

# Criminal Finances Bill

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(DRAFT 21.3.17) AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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## Clause 1

BARONESS WILLIAMS OF TRAFFORD

- 1 Page 2, line 10, at end insert –  
“(c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order, and  
(d) setting out such other information in connection with the property as may be so specified.”
- 2 Page 2, line 18, leave out “to provide information, or”
- 3 Page 2, line 35, after “satisfied” insert “that there is reasonable cause to believe”
- 4 Page 2, line 37, leave out “£100,000” and insert “£50,000”
- 5 Page 3, line 23, at end insert –  
“( ) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining the property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.”
- 6 Page 3, line 30, at end insert –  
“(d) otherwise connected with a person within that paragraph.”
- 7 Page 3, line 39, leave out “subsection (4)(b)” and insert “this section”
- 8 Page 4, line 29, at end insert –  
“(5A) Subsections (5B) and (5C) apply in determining the respondent’s interest for the purposes of subsection (3) in a case where the respondent to the unexplained wealth order –  
(a) is connected with another person who is, or has been, involved in serious crime (see subsection (4)(b)(ii) of section 362B), or

- (b) is a politically exposed person of a kind mentioned in paragraph (b), (c) or (d) of subsection (7) of that section (family member, known close associates etc of individual entrusted with prominent public functions).

(5B) In a case within subsection (5A)(a), the respondent's interest is to be taken to include any interest in the property of the person involved in serious crime with whom the respondent is connected.

(5C) In a case within subsection (5A)(b), the respondent's interest is to be taken to include any interest in the property of the person mentioned in subsection (7)(a) of section 362B."

9 Page 5, line 35, leave out "other provisions of"

10 Page 7, line 1, at end insert –

**"362GA Holding of property: trusts arrangements etc**

- (1) This section applies for the purposes of sections 362A and 362B.
- (2) The cases in which a person (P) is to be taken to "hold" property include those where –
  - (a) P has effective control over the property;
  - (b) P is the trustee of a settlement in which the property is comprised;
  - (c) P is a beneficiary (whether actual or potential) in relation to such a settlement.
- (3) A person is to be taken to have "effective control" over property if, from all the circumstances, it is reasonable to conclude that the person –
  - (a) exercises,
  - (b) is able to exercise, or
  - (c) is entitled to acquire,
 direct or indirect control over the property.
- (4) Where a person holds property by virtue of subsection (2) references to the person obtaining the property are to be read accordingly.
- (5) For further provision about how to construe references to the holding of property, see section 414."

**Clause 2**

BARONESS WILLIAMS OF TRAFFORD

11 Page 12, line 34, at end insert –

**"362PA Compensation**

- (1) Where an interim freezing order in respect of any property is discharged, the person to whom the property belongs may make an application to the High Court for the payment of compensation.
- (2) The application must be made within the period of three months beginning with the discharge of the interim freezing order.

- (3) The court may order compensation to be paid to the applicant only if satisfied that –
  - (a) the applicant has suffered loss as a result of the making of the interim freezing order,
  - (b) there has been a serious default on the part of the enforcement authority that applied for the order, and
  - (c) the order would not have been made had the default not occurred.
- (4) Where the court orders the payment of compensation –
  - (a) the compensation is payable by the enforcement authority that applied for the interim freezing order, and
  - (b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.”

#### Clause 4

#### BARONESS WILLIAMS OF TRAFFORD

- 12 Page 14, line 15, at end insert –
  - “(c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order, and
  - (d) setting out such other information in connection with the property as may be so specified.”
- 13 Page 14, line 23, leave out “to provide information, or”
- 14 Page 14, line 32, after “satisfied” insert “that there is reasonable cause to believe”
- 15 Page 14, line 35, leave out “£100,000” and insert “£50,000”
- 16 Page 15, line 20, at end insert –
  - “( ) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining the property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.”
- 17 Page 15, line 27, at end insert –
  - “(d) otherwise connected with a person within that paragraph.”
- 18 Page 15, line 36, leave out “subsection (4)(b)” and insert “this section”
- 19 Page 16, line 29, at end insert –
  - “(5A) Subsections (5B) and (5C) apply in determining the respondent’s interest for the purposes of subsection (3) in a case where the respondent to the unexplained wealth order –
    - (a) is connected with another person who is, or has been, involved in serious crime (see subsection (4)(b)(ii) of section 396B), or
    - (b) is a politically exposed person of a kind mentioned in paragraph (b), (c) or (d) of subsection (7) of that section (family member, known close associates etc of individual entrusted with prominent public functions).

- (5B) In a case within subsection (5A)(a), the respondent's interest is to be taken to include any interest in the property of the person involved in serious crime with whom the respondent is connected.
- (5C) In a case within subsection (5A)(b), the interest obtained by the respondent is to be taken to include any interest in the property of the person mentioned in subsection (7)(a) of section 396B."
- 20 Page 16, line 41, leave out from "must" to "in" in line 42 and insert "—
- (a) consider whether the Lord Advocate should be given an opportunity to determine what enforcement or investigatory proceedings, if any, the Lord Advocate considers ought to be taken by the Lord Advocate in relation to the property, and
- (b) determine whether they consider that any proceedings under Part 5 (civil recovery of the proceeds of unlawful conduct) or this Chapter ought to be taken by them"
- 21 Page 16, line 43, at end insert —
- “(2A) If the Scottish Ministers consider that the Lord Advocate should be given an opportunity to make a determination as mentioned in subsection (2)(a), the Lord Advocate must determine what enforcement or investigatory proceedings, if any, the Lord Advocate considers ought to be taken by the Lord Advocate in relation to the property.”
- 22 Page 16, line 44, leave out “(2)” and insert “(2)(b) or (2A)”
- 23 Page 16, line 46, leave out “determination under subsection (2) is” and insert “determinations under subsections (2)(b) and (2A) are”
- 24 Page 16, line 46, after “that” insert “no further proceedings under Part 5 or this Chapter and”
- 25 Page 17, line 1, leave out “that fact” and insert “the nature of the determinations”
- 26 Page 17, line 5, leave out from “determine” to “in” in line 7 and insert “whether they consider that any proceedings under Part 5 or this Chapter ought to be taken by them”
- 27 Page 17, line 7, at end insert “, and
- (b) the Lord Advocate may (at any time) determine what, if any, enforcement or investigatory proceedings the Lord Advocate considers ought to be taken by the Lord Advocate in relation to the property.”
- 28 Page 17, line 8, after “take” insert “no further proceedings under Part 5 or this Chapter or”
- 29 Page 17, line 9, after “prevent” insert “any”
- 30 Page 17, leave out line 30
- 31 Page 17, line 31, leave out “other provisions of”
- 32 Page 18, line 37, at end insert —
- “396GA Holding of property: trusts arrangements etc**
- (1) This section applies for the purposes of sections 396A and 396B.

- (2) The cases in which a person (P) is to be taken to “hold” property include those where—
  - (a) P has effective control over the property;
  - (b) P is the trustee of a settlement in which the property is comprised;
  - (c) P is a beneficiary (whether actual or potential) in relation to such a settlement.
- (3) A person is to be taken to have “effective control” over property if, from all the circumstances, it is reasonable to conclude that the person—
  - (a) exercises,
  - (b) is able to exercise, or
  - (c) is entitled to acquire,
 direct or indirect control over the property.
- (4) Where a person holds property by virtue of subsection (2) references to the person obtaining the property are to be read accordingly.
- (5) For further provision about how to construe references to the holding of property, see section 414.”

### Clause 5

BARONESS WILLIAMS OF TRAFFORD

33 Page 24, line 32, at end insert —

#### “396QA Compensation

- (1) Where an interim freezing order in respect of any property is recalled, the person to whom the property belongs may make an application to the Court of Session for the payment of compensation.
- (2) The application must be made within the period of three months beginning with the recall of the interim freezing order.
- (3) The court may order compensation to be paid to the applicant only if satisfied that—
  - (a) the applicant has suffered loss as a result of the making of the interim freezing order,
  - (b) there has been a serious default on the part of the Scottish Ministers in applying for the order, and
  - (c) the order would not have been made had the default not occurred.
- (4) Where the court orders the payment of compensation—
  - (a) the compensation is payable by the Scottish Ministers, and
  - (b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.”

### Clause 10

#### BARONESS WILLIAMS OF TRAFFORD

34 Page 36, line 4, at end insert —

“( ) Subsection (1) applies whether or not the conditions in section 339ZB were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.”

35 Page 36, line 6, leave out “under” and insert “in compliance, or intended compliance, with”

### Clause 11

#### BARONESS WILLIAMS OF TRAFFORD

36 Page 37, line 4, leave out from beginning to end of line 35 on page 39 and insert —

*“Further information orders*

#### **339ZH Further information orders**

- (1) A magistrates’ court or (in Scotland) the sheriff may, on an application made by a relevant person, make a further information order if satisfied that either condition 1 or condition 2 is met.
- (2) The application must —
  - (a) specify or describe the information sought under the order, and
  - (b) specify the person from whom the information is sought (“the respondent”).
- (3) A further information order is an order requiring the respondent to provide —
  - (a) the information specified or described in the application for the order, or
  - (b) such other information as the court or sheriff making the order thinks appropriate,
 so far as the information is in the possession, or under the control, of the respondent.
- (4) Condition 1 for the making of a further information order is met if —
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under this Part,
  - (b) the respondent is the person who made the disclosure or is otherwise carrying on a business in the regulated sector,
  - (c) the information would assist in investigating whether a person is engaged in money laundering or in determining whether an investigation of that kind should be started, and
  - (d) it is reasonable in all the circumstances for the information to be provided.
- (5) Condition 2 for the making of a further information order is met if —
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under a corresponding disclosure requirement,

- (b) an external request has been made to the National Crime Agency for the provision of information in connection with that disclosure,
  - (c) the respondent is carrying on a business in the regulated sector,
  - (d) the information is likely to be of substantial value to the authority that made the external request in determining any matter in connection with the disclosure, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6) For the purposes of subsection (5), “external request” means a request made by an authority of a foreign country which has responsibility in that country for carrying out investigations into whether a corresponding money laundering offence has been committed.
- (7) A further information order must specify –
- (a) how the information required under the order is to be provided, and
  - (b) the date by which it is to be provided.”

37 Page 39, line 45, at end insert –

“( ) Schedule 9 has effect for the purposes of this section in determining what is a business in the regulated sector.”

38 Page 39, line 46, at end insert –

““corresponding disclosure requirement” means a requirement to make a disclosure under the law of the foreign country concerned that corresponds to a requirement imposed by virtue of this Part;

“corresponding money laundering offence” means an offence under the law of the foreign country concerned that would, if done in the United Kingdom, constitute an offence specified in paragraph (a), (b) or (c) of section 340(11);

“foreign country” means a country or territory outside the United Kingdom;”

39 Page 40, leave out lines 11 to 19

40 Page 40, line 21, leave out “a further information notice, or”

41 Page 41, line 18, leave out “a further information notice, or”

### Clause 13

#### BARONESS WILLIAMS OF TRAFFORD

42 Page 43, line 42, at end insert –

“( ) betting receipts,.”

43 Page 43, line 46, leave out from “machine” to second “that” in line 1 on page 44

44 Page 44, line 4, at end insert –

“( ) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.

- ( ) In subsection (7A) –
- “bet” –
- (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;
  - (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);
- “betting licence” –
- (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;
  - (b) in relation to Northern Ireland, means a bookmaker’s licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
- “gaming machine” –
- (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);
  - (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).
- ( ) In the application of subsection (7A) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).”

#### Clause 14

BARONESS WILLIAMS OF TRAFFORD

45

Page 54, line 12, at end insert –

- “(3A) An order under subsection (3) made by a magistrates’ court may provide for payment under section 303U of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of –
- (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Chapter.
- (3B) A sum in respect of a relevant item of expenditure is not payable under section 303U in pursuance of provision under subsection (3A) unless –
- (a) the person who applied for the order under subsection (3) agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.



- (3C) For the purposes of subsection (3B) —
- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B would apply if the order under subsection (3) had instead been a recovery order;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
  - (c) if the person who applied for the order under subsection (3) was a constable, an SFO officer or an accredited financial investigator, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (3D) “Senior officer” has the same meaning in subsection (3C)(c) as it has in section 303E.”

46 Page 55, line 43, at end insert —

- “(5A) An order under subsection (1) made by a magistrates’ court may provide for payment under subsection (9) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of —
- (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Chapter.
- (5B) A sum in respect of a relevant item of expenditure is not payable under subsection (9) in pursuance of provision under subsection (5A) unless —
- (a) the person who applied for the order under subsection (1) agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (5C) For the purposes of subsection (5B) —
- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B would apply if the order under subsection (1) had instead been a recovery order;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.”

47 Page 56, line 9, leave out from “of” to end of line 11 and insert “any provision of this section only if the person is a senior officer or is authorised to do so by a senior officer.

“Senior officer” has the same meaning in this subsection as it has in section 303E.”

48 Page 56, line 13, at end insert —

- “( ) first, it must be applied in making any payment of legal expenses which, after giving effect to subsection (5B), are payable under this subsection in pursuance of provision under subsection (5A);”

49 Page 56, line 14, leave out “first” and insert “second”

- 50 Page 56, line 18, leave out “second” and insert “third”
- 51 Page 56, line 43, at end insert –
- “(3A) An order under subsection (3) made by the High Court may include provision of the type that may be included in an order under section 303O(3) made by a magistrates’ court by virtue of section 303(3A).
- (3B) If provision is included in an order of the High Court by virtue of subsection (3A) of this section, section 303O(3B) and (3C) apply with the necessary modifications.”
- 52 Page 58, line 7, at end insert –
- “( ) Where an order under section 303Q is made by a magistrates’ court, any party to the proceedings for the order (including any party to the proceedings under section 303O that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under subsection (5A) of section 303Q.”
- 53 Page 58, line 8, leave out “subsection (1)” and insert “this section”
- 54 Page 58, line 12, leave out “subsection (1)” and insert “this section”
- 55 Page 58, line 33, at end insert –
- “( ) second, they must be applied in making any payment of legal expenses which, after giving effect to section 303O(3B) (including as applied by section 303R(3B)), are payable under this subsection in pursuance of provision under section 303O(3A) or, as the case may be, 303R(3A);”
- 56 Page 58, line 34, leave out “second” and insert “third”
- 57 Page 58, line 38, leave out “third” and insert “fourth”

#### Clause 24

BARONESS WILLIAMS OF TRAFFORD

- 58 Page 78, line 43, leave out “6 months” and insert “1 month”

#### Clause 25

BARONESS WILLIAMS OF TRAFFORD

- 59 Page 79, line 36, leave out “, subject to subsection (9),”
- 60 Page 80, leave out lines 2 to 4

## Clause 26

### BARONESS WILLIAMS OF TRAFFORD

61

Page 80, line 24, at end insert –

- “( ) In subsection (2), for paragraphs (a) and (b) substitute –
  - “(a) has been seized under a relevant seizure power by a constable or another person lawfully exercising the power, and
  - (b) is being detained in connection with a criminal investigation or prosecution or with an investigation of a kind mentioned in section 341.”
- ( ) After subsection (2) insert –
  - “(2A) But this section applies to money only so far as the money is free property.”
- ( ) Omit subsection (3).
- ( ) In subsection (5) (as it has effect before and after its amendment by section 36 of the Serious Crime Act 2015), for “bank or building society” substitute “appropriate person”.
- ( ) In subsection (5A), at the beginning insert “Where this section applies to money which is held in an account maintained with a bank or building society,”.
- ( ) In subsection (7A), after “applies” insert “by virtue of subsection (1)”.

62

Page 80, line 25, leave out subsection (2) and insert –

- “( ) For subsection (8) substitute –
  - “(8) In this section –
    - “appropriate chief clerk” has the same meaning as in section 202(7);
    - “appropriate person” means –
      - (a) in a case where the money is held in an account maintained with a bank or building society, the bank or building society;
      - (b) in any other case, the person on whose authority the money is detained;
    - “bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom;
    - “building society” has the same meaning as in the Building Societies Act 1986;
    - “relevant seizure power” means a power to seize money conferred by or by virtue of –
      - (a) a warrant granted under any enactment or rule of law, or
      - (b) any enactment, or rule of law, under which the authority of a warrant is not required.”

63

Page 80, line 30, leave out “In subsection (8)(a)” and insert “In the definition of “bank” in subsection (8)”

### Clause 27

#### BARONESS WILLIAMS OF TRAFFORD

- 64 Page 81, line 12, leave out from “seized” to end of line 23 and insert “under a relevant seizure power by a constable or another person lawfully exercising the power, and
- (b) is being detained in connection with a criminal investigation or prosecution or with an investigation of a kind mentioned in section 341.
- (3) But this section applies to money only so far as the money is free property.”
- 65 Page 81, line 37, after “applies” insert “by virtue of subsection (1)”
- 66 Page 82, line 9, leave out from “person” to end of line 18 and insert “means –
- (a) in a case where the money is held in an account maintained with a bank or building society, the bank or building society;
  - (b) in any other case, the person on whose authority the money is detained;”

### After Clause 30

#### BARONESS WILLIAMS OF TRAFFORD

- 67 Insert the following new Clause –
- “Reconsideration of discharged orders**
- (1) The Proceeds of Crime Act 2002 is amended as follows.
  - (2) In section 24 (inadequacy of available amount: discharge of order made under Part 2), after subsection (5) insert –
    - “(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 21(1)(d) or 22(1)(c).
    - (7) Where on such an application the court determines that the order should be varied under section 21(7) or (as the case may be) 22(4), the court may provide that its discharge under this section is revoked.”
  - (3) In section 25 (small amount outstanding: discharge of order made under Part 2), after subsection (3) insert –
    - “(4) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 21(1)(d) or 22(1)(c).
    - (5) Where on such an application the court determines that the order should be varied under section 21(7) or (as the case may be) 22(4), the court may provide that its discharge under this section is revoked.”

- (4) In section 109 (inadequacy of available amount: discharge of order made under Part 3), after subsection (5) insert –
  - “(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 106(1)(d) or 107(1)(c).
  - (7) Where on such an application the court determines that the order should be varied under section 106(6) or (as the case may be) 107(3), the court may provide that its discharge under this section is revoked.”
- (5) In section 174 (inadequacy of available amount: discharge of order made under Part 4), after subsection (5) insert –
  - “(6) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 171(1)(d) or 172(1)(c).
  - (7) Where on such an application the court determines that the order should be varied under section 171(7) or (as the case may be) 172(4), the court may provide that its discharge under this section is revoked.”
- (6) In section 175 (small amount outstanding: discharge of order made under Part 4), after subsection (3) insert –
  - “(4) The discharge of a confiscation order under this section does not prevent the making of an application in respect of the order under section 171(1)(d) or 172(1)(c).
  - (5) Where on such an application the court determines that the order should be varied under section 171(7) or (as the case may be) 172(4), the court may provide that its discharge under this section is revoked.”
- (7) The amendments made by this section apply in relation to a confiscation order whether made before or after the day on which this section comes into force but do so only where the discharge of the order occurs after that day.”

## Clause 32

BARONESS WILLIAMS OF TRAFFORD

68

Page 84, line 43, after “Wales)” insert “ –

- ( ) in subsection (2), after paragraph (e) insert –
  - “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;”;
- ( ) ”

- 69 Page 84, line 44, at end insert –  
 “( ) after subsection (3)(c) (as inserted by paragraph 22 of Schedule {5Gs}) insert –  
 “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;  
 (d) it is detained under paragraph 5B, 5C, 9A or 10G(4) of that Schedule.”
- 70 Page 85, line 1, after “Scotland)” insert “ –  
 ( ) in subsection (2) –  
 (i) omit “or” at the end of paragraph (e);  
 (ii) after that paragraph insert –  
 “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, or”;  
 ( ) ”
- 71 Page 85, line 2, at end insert –  
 “( ) after subsection (3)(c) (as inserted by paragraph 24 of Schedule {5Gs}) insert –  
 “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;  
 (d) it is detained under paragraph 5B, 5C, 9A or 10G(4) of that Schedule.”
- 72 Page 85, line 3, after “Ireland)” insert “ –  
 ( ) in subsection (2), after paragraph (e) insert –  
 “(ea) paragraph 3(2), 6(2), 10D(1), 10G(2), 10J(3), 10S(2) or 10Z2(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;”;  
 ( ) ”
- 73 Page 85, line 4, at end insert –  
 “( ) after subsection (3)(c) (as inserted by paragraph 27 of Schedule {5Gs}) insert –  
 “(d) it has been forfeited in pursuance of a cash forfeiture notice under paragraph 5A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 or an account forfeiture notice under paragraph 10W of that Schedule;  
 (d) it is detained under paragraph 5B, 5C, 9A or 10G(4) of that Schedule.”

### Clause 34

#### BARONESS WILLIAMS OF TRAFFORD

74 Page 90, line 44, at end insert —

“( ) Subsection (1) applies whether or not the conditions in section 21CA were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.”

75 Page 91, line 1, leave out “by virtue of” and insert “in compliance, or intended compliance, with”

### Clause 35

#### BARONESS WILLIAMS OF TRAFFORD

76 Page 92, line 3, leave out from beginning to end of line 42 on page 94 and insert —

*“Further information orders*

#### **22B Further information orders**

- (1) A magistrates’ court or (in Scotland) the sheriff may, on an application made by a law enforcement officer, make a further information order if satisfied that either condition 1 or condition 2 is met.
- (2) The application must —
  - (a) specify or describe the information sought under the order, and
  - (b) specify the person from whom the information is sought (“the respondent”).
- (3) A further information order is an order requiring the respondent to provide —
  - (a) the information specified or described in the application for the order, or
  - (b) such other information as the court or sheriff making the order thinks appropriate,
 so far as the information is in the possession, or under the control, of the respondent.
- (4) Condition 1 for the making of a further information order is met if —
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under section 21A,
  - (b) the respondent is the person who made the disclosure or is otherwise carrying on a business in the regulated sector,
  - (c) the information would assist in —
    - (i) investigating whether a person is involved in the commission of an offence under any of sections 15 to 18 or in determining whether an investigation of that kind should be started, or
    - (ii) identifying terrorist property or its movement or use,
  - (d) it is reasonable in all the circumstances for the information to be provided.

- (5) Condition 2 for the making of a further information order is met if –
  - (a) the information required to be given under the order would relate to a matter arising from a disclosure made under a corresponding disclosure requirement,
  - (b) an external request has been made to the National Crime Agency for the provision of information in connection with that disclosure,
  - (c) the respondent is carrying on a business in the regulated sector,
  - (d) the information is likely to be of substantial value to the authority that made the external request in determining any matter in connection with the disclosure, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6) For the purposes of subsection (5), “external request” means a request made by an authority of a foreign country which has responsibility in that country for carrying out investigations into whether a corresponding terrorist financing offence has been committed.
- (7) A further information order must specify –
  - (a) how the information required under the order is to be provided, and
  - (b) the date by which it is to be provided.”

77 Page 95, line 7, leave out from “who” to “may” in line 8 and insert “is a constable, a National Crime Agency officer or a counter-terrorism financial investigator”

78 Page 95, line 10, at end insert –

“( ) Schedule 3A has effect for the purposes of this section in determining what is a business in the regulated sector.”

79 Page 95, line 11, at end insert –

““corresponding disclosure requirement” means a requirement to make a disclosure under the law of the foreign country concerned that corresponds to a requirement imposed by virtue of this Part;

“corresponding terrorist financing offence” means an offence under the law of the foreign country concerned that would, if done in the United Kingdom, constitute an offence under any of sections 15 to 18;

“foreign country” means a country or territory outside the United Kingdom;”

80 Page 95, line 12, leave out from “officer” to end and insert “means –

- (a) a constable,
- (b) a National Crime Agency officer authorised for the purposes of this section by the Director General of that Agency,
- (c) a counter-terrorism financial investigator, or
- (d) a procurator fiscal;”

81 Page 95, leave out lines 19 to 27

82 Page 95, line 29, leave out “a further information notice, or”

83 Page 96, line 27, leave out “a further information notice, or”



**Clause 36**

## BARONESS WILLIAMS OF TRAFFORD

- 84 Page 96, line 42, at end insert –  
     “( ) betting receipts,”.
- 85 Page 97, line 4, leave out from “machine” to end of line 5
- 86 Page 97, line 9, at end insert –  
     “( ) “betting receipt” means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.
- ( ) In sub-paragraph (5) –  
         “bet” –  
             (a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;  
             (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);  
         “betting licence” –  
             (a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;  
             (b) in relation to Northern Ireland, means a bookmaker’s licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;  
         “gaming machine” –  
             (a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);  
             (b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).
- ( ) In the application of sub-paragraph (5) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).”

**Clause 40**

## BARONESS WILLIAMS OF TRAFFORD

- 87 Page 104, line 45, after “fine” insert “not exceeding level 3 on the standard scale”
- 88 Page 105, line 5, at end insert “or Part 1 of Schedule 5A (terrorist financing investigations in England and Wales and Northern Ireland: disclosure orders)”
- 89 Page 105, line 33, after “fine” insert “not exceeding level 3 on the standard scale”

**After Clause 40**

BARONESS WILLIAMS OF TRAFFORD

90 Insert the following new Clause—

*“Enforcement in different parts of United Kingdom***Enforcement in different parts of United Kingdom**

After section 120B of the Terrorism Act 2000 (inserted by section {cdm4} above) insert—

**“120C Enforcement of orders in other parts of United Kingdom**

- (1) Her Majesty may by Order in Council make provision for an investigatory order made in one part of the United Kingdom to be enforced in another part.
- (2) In subsection (1) “investigatory order” means any of the following kinds of order—
  - (a) an order under section 22B (further information orders);
  - (b) an order under paragraph 5 of Schedule 5 (production orders: England and Wales and Northern Ireland) that is made in connection with a terrorist investigation in relation to terrorist property;
  - (c) an order under paragraph 13(1)(b) of that Schedule that is made in connection with material produced or made available as a result of an order within paragraph (b) of this subsection;
  - (d) an order under paragraph 22 of Schedule 5 (production orders: Scotland) that is made in connection with a terrorist investigation in relation to terrorist property;
  - (e) an order under paragraph 30(1)(b) of that Schedule that is made in connection with material produced or made available as a result of an order within paragraph (d) of this subsection;
  - (f) an order under paragraph 9 of Schedule 5A (disclosure orders: England and Wales and Northern Ireland);
  - (g) an order under paragraph 19 of that Schedule (disclosure orders: Scotland);
  - (h) an order under paragraph 1 of Schedule 6 (financial information orders);
  - (i) an order under paragraph 2 of Schedule 6A (account monitoring orders).
- (3) An Order under this section may apply (with or without modifications) any provision of or made under—
  - (a) an Act (including this Act),
  - (b) an Act of the Scottish Parliament, or
  - (c) Northern Ireland legislation.
- (4) An Order under this section—
  - (a) may make different provision for different purposes;

- (b) may include supplementary, incidental, saving or transitional provisions.
- (5) Rules of court may make whatever provision is necessary or expedient to give effect to an Order under this section.
- (6) A statutory instrument containing an Order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.””

#### Clause 54

##### BARONESS WILLIAMS OF TRAFFORD

- 91 Page 113, line 42, at end insert –  
“( ) section (*Reconsideration of discharged orders*)(2) and (3);”
- 92 Page 114, line 20, at end insert –  
“( ) section (*Reconsideration of discharged orders*)(4);”
- 93 Page 114, line 27, at end insert –  
“( ) section (*Reconsideration of discharged orders*)(5) and (6);”

#### Clause 55

##### BARONESS WILLIAMS OF TRAFFORD

- 94 Page 114, line 38, at end insert –  
“( ) section (*Reconsideration of discharged orders*)(4);”
- 95 Page 114, line 44, at end insert –  
“( ) section (*Reconsideration of discharged orders*)(5) and (6);”
- 96 Page 115, line 18, after “purposes” insert “or areas”

#### Schedule 3

##### BARONESS WILLIAMS OF TRAFFORD

- 97 Page 132, line 6, at end insert –  
“(2A) An order under sub-paragraph (2) made by a magistrates’ court may provide for payment under paragraph 10N of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of –  
  - (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.  
 (2B) A sum in respect of a relevant item of expenditure is not payable under paragraph 10N in pursuance of provision under sub-paragraph (2A) unless –  
  - (a) the person who applied for the order under sub-paragraph (2) agrees to its payment, or

- (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.

(2C) For the purposes of sub-paragraph (2B) —

- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (2) had instead been a recovery order made under section 266 of that Act;
- (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
- (c) if the person who applied for the order under sub-paragraph (2) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.”

98

Page 132, line 19, at end insert —

“(6) For the purposes of sub-paragraph (2C)(c), a “senior officer” means —

- (a) in relation to an application made by a constable or a counter-terrorism financial investigator, a senior police officer;
- (b) in relation to an application made by an officer of Revenue and Customs, such an officer of a rank designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to that of a senior police officer;
- (c) in relation to an application made by an immigration officer, such an officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer.

(7) In sub-paragraph (6), a “senior police officer” means a police officer of at least the rank of superintendent.”

99

Page 134, line 3, at end insert —

“(5A) An order under sub-paragraph (1) made by a magistrates’ court may provide for payment under sub-paragraph (8) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of —

- (a) the proceedings in which the order is made, or
- (b) any related proceedings under this Part of this Schedule.

(5B) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (8) in pursuance of provision under sub-paragraph (5A) unless —

- (a) the person who applied for the order under sub-paragraph (1) agrees to its payment, or
- (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.

(5C) For the purposes of sub-paragraph (5B) –

- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;
- (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.”

**100** Page 134, line 13, leave out from “of” to end of line 14 and insert “any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.

“Senior officer” has the same meaning in this sub-paragraph as it has in paragraph 10G(2C)(c).”

**101** Page 134, line 16, at end insert –

“( ) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (5B), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (5A);”

**102** Page 134, line 17, leave out “first” and insert “second”

**103** Page 134, line 21, leave out “second” and insert “third”

**104** Page 134, leave out lines 26 to 39

**105** Page 135, line 15, at end insert –

“(3A) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10G(2) made by a magistrates’ court by virtue of paragraph 10G(2A).

(3B) If provision is included in an order of the High Court by virtue of sub-paragraph (3A) of this paragraph, paragraph 10G(2B) and (2C) apply with the necessary modifications.”

**106** Page 136, line 32, at end insert –

“( ) Where an order under paragraph 10I is made by a magistrates’ court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10G that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under sub-paragraph (5A) of paragraph 10I.”

**107** Page 136, line 33, leave out “sub-paragraph (1)” and insert “this paragraph”

**108** Page 136, line 37, leave out “sub-paragraph (1)” and insert “this paragraph”

- 109** Page 137, line 42, at end insert –  
 “( ) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10G(2B) (including as applied by paragraph 10J(3B)), are payable under this sub-paragraph in pursuance of provision under paragraph 10G(2A) or, as the case may be, 10J(3A);”
- 110** Page 137, line 43, leave out “second” and insert “third”
- 111** Page 138, line 1, leave out “third” and insert “fourth”

## Schedule 5

### BARONESS WILLIAMS OF TRAFFORD

- 112** Page 152, line 27, leave out from beginning to “in” in line 28 and insert –  
 “ (1) Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.  
 (2) In subsection (2)(f), at the end insert “or an unexplained wealth order made under that Part (see sections 362A and 396A of that Act)”.  
 (3) ”
- 113** Page 152, line 31, at end insert –  
 “ ( ) In subsection (3) for “and (4ZA)” substitute “, (4ZA) and (4ZB)”.  
 ( ) After subsection (4ZA) insert –  
 “(4ZB) This section applies to the following orders made by a magistrates’ court in England and Wales or Northern Ireland –  
 (a) an account freezing order made under section 303Z3 of the Proceeds of Crime Act 2002;  
 (b) an order for the forfeiture of money made under section 303Z14 of that Act;  
 (c) an account freezing order made under paragraph 10S of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;  
 (d) an order for the forfeiture of money made under paragraph 10Z2 of that Schedule.”  
 ( ) In subsection (5)(d), for the words after “measure” substitute “other than an order of any of the following kinds –  
 (i) a freezing order of the kind mentioned in paragraph (a) or (c) of subsection (4ZB) made (in Scotland) by the sheriff (in addition to such orders made by a magistrates’ court in England and Wales or Northern Ireland);  
 (ii) an order for the making of an interim payment;  
 (iii) an interim order made in connection with the civil recovery of proceeds of unlawful conduct;  
 (iv) an interim freezing order under section 362I of the Proceeds of Crime Act 2002;

- (v) an interim freezing order under section 396I of that Act.””

**114** Page 160, line 19, leave out from beginning to end of line 20

**115** Page 169, line 30, at end insert –

“74A In section 414 (property), in subsection (3) before paragraph (a) insert –  
“(za) property is held by a person if he holds an interest in it;”. ”

**116** Page 170, line 3, at end insert –

“ ( ) After subsection (7) insert –

“(7ZA) “Settlement” has the meaning given by section 620 of the Income Tax (Trading and Other Income) Act 2005.””

**117** Page 170, line 3, at end insert –

“75A In section 438 (disclosure of information by certain Directors), in subsection (1)(e) at end insert “or 8”.

75B In section 439 (disclosure of information to Lord Advocate and to Scottish Ministers), in subsection (1) at end insert “or 8”.

75C In section 441 (disclosure of information by Lord Advocate and by Scottish Ministers), in subsection (2) –

(a) in the words before paragraph (a), after “5” insert “or 8”;

(b) in paragraph (d), after “5” insert “or 8”.”

