

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

1. The Home Office has prepared this Supplementary Delegated Powers Memorandum, in relation to amendments tabled by the Government for consideration at the Committee Stage of the Criminal Finances Bill in the House of Commons. The Memorandum identifies the only amendment to confer powers to make delegated legislation, and explains why the power has been taken and the nature of, and reason for, the procedure selected.

Clause 34(3) – new Part 2A to Schedule 1 of ATCSA: Power to forfeit terrorist cash without a court order

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: Negative

2. Clause 34 inserts new Part 2A (which comprises new paragraph 5A-5F) into Schedule 1 to ATCSA which provides for the administrative (i.e. without court order) forfeiture of terrorist cash in England and Wales, Scotland and Northern Ireland. These provisions enable certain senior law enforcement officers to give a notice – referred to as a cash forfeiture notice – for the purpose of forfeiting cash which has been seized and detained under existing provisions in ATCSA, if satisfied that the cash is terrorist cash. It is the case that terrorist cash is forfeited without objection under the existing provisions of ATCSA, which require law enforcement to apply to the Court for a forfeiture order. These provisions are designed to reduce the administrative and financial burden on the courts and law enforcement by enabling such cash to be administratively forfeited instead. Where law enforcement officers are satisfied that detained cash is terrorist cash, they may give a cash forfeiture notice indicating their intention to administratively forfeit it, unless an objection is made within a specified period. New paragraph 5A(4) specifies what information the cash forfeiture notice must include. New paragraph 5A(6) requires the Secretary of State by regulations made by statutory instrument to make provision about how a cash forfeiture notice must be given. New paragraph 5(7) provides that the regulations may *inter alia* specify: the manner in which a cash forfeiture notice may be given, allow for the notice to be given by publication, and the circumstances in which a notice is to be treated as having been given. New paragraph 5(8) provides that regulations must ensure that the cash forfeiture notice is given to every person notified of the detention of the cash under paragraph 3(2) of ATCSA.

3. The power is modelled upon sections 297A – 297G of POCA, which were inserted by section 65(1) of the Policing and Crime Act 2009 in relation to administrative forfeiture of cash under that Act. It is considered appropriate the detail relating to the service of the forfeiture notice should be made by way of negative resolution instrument. This is a matter of practical procedure which will need to be kept under review and revised from time to time to ensure best practice. Permitting amendment to take place by way of negative resolution means that this can be achieved quickly and with lower costs than if it required the amendment of primary legislation.