
STATUTORY INSTRUMENTS

1996 No. 3171

PROTECTION OF TRADING INTERESTS

**The Extraterritorial US Legislation (Sanctions against Cuba,
Iran and Libya) (Protection of Trading Interests) Order 1996**

Made - - - - - *19th December 1996*
Laid before Parliament *7th January 1997*
Coming into force - - - *28th January 1997*

At the Court at Buckingham Palace, the 19th day of December 1996

Present

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 2(2) of the European Communities Act 1972⁽¹⁾, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996 and shall come into force on 28th January 1997.

(2) In this Order, unless the context otherwise requires, expressions used in Council Regulation (EC) No. 2271/96 of 22nd November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country and actions based thereon or resulting therefrom⁽²⁾ (“the EC Counter-measures Regulation”) shall have the same meaning as in that Regulation.

2.—(1) Subject to paragraph (2) below, any person referred to in Article 11 of the EC Counter-measures Regulation (that is to say —

- (i) any natural person being a resident in the Community and a national of a member state, or
- (ii) any legal person incorporated within the Community, or
- (iii) any natural or legal person referred to in Article 1(2) of Council Regulation (EEC) No. 4055/86⁽³⁾, or

⁽¹⁾ 1972 c. 68.

⁽²⁾ O.J. No. L.309, 29.11.1996, p. 1.

⁽³⁾ O.J. L.378, 31.12.1986, p. 1, to which there are amendments not relevant to this Order.

- (iv) any other natural person being a resident in the Community, unless that person is in the country of which he is a national, or
- (v) any other natural person within the Community, including its territorial waters and air space and in any aircraft or on any vessel under the jurisdiction or control of a member state, acting in a professional capacity)

who commits a breach of Article 2 or the first paragraph of Article 5 of that Regulation, and any director, manager or other person with management responsibilities to whom the obligation in the first paragraph of Article 2 of that Regulation applies who commits a breach of that paragraph, shall be guilty of an offence and liable —

- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) Paragraph (1) above shall not apply in respect of anything done or omitted to be done —
- (a) within the territorial jurisdiction of a member state other than the United Kingdom, or
 - (b) outside the territorial jurisdiction of any member state by —
 - (i) a national of a member state other than the United Kingdom who is not also a British person, or
 - (ii) a legal person incorporated in a member state other than the United Kingdom, or
 - (iii) any person falling within paragraph (1)(iii) above unless —
 - (aa) he is a British person, or
 - (bb) it is a shipping company controlled by a British person or by nationals of a member state at least one of which is a British person, or
 - (cc) the vessel, or at least one of the vessels, of that person is registered in the United Kingdom, or
 - (iv) any person falling within paragraph (1)(iv) above unless he was established within the United Kingdom at some time during the period of at least six months referred to in footnote 1 to Article 11(1) of the EC Counter-measures Regulation;

and in this paragraph—

“British person” means a British citizen, British Dependent Territories citizen, British Overseas citizen, British National (Overseas), British subject or British protected person, and

the “territorial jurisdiction” of a member state means the territory of that member state within the European Community, including its territorial waters and air space, and any aircraft or vessel under the jurisdiction or control of that member state.

(3) No proceedings for an offence under paragraph (1) above shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland.

(4) Proceedings against any person for an offence under this section may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

3.—(1) Sections 1(1) and (3) and 2 of the Protection of Trading Interests Act 1980⁽⁴⁾ and orders made and directions given thereunder shall not apply in respect of any matter to the extent that Article 5 of the EC Counter-measures Regulation applies in respect of it.

(2) Section 6 of that Act shall not apply in respect of a judgment to the extent that Article 6 of that Regulation provides for recovery of damages as a result thereof.

(4) 1980 c. 11.

19th December 1996

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order —

- (a) makes it an offence to breach Article 2 or 5 of Council Regulation (EC) No. 2271/96 of 22nd November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and
- (b) disapplies sections 1(1) and (3), 2 and 6 of the Protection of Trading Interests Act 1980 to the extent that the Council Regulation applies.

The offence in (a) is punishable by an unlimited fine on indictment or a fine not exceeding the statutory maximum (currently £5,000) on summary conviction: these are the penalties imposed for breach of sections 1(1) and (3) and 2 of the 1980 Act, disapplied as in (b). The offence cannot be committed as a result of acts or omissions in another member state or the acts or omissions outside any member state of nationals of other member states, bodies incorporated in other member states, ship-owners with no relevant connection with the United Kingdom or individuals who were not resident in the United Kingdom at any relevant time.