
S T A T U T O R Y I N S T R U M E N T S

1999 No. 3133

UNITED NATIONS

The Afghanistan (United Nations Sanctions) Order 1999

<i>Made</i> - - - - -	<i>24th November 1999</i>
<i>Laid before Parliament</i>	<i>25th November 1999</i>
<i>Coming into force</i> - -	<i>26th November 1999</i>

At the Court of Buckingham Palace, the 24th day of November 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 15th October 1999, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Afghanistan:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Afghanistan (United Nations Sanctions) Order 1999 and shall come into force on 26th November 1999.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling, amending or suspending the operation of the resolution adopted by it on 15th October 1999, this Order shall be amended, cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the United Kingdom, the Channel Islands and the Isle of Man.

Interpretation

2.—(1) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“body corporate” includes (a) a Scottish partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner; and (b) a limited liability company constituted under the Limited Liability Companies Act 1996 (an Act of Tynwald) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and the company's manager and registered agent;

(a) 1946 c. 45.

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“funds” means financial assets and economic benefits of any kind, including, but not necessarily limited to, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;

“operator”, in relation to an aircraft, means the person for the time being having the management of the aircraft;

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of the resolution mentioned above;

“the Taliban” means the Afghan political faction known as the Taliban, which also calls itself the Islamic Emirates of Afghanistan.

Prohibition of Flights

3.—(1) Except under the authority of a written licence granted by the Secretary of State under this article no aircraft, to which this article applies, wherever registered, shall take off from or land in the territory of the United Kingdom or any other place to which this Order extends.

(2) This article applies to any aircraft owned, leased or operated by or on behalf of the Taliban as designated by the Sanctions Committee; and particulars of any such designation shall be published by the Secretary of State in the London, Edinburgh and Belfast Gazettes.

(3) If any aircraft is used in contravention of the provisions of this article, then the operator and the commander of the aircraft shall be guilty of an offence under this Order.

Assets of the Taliban

4.—(1) Except under the authority of a written licence granted by or on behalf of the Treasury under this article, no person shall make any funds to which this article applies available to or for the benefit of the Taliban or any such undertaking.

(2) This article applies to any funds owned (or controlled directly or indirectly by the Taliban, or by an undertaking owned or controlled by the Taliban, as designated by the Sanctions Committee; and particulars of any such designation shall be published by the Secretary of State in the London, Edinburgh and Belfast Gazettes.

Application of article 4

5.—(1) The provisions of article 4 of this Order shall apply to any person within the United Kingdom and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British protected person or a British National (Overseas); or
- (b) is a body incorporated or constituted under the law of any part of the United Kingdom.

(2) Any person specified in paragraph (1) of this article who contravenes the provisions of article 4 of this Order shall be guilty of an offence under this Order.

Offences in connection with applications for licences, conditions attaching to licences, etc.

6.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Secretary of State or the Treasury under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Secretary of State or the Treasury after the doing of the act authorised by the licence.

Obtaining of evidence and information

7. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Treasury, of information for the purpose of securing compliance with or detecting evasion of this Order.

Penalties and Proceedings

8.—(1) Any person guilty of an offence against article 3(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; or
- (c) on conviction in the Bailiwick of Jersey to imprisonment for a term not exceeding two years or to a fine or to both; or
- (d) on conviction on information in the Isle of Man to custody within the meaning of the Custody Act 1995 (an Act of Tynwald) for a term not exceeding two years or to a fine or both.

(2) Any person guilty of an offence under article 5(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(3) Any person guilty of an offence under article 6(1) or (2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under paragraph 3(a) of the Schedule to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) Any person guilty of an offence under paragraph 3(b) or (c) of the Schedule to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980(a), an offence under paragraph 3(a) of the Schedule to this Order may be tried by a magistrates' court in England and Wales if any information is laid at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(8) Notwithstanding anything in section 136 of the Criminal Procedure (Scotland) Act 1995(b) proceedings in Scotland for an offence under paragraph 3(a) of the Schedule to this Order may be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge: and subsection (3) of that section applies for the purpose of this paragraph as it applies for the purpose of that section:

Provided that such proceedings shall not be commenced after the expiration of three years from the commission of the offence.

(9) Notwithstanding anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981(c), proceedings in Northern Ireland for an offence under paragraph 3(a) of the Schedule to this Order may be instituted at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(10) For the purposes of this article:

- (a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraphs (6), (7) and (8) above came to his knowledge shall be conclusive evidence of that fact; and
- (b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

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

(12) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984(d) shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(13) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under this Order he may arrest that person without a warrant.

(14) In Northern Ireland, paragraph (2) of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989(e) shall apply to the offences under this Order that are not arrestable offences by virtue of a term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(15) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales, Northern Ireland, the Isle of Man or the Bailiwick of Jersey, 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 or the Isle of Man or the Bailiwick of Jersey:

Provided that this paragraph shall not prevent the arrest, or the issue of execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

(a) 1980 c. 43.

(b) 1995 c. 46.

(c) S.I. 1981/1675 (N.I. 26).

(d) 1984 c. 60.

(e) S.I. 1989/1341 (N.I. 12).

Exercise of Powers of the Secretary of State

9.—(1) The Secretary of State and the Treasury may to such extent and subject to such restrictions and conditions as he or they may think proper, delegate or authorise the delegation of any of his or their powers under this Order to any person, or class or description of persons, approved by him or them, and references in this Order to the Secretary of State or the Treasury shall be construed accordingly.

(2) Any licences granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 7

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State or the Treasury may request any person in or resident in the United Kingdom to furnish to him or them any information in his possession or control, or to produce to him or them any document in his possession or control, which he or they may require for the purpose of securing compliance with or detecting evasion of this Order: and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2. No information furnished or document produced (including any copy of, or extract from, any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Afghanistan decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order.

3. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, imposes restrictions pursuant to a decision of the Security Council of the United Nations in resolution 1267 of 15th October 1999 by prohibiting any aircraft from taking off from or landing in the United Kingdom, the Channel Islands or the Isle of Man, if it is owned, leased or operated by or on behalf of the Taliban. It also freezes assets of the Taliban or any undertaking owned or controlled by the Taliban.

STATUTORY INSTRUMENTS

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The Afghanistan (United Nations Sanctions) Order 1999

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