

## **SUPPLEMENTARY ECHR MEMORANDUM**

1. The Home Office has prepared this Supplementary ECHR 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 those amendments which have ECHR implications and explains the justification in each case.

### **New Clause 12**

2. This amends the Proceeds of Crime Act 2002 (POCA) and the Anti-Terrorism Crime and Security Act 2001 (ATCSA) to bring additional means of money transfer into the definition of 'cash' in that legislation (which provides for the seizure, detention and forfeiture of cash). These include: gaming vouchers and fixed value casino tokens. It is acknowledged that this may interfere with Article 8 however any interference is considered justified on the basis that there is evidence to support the view that such instruments are being used for criminal purposes. The existing safeguards on the exercise of powers against 'cash' will be applicable also to these instruments. It is therefore considered that the use of powers against these instruments are necessary and proportionate and therefore compatible with Article 8.

### **New Clause 34**

4. This clause amends the ATCSA to provide a procedure to enable the administrative (i.e. without need for a Court Order) forfeiture of cash seized under that Act. The amendments are modelled on the corresponding provisions in Part 5 of POCA. It is acknowledged that the provisions may potentially interfere with Article 1, Protocol 1; Article 6 and Article 8 of the ECHR.
5. It is the case that cash is seized and forfeited by way of a court order under ATCSA, where there is no objection to the forfeiture of that cash by the person from whom it was seized or anyone else. It is therefore considered appropriate to have a procedure under which that cash may be forfeited without the need for a Court order in respect of it. The procedure provides for safeguards under which the person is entitled to object to the forfeiture, in which case court proceedings will be necessary. It also allows the person to apply to the Court to have any forfeiture notice set aside or to apply to the Court for release of the cash.
6. Accordingly, the Government considers that the amendment is necessary, proportionate and compatible with the above Articles.