

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Freezing Orders

49. **Part 2** contains measures to allow the United Kingdom to take action to freeze the assets of overseas persons or governments who are threatening the economic interests of the United Kingdom or the life or property of United Kingdom nationals or residents.
50. These provisions allow the United Kingdom to impose sanctions in cases of urgency, where neither the United Nations nor the European Union has yet agreed a course of action, or in cases where it is appropriate for the United Kingdom to impose sanctions unilaterally.

The provisions replace section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964. Under that section, the United Kingdom can freeze the assets of an overseas government and overseas residents if the country or the persons in question is (or are) acting to the detriment of the United Kingdom economy. Under the provisions in this Act, the Treasury is able to freeze the assets of overseas governments or residents, including of groups or individuals, when there is a threat to the United Kingdom economy or to the life or property of United Kingdom nationals or residents.

Orders

Section 4 Power to make order

51. This section allows the Treasury to make a freezing order if two conditions are satisfied. First, the Treasury must reasonably believe that action threatening the United Kingdom's economy (or part of it) or the life or property of United Kingdom nationals or residents has taken place or is likely to take place. Secondly, the persons involved in the action must be resident outside the United Kingdom or be an overseas government.

Section 5 Contents of order

52. A freezing order prohibits all persons in the United Kingdom, and all persons elsewhere who are United Kingdom nationals, bodies incorporated in the United Kingdom or Scottish partnerships from making funds available to or for the benefit of a person or persons specified in the order. The order may specify the persons taking the action referred to in section 4 and any person who has provided or is likely to provide assistance (directly or indirectly) to those persons. The specification may be by name or by description of persons set out in the order. Where a person is specified by description, the description must be such that a reasonable person would know whether he fell within it.

Section 6 Contents: further provisions

This section introduces Schedule 3, which makes further provision about the contents of freezing orders.

Section 7 Review of order

53. This section requires the Treasury to keep under review whether any freezing order should be kept in force or amended.

Section 8 Duration of order

54. This section specifies that a freezing order lapses two years after it was made.

Interpretation

Section 9 Nationals and residents

55. This section sets out the persons who are nationals or residents of the United Kingdom for the purposes of this Part. It also sets out who is a resident of a country outside the United Kingdom for the purposes of this Part.

Orders: procedure etc.

Section 10 Procedure for making freezing orders

56. A freezing order must be made by statutory instrument. The order must be laid before Parliament and ceases to have effect after 28 days unless it is approved by each House of Parliament.

Section 11 Procedure for making certain amending orders

57. This section applies where a freezing order has already been made. Where a further order specifies additional persons of the same description as those specified in the original order, or amends the order to specify fewer persons, it is instead subject to the negative resolution procedure.

Section 12 Procedure for revoking orders

58. This section provides that an order revoking a freezing order (without-re-enacting it) is subject to the negative resolution procedure.

Section 13 De-hybridisation

59. This section provides that an order that would otherwise be treated as hybrid under Parliament's standing orders is not to be subject to the special procedure for hybrid instruments.

Section 14 Orders: supplementary

60. This section provides that a power under the Part to make a freezing order or an order amending or revoking a freezing order may be exercised so as to make different provision for different purposes. A freezing order or an order amending or revoking one may also include supplementary, incidental, saving or transitional provisions. Nothing in this Part affects the generality of this power.

Miscellaneous

Section 15 The Crown

61. Freezing orders bind the Crown and Crown servants, but the Crown is not criminally liable for breaches of freezing orders. The orders do not bind the Queen in Her personal capacity.

Section 16 Repeals

62. This section repeals the Treasury's existing power to freeze assets under section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964. The repeal of section 2 does not affect any references to that provision in other subordinate legislation.