

2009 No. 1747

UNITED NATIONS

The Terrorism (United Nations Measures) Order 2009

<i>Made</i> - - - -	<i>8th July 2009</i>
<i>Laid before Parliament</i>	<i>15th July 2009</i>
<i>Coming into force</i> - -	<i>10th August 2009</i>

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SCHEDULE

- PART 1 — Information Gathering
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At the Court at Buckingham Palace, the 8th day of July 2009

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 resolution 1373(2001) adopted on 28th September 2001 and resolution 1452 (2002) adopted on 20th December 2002, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of the Council in relation to terrorism.

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

(a) 1946 c.45; subsection (2) was amended by the Statute Law (Repeals) Act 1995 (c.44), section 1 and Schedule 1; the Burma Independence Act 1947 (c.3), section 5 and Schedule 2, Part 1; and the Zimbabwe Act 1979 (c.60), section 6(3) and Schedule 3; subsection (4) was amended by the Scotland Act 1998 (c.46), section 125 and Schedule 8, paragraph 6.

PART 1

Preliminary and general

Citation, commencement and application

1.—(1) This Order may be cited as the Terrorism (United Nations Measures) Order 2009 and comes into force on 10th August 2009.

(2) An offence may be committed under this Order by any person in the United Kingdom or by any person elsewhere who is—

- (a) a British citizen;
- (b) a British overseas territories citizen who acquired his or her citizenship from a connection with Gibraltar;
- (c) a British subject under Part 4 of the British Nationality Act 1981(a) with the right of abode in the United Kingdom; or
- (d) a body incorporated or constituted under the law of any part of the United Kingdom.

Interpretation

2.—(1) In this Order—

“the 2000 Act” means the Financial Services and Markets Act 2000(b);

“the 2006 Order” means the Terrorism (United Nations Measures) Order 2006(c);

“body corporate” includes a Scottish partnership;

“the Council Regulation” means Council Regulation (EC) No. 2580/2001(d) as amended from time to time;

“designated person” has the meaning given by article 3;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

“financial services” (except in the title of the 2000 Act) means any service of a financial nature, including (but not limited to)—

- (a) insurance-related services consisting of—
 - (i) direct life assurance;
 - (ii) direct insurance other than life assurance;
 - (iii) reinsurance and retrocession;
 - (iv) insurance intermediation, such as brokerage and agency; and
- (b) banking and other financial services consisting of—
 - (i) accepting deposits and other repayable funds;
 - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - (iii) financial leasing;

(a) 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b) and the Nationality, Immigration and Asylum Act 2002 (c.41), sections 15 and 161 of and Schedules 2 (paragraphs 1(i) and 2) and 9 to that Act.

(b) 2000 c.8.

(c) S.I. 2006/2657.

(d) OJ No L 344, 28.12.2001, most recently amended by Council Decision 2009/62/EC of 26th January 2009 (OJ No L23, 27.01.09, p.25).

- (iv) payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
- (v) providing guarantees or commitments;
- (vi) financial trading;
- (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
- (viii) money brokering;
- (ix) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
- (x) providing or transferring financial information, financial data processing or related software (but only by suppliers of other financial services);
- (xi) providing advisory and other auxiliary financial services in respect of any activity listed in paragraphs (i) to (x) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy);

“financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in—

- (a) money market instruments (including cheques, bills and certificates of deposit);
- (b) foreign exchange;
- (c) derivative products (including futures and options);
- (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- (e) transferable securities;
- (f) other negotiable instruments and financial assets (including bullion);

“funds” means financial assets and benefits of every kind, including (but not limited to)—

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with relevant institutions or other persons, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
- (d) interest, dividends or other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading, bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export financing;

“officer”, in relation to a body corporate, means—

- (a) in relation to a Scottish partnership, a partner or any person who has purported to act in any such capacity, and
- (b) in relation to any other body corporate, a director, manager, secretary or other similar officer of the body corporate or any person who has purported to act in any such capacity;

“the public” means the public in the whole or a part of the United Kingdom or in another country or territory, or any section of the public;

“relevant institution” means—

- (a) a person who has permission under Part 4 of the 2000 Act (permission to carry on regulated activities);

- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights)(a) which has permission under paragraph 15 of that Schedule(b) as a result of qualifying for authorisation under paragraph 12 of that Schedule to accept deposits; and
- (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers;

“restricted person” means—

- (a) a designated person;
- (b) a person owned or controlled, directly or indirectly, by a designated person;
- (c) a person acting on behalf of or at the direction of a designated person;

“Security Council Resolutions” means resolution 1373(2001) adopted by the Security Council of the United Nations on 28th September 2001 and resolution 1452(2002) adopted by the Security Council on 20th December 2002.

- (2) The definition of “relevant institution” in paragraph (1) must be read with—
 - (a) section 22 of the 2000 Act (the classes of activity and categories of investment);
 - (b) any relevant order under that section(c); and
 - (c) Schedule 2 to that Act (regulated activities).
- (3) For the purposes of this Order, “terrorism” means the use or threat of action where—
 - (a) the action falls within paragraph (4),
 - (b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and
 - (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.
- (4) Action falls within this paragraph if it—
 - (a) involves serious violence against a person,
 - (b) involves serious damage to property,
 - (c) endangers a person’s life, other than that of the person committing the action,
 - (d) creates a serious risk to the health or safety of the public or a section of the public, or
 - (e) is designed seriously to interfere with or seriously to disrupt an electronic system.
- (5) The use or threat of action falling within paragraph (4) which involves the use of firearms or explosives is terrorism whether or not paragraph (3)(b) is satisfied.
- (6) In paragraphs (3), (4) and (5)—
 - (a) “action” includes action outside the United Kingdom,
 - (b) a reference to any person or to property is a reference to any person or property, wherever situated, and
 - (c) “the government” means the government of the United Kingdom, of a part of the United Kingdom or of a country other than the United Kingdom.

(a) As amended by S.I. 2006/3221.

(b) As amended by S.I. 2003/2066 and S.I. 2007/3253.

(c) Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) as amended, most recently by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2007 (S.I. 2007/3510).

PART 2

Designated persons and directions

Designated persons

3. For the purposes of this Order a person is a designated person if—
- (a) identified as provided in Article 2(3) of the Council Regulation, or
 - (b) identified in a direction given under article 4(1) or renewed under article 5(1).

Treasury's power to designate persons

4.—(1) The Treasury may give a direction that a person identified in the direction is designated for the purposes of this Order if—

- (a) a condition in paragraph (2) is satisfied; and
- (b) the Treasury consider that the direction is necessary for purposes connected with protecting members of the public from a risk of terrorism.

(2) The conditions are that the Treasury have reasonable grounds for suspecting that the person is—

- (a) a person who commits, attempts to commit, participates in or facilitates the commission of acts of terrorism;
- (b) a person identified as provided in Article 2(3) of the Council Regulation;
- (c) a person owned or controlled, directly or indirectly, by a designated person; or
- (d) a person acting on behalf of or at the direction of a designated person.

(3) The Treasury may vary or revoke a direction at any time.

Duration of directions

5.—(1) The Treasury may renew a direction given under article 4(1) at any time before it ceases to have effect if the requirements in paragraphs (a) and (b) of article 4(1) continue to be met.

(2) A direction given under article 4(1) or renewed under paragraph (1) ceases to have effect at the end of the period of twelve months beginning with the day on which it is given or, as the case may be, last renewed.

Directions: notification of a direction

6.—(1) Where the Treasury give a direction under article 4(1) or renew a direction under article 5(1) they must—

- (a) give written notice to the person identified in the direction; and
- (b) unless one of the conditions in paragraph (2) is met, take such steps as they consider appropriate to publicise generally the direction.

(2) The conditions are that—

- (a) the Treasury believe that the person identified in the direction is under the age of eighteen years; or
- (b) the Treasury consider that disclosure of the direction should be restricted—
 - (i) in the interests of national security;
 - (ii) for reasons connected with the prevention and detection of serious crime; or
 - (iii) in the interest of justice.

(3) Where a condition in paragraph (2) is met, the Treasury may inform only such persons as they consider appropriate of the direction.

(4) Where the conditions in paragraph (2) cease to be met, the Treasury must notify the person identified in the direction and take such steps as they consider appropriate to publicise generally the direction.

Directions: variation, revocation or expiry of direction

7. Where the Treasury vary or revoke a direction, or where a direction expires, they must—
- (a) give written notice of the variation, revocation or expiry to the person identified in the direction; and
 - (b) take such steps as they consider appropriate to bring the variation, revocation or expiry to the attention of the persons informed of the direction.

Confidential information

8.—(1) Where the Treasury in accordance with article 6(3) inform only certain persons of a direction given under article 4(1) or renewed under article 5(1), they may specify that information contained in the direction is to be treated as confidential.

(2) A person who is provided with information which is to be treated as confidential in accordance with paragraph (1), or who obtains such information, must not disclose it except with lawful authority.

(3) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies—

- (a) the disclosure is by, or is authorised by, the Treasury;
- (b) the disclosure is with the consent of the person who is the subject of the information;
- (c) the disclosure is necessary to give effect to a requirement under this Order; or
- (d) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.

(4) This article does not prevent the disclosure of information already available to the public from other sources.

(5) A person who contravenes the prohibition in paragraph (2) is guilty of an offence.

(6) In proceedings for an offence under this article, it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the information was confidential.

(7) The High Court or, in Scotland, the Court of Session may grant an injunction to prevent a breach of paragraph (2) in relation to any information upon the application of—

- (a) the person who is the subject of the information, or
- (b) the Treasury.

PART 3

Prohibitions and licences

Application of prohibitions

9. Where the Treasury in accordance with article 6(3) inform only certain persons of a direction given under article 4(1) or renewed under article 5(1), only those persons informed of the direction and the person identified in the direction are subject to the prohibitions in this Part in respect of that direction.

Freezing funds and economic resources of a restricted person

10.—(1) A person must not deal with funds or economic resources owned, held or controlled by a restricted person.

(2) In paragraph (1) “deal with” means—

(a) in respect of funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable use, including portfolio management; and

(b) in respect of economic resources, exchange or use in exchange for funds, goods or services.

(3) A person who contravenes the prohibition in paragraph (1) is guilty of an offence.

(4) In proceedings for an offence under this article, it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the funds or economic resources were owned, held or controlled by or on behalf of a restricted person.

Making funds or financial services available to a restricted person

11.—(1) A person must not make funds or financial services available, directly or indirectly, to a restricted person.

(2) A person who contravenes the prohibition in paragraph (1) is guilty of an offence.

(3) In proceedings for an offence under this article, it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the funds or financial services were being made available, directly or indirectly, to a restricted person.

Making funds or financial services available for the benefit of a restricted person

12.—(1) A person must not make funds or financial services available to any person for the benefit of a restricted person.

(2) A person who contravenes the prohibition in paragraph (1) is guilty of an offence.

(3) In proceedings for an offence under this article it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the funds or financial services were being made available for the benefit of a restricted person.

(4) For the purposes of this article—

(a) funds or financial services are made available for the benefit of a restricted person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and

(b) “financial benefit” includes the discharge of a financial obligation for which the restricted person is wholly or partly responsible.

Making economic resources available to a restricted person

13.—(1) A person must not make economic resources available, directly or indirectly, to a restricted person.

(2) A person who contravenes the prohibition in paragraph (1) is guilty of an offence.

(3) In proceedings for an offence under this article it is a defence for a person to show that they did not know and had no reasonable cause to suspect that—

(a) the economic resources were being made available, directly or indirectly, to a restricted person; or

(b) the restricted person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

Making economic resources available for the benefit of a restricted person

14.—(1) A person must not make economic resources available to any person for the benefit of a restricted person.

(2) A person who contravenes the prohibition in paragraph (1) is guilty of an offence.

(3) In proceedings for an offence under this article it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the economic resources were being made available for the benefit of a restricted person.

(4) For the purposes of this article—

- (a) economic resources are made available for the benefit of a restricted person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
- (b) “financial benefit” includes the discharge of a financial obligation for which the restricted person is wholly or partly responsible.

Exceptions

15.—(1) A relevant institution is not guilty of an offence under this Part if the institution credits a frozen account with—

- (a) interest or other earnings due on the account; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) Articles 11 and 12 do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to a frozen account by a third party.

(3) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with paragraph (1)(b) or (2).

(4) For the avoidance of doubt, article 10 applies to any funds credited to a frozen account in accordance with this article.

(5) In this article—

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a restricted person;

“third party” means a person other than the account holder or the relevant institution with which the account is maintained.

Circumventing prohibitions etc.

16. A person who participates knowingly and intentionally in activities the object or effect of which is, directly or indirectly, to—

- (a) circumvent a prohibition in this Part, or
- (b) enable or facilitate the contravention of a prohibition in this Part,

is guilty of an offence.

Licences

17.—(1) The Treasury may grant a licence to disapply the prohibitions in this Part in relation to acts specified in the licence.

(2) A licence may be—

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions;
- (c) of indefinite duration or subject to an expiry date.

(3) The Treasury may vary or revoke a licence at any time.

- (4) The Treasury, where they grant, vary or revoke a licence, must—
- (a) in the case of a licence granted to a particular person, give written notice of the licence, variation or revocation to that person, and
 - (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the licence, variation or revocation.
- (5) Where the relevant designated person is identified as provided in Article 2(3) of the Council Regulation, the licence also constitutes authorisation under Article 6 of the Council Regulation.
- (6) A person who, for the purpose of obtaining a licence knowingly or recklessly—
- (a) provides information that is false in a material respect; or
 - (b) provides or produces a document that is not what it purports to be,
- is guilty of an offence.
- (7) Any person who purports to act under the authority of a licence and who fails to comply with any conditions included in the licence is guilty of an offence.

PART 4

Information provisions

Information from relevant institutions

- 18.**—(1) A relevant institution must as soon as practicable inform the Treasury if it knows or suspects that a relevant person—
- (a) is a restricted person; or
 - (b) has committed an offence under article 8 or Part 3 of this Order.
- (2) A relevant institution, where it informs the Treasury under paragraph (1), must state—
- (a) the information or other matter on which the knowledge or suspicion is based;
 - (b) any information it holds about the relevant person by which the person can be identified; and
 - (c) the nature and amount or quantity of any funds or economic resources held by the relevant institution for the relevant person at any time up to five years prior to the relevant direction being given.
- (3) A relevant institution that fails to comply with a requirement in paragraph (1) or (2) or article 15(3) is guilty of an offence.
- (4) Anything done under this article is not to be treated as a breach of any restriction imposed by statute or otherwise.
- (5) In this article, “relevant person” means—
- (a) a person who is a customer of the institution;
 - (b) a person who was a customer of the institution at any time in the period of five years immediately preceding the relevant direction being given; or
 - (c) a person with whom the institution has had dealings in the course of its business during that period.

Information gathering and information disclosure

- 19.**—(1) The Schedule (which contains provisions concerning information gathering and information disclosure) has effect.

PART 5

Miscellaneous

Officers of a body corporate etc.

20.—(1) If an offence under this Order committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of an offence.

(2) Paragraph (1) also applies in relation to an institution which is not a body corporate, with the substitution for the reference to an officer of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body's affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.

Penalties

21.—(1) A person guilty of an offence under article 10, 11, 12, 13, 14 or 16 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both;
- (b) on summary conviction—
 - (i) in England, Wales and Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (ii) in Scotland to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum or to both.

(2) A person guilty of an offence under article 8 or 17 is 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—
 - (i) in England, Wales and Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (ii) in Scotland to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum or to both.

(3) A person guilty of an offence under article 18(3) or paragraph 7 of the Schedule is 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 both.

Proceedings

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

(2) In England and Wales, summary proceedings for an offence may be tried by a magistrates' court if any information is laid—

- (a) before the end of twelve months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge, but

- (b) not later than three years from the commission of the offence.
- (3) In Scotland—
- (a) summary proceedings for an offence may be commenced—
 - (i) before the end of twelve months from the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to the Lord Advocate’s knowledge, but
 - (ii) not later than three years from the commission of the offence; and
 - (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995(a) (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.
- (4) In Northern Ireland, summary proceedings for an offence may be instituted—
- (a) before the end of twelve months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor’s knowledge, but
 - (b) not later than three years from the commission of the offence.
- (5) For the purposes of this article—
- (a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate as to the date on which such evidence as is referred to in paragraphs (2) to (4) came to the prosecutor’s or the Lord Advocate’s knowledge is conclusive evidence of that fact, and
 - (b) a certificate purporting to be so signed is presumed to be so signed unless the contrary is proved.
- (6) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence, the constable may arrest that person without a warrant.
- (7) No proceedings for an offence, other than for a summary offence, may be instituted in England, Wales or Northern Ireland except with the consent of the Attorney General or, as the case may be, the Advocate General for Northern Ireland.
- (8) Whether or not such consent has been given, paragraph (7) does not prevent—
- (a) the arrest of any person in respect of an offence, or
 - (b) the remand in custody or on bail of any person charged with an offence.
- (9) Until the coming into force of section 27 of the Justice (Northern Ireland) Act 2002(b), the reference in paragraph (7) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.
- (10) In this article, “offence” means an offence under this Order.

Notices

- 23.**—(1) This article has effect in relation to any notice to be given to a person by the Treasury under article 6(1)(a), 7(a) or 17(4)(a).
- (2) Any such notice may be given—
- (a) by posting it to the person’s last known address; or
 - (b) where the person is a body corporate which has its registered or principal office in the United Kingdom, by posting it to that office.
- (3) Where the Treasury do not have an address in the United Kingdom for the person, they must make arrangements for the notice to be given to the person at the first available opportunity.

(a) 1995 c.46.
 (b) 2002 c.26.

Postponement etc. of the operation of the Security Council Resolutions

24.—(1) If the Security Council of the United Nations takes any decision which has the effect of postponing, suspending or cancelling the operation of the Security Council Resolutions, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part as the case may be, in accordance with that decision.

(2) The Secretary of State must publish particulars of the decision in a notice in the London, Edinburgh and Belfast Gazettes.

The Crown

25.—(1) This Order binds the Crown, subject to the following provisions of this article.

(2) No contravention by the Crown of a provision of this Order makes the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Nothing in this article affects Her Majesty in her private capacity; and this is to be construed as if section 38(3) of the Crown Proceedings Act 1947(a) (meaning of Her Majesty in her private capacity) were contained in this Order.

Transitional, revocation and saving provision

26.—(1) Subject to paragraphs (2), (3) and (4), the 2006 Order is revoked.

(2) Where a direction made by the Treasury under article 4 of the 2006 Order had effect immediately before the coming into force of this Order, the 2006 Order continues to apply for the purposes of that direction as if it had not been revoked by paragraph (1).

(3) Where a direction made by the Treasury under the Terrorism (United Nations Measures) Order 2001(b) had effect immediately before the coming into force of this Order by virtue of article 20(2) of the 2006 Order, the 2001 Order continues to apply for the purpose of that direction as if it had not been revoked by the 2006 Order.

(4) A direction to which paragraph (2) or (3) applies ceases to have effect on 31st August 2010 unless revoked by the Treasury before that date.

Judith Simpson
Clerk of the Privy Council

(a) 1947 c.44.

(b) S.I. 2001/3365 as amended by S.I. 2001/3801, S.I. 2002/1111, S.I. 2003/1297, S.I. 2005/1525 and S.I. 2005/3389.

PART 1

Information Gathering

1. The Treasury may request a restricted person to provide information concerning—
 - (a) funds and economic resources owned, held or controlled by or on behalf of the restricted person; or
 - (b) any disposal of such funds or economic resources, whether the disposal occurred before or after the person became a restricted person.
- 2.—(1) The Treasury may request a restricted person to provide such information as the Treasury may reasonably require about expenditure—
 - (a) by or on behalf of the restricted person, and
 - (b) for the benefit of the restricted person.

(2) The power under this paragraph is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Order.
3. The Treasury may request a person acting under a licence granted under article 17 to provide information concerning—
 - (a) funds or economic resources dealt with under the licence;
 - (b) funds, economic resources or financial services made available under the licence.
4. The Treasury may request any person in or resident in the United Kingdom to provide such information as the Treasury may reasonably require for the purpose of—
 - (a) monitoring compliance with or detecting evasion of this Order;
 - (b) obtaining evidence of the commission of an offence under this Order;
 - (c) establishing—
 - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a restricted person;
 - (ii) the nature and amount or quantity of any funds, economic resources or financial services made available directly or indirectly to, or for the benefit of, a restricted person; or
 - (iii) the nature of any financial transactions entered into by a restricted person.
- 5.—(1) The Treasury may specify the manner in which, and the period within which, information is to be provided.

(2) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(3) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.
- 6.—(1) A request under this Schedule may include a request to produce specified documents or documents of a specified kind or description.

(2) Where the Treasury request that documents be produced, they may—
 - (a) take copies of or extracts from any document so produced;
 - (b) request any person producing a document to give an explanation of it; and

- (c) where that person is a body corporate, request any person who is a present or past officer of, or employee of, the body corporate to give such an explanation.
- (3) Where the Treasury request a restricted person or a person acting under a licence granted under article 17 to produce documents, that person must—
- (a) take reasonable steps to obtain the documents, if not already in the person’s possession or control; and
 - (b) keep the documents under the person’s possession or control (except for the purpose of providing it to the Treasury or as the Treasury may otherwise permit).

7.—(1) A 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;
- (b) knowingly or recklessly gives any information or produces any document which is false in a material particular in response to such a request;
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
- (d) otherwise wilfully obstructs the Treasury in the exercise of their powers under this Schedule,

is guilty of an offence.

(2) Where a person is convicted of an offence under sub-paragraph (1), the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

PART 2

Information Disclosure

8. The Treasury must take such steps as they consider appropriate to cooperate with any investigation, in the United Kingdom or elsewhere, relating to the funds, economic resources or financial transactions of a restricted person.

9.—(1) The Treasury may disclose any information obtained by it in exercise of its powers under this Order (including any copy or extract made of any document)—

- (a) to a police officer;
- (b) to any person holding or acting in any office under or in the service of—
 - (i) the Crown in respect of the Government of the United Kingdom;
 - (ii) the Crown in right of the Scottish Administration;
 - (iii) the Government of the Isle of Man;
 - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark;
 - (v) the Government of any British overseas territory;
- (c) to the Legal Services Commission,
- (d) to the Financial Services Authority,
- (e) to the Isle of Man Insurance and Pensions Authority and Financial Supervision Commission,
- (f) to the Jersey Financial Services Commission,
- (g) to the Guernsey Financial Services Commission,
- (h) for the purpose of giving assistance or cooperation, pursuant to the Security Council Resolutions, to—

- (i) any organ of the United Nations;
 - (ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country;
 - (i) with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in the United Kingdom, for an offence under this Order; or
 - (ii) in any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction; or
 - (j) with the consent of a person who, in his or her own right, is entitled to the information or to the possession of the document, to any third party.
- (2) In this paragraph, “in his or her own right” means not merely in the capacity as a servant or agent of another person.

PART 3

General provisions

10.—(1) Anything done under this Schedule is not to be treated as a breach of any restriction imposed by statute or otherwise.

(2) The provisions of this Schedule are not to be treated as limiting the powers of the Treasury to impose conditions in connection with the discharge of their functions under article 17.

(3) Nothing in this Schedule shall be taken to require any person who has acted as counsel or solicitor for any person to give or produce any privileged information or document in his or her possession in that capacity.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under section 1 of the United Nations Act 1946 (c.45), gives effect in the United Kingdom to resolution 1373(2001) adopted by the Security Council of the United Nations on 28th September 2001 relating to terrorism and resolution 1452(2002) adopted on 20th December 2002 relating to humanitarian exemptions. It also provides for enforcement of Regulation (EC) 2580/2001 on specific measures directed at certain persons and entities with a view to combating terrorism (“the EC Regulation”).

The EC Regulation provides a mechanism for designating within the Community persons in respect of whom measures contained in the EC Regulation are to apply. The measures include the freezing of funds, financial assets and economic resources of such persons and ensuring that any funds, financial assets, economic resources and financial services are not made available to them.

Article 3 of this Order provides that “designated persons” are persons identified under the EC Regulation and those identified in a direction given by the Treasury under article 4.

Article 4 gives the Treasury power to give a direction to designate a person for the purposes of the Order if one of a number of specified conditions is fulfilled in respect of the person and the Treasury considers that the direction is necessary for purposes connected with protecting members of the public from a risk of terrorism. The conditions are that the Treasury have reasonable grounds to suspect that the person is (a) a person who commits, attempts to commit, participates in or facilitates the commission of acts of terrorism; (b) a person identified under the EC Regulation; (c) a person owned or controlled, directly or indirectly, by a designated person; or (d) a person acting on behalf of or at the direction of a designated person.

Article 5 states that a direction ceases to have effect twelve months after it was made, but gives the Treasury the power to renew a direction on one or more occasions.

Article 6 makes provision for the giving of notices to persons identified in Treasury directions, and for the publicising of directions generally.

Article 7 makes provision for the notification to a person identified in a Treasury direction of any variation, revocation or expiry of a direction, and for the general publication of such variation, revocation or expiry.

Article 8 gives the Treasury power to specify that information contained in a direction to which article 6(3) applies is to be treated as confidential. The article imposes a prohibition on disclosing such information except with lawful authority. The article makes it a criminal offence to contravene this prohibition and provides that the Court may grant an injunction to prevent a breach.

Article 10 prohibits any dealing with funds or economic resources of a restricted person. Article 11 prohibits making funds or financial services available to a restricted person. Article 12 prohibits making funds or financial services available for the benefit of a restricted person. Article 13 prohibits making economic resources available to a restricted person. Article 14 prohibits making economic resources available for the benefit of a restricted person. It is a criminal offence to contravene any of these prohibitions.

Article 15 provides for exceptions to these prohibitions to permit the crediting of frozen accounts with interest and payments due under obligations entered into before the account became frozen, and to permit an institution to credit a frozen account with funds

Article 16 makes it a criminal offence to circumvent the prohibitions or to facilitate the commission of an offence relating to a prohibition.

Article 17 provides a licensing procedure to enable, for humanitarian and other purposes, certain acts to be exempted from the prohibitions.

Article 18 sets out certain reporting requirements which relevant institutions have in relation to restricted persons. It is a criminal offence to fail to comply with these requirements.

Article 25 confirms that the provisions of this Order apply to the Crown but, in the event of a contravention, the Crown is not criminally liable.

Article 26 revokes the Terrorism (United Nations Measures) Order 2006, save that where a direction made under article 4 of that Order or given continued effect by article 20(2) of that Order is in effect immediately before the coming into force of this Order, the provisions of that 2006 Order or the Terrorism (United Nations Measures) Order 2001 (S.I. 2001/3365) continue to apply in respect of that direction until 31st August 2010 unless the direction is revoked sooner.

The Schedule makes provisions for information gathering and information disclosure.

A list of designated persons is available on the Internet at: www.hm-treasury.gov.uk/documents/fin_sanctions_index

An impact assessment of the effect that this instrument will have on the costs of business may be attained from the Asset Freezing Unit, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is also available on HM Treasury's website (www.hm-treasury.gov.uk) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

STATUTORY INSTRUMENTS

2009 No. 1747

UNITED NATIONS

The Terrorism (United Nations Measures) Order 2009

£5.50