

**EXPLANATORY MEMORANDUM TO THE
THE AL-QAIDA AND TALIBAN (UNITED NATIONS MEASURES) ORDER
2006**

2006 No. 2952

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Al-Qaida and Taliban (United Nations Measures) Order 2006 (SI 2006/2952 (the "Order")) gives effect to the following resolutions adopted by the Security Council of the United Nations relating to the freezing of terrorist assets: resolutions 1267(1999) adopted on 15th October 1999; 1333(2000) adopted on 19th December 2000; 1363(2001) adopted on 30th July 2001; 1390(2002) adopted on 16th January 2002; 1452(2002) adopted on 20th December 2002; 1455(2003) adopted on 17th January 2003; 1526(2004) adopted on 30th January 2004; and 1617(2005) adopted on 29th July 2005.

2.2 It provides penalties for enforcement of Regulation (EC) 881/2002 of 27th May 2002 (O.J. No L 129,29.5.2002, p.9) as amended.

2.3 It also amends the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111) and revokes the Al-Qa'ida and Taliban (United Nations Measures) (Amendment) Order 2002 (SI 2002/251).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The instrument is made under s1 of the United Nations Act 1946. The instrument is, therefore, to be laid before Parliament, but the 21day rule does not apply.

4. Legislative Background

4.1 The Security Council resolutions referred to above oblige all member states to freeze the assets of Usama Bin Laden, members of Al- Qaida, and the Taliban and other individuals and entities associated with them, as referred to in a list maintained by a Committee of the UN Security Council, and the assets of anyone owned or controlled or acting on behalf of or at the direction of any such persons.

4.2 The Order, which is made in exercise of the powers conferred by section 1 of the United Nations Act 1946, gives effect in the UK to

these resolutions and replaces, for these purposes, the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111).

5. Extent

5.1 This instrument applies to the United Kingdom and elsewhere to British citizens and others with a UK connection.

6. European Convention on Human Rights

6.1 As the instrument is not subject to affirmative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The UK supports the continuation of restrictive measures imposed by the United Nations Security Council in respect of Al-Qaida and the Taliban. Member States are required to take measures, including financial sanctions, against persons designated by a committee established under the relevant UN Security Council resolutions.

7.2 In 2002, the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111) implemented the restrictive measures in UNSCR 1390(2002) in the UK and provided for criminal sanctions in respect of breaches of the prohibitions contained in the Order.

7.3 The new Order clarifies that the asset freeze applies to economic resources, including property, as well as funds. The Order enables the Treasury to make a direction with limited publicity, and in such a case, to require the information in the direction to be treated as confidential.

7.4 The Order takes account of the changes to criminal penalties for offences sentenced in the Magistrates Courts which will follow the commencement of the Criminal Justice Act 2003.

8. Impact

8.1 A Regulatory Impact Assessment is attached.

8.2 The impact on the public sector is negligible.

9. Contact

Patricia Croasdell at Her Majesty's Treasury, Tel: 0207 270 5937 or e-mail: Patricia.Croasdell@hm-treasury.x.gsi.gov.uk can answer queries regarding the instrument.

Regulatory Impact Assessment

Al-Qaida and Taliban (United Nations Measures) Order 2006

2006 No. 2952

1. Title of proposal

Al-Qaida and Taliban (United Nations Measures) Order 2006

2. Purpose and intended effect

The Al-Qaida and Taliban (United Nations Measures) Order 2006 (SI 2006/2952) (the "Order") gives effect to the following resolutions adopted by the Security Council of the United Nations: resolutions 1267(1999) adopted on 15th October 1999; 1333(2000) adopted on 19th December 2000; 1363(2001) adopted on 30th July 2001; 1390(2002) adopted on 16th January 2002; 1452(2002) adopted on 20th December 2002; 1455(2003) adopted on 17th January 2003; 1526(2004) adopted on 30th January 2004; and 1617(2005) adopted on 29th July 2005.

It also provides for enforcement of Regulation (EC) 881/2002 of 27th May 2002 (O.J. No L 139, 29.5.2002, p.9) on specific restrictive measures directed against certain person and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban as amended by Council Regulation (EC) 661/2003 of 27th March 2003 (O.J. No L 82, 29.3.2003. p.1) and by a series of Commission Regulations, the most recent of which is Commission Regulation (EC) 1189/2006 of 3rd August 2006 (O.J. L 214, 4.8.2006, p.21).

It also amends the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111) and revokes the Al-Qa'ida and Taliban (United Nations Measures) (Amendment) Order 2002 (SI 2002/251).

3. Consultation

No consultation was carried out on this RIA. The Order updates the current Al Qa'ida and Taliban (United Nations Measures) Order 2002, enforces the EC Regulation's provisions which are already directly applicable and provides for mechanisms which enable a more targeted approach to applying the financial sanctions, including confidentiality provisions. In the current circumstances, where there may be an operational requirement for such provisions, there was considered to be a sufficiently urgent requirement to dispense with consultation.

4. Options

The UK is required to give effect to the UN Security Council resolutions and to provide the mechanisms for enforcing them.

5. Costs and benefits

Sectors and groups affected:

Financial institutions

Benefits:

Financial sanctions against individuals involved with Al-Qaida and the Taliban are intended to exert pressure on those individuals and support international efforts in the fight against terrorism through disrupting terrorist financing and excluding persons from the international financial market. The UN Security Council requires Member States to impose the financial sanctions contained in the UN resolutions. Consistent with those requirements under international law, the Order ensures that these financial sanctions are fully enforceable in the UK.

Costs:

There are some compliance costs for financial institutions in implementing financial sanctions. The Government is mindful of these compliance costs and seeks to ensure that international sanctions regimes are well targeted and are based on good identifying information to help financial institutions administer them. The Government has commissioned further work to quantify the compliance costs of financial sanctions. Our expectation is that this work will show that the compliance costs of administering current financial sanctions regimes are negligible.

6. Small Firms Impact Test

Not applicable – no particular impact on small firms

7. Competition assessment

Not applicable – no particular competition impact

8. Enforcement, sanctions and monitoring

The provisions are set out in the Order

9. Implementation and delivery plan

Not applicable – no further implementation is required

10. Post-implementation review

Not applicable – as no further implementation is required.

11. Summary and recommendation

The Order is required to give effect to financial sanctions against persons designated at an international level. Doing nothing would not be consistent with our international legal obligations and is therefore not an option in this case.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed Ed Balls

Date 6th November 2006

Minister's name, title, department

Ed Balls, Economic Secretary, HM Treasury

Contact point for enquiries and comments: name, address, telephone number and email address.

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