

STATUTORY INSTRUMENTS

2002 No. 258

UNITED NATIONS

The Al-Qa'ida and Taliban (United Nations
Measures)(Channel Islands) Order 2002

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12th February 2002

Made

Laid before Parliament

13th February 2002

Coming into force

14th February 2002

At the Court at Buckingham Palace, the 12th day of February 2002

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 resolutions adopted on 15th October 1999, 19th December 2000 and 16th January 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 that Council in relation to Afghanistan and in relation to combating terrorist activities:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946^{F1}, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Annotations:

F11946 c.45.

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Citation, commencement, operation, extent, revocation and amendment

1. — (1) This Order may be cited as the Al-Qa'ida and Taliban (United Nations

Measures)(Channel Islands) Order 2002 and shall come into force on 14th February 2002.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling, extending or suspending the operation of the resolutions adopted by it on 15th October 1999, 19th December 2000 or 16th January 2002, in whole or in part, this Order shall cease to have effect or its operation shall be extended or suspended, in whole or in part, 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 Channel Islands so as to be law, respectively, in Guernsey and Jersey.

(4) Articles 6, 7, 8 and 9 shall apply to any person within the Channel Islands 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 Jersey.

(5) The Afghanistan (United Nations Sanctions)(Channel Islands) Order 2001 ^{F2}and the Afghanistan (United Nations Sanctions)(Channel Islands)(Amendment) Order 2001 ^{F3}are hereby revoked.

(6) The Terrorism (United Nations Measures)(Channel Islands) Order 2001 ^{F4}shall be amended as follows—

(a)

in article 2 in the definition of “funds”, for the words “and economic benefits”, substitute the words “, **economic benefits and economic resources**”;

(b)

in article 6, after paragraph (6) insert the following paragraphs—

"(6A) Where a decision has been given by the licensing authority under paragraph (1), any person by, for or on behalf of whom those funds are held may apply by representation to the Royal Court for the direction to be set aside; and on such application the court may set aside the direction.

(6B) A person who makes an application under paragraph (6A) shall give a copy of the application and any witness statement or affidavit in support to the licensing authority and, in the case of Jersey, to the Attorney General (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.";

(c)

in article 12(1) and (2), at both places where it appears, omit the phrase “not exceeding level 4 on the standard scale”.

Annotations:

F2S.I. 2001/393.

F3S.I. 2001/2562.

F4S.I. 2001/3363.



Interpretation

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;

“Chief Revenue Officer” and “States Revenue Officer”, in the application of this Order to the Bailiwick of Guernsey, have the meanings they bear in the Customs and Excise (General Provisions)(Bailiwick of Guernsey) Law 1972; and “States Revenue Officer”, in the application of this Order to the Bailiwick of Jersey, means the Agent of the Impôts and any officer of the Impôts (and any person authorised by the Agent of the Impôts);

“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;

“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;

“export” includes shipment as stores;

“exportation” in relation to any vessel, submersible vehicle or aircraft, includes the taking out of Guernsey or, as the case may be, Jersey, of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“funds” means financial assets, economic benefits and economic resources 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 financing;

“Guernsey” means the Bailiwick of Guernsey;

“Jersey” means the Bailiwick of Jersey;

“licensing authority” means—

(a)

in the case of the Bailiwick of Guernsey, the Attorney General for Guernsey; and

(b)

in the case of the Bailiwick of Jersey, the Policy and Resources Committee of the States of Jersey;

“listed person” means—

(a)

Usama bin Laden;

(b)

any person designated by the Sanctions Committee in the list maintained by that Committee in accordance with resolution 1390 adopted by the Security Council on 16th January 2002 as:

(i)

a member of the Al-Qa’ida organisation;

(ii)

a member of the Taliban;

(iii)

an individual, group, undertaking or entity associated with the persons covered by (a), (b)(i) or (ii) above;

“police officer” means—

(a)

in relation to Guernsey, Hern and Jethou a member of the salaried police force of the Island of Guernsey, and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

(b)

in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney;

(c)

in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey; and

(d)

in relation to the Bailiwick of Jersey, a member of the Honorary Police or a member of the States of Jersey Police Force;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

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

“owner”, in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“relevant institution” means—

(a)

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

(b)

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

“restricted goods” means the goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994 ^{F5};

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of Resolution 1267 adopted on 15th October 1999;

“ship” includes every description of vessel used in navigation;

“shipment”(and cognate expressions) and “stores” shall—

(a)

in the application of this Order to Guernsey, have the meanings they bear in the Customs and Excise (General Provisions)(Bailiwick of Guernsey) Law 1972, and

(b)

in the application of this Order to Jersey, have the meanings they bear in the Customs and Excise (Jersey) Law 1999;

“the standard scale” means—

(a)

in the application of this Order to the Bailiwick of 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 the Bailiwick of 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;

“the Taliban” means the Afghan political faction known as the Taliban;

“vehicle” means land transport vehicle.

(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.

Annotations:

F5S.I. 1994/1191 as amended by S.I.s 1996/2663, 1997/1008, 1997/2758, 1999/63, 1999/1777, 2000/1239, 2000/2140, 2000/2264 and 2001/729.



RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING



Supply of restricted goods

3. — (a) Any person who—

(a)

supplies or delivers,

(b)

agrees to supply or deliver, or

(c)

does any act calculated to promote the supply or delivery of, restricted goods from Guernsey or, as the case may be, Jersey to a listed person shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a listed person.

(2) Any person (as referred to in article 1(4) above) who, in any place outside Guernsey or, as the case may be, Jersey—

(a)

supplies or delivers,

(b)

agrees to supply or deliver, or

(c)

does any act calculated to promote the supply or delivery of, restricted goods to a listed person shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a listed person.

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Exportation of restricted goods to listed persons

4. Restricted goods are prohibited to be exported from Guernsey or, as the case may be, Jersey to any listed person.

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Provision of certain technical assistance or training

5. — (1) Any person who, in or from Guernsey or Jersey, directly or indirectly provides to a listed person any technical assistance or training related to—

(a)

the supply, delivery, manufacture, maintenance or use of any restricted goods, or

(b)

military activities,

shall be guilty of an offence unless he proves that he did not know and had no reason to suppose that the technical assistance or training in question was to be provided to a listed person.

(2) Any person (as referred to in article 1(4) above) who in any place outside Guernsey or as the case may be Jersey, directly or indirectly provides to a listed person any technical assistance or training related to—

(a)

the supply, delivery, manufacture, maintenance or use of any restricted goods, or

(b)

military activities,

shall be guilty of an offence.

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Use of ships, aircraft and vehicles: restricted goods, technical assistance and training

6. — (1) Without prejudice to the generality of article 3, no ship or aircraft to which this article applies, and no vehicle within Guernsey or, as the case may be, Jersey, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage of those goods to a listed person.

(2) This article applies to ships registered in Guernsey or, as the case may be, Jersey, to aircraft registered in the United Kingdom and to any other ship or aircraft that is for the time being chartered to any person referred to in article 1(4) above.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article then—

(a)

in the case of a ship registered in Guernsey or, as the case may be, Jersey or any aircraft registered in the United Kingdom, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b)

in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in article 1(4) above, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c)

in the case of a vehicle, the operator of the vehicle, shall be guilty of an offence, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage to a listed person.

(4) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

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FUNDS

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Making funds available to Usama bin Laden and associates

7. Any person who, except under the authority of a licence granted by the licensing authority under this article, makes any funds available to or for the benefit of a listed person or any person acting on behalf of a listed person is guilty of an offence.

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Freezing of funds

8. — (1) Where the licensing authority have reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be a listed person or a person acting on behalf of a listed person, it may by notice direct that those funds are not to be made available to any person, except under the authority of a licence granted under article 7.

(2) A direction 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).

(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 7 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) Where a direction has been given by the licensing authority under paragraph (1), any person by, for or on behalf of whom those funds are held may apply by representation to the Royal Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the licensing authority and, in Jersey, to the Attorney General (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence.

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Facilitation of activities prohibited under article 7 or 8(9)

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence.

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Failure to disclose knowledge or suspicion of measures offences

10. — (1) A relevant institution is guilty of an offence if 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—

(a)

is a listed person;

(b)

is a person acting on behalf of a listed person; or

(c)

has committed an offence under article 7, 8(9) or 12(2), and it does not disclose to the 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 matters come to its attention.

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

(a)

its knowledge or suspicion that a person is a listed person, a person acting on behalf of a listed person, or a person who has committed an offence under article 7, 8(9) or 12(2), 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.

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GENERAL

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Customs powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of goods which have been exported from Guernsey or, as the case may be, Jersey shall, if so required by the Chief Revenue Officer or a States Revenue Officer, furnish within such time as he may allow proof to his satisfaction that the goods have reached a destination to which their exportation was not prohibited by this Order, and if he fails to do so, he shall be guilty of an offence unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

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

12. — (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.

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

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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 this consent, by the licensing authority after the doing of the act authorised by the licence.

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Declaration as to goods: powers of search

13. — (1) Any person who is about to leave Guernsey or, as the case may be, Jersey shall, if he is required to do so by the Chief Revenue Officer or a States Revenue Officer—

(a)

declare whether or not he has with him any restricted goods which are destined for a listed person or for delivery, directly or indirectly, to or the order of any listed person; and

(b)

produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

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Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence.

(4) Any person who under the provisions of this article makes a declaration that to his knowledge is false in a material particular or recklessly makes any declaration that is false in a material particular shall be guilty of an offence.

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Investigation, etc. of suspected ships

14. — (1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

(a)

he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b)

he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c)

in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of article 6(1), any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b) above), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2) below.

(2) The further action referred to in paragraph (1)(c) of this article is either—

(a)

to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b)

to request the master of the ship to take any one or more of the following steps—

(i)

to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii)

if the ship is then in port in Guernsey or, as the case may be, Jersey, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii)

if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii) above; and

(iv)

to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 17(3), where—

(a)

a master refuses or fails to comply with a request made under paragraph (2)(b) of this article, or

(b)

an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) In this article “authorised officer” means a Chief Revenue Officer or a States Revenue Officer or—

(a)

in the case of Guernsey any officer as is referred to in section 284(1) of the Merchant Shipping Act 1995 ^{F6}as extended to Guernsey by the Merchant Shipping (Oil Pollution and General Provisions)(Guernsey) Order 1998 ^{F7}; and

(b)

in the case of Jersey, the Harbour Master or an officer appointed to deputise for him.

Annotations:

F61995 c.21.

F7S.I. 1998/260.



Investigation, etc. of suspected aircraft

15. — (1) Where any authorised officer or authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

(a)

he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;

(b)

he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and

(c)

if the aircraft is then in Guernsey or, as the case may be, Jersey any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a) above) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in Guernsey, or as the case may be, Jersey until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 17(3), where an authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

(a)

enter, or authorise entry, upon any land and upon that aircraft;

(b)

detain, or authorise the detention of, that aircraft and any of its cargo; and

(c)

use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised officer” means any States Revenue Officer and, in respect of Jersey, the Airport Director; and

“authorised person” means any person authorised by the Attorney General for the purpose of this article either generally or in a particular case.



Investigation, etc. of suspected vehicles

16. — (1) Where any authorised officer or authorised person has reason to suspect that any vehicle in Guernsey or, as the case may be, Jersey has been or is being or is about to be used in contravention of article 6—

(a)

he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;

(b)

he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and

(c)

any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a) above) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in Guernsey or, as the case may be, Jersey until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

(a)

enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b)

detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c)

use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of this authority.

(4) In this article—

“authorised officer” means any States Revenue Officer, and

“authorised person” means any person authorised by the Attorney General for the purpose of this article either generally or in a particular case.



Provisions supplementary to articles 14 to 16

17. — (1) No information furnished or document produced by any person in pursuance of a request made under article 14, 15 or 16 shall be disclosed except—

(a)

with the consent of the person by whom the information was furnished or the document was produced;

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 the possession of that document in his own right;

(b)

to any person who would have been empowered under article 14, 15 or 16 to request that it be furnished or produced 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 Schedule 1 to this Order;

(c)

on the authority of the Attorney General, to any organ of the United Nations or to any person in the service of the United Nations or of 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 the listed persons or any person acting on behalf of a listed person 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—

(i)

in the Bailiwick in question, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs; or

(ii)

for any offence under any law making provision with respect to such matters that is in force in the other Bailiwick to which this Order applies, the United Kingdom, the Isle of Man or any territory listed in Schedule 1 to this Order.

(2)

Any power conferred by article 14, 15 or 16 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order—

(a)

a master of a ship who disobeys any direction given under article 14(2)(a);

(b)

a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—

(i)

without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 14, 15 or 16 by any person empowered to make it, or

(ii)

furnishes any document or information 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;

(c)

a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of his powers under article 14, 15 or 16.

(4) Nothing in articles 14 to 17 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.



Obtaining of evidence and information

18. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Attorney General, the licensing authority or, in the case of Guernsey the Chief Revenue Officer or, in the case of Jersey, a States Revenue Officer—

(a)

of evidence or information for the purpose of securing compliance with or detecting evasion of—

(i)

this Order in the Bailiwick in question; or

(ii)

any law making provision with respect to any of the matters regulated by this Order that is in force in the other Bailiwick to which this Order applies, the United Kingdom, the Isle of Man or any territory listed in Schedule 1 to this Order; and

(b)

of evidence of the commission of—

(i)

in the Bailiwick in question, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii)

with respect to any of those matters, an offence under the law of the other Bailiwick to which this Order applies, the United Kingdom, the Isle of Man or any territory listed in Schedule 1 to this Order.



Investigations by a States Revenue Officer or Chief Revenue Officer

19. Where in the case of Guernsey the Chief Revenue Officer, or in the case of Jersey, a States Revenue Officer, investigates or proposes to investigate any matter with a view to determining—

(a)

whether there are grounds for believing that an offence under this Order has been committed, or

(b)

whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter within the meaning of Article 1(1) of the Customs and Excise (Jersey) Law 1999 (in relation to Jersey) and of section 1(1) of the Customs and Excise (General Provisions)(Bailiwick of Guernsey) Law 1972 (as amended)(in relation to Guernsey).



Penalties and Proceedings

20. — (1) Any person guilty of an offence under article 3, 5, 6(3), 7, 8(9) or 9 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 the statutory maximum or to both;

and in Jersey, on conviction to imprisonment for a term not exceeding seven years, or to a fine, or to both.

(2) Any person guilty of an offence under article 17(3)(b)(ii) or paragraph 5(b) or (d) or Schedule 2 to this Order 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; 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;

and in Jersey, on conviction, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) Any person guilty of an offence under article 12(1) or (2) or article 13(4) 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; or

(b)

on summary conviction to a fine not exceeding the statutory maximum;

and in Jersey, on conviction, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(4) Any person guilty of an offence under article 17(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 2 shall be liable—

(a)

in Guernsey on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and

(b)

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.

(5) Any person guilty of an offence under article 8(10) or 10 shall be liable—

(a)

in Guernsey on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and

(b)

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.

(6) Any person guilty of an offence under article 11 or 13(3) shall be liable—

(a)

in Guernsey on summary conviction to a fine not exceeding level 5 on the standard scale; and

(b)

in Jersey, on conviction to a fine not exceeding level 4 on the standard scale.

(7) 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.

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

(9) 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.



Exercise of powers of the licensing authority

21. — (1) The licensing authority may to such extent and subject to such restrictions and conditions as it thinks proper, delegate or authorise the delegation of any of its powers under

this Order to any person, or class or description of persons whom it has approved, and references in this Order to the licensing authority shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and 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 licensing authority.

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Publication of matters designated by the Sanctions Committee

22. The particulars of any designation by the Sanctions Committee referred to in this Order shall be published by the Secretary of State or Her Majesty's Treasury in the London, Edinburgh and Belfast Gazettes.

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A. K. Galloway
Clerk of the Privy Council

Ⓐ

Ⓐ

SCHEDULE 1

Article 17

DISCLOSURE OF INFORMATION—LISTED TERRITORIES

Ⓐ

Anguilla

Ⓐ

Bermuda

Ⓐ

British Antarctic Territory

Ⓐ

British Indian Ocean Territory

Ⓐ

Cayman Islands

Ⓐ

Falklands 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

Ⓐ

SCHEDULE 2

Article 18

EVIDENCE AND INFORMATION

Ⓐ

1. — (1) Without prejudice to any other provision of this Order, or any provision of any other law;

(a)

the Attorney General, or

(b)

in the case of Guernsey, the Chief Revenue Officer or,

(c)

in the case of Jersey, the licensing authority or a States Revenue Officer; may request any person in or resident in Guernsey or, as the case may be, Jersey to furnish any information in his possession or control, or to produce any document in his possession or control, which it 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 a professional legal advisor for any person to disclose 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 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.

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



2. — (1) If in the case of Guernsey or Jersey the Bailiff is satisfied by information on oath—

(a)

that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or

(b)

that any documents which ought to have been produced under paragraph 1 above and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or, in the case of Guernsey any States Revenue Officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) A police officer or other person authorised by a warrant under sub-paragraph (1) who has entered any premises or any vehicle, ship or aircraft, may do any or all of the following things:

(a)

inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b)

seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c)

seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or

(d)

seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or, in the case of Guernsey any States Revenue Officer, lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may—

(a)

search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b)

seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph;

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the islands of Alderney and Sark, any reference to the Bailiff includes a reference in the case of Alderney, to the Chairman of the Court of Alderney, and, in the case of Sark, to the Seneschal.

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3. A person authorised—

(a)

in Guernsey by the licensing authority or by the Chief Revenue Officer; or

(b)

in Jersey, by the Agent of the Impôts,

to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

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4. 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 Schedule and no document seized under paragraph 2(2) above 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:

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Provided that a person who has obtained information or is in the 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;

(b)

to any person who would have been empowered under this Schedule to request that it be furnished or produced, or 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 Schedule 1 to this Order;

(c)

on the authority of the Attorney General, 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 the listed persons or any person acting on behalf of a listed person 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—

(i)

in the Bailiwick in question, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs, or
(ii)
for any offence under any law making provision with respect to such matters that is in force in the other Bailiwick to which this Order applies, or to the United Kingdom, or the Isle of Man or any territory listed in Schedule 1 to this Order.

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5. 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)
furnishes any information or produces any documents 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 Schedule; or
(d)
with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,
shall be guilty of an offence.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, gives effect in the Channel Islands to Resolution 1390, adopted by the Security Council of the United Nations on 16th January 2002. In view of the changing situation in Afghanistan, Resolution 1390 continued, amended or terminated as appropriate certain provisions of Security Council Resolutions 1267, adopted

on 15th October 1999, and 1333, adopted on 19th December 2000 which imposed sanctions in relation to Usama bin Laden, the Taliban and the territory of Afghanistan.

The effect of Resolution 1390 is to require States to prohibit the delivery or supply of arms and related matériel and the provision of related technical assistance and training to Usama bin Laden, members of Al-Qa'ida and the Taliban and their associates as designated in a list by the Security Council. It also prohibits the making of funds available to those persons.

The list of persons designated by the Security Council is to be found at

http://www.un.org/Docs/sc/committees/Afghanistan/Afg_list_eng.htm

This Order revokes previous Orders in Council that applied United Nations sanctions concerning Afghanistan to the Channel Islands. It also amends the Terrorism (United Nations Measures)(Channel Islands) Order 2001.