- (a) after “other than” insert “regulations under section 131ZA(7) or”;
 - (b) after “293(4),” insert “303H(4),”.
- (5) In subsection (6)(b), after “293(4),” insert “303H(4),”.
- (6) After subsection (6) insert—
- “(6ZA) No regulations may be made by the Scottish Ministers under section 131ZA(7) unless a draft of the regulations has been laid before and approved by a resolution of the Scottish Parliament.
- (6ZB) No regulations may be made by the Secretary of State under section 303B(2), 303G(5), 303W(10), 303Y(2), 303Z8(2) or 303Z18(10) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”
- (7) In subsection (6A), after “302(7B)” insert “or of regulations under section 303W(10) or 303Z18(10)”.
- (8) In subsection (7A)—

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

- (a) after “302(7B),” insert “303I(4),”;
 - (b) at the end insert “or regulations under section 303W(10) or 303Z18(10)”.
- (9) In subsection (7B), after “302(7B),” insert “303I(4),”.
- (10) After subsection (7B) insert—
- “(7BA) No regulations may be made by the Department of Justice under section 303W(10) or 303Z18(10) unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”
- (11) In subsection (7D), after “(7B)” insert “, (7BA)”.
- 88 In section 460 (finance), in subsection (3)—
- (a) omit “and” at the end of paragraph (a);
 - (b) after paragraph (b) insert “, and
 - (c) any sums received by the Financial Conduct Authority in consequence of this Act are to be paid into the Consolidated Fund.”

Homelessness etc. (Scotland) Act 2003 (asp 10)

- 89 In section 11 of the Homelessness etc. (Scotland) Act 2003 (notice to local authority of proceedings for possession etc.), in subsection (5), after paragraph (f) insert—
- “(fa) section 245ZA(2) of the Proceeds of Crime Act 2002 (notice to local authority of application for decree of removing and warrant for ejection),”.

Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)

- 90 The Bankruptcy and Diligence etc. (Scotland) Act 2007 is amended as follows.
- 91 (1) Section 214 (expressions used in Part 15) is amended as follows.
- (2) In subsection (1)—
- (a) omit “and” after the definition of “a decree for removing from heritable property”, and
 - (b) after the definition of “an action for removing from heritable property” insert—

““defender”, in relation to a decree for removing from heritable property of the type mentioned in subsection (2)(l), means any person against whom the decree is enforceable.”
- (3) In subsection (2)—
- (a) omit “and” at the end of paragraph (j), and
 - (b) after paragraph (k) insert “; and
 - (l) a decree of removing and warrant for ejection granted under section 266(8ZA) of the Proceeds of Crime Act 2002.”
- 92 In section 216 (service of charge before removing)—
- (a) in subsection (1), in paragraph (a), for “14 days” substitute “the appropriate period”, and
 - (b) after that subsection insert—

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

“(1A) In subsection (1)(a), “the appropriate period” means—

- (a) in the case of a decree for removing from heritable property of the type mentioned in paragraph (l) of section 214(2), 28 days,
- (b) in the case of a decree for removing from heritable property of the type mentioned in any other paragraph of that section, 14 days.”

93 In section 218 (preservation of property left in premises), after subsection (2) insert—

“(3) In the application of this section to the granting of a decree for removing from heritable property of the type mentioned in section 214(2)(l), “pursuer” means the trustee for civil recovery who is responsible by virtue of section 267(3)(ba) of the Proceeds of Crime Act 2002 for enforcing the decree.”