STATUTORY INSTRUMENTS

2017 No. 1290 (L. 22)

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

The Magistrates' Courts (Freezing and Forfeiture of Terrorist Money in Bank and Building Society Accounts) Rules 2017

Made - - - -	*11th December 2017*
Laid before Parliament	*18th December2017*
Coming into force - -	*31st January 2018*

The Lord Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(**1**):

Citation and Commencement

1. These Rules may be cited as the Magistrates' Courts (Freezing and Forfeiture of Terrorist Money in Bank and Building Society Accounts) Rules 2017, and come into force on 31st January 2018.

Interpretation

2. In these Rules—

(a) "the Act" means the Anti-terrorism, Crime and Security Act 2001(**2**), and "Schedule 1" means Schedule 1 to the Act;

(b) "document" includes any notification required to be given under these Rules;

(**1**) 1980 c. 43. Section 144 has been amended by section 109(1) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003; section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005; section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007; Article 3(2) and paragraphs 1(1), (2) – (6) of Schedule 2 to SI 2012/2398 and section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013.

(**2**) 2001 c.24. Parts 4A and 4B (comprising paragraphs 10A to 10Z7) of Schedule 1 were inserted by section 39 of, and Schedule 3 to, the Criminal Finances Act 2017 (c. 22).

(c) "electronic communication" has the meaning given by section 15(1) of the Electronic Communications Act 2000(**3**);

(d) words and expressions used have the same meaning as in Schedule 1 to the Act.

Applications for an account freezing order

3.—(1) An application under paragraph 10Q(2) of Schedule 1 for an order under paragraph 10S(2) of Schedule 1 must be made in writing and may be sent to the court before which the applicant wishes to make the application.

(2) But where the reasonable grounds for suspicion which led to an application under paragraph 10Q(2) of Schedule 1 are connected to—

(a) the reasonable grounds for suspicion which led to the seizure of cash or property to which a previous order made under paragraph 3(2) or 10B(2) of Schedule 1 relates; or

(b) the reasonable grounds for suspicion which led to the making of a previous account freezing order under paragraph 10S(2) of Schedule 1, then the application must specify the connection to any such previous order and may be sent to any court which made a previous order listed in sub-paragraph (a) or (b).

(3) Unless the application under paragraph 10Q(2) of Schedule 1 is made without notice, a copy of the written application and notification of the hearing of the application must be given by the applicant to any person by or for whom the account which is the subject of the application is operated.

(4) But the applicant is not required to send copies of the written application and notification of the hearing to any person by or for whom the account is operated who cannot be identified.

(5) Where paragraph (4) applies, the court shall not decline to hear an application solely on the ground that it has not been proved that any person by or for whom the account which is the subject of the application is operated has received a copy of the written application and notification of the hearing.

(6) The applicant must inform the court of any person known to be affected by the order, as soon as practicable after that person is so identified.

(7) The court must give—

(a) notice of the order; and

(b) a copy of the order,

to any person by or for whom the account which is the subject of the application is operated and to any other person known to be affected by the order, including the relevant bank or building society.

Application for the variation or setting aside of an account freezing order

4.—(1) An application under paragraph 10T(1) of Schedule 1 to vary or set aside an account freezing order under paragraph 10S(2) of Schedule 1 must be made in writing and sent to the court before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given notice of an order under paragraph 10S(2) of Schedule 1 in respect of the account, then the application must be sent to the court which sent the applicant that notice.

(**3**) 2000 c. 7. Section 15(1) is amended by section 406 of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(3) The court must send a copy of the application to the enforcement officer who applied for the account freezing order and to every person to whom notice of a previous related order made under paragraph 10S(2) or 10T(1) of Schedule 1 has been given.

(4) The court must fix a date for the hearing of the application, which, unless directed otherwise, shall not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant, the enforcement officer and to every person to whom notice of an order made under paragraph 10S(2) or 10T(1) of Schedule 1 has been given.

(5) At the hearing of an application under paragraph 10T(1) of Schedule 1, the court may, if it thinks fit, order that the applicant be joined as a party to all the proceedings in relation to the account which is the subject of an order under paragraph 10S(2) of Schedule 1.

(6) The court must give a copy of the order to every person to whom notice of the previous related orders has been given.

(7) The court must also give—

(a) notice of the order; and

(b) a copy of the order,

to any person other than one referred to in paragraph (4) who is known to be affected by the order.

Application for forfeiture of frozen money

5.—(1) An application under paragraph 10Z2(2) of Schedule 1 for the forfeiture of money held in a frozen account must be made in writing and may be sent to the court to which applications for orders to freeze accounts under paragraph 10S(2) of Schedule 1 have been sent.

(2) But where the reasonable grounds for suspicion which led to the application under paragraph 10Z2(2) of Schedule 1 are connected to the reasonable grounds for suspicion which led to the seizure of cash or other property to which a previous order made under paragraph 3(2) or 10B(2) of Schedule 1 relates—

(a) the application under paragraph 10Z2(2) of Schedule 1 must specify the connection to any such previous order; and

(b) the application under paragraph 10Z2(2) of Schedule 1 may be sent to any court which made such a previous order.

(3) The applicant must send a copy of the application to every person to whom notice of an order made under paragraph 10S(2) of Schedule 1 has been given and to any other person identified by the court as being affected by the application.

(4) The court shall fix a date for a directions hearing, which unless the designated officer directs otherwise shall not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant and every person to whom a copy of the application is required to be sent under paragraph (3).

(5) At the directions hearing, the court may give directions relating to the management of the proceedings, including directions as to the date for the hearing of the application.

(6) If neither the persons by or for whom the frozen account is operated, nor any other person who is affected by the account freezing order, seeks to contest the application, the court may decide the application at the directions hearing.

(7) A copy of an order for the forfeiture of money held in a frozen account under paragraph 10Z2(3) of Schedule 1 must be given by the court to every person to whom notice of an order made under paragraph 10S(2) of Schedule 1 in respect of the frozen account been given and to any other person known to be affected by the order.

Application to set aside forfeiture

6.—(1) An application under paragraph 10Z(1) of Schedule 1 for the setting aside of forfeiture of money forfeited in pursuance of an account forfeiture notice must be made in writing and may be sent to the court before which the applicant wishes to make the application.

(2) But if the applicant has been given notice of an order under paragraph 10S(2) of Schedule 1 in respect of the account in which the money is held, then the application must be sent to the court which sent the applicant that notice.

(3) The court must send a copy of the application to the enforcement officer who applied for the account freezing order, to every person to whom notice of an order made under paragraph 10S(2) of Schedule 1 has been given and to the Director of Public Prosecutions, where the Director has given notification under rule 7.

(4) The court shall fix a date for the hearing of the application, which, unless directed otherwise, shall not be earlier than seven days from the date on which it is fixed, and must notify that date to the applicant and to every person to whom a copy of the application is required to be sent under paragraph (3).

(5) An order under paragraph 10Z(6)(a) of Schedule 1 must provide for the release of the money within seven days of the date of the making of the order, or such longer period as, with the agreement of the applicant, may be specified.

Director of Public Prosecutions appearing in proceedings

7. Where the Director of Public Prosecutions has agreed under paragraph 10Z9 of Schedule 1(**4**) to appear in proceedings under Schedule 1 for—

(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; or

(e) an immigration officer,

the Director must notify the designated officer for the court which is dealing with the proceedings if the Director wants documents given under these Rules to be given also to the Director.

Application for compensation

8.—(1) An application under paragraph 10Z7 of Schedule 1 for compensation must be made in writing and sent to the court before which the applicant wishes to make the application, and must specify the grounds on which it is made.

(2) But if the applicant has been given notice of an order under paragraph 10S(2) of Schedule 1 in respect of the frozen account holding the money which is the subject of the application, then the application shall be sent to the court which sent the applicant that notice.

(3) The court must send a copy of the application to—

(a) the Commissioners for Her Majesty's Revenue and Customs, if the money to which the application relates was subject to an account freezing order obtained by an officer of Revenue and Customs;

(b) the police force to which the constable belongs, if the money to which the application relates was subject to an account freezing order obtained by a constable;

(**4**) Paragraph 10Z9 was inserted by paragraph 16(15) of Schedule 5 to the Criminal Finances Act 2017 (c. 22).

(c) the police force of which the counter-terrorism financial officer is a member of staff, if the money to which the application relates was subject to an account freezing order obtained by a counter-terrorism financial investigator;

(d) the Secretary of State, if the money to which the application relates was subject to an account freezing order obtained by an immigration officer; and

(e) every person to whom notice of the order made under paragraph 10D(1) of Schedule 1 has been given.

(4) The court must fix a date for the hearing of the application, which, unless directed otherwise, shall not be earlier than seven days from the date on which it is fixed, and must notify the date to the applicant and every person to whom a copy of the application is required to be sent under paragraph (3).

Giving of documents

9.—(1) Any document required to be given to any person under these Rules may be given—

(a) by post in accordance with rule 10;

(b) by means of electronic communication in accordance with rule 11; or

(c) by any method authorised by the court under rule 12.

(2) If any document is given to a person in accordance with paragraph (1), it is deemed to have been received by that person unless the contrary is shown.

Giving documents by post

10.—(1) In order to give a document by post to a person (other than to the court), it must be sent by properly addressing, pre-paying and posting to an address which has been given by that person for the purpose of receipt of documents under these Rules.

(2) If no address has been given as is mentioned in paragraph (1), the document must be sent to an address which is shown in the following table.

Person to whom document is to be given	*Address*
1. Individual	Last known residential address
2. Individual in their business capacity	Last known residential address of the individual; or principal or last known place of business
3. Individual in their capacity as a partner in a partnership	Last known residential address of the individual; or principal or last known place of business of the partnership
4. Limited Liability Partnership (within the meaning of the Limited Liability Partnerships Act 2000[1])	Principal office of the partnership; or any place of business of the partnership
5. Corporation (other than a company)	Principal office of the corporation; or any place where the corporation carries on its activities
6. Company	Principal office of the company; or any place of business of the company

(1) 2000 c.12. "Limited Liability Partnership" is defined in section 1(2).