

2001 No. 3363

UNITED NATIONS

The Terrorism (United Nations Measures) (Channel Islands) Order 2001

Made - - - - - *9th October 2001*
Laid before Parliament *9th October 2001*
Coming into force - - *10th October 2001*

At the Court at Buckingham Palace, the 9th day of October 2001

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 28th September 2001, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to combating terrorist activities:

Now, therefore, Her Majesty, in exercise of the powers conferred to 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:—

Citation, commencement, operation, extent and amendment

1.—(1) This Order may be cited as the Terrorism (United Nations Measures) (Channel Islands) Order 2001 and shall come into force on 10th October 2001.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or postponing or suspending the operation of the resolution adopted by it on 28th September 2001, 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.

(3) Particulars of the decisions referred to in paragraph (2) above shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(4) This Order shall extend to the Channel Islands so as to be law, respectively in Guernsey and Jersey.

(5) Articles 4, 5, 6, 7, 8, 10 and 11 shall apply to any person within Guernsey or Jersey 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 National (Overseas) or a British protected person and is ordinarily resident in Guernsey or Jersey; or
- (b) is a body incorporated or constituted under the law of any part of Guernsey or, as the case may be, Jersey.

(a) 1946 c. 45.

Interpretation: general

2.—(1) In this Order, unless the context otherwise requires—

“Attorney General” means—

(a) in the application of this Order to Guernsey, the Attorney General or the Solicitor General for Guernsey; and

(b) in the application of this Order to Jersey, the Attorney General for Jersey;

“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;

“funds” means financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, 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; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights 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;

“Guernsey” means the Bailiwick of Guernsey;

“Jersey” means the Bailiwick of Jersey;

“licensing authority” means—

(a) in the application of this Order to Guernsey, the Attorney General; and

(b) in the application of this Order to Jersey, the Policy and Resources Committee;

“professional legal adviser” in the application of this Order to Jersey, means an advocate or solicitor;

“relevant institution” means—

(a) in the application of this Order to Guernsey a financial services business within the meaning of section 49 of and the Schedule to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law 1999; and

(b) in the application of this Order to Jersey, a financial services business within the meaning of Article 36(1) and the Second Schedule to the Proceeds of Crime (Jersey) Law 1999;

“the standard scale” means—

(a) in the application of this Order to Guernsey, the standard scale of fines specified for the time being in section 1 of the Uniform Scale of Fines (Bailiwick of Guernsey) Law 1989, as amended; and

(b) in the application of this Order to Jersey, the standard scale of fines specified for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, as amended.

(2) Any reference to an Act of Parliament of the United Kingdom shall, in the case of a provision which has been extended to the Channel Islands or otherwise applies to the Channel Islands, be construed as a reference to that provision as it has effect there.

Interpretation: terrorism

3.—(1) In this Order “terrorism” means the use or threat of action where the action falls within paragraph (2) below, the use or threat is designed to influence the government or to intimidate the public or a section of the public, and the use or threat is made for the purpose of advancing a political, religious or ideological cause.

(2) Action is terrorism 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.

(3) Notwithstanding paragraph (1) above, the use or threat of action falling within paragraph (2) which involves the use of firearms or explosives is terrorism whether or not the use or threat is designed to influence the government or to intimidate the public or a section of the public.

(4) For the purposes of this article—

- (a) “action” includes action outside Guernsey or Jersey,
- (b) a reference to any person or to property is a reference to any person, or to property, wherever situated,
- (c) a reference to the public includes a reference to the public of a country or territory other than that of Guernsey or Jersey, and
- (d) “the government” includes the States of Guernsey, the States of Alderney and the Chief Pleas of Sark, the States of Jersey, or of a country or territory other than Guernsey or Jersey.

Collection of Funds

4.—(1) Any person who invites another to provide funds, and intends that they should be used, or knows or has reasonable cause to suspect that they may be used, for the purposes of terrorism, shall be guilty of an offence.

(2) Any person who receives funds, and intends that they should be used, or knows or has reasonable cause to suspect that they may be used, for the purposes of terrorism, shall be guilty of an offence.

(3) Any person who provides funds, and knows or has reasonable cause to suspect that they will or may be used for the purposes of terrorism, shall be guilty of an offence.

(4) In this article a reference to the provision of funds is a reference to them being given, lent or otherwise made available, whether or not for consideration.

Making funds available

5. Any person who, except under the authority of a licence granted by the licensing authority under this article, makes any funds or financial (or related) services available to, or for the benefit of—

- (a) persons who commit, attempt to commit, facilitate or participate in the commission of terrorism,
- (b) persons controlled or owned directly or indirectly by persons referred to in paragraph (a) above, or
- (c) persons acting on behalf of, or on the direction of, persons referred to in paragraph (a) above,

shall be guilty of an offence.

Freezing of funds on suspicion

6.—(1) Where the licensing authority has reasonable grounds for suspecting that the person by, for, or on behalf of whom any funds are held is or may be—

- (a) a person who commits, attempts to commit, participates in or facilitates the commission of terrorism,
- (b) a person controlled or owned directly or indirectly by a person referred to in sub-paragraph (a) above,
- (c) a person acting on behalf of, or at the direction of, a person referred to in sub-paragraph (a) above,

the licensing authority may by notice direct that those funds are not to be made available to that person, except under the authority of a licence granted under this article.

(2) A notice given under paragraph (1) shall specify either—

- (a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3) below.

(3) The licensing authority may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 5 in respect of the funds in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held (“the owner”).

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Any person who contravenes a direction under paragraph (1) above shall be guilty of an offence.

(8) A recipient who fails to comply with such a requirement as is mentioned in paragraph (6) shall be guilty of an offence.

Facilitation of activities prohibited under articles 4, 5 and 6(7)

7. Any person who intentionally engages in any activities knowing that the object or effect of those activities is to enable or facilitate the commission (by that person or another) of an offence under article 4, 5 or 6(7) shall be guilty of an offence.

Offences in connection with licences

8.—(1) Any person who, for the purposes of obtaining a licence under article 5 or 6, knowingly or recklessly makes any statement or furnishes any document or information which is false in a material particular shall be guilty of an offence.

(2) Any person who has done any act under the authority of a licence granted by the licensing authority and who fails to comply with the conditions attaching to that licence shall be guilty of an offence:

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 licensing authority after the doing of the act authorised by the licence.

Failure to disclose knowledge or suspicion of offences

9.—(1) A relevant institution is guilty of an offence under this Order if—

(a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution or is a person with whom the institution has had dealings in the course of its business since that time—

(i) is a person who commits, attempts to commit, participates in or facilitates terrorism; or

(ii) has committed an offence under articles 4, 5, 6(7) or 8; and

(b) it does not disclose to the relevant licensing authority the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where relevant institution discloses to the licensing authority—

(a) its knowledge or suspicion that a person is a person who commits, attempts to commit, participates in or facilitates terrorism or a person who has committed an offence under articles 4, 5, 6(7) or 8, or

(b) any information or other matter on which that knowledge or suspicion is based, the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

Obtaining of information

10.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the licensing authority may request any person to furnish to the authority any information in his possession or control, or to produce to the authority any document in his possession or control, which the authority may require for the purpose of securing compliance with or detecting evasion of this Order or any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom or the Isle of Man or any territory listed in the Schedule to 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 paragraph shall be taken to require any person who has acted as a professional legal adviser for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested to do so under this article 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 article 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.

(5) The furnishing of any information or the production of any document under this article shall not be treated as a breach of any restriction imposed by statute or otherwise.

(6) 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 article by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this article; or
- (d) with intent to evade the provisions of this article, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence.

Disclosure of information

11.—(1) No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Order 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 Order to request that it be furnished or produced; or
- (c) 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 Government of the Isle of Man;
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
 - (iv) the States of Jersey; or
 - (v) the government of any territory listed in the Schedule to this Order;
- (d) on the authority of the licensing authority, 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 terrorism decided upon by the Security Council of the United Nations; or

- (e) with a view to the institution of, or otherwise for the purposes of, any proceedings—
 - (i) within any of the Channel Islands, for an offence under this Order; or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, the Isle of Man or any territory listed in the Schedule to this Order.

(2) Any person who, without reasonable excuse, discloses information or a document in contravention of paragraph (1) above shall be guilty of an offence.

Penalties and proceedings

12.—(1) Any person guilty of an offence under article 4, 5, 6(7), 7 or 8(2) shall be liable in Guernsey—

- (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 level 5 on the standard scale, or to both;

and in Jersey, on conviction to imprisonment for a term not exceeding seven years, or to a fine not exceeding level 4 on the standard scale, or to both.

(2) Any person guilty of an offence under article 8(1), 10(6)(b) or (d) or 11(2) shall be liable in Guernsey—

- (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 level 5 on the standard scale;

and in Jersey, on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding level 4 on the standard scale, or to both.

(3) Any person guilty of an offence under article 6(8), 9 or 10(6)(a) or (c) shall be liable in Guernsey on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, and in Jersey on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the standard scale, or to both.

(4) 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.

(5) Proceedings against any person for an offence under this Order, in its application to the Bailiwick of Guernsey, may be taken before the appropriate court in the Bailiwick having jurisdiction in the place where that person is for the time being.

(6) No proceedings for an offence under this Order shall be instituted except by or with the consent of the Attorney General:

Provided that this paragraph shall not prevent the arrest, or the issue or 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.

Functions of the licensing authority

13. The licensing authority may, to such extent and subject to such restrictions and conditions as the authority may think proper, delegate or authorise the delegation of any of the authority's powers under this Order to any person, or class or description of persons, approved by the authority, and references in this Order to the licensing authority shall be construed accordingly.

Licences

14.—(1) A licence under this Order shall be in writing and may be either general or special, may be subject to or without conditions, and may be limited so as to expire on a specified date unless renewed.

(2) A special licence may be varied or revoked at any time by written notice given by the licensing authority to each recipient of the licence.

(3) The licensing authority shall publish a general licence in such manner as the authority thinks fit. A general licence may be varied or revoked at any time by written notice, which shall be published by the licensing authority in the same manner as the licence.

(4) A notice under paragraph (2) above may be given by post, and shall be deemed to have been given to a person if it is sent to him at his last-known address.

A K Galloway
Clerk of the Privy Council

SCHEDULE

Article 10

DISCLOSURE OF INFORMATION—LISTED TERRITORIES

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, imposes in the Channel Islands measures against terrorism pursuant to a decision of the Security Council of the United Nations in its Resolution 1373 of 28th September 2001. It prohibits fundraising for, and restricts the making available of funds to or the provision of financial services to terrorists. It also provides powers to freeze accounts of suspected terrorists.

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