STATUTORY INSTRUMENTS

# 2017 No. 1226

# PREVENTION AND SUPPRESSION OF TERRORISM

## The Administrative Forfeiture of Terrorist Cash and Terrorist Money Held in Bank and Building Society Accounts (Cash and Account Forfeiture Notices) Regulations 2017

| | |
|---|---|
| *Made - - - -* | *6th December 2017* |
| *Laid before Parliament* | *11th December 2017* |
| *Coming into force - -* | *31st January 2018* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraphs 5A(6) and 10X(1) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001(**1**).

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Administrative Forfeiture of Terrorist Cash and Terrorist Money Held in Bank and Building Society Accounts (Cash and Account Forfeiture Notices) Regulations 2017, and come into force on 31st January 2018.

(2) In these Regulations—

"the Act" means the Anti-terrorism, Crime and Security Act 2001;

"child" means a person under 18 years;

"electronic communication" has the meaning given by section 15(1) of the Electronic Communications Act 2000(**2**);

"protected person" means—

(a) in England and Wales, a person who lacks capacity within the meaning of the Mental Capacity Act 2005(**3**) in relation to a cash forfeiture notice or an account forfeiture notice;

(b) in Northern Ireland, means a person who is 16 years or over who lacks capacity to understand the nature of a cash forfeiture notice or an account forfeiture notice because of an impairment of, or a disturbance in the functioning of, the mind or brain;

(**1**) 2001 c. 24. Paragraph 5A(6) is inserted by section 38(4) of the Criminal Finances Act 2017 (c. 22) and paragraph 10X(1) is inserted by paragraph 2 of Schedule 4 to that Act.
(**2**) 2000 c. 7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).
(**3**) 2005 c. 9.

(c) in Scotland, an adult who is incapable, within the meaning of the Adults with Incapacity (Scotland) Act 2000(**4**), of understanding the nature of a cash forfeiture notice or an account forfeiture notice.

"senior officer" has the meaning given by—

(a) in relation to a cash forfeiture notice, paragraph 5A(10) of Schedule 1 to the Act;

(b) in relation to an account forfeiture notice, paragraph 10Q(7) of that Schedule.

**Giving of a cash forfeiture notice**

**2.**—(1) Subject to paragraph (2), a cash forfeiture notice must be given by a senior officer to—

(a) any person to whom notice of the most recent order made under paragraph 3(2) of Schedule 1 to the Act has been given, and

(b) any person who has been identified as being affected by such an order but who has not been given notice of the order.

(2) Where—

(a) there are no such persons as are mentioned in paragraph (1), or

(b) it is not possible to give a notice in accordance with regulation 4(1) to any such person,

the cash forfeiture notice must be given by way of publication in accordance with regulation 4(2).

(3) Where a cash forfeiture notice is to be given to a person outside the United Kingdom—

(a) nothing in these Regulations authorises or requires any person to do anything which is contrary to the law of the country where the cash forfeiture notice is to be given, and

(b) the duty for the cash forfeiture notice to be given by way of publication under paragraph (2)(b) does not apply.

(4) Regulation 7 makes further provision for cases where an individual to whom a cash forfeiture notice is to be given is a child or protected person.

**Giving of an account forfeiture notice**

**3.**—(1) Subject to paragraph (2), an account forfeiture notice must be given by a senior officer to—

(a) any person to whom notice of an order made under paragraph 10S(2) of Schedule 1 to the Act has been given, and

(b) any person who has been identified as being affected by such an order but who has not been given notice of the order.

(2) Where—

(a) there is no person who falls within paragraph (1), or

(b) it is not possible to give a notice in accordance with regulation 4(1) to any such person,

the account forfeiture notice must be given by way of publication in accordance with regulation 4(2).

(3) Where an account forfeiture notice is to be given to a person outside the United Kingdom—

(a) nothing in these Regulations authorises or requires any person to do anything which is contrary to the law of the country where the account forfeiture notice is to be given, and

(b) the duty for the account forfeiture notice to be given by way of publication under paragraph (2)(b) does not apply.

(**4**) 2000 asp 4.

(4) Regulation 7 makes further provision for cases where an individual to whom an account forfeiture notice is to be given is a child or protected person.

**Manner in which a cash forfeiture notice or an account forfeiture notice must be given**

**4.**—(1) A cash forfeiture notice or an account forfeiture notice which is given to a person must be given—

(a) by post in accordance with regulation 5, or

(b) by means of electronic communication in accordance with regulation 6.

(2) A cash forfeiture notice or an account forfeiture notice which is required to be given by way of publication must be published—

(a) in the London Gazette, if the senior officer believes any affected person may be in England or Wales;

(b) in the Belfast Gazette, if the senior officer believes any affected person may be in Northern Ireland;

(c) in the Edinburgh Gazette, if senior officer believes any affected person may be in Scotland.

**Giving a cash forfeiture notice or an account forfeiture notice by post**

**5.**—(1) In order to give a cash forfeiture notice or an account forfeiture notice to a person by post, it must be sent by posting it to an address which has been given by that person for the purpose of receipt of such a notice under these Regulations.

(2) If no such address has been given, the cash forfeiture notice or account forfeiture notice must be sent to an address which is shown in the following table (or where it is possible to post the notice to more than one of the addresses in the table, to any such address).

| *Person to whom a cash forfeiture notice or an account forfeiture notice is to be given* | *Address* |
|---|---|
| Individual | Last known residential address |
| Individual in their business capacity | Last known residential address or principal or last known place of business |
| Individual in their capacity as a partner in a partnership | Last known residential address or principal or last known place of business of the partnership |
| 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 |
| Corporation (other than a company) | Principal office of the corporation or any place where the corporation carries on its activities |
| 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) of that Act.

(3) The cash forfeiture notice or account forfeiture notice is to be treated as having been given at the time at which the notice would be delivered in the ordinary course of post.

(1)