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STATUTORY INSTRUMENTS

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**2018 No. 521**

**The Terrorism Act 2000 (Enforcement in Different Parts of the United Kingdom) Order 2018**

**PART 4**

**Enforcement in Scotland of English or Welsh Orders and Northern Ireland Orders**

**English or Welsh Account Monitoring Orders**

**27.**—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The sheriff is to be regarded, for the purpose of enforcing the account monitoring order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Scottish account monitoring order.

**Northern Ireland Account Monitoring Orders**

**28.**—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Paragraph 2(4) of Schedule 6A (account monitoring orders) has effect with the modification that for “an appropriate officer” there is substituted “whichever of a Northern Ireland appropriate officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”.

(4) The sheriff is to be regarded, for the purpose of enforcing the account monitoring order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(5) Paragraph 7 of Schedule 6A (statements) applies to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(6) Paragraph 6(2) of Schedule 6A (effect of orders) has effect as if the order were a Scottish account monitoring order.

### **English or Welsh Disclosure Orders**

**29.**—(1) Paragraphs (2) to (6) apply where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(2) Paragraph 11 of Schedule 5A (offences) does not apply and paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order.

(3) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

- (a) in paragraph (a), after “paragraph 11(1) or (3)” there is inserted “or an offence under paragraph 21(1) or (3)”;
- (b) in paragraph (b), after “(false statements)” there is inserted “or perjury”.

(5) Paragraph 13 of Schedule 5A (further provisions) does not apply and paragraph 23 of Schedule 5A (further provisions) applies as if the order were a Scottish disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

- (a) in sub-paragraph (3), for “The Lord Advocate” there is substituted “An English or Welsh appropriate officer”; and
- (b) in sub-paragraph (5), for “the Lord Advocate” there is substituted “an English or Welsh appropriate officer”.

(7) Paragraphs (8) and (9) apply where an English or Welsh appropriate officer gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(8) Paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order, as well as paragraph 11 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 23 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

(9) Paragraph 12 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

### **Northern Ireland Disclosure Orders**

**30.**—(1) Paragraphs (2) to (6) apply where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(2) Paragraph 11 of Schedule 5A (offences) does not apply and paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order.

(3) Paragraph 12 of Schedule 5A (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modifications in paragraph (4).

(4) The modifications are that in sub-paragraph (2)—

- (a) in paragraph (a), after “paragraph 11(1) or (3)” there is inserted “or an offence under paragraph 21(1) or (3)”;
- (b) in paragraph (b), after “(false statements)” there is inserted “or perjury”.

(5) Paragraph 13 of Schedule 5A (further provisions) does not apply and paragraph 23 of Schedule 5A (further provisions) applies as if the order were a Scottish disclosure order, with the modifications in paragraph (6).

(6) The modifications are that—

- (a) in sub-paragraph (3), for “The Lord Advocate” there is substituted “A Northern Ireland appropriate officer”; and
- (b) in sub-paragraph (5), for “the Lord Advocate” there is substituted “a Northern Ireland appropriate officer”.

(7) Paragraphs (8) and (9) apply where a Northern Ireland appropriate officer gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

- (a) answer questions in Northern Ireland; or
- (b) provide information or produce documents in Northern Ireland.

(8) Paragraph 21 of Schedule 5A (offences) applies as if the order were a Scottish disclosure order, as well as paragraph 11 of Schedule 5A (offences) and, for the avoidance of doubt, paragraph 23 of Schedule 5A (further provisions) does not apply in determining whether the person has committed an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

(9) Paragraph 12 of Schedule 5A (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under paragraph 21(1) or (3) of Schedule 5A (offences).

### **English or Welsh Explanation Orders**

**31.**—(1) This article applies where an English or Welsh explanation order requires a person in Scotland to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

- (b) by an English or Welsh appropriate officer or a constable of the Police Service of Scotland serving the order personally,

any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The sheriff is to be regarded, for the purpose of enforcing the explanation order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(4) Paragraph 13(2) of Schedule 5 (explanations) does not apply and paragraph 33(1) (supplementary) of Schedule 5 applies as if the explanation order were a Scottish explanation order.

(5) In relation to criminal proceedings brought in Scotland—

- (a) paragraph 13(4)(b) of Schedule 5 (explanations) does not apply, and
- (b) paragraph 30(3) of Schedule 5 (explanations) applies.

### **Northern Ireland Explanation Orders**

**32.**—(1) This article applies where a Northern Ireland explanation order requires a person in Scotland to provide an explanation of any material produced or made available under paragraph 5 of Schedule 5 (excluded and special procedure material: production & access).

(2) The explanation order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a Northern Ireland appropriate officer or a constable of the Police Service of Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) The sheriff is to be regarded, for the purpose of enforcing the explanation order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(4) Paragraph 13(2) of Schedule 5 (explanations) does not apply and paragraph 33(1) (supplementary) of Schedule 5 applies as if the explanation order were a Scottish explanation order.

(5) In relation to criminal proceedings brought in Scotland—

- (a) paragraph 13(4)(b) of Schedule 5 (explanations) does not apply, and
- (b) paragraph 30(3) of Schedule 5 (explanations) applies.

### **English or Welsh Financial Information Orders**

**33.**—(1) This article applies where an English or Welsh police officer or counter-terrorism financial investigator requires a financial institution in Scotland to provide customer information under an English or Welsh financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Scotland as well as in England and Wales.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Scotland as well as criminal proceedings brought in England and Wales.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Scottish financial information order.

### **Northern Ireland Financial Information Orders**

**34.**—(1) This article applies where a Northern Ireland police officer or counter-terrorism financial investigator requires a financial institution in Scotland to provide customer information under a Northern Ireland financial information order.

(2) Proceedings for an offence under paragraph 1(3) (orders) and paragraph 8 (offence by body corporate) of Schedule 6 may be brought in Northern Ireland as well as in Scotland.

(3) Paragraph 9 of Schedule 6 (self-incrimination) applies in relation to criminal proceedings brought in Northern Ireland as well as criminal proceedings brought in Scotland.

(4) Paragraph 1(2)(b) of Schedule 6 (orders) applies as if the order were a Scottish financial information order.

### **English or Welsh Further Information Orders**

**35.**—(1) This article applies where an English or Welsh further information order requires a person in Scotland to provide information.

(2) The further information order may be served—

(a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

(b) by a Scottish law enforcement officer or an English or Welsh law enforcement officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in England and Wales as well as criminal proceedings brought in Scotland.

(4) Section 22E (supplementary) has effect as if the order were a Scottish further information order.

### **Northern Ireland Further Information Orders**

**36.**—(1) This article applies where a Northern Ireland further information order requires a person in Scotland to provide information.

(2) The further information order may be served—

(a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

(b) by a Scottish law enforcement officer or a Northern Ireland law enforcement officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 120C) as to the service of documents and any other requirements in law as to the service of documents do not apply.

(3) Section 22C (statements) applies in relation to criminal proceedings brought in Northern Ireland, as well as criminal proceedings brought in Scotland.

(4) Section 22E (supplementary) has effect as if the order were a Scottish further information order.

### **English or Welsh Production Orders**

**37.**—(1) This article applies where—

- (a) an English or Welsh production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
  - (b) an order to grant entry to premises in Scotland is made in respect of an English or Welsh production order under paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access).
- (2) The production order may be served—
- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
  - (b) by a constable of the Police Service of Scotland or an English or Welsh appropriate officer serving the order personally,
- and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and any other requirements in law as to the service of documents do not apply.
- (3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modifications in paragraph (4).
- (4) The modifications are that for “an appropriate officer” there is substituted—
- (a) in sub-paragraph (a), “whichever of an English or Welsh appropriate officer, a constable of the Police Service of Scotland or an English or Welsh appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
  - (b) in sub-paragraph (b), “such officer or officers”.
- (5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (6).
- (6) The modification is that for “a constable” there is substituted “an officer or officers specified in such order”.
- (7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (8).
- (8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))”, there is substituted “whichever of a named English or Welsh appropriate officer, a named constable of the Police Service of Scotland or a named English or Welsh appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.
- (9) The sheriff is to be regarded, for the purpose of enforcing the production order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.
- (10) Paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 have effect as if the production order were a Scottish production order.
- (11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraph 26 of Schedule 5 (order for production of material: production & access) has effect as if the production order were a Scottish production order and, in particular—
- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)) the person on whom it is served must report the reasons for the failure to the sheriff; and
  - (b) the production order must be served as if the proceedings were civil proceedings started against the government department in Scotland.

## Northern Ireland Production Orders

38.—(1) This article applies where—

- (a) a Northern Ireland production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Scotland is made in respect of a Northern Ireland production order under paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access).

(2) The production order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a constable of the Police Service of Scotland or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 120C) and other requirements in law as to the service of documents do not apply.

(3) Paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” there is substituted—

- (a) in sub-paragraph (a), “whichever of a Northern Ireland appropriate officer, a constable of the Police Service of Scotland or a Northern Ireland appropriate officer and a constable of the Police Service of Scotland acting together the order specifies”; and
- (b) in sub-paragraph (b), “such officer or officers”.

(5) Paragraph 5(5) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (6).

(6) The modification is that for “a constable” there is substituted “an officer or officers specified in such order”.

(7) Paragraph 7(2)(a) of Schedule 5 (excluded and special procedure material: production & access) has effect with the modification in paragraph (8).

(8) The modification is that for “a named appropriate officer (as defined in paragraph 5(6))”, there is substituted “whichever of a named Northern Ireland appropriate officer, a named constable of the Police Service of Scotland or a named Northern Ireland appropriate officer and a named constable of the Police Service of Scotland acting together the order specifies”.

(9) The sheriff is to be regarded, for the purpose of enforcing the production order, as having made the order and proceedings for or with respect to any failure to comply with the order may be taken by the sheriff accordingly.

(10) Paragraph 8 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraphs 25 (order for production of material) and 33(1) (supplementary) of Schedule 5 have effect as if the production order were a Scottish production order.

(11) Paragraph 9 of Schedule 5 (excluded and special procedure material: production & access) does not apply and paragraph 26 of Schedule 5 (order for production of material) has effect as if the production order were a Scottish production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of paragraph 5(3) of Schedule 5 (excluded and special procedure material: production & access)) the person on whom it is served must report the reasons for the failure to the sheriff; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the government department in Scotland.