



# Terrorist Asset-Freezing etc. Act 2010

## 2010 CHAPTER 38

### PART 1

#### TERRORIST ASSET-FREEZING

##### Modifications etc. (not altering text)

- C1** Pt. 1 extended (Isle of Man) (with modifications) (17.3.2011) by [The Terrorist Asset-Freezing etc. Act 2010 \(Isle of Man\) Order 2011 \(S.I. 2011/749\)](#), arts. 1, 2, **Schs.**
- C2** Pt. 1 extended (with modifications) (31.3.2011) by [The Terrorist Asset-Freezing etc. Act 2010 \(Overseas Territories\) Order 2011 \(S.I. 2011/750\)](#), arts. 1, 2, 3, **Schs. 1-3 (as amended by S.I. 2013/534, reg. 1, Sch. para. 12(4))**
- C3** Pt. 1 extended (Guernsey) (with modifications) (8.4.2011, with effect in accordance with art. 4 of the commencing S.I.) by [The Terrorist Asset-Freezing etc. Act 2010 \(Guernsey\) Order 2011 \(S.I. 2011/1082\)](#), arts. 1(2), 3, 4, **Schs.**
- C4** Pt. 1 amendment to earlier affecting provision SI 2011/750 art. 2 3 Sch. 1-3 (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), reg. 1, **Sch. para. 12(4)**

### CHAPTER 1

#### DESIGNATED PERSONS

##### *Introductory*

## 1 Meaning of “designated person”

In this Part “designated person” means—

- (a) a person designated by the Treasury for the purposes of this Part, or
- (b) a natural or legal person, group or entity included in the list provided for by Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001

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*Status: Point in time view as at 12/04/2015.*

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on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

### *Final designations*

## **2 Treasury's power to make final designation**

- (1) The Treasury may make a final designation of a person for the purposes of this Part if—
  - (a) they reasonably believe—
    - (i) that the person is or has been involved in terrorist activity,
    - (ii) that the person is owned or controlled directly or indirectly by a person within sub-paragraph (i), or
    - (iii) that the person is acting on behalf of or at the direction of a person within sub-paragraph (i), and
  - (b) they consider that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.
- (2) For this purpose involvement in terrorist activity is any one or more of the following—
  - (a) the commission, preparation or instigation of acts of terrorism;
  - (b) conduct that facilitates the commission, preparation or instigation of such acts, or that is intended to do so;
  - (c) conduct that gives support or assistance to persons who are known or believed by the person concerned to be involved in conduct falling within paragraph (a) or (b) of this subsection.
- (3) It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.
- (4) In this section—
 

“terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act);

and the reference in subsection (1)(b) above to financial restrictions includes a reference to restrictions relating to economic resources.

## **3 Notification of final designation**

- (1) Where the Treasury make a final designation of a person, they must—
  - (a) give written notice of the designation to the designated person, and
  - (b) take steps to publicise the designation.
- (2) Unless one or more of the following conditions is met, the Treasury must take steps to publicise the designation generally.
- (3) The conditions are that—
  - (a) the Treasury believe that the designated person is an individual under the age of 18, or
  - (b) the Treasury consider that disclosure of the designation should be restricted—
    - (i) in the interests of national security,

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- (ii) for reasons connected with the prevention or detection of serious crime, or
  - (iii) in the interests of justice.
- (4) If one or more of those conditions is met, the Treasury must inform only such persons as they consider appropriate.
- (5) If that ceases to be the case, the Treasury must—
  - (a) give written notice of that fact to the designated person, and
  - (b) take steps to publicise the designation generally.

#### **4 Duration of final designation**

- (1) A final designation expires at the end of the period of one year beginning with the date on which it was made, unless it is renewed.
- (2) The Treasury may renew a final designation at any time before it expires, if the requirements in section 2(1)(a) and (b) continue to be met.
- (3) A renewed final designation expires at the end of the period of one year beginning with the date on which it was renewed (or last renewed), unless it is renewed again.
- (4) The provisions of section 3 (notification of final designation) apply where a final designation is renewed (or further renewed) as in relation to the original making of a final designation.
- (5) Where a final designation expires the Treasury must—
  - (a) give written notice of that fact to the designated person, and
  - (b) take reasonable steps to bring that fact to the attention of the persons informed of the designation.

#### **5 Variation or revocation of final designation**

- (1) The Treasury may vary or revoke a final designation at any time.
- (2) Where a final designation is varied or revoked the Treasury must—
  - (a) give written notice of the variation or revocation to the designated person, and
  - (b) take reasonable steps to bring the variation or revocation to the attention of the persons informed of the designation.

#### *Interim designations*

#### **6 Treasury's power to make interim designation**

- (1) The Treasury may make an interim designation of a person for the purposes of this Part if—
  - (a) they reasonably suspect—
    - (i) that the person is or has been involved in terrorist activity,
    - (ii) that the person is owned or controlled directly or indirectly by a person within sub-paragraph (i), or
    - (iii) that the person is acting on behalf of or at the direction of a person within sub-paragraph (i), and

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- (b) they consider that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.
- (2) Subsections (2) to (4) of section 2 (Treasury's power to make final designation: definitions) apply for the purposes of this section as they apply for the purposes of that section.
- (3) The Treasury may not make more than one interim designation of the same person in relation to the same, or substantially the same, evidence.

## 7 Notification of interim designation

- (1) Where the Treasury make an interim designation of a person, they must—
  - (a) give written notice of the designation to the designated person, and
  - (b) take steps to publicise the designation.
- (2) Unless one or more of the following conditions is met, the Treasury must take steps to publicise the designation generally.
- (3) The conditions are that—
  - (a) the Treasury believe that the designated person is an individual under the age of 18, or
  - (b) the Treasury consider that disclosure of the designation should be restricted—
    - (i) in the interests of national security,
    - (ii) for reasons connected with the prevention or detection of serious crime, or
    - (iii) in the interests of justice.
- (4) If one or more of those conditions is met, the Treasury must inform only such persons as they consider appropriate.
- (5) If that ceases to be the case, the Treasury must—
  - (a) give written notice of that fact to the designated person, and
  - (b) take steps to publicise the designation generally.

## 8 Duration of interim designation

- (1) An interim designation expires—
  - (a) at the end of the period of 30 days beginning with the date on which it was made, or
  - (b) on the making of a final designation in relation to the same person, whichever is the earlier.
- (2) Where an interim designation expires the Treasury must—
  - (a) give written notice of that fact to the designated person, and
  - (b) take reasonable steps to bring that fact to the attention of the persons informed of the designation.
- (3) Where an interim designation expires on the making of a final designation in relation to the same person—

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- (a) a notice under subsection (2) above may be combined with a notice under section 3(1)(a), and
- (b) steps under subsection (2) above may be combined with steps under section 3 to publicise the final designation.

## **9 Variation or revocation of interim designation**

- (1) The Treasury may vary or revoke an interim designation at any time.
- (2) Where an interim designation is varied or revoked the Treasury must—
  - (a) give written notice of the variation or revocation to the designated person, and
  - (b) take reasonable steps to bring the variation or revocation to the attention of the persons informed of the designation.

*Confidential information*

## **10 Confidential information**

- (1) Where the Treasury in accordance with section 3(4) or 7(4) inform only certain persons of a designation, they may specify that information contained in it is to be treated as confidential.
- (2) A person (“P”) who—
  - (a) is provided with information that is to be treated as confidential in accordance with subsection (1), or
  - (b) obtains such information,must not, subject to subsection (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.
- (3) The prohibition in subsection (2) does not apply to any disclosure made by P with lawful authority.
- (4) For this purpose information is disclosed with lawful authority only if and to the extent that—
  - (a) the disclosure is by, or is authorised by, the Treasury,
  - (b) the disclosure is by or with the consent of the designated person,
  - (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of this Part or any other enactment, or
  - (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.
- (5) This section does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.
- (6) A person who contravenes the prohibition in subsection (2) commits an offence.
- (7) The High Court (in Scotland, the Court of Session) may, on the application of—
  - (a) the person who is the subject of the information, or
  - (b) the Treasury,grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in subsection (2).

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## CHAPTER 2

### PROHIBITIONS IN RELATION TO DESIGNATED PERSONS

#### *Prohibitions*

#### **11 Freezing of funds and economic resources**

- (1) A person (“P”) must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.
- (2) In subsection (1) “deal with” means—
  - (a) in relation to funds—
    - (i) use, alter, move, allow access to or transfer,
    - (ii) deal with the funds 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;
  - (b) in relation to economic resources, exchange or use in exchange for funds, goods or services.
- (3) Subsection (1) is subject to sections 16 and 17 (exceptions and licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

#### **12 Making funds or financial services available to designated person**

- (1) A person (“P”) must not make funds or financial services available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or financial services so available.
- (2) Subsection (1) is subject to sections 16 and 17 (exceptions and licences).
- (3) A person who contravenes the prohibition in subsection (1) commits an offence.

#### **13 Making funds or financial services available for benefit of designated person**

- (1) A person (“P”) must not make funds or financial services available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or financial services so available.
- (2) For the purposes of this section—
  - (a) funds are made available for the benefit of a designated 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 designated person is wholly or partly responsible.
- (3) Subsection (1) is subject to sections 16 and 17 (exceptions and licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

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## **14 Making economic resources available to designated person**

- (1) A person (“P”) must not make economic resources available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect—
  - (a) that P is making the economic resources so available, and
  - (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.
- (2) Subsection (1) is subject to section 17 (licences).
- (3) A person who contravenes the prohibition in subsection (1) commits an offence.

## **15 Making economic resources available for benefit of designated person**

- (1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.
- (2) For the purposes of this section—
  - (a) economic resources are made available for the benefit of a designated 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 designated person is wholly or partly responsible.
- (3) Subsection (1) is subject to section 17 (licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

### *Exceptions and licences*

## **16 Exceptions**

- (1) The prohibitions in sections 11 to 13 are not contravened by a relevant institution crediting 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) The prohibitions in sections 12 and 13 on making funds available do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.
- (3) The prohibition in section 13 is not contravened by the making of a payment which—
  - (a) is a benefit under or by virtue of an enactment relating to social security (irrespective of the name or nature of the benefit), and
  - (b) is made to a person who is not a designated person,whether or not the payment is made in respect of a designated person.
- (4) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with subsection (1)(b) or (2).
- (5) In this section “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

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## 17 Licences

- (1) The prohibitions in sections 11 to 15 do not apply to anything done under the authority of a licence granted by the Treasury.
- (2) Where relevant such a licence also constitutes authorisation under Article 6 of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.
- (3) A licence must specify the acts authorised by it and 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.
- (4) The Treasury may vary or revoke a licence at any time.
- (5) On the grant, variation or revocation of a licence, the Treasury must—
  - (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person;
  - (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 grant, variation or revocation of the licence.
- (6) A person commits an offence 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.
- (7) A person who purports to act under the authority of a licence but who fails to comply with any conditions included in the licence commits an offence.

*Circumventing prohibitions etc.*

## 18 Circumventing prohibitions etc.

A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in sections 11 to 15, or
- (b) to enable or facilitate the contravention of any such prohibition.

## CHAPTER 3

### INFORMATION

*Information for Treasury*

## 19 Reporting obligations of relevant institutions

- (1) A relevant institution must inform the Treasury as soon as practicable if—
  - (a) it knows, or has reasonable cause to suspect, that a person—
    - (i) is a designated person, or



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- (ii) has committed an offence under any provision of Chapter 2 (prohibitions in relation to designated persons), and
  - (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant institution informs the Treasury under subsection (1), it must state—
  - (a) the information or other matter on which the knowledge or suspicion is based, and
  - (b) any information it holds about the person by which the person can be identified.
- (3) Subsection (4) applies if—
  - (a) a relevant institution informs the Treasury under subsection (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
  - (b) that person is a customer of the institution.
- (4) The relevant institution must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution that fails to comply with any requirement of subsection (1), (2) or (4) commits an offence.

## **20 Powers to request information**

- (1) The Treasury may request a designated person to provide information concerning—
  - (a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or
  - (b) any disposal of such funds or economic resources.
- (2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—
  - (a) by or on behalf of the designated person, or
  - (b) for the benefit of the designated person.
- (3) The power in subsection (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Part.
- (4) The Treasury may request a person acting under a licence granted under section 17 to provide information concerning—
  - (a) funds or economic resources dealt with under the licence, or
  - (b) funds, economic resources or financial services made available under the licence.
- (5) 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) establishing for the purposes of this Part—
    - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated 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 designated person, or

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- (iii) the nature of any financial transactions entered into by a designated person,
  - (b) monitoring compliance with or detecting evasion of this Part, or
  - (c) obtaining evidence of the commission of an offence under this Part.
- (6) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (7) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (8) 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.
- (9) Information requested under this section may relate to any period of time during which a person is, or was, a designated person.
- (10) Information requested under subsection (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a designated person (as well as, or instead of, any subsequent period of time).

## **21 Production of documents**

- (1) A request under section 20 may include a request to produce specified documents or documents of a specified 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, partnership or unincorporated body other than a partnership, request any person who is—
    - (i) in the case of a partnership, a present or past partner or employee of the partnership,
    - (ii) in any other case, a present or past officer or employee of the body concerned,
 to give such an explanation.
- (3) Where the Treasury request a designated person or a person acting under a licence granted under section 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);
  - (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

## **22 Failure to comply with request for information**

- (1) A person commits an offence 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 Chapter,
  - (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request,

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- (c) with intent to evade the provisions of this Chapter, destroys, mutilates, defaces, conceals or removes any document, or
  - (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under this Chapter.
- (2) Where a person is convicted of an offence under this section, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

*Disclosure of information by Treasury*

### 23 General power to disclose information

- (1) The Treasury may disclose any information obtained by them in exercise of their powers under this Part (including any document so obtained and any copy or extract made of any document so obtained)—
- (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 right of the Government of the United Kingdom,
    - (ii) the Crown in right of the Scottish Administration, the Northern Ireland Administration or the Welsh Assembly Government,
    - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
    - (iv) the Government of the Isle of Man, or
    - (v) the Government of any British overseas territory;
  - (c) to any law officer of the Crown for Jersey, Guernsey or the Isle of Man;
  - (d) to <sup>F1</sup>... the Scottish Legal Aid Board <sup>F2</sup>...;
  - (e) to the [<sup>F3</sup>Financial Conduct Authority, the Prudential Regulation Authority], the Jersey Financial Services Commission, the Guernsey Financial Services Commission, the Isle of Man Insurance and Pensions Authority and the Isle of Man Financial Supervision Commission;
  - [<sup>F4</sup>(ea) to the Bank of England, for the purpose of enabling or assisting the Bank to exercise any powers conferred on it by or under the Financial Services and Markets Act 2000;]
  - (f) for the purpose of giving assistance or co-operation, pursuant to the relevant Security Council resolutions, to—
    - (i) any organ of the United Nations, or
    - (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;
  - (g) with a view to instituting, or otherwise for the purposes of, any proceedings—
    - (i) in the United Kingdom, for an offence under this Part, 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
  - (h) with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract, to any third party.

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- (2) In subsection (1)(h) “in their own right” means not merely in the capacity as a servant or agent of another person.

#### Textual Amendments

- F1** Words in s. 23(1)(d) omitted (1.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 71](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F2** Words in s. 23(1)(d) repealed (N.I.) (1.4.2015) by [Legal Aid and Coroners’ Courts Act \(Northern Ireland\) 2014 \(c. 11\)](#), s. 12(1), Sch. 2 para. 9, [Sch. 3 Pt. 1](#) (with ss. 2(3), 9, Sch. 1 paras. 3(3)); S.R. 2015/193, art. 2(e)(f)
- F3** Words in s. 23(1)(e) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 132\(2\)\(a\)](#) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F4** S. 23(1)(ea) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 132\(2\)\(b\)](#) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

#### Other

## 24 Co-operation with UK or international investigations

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

## 25 Application of provisions

- (1) Nothing done under this Chapter is to be treated as a breach of any restriction imposed by statute or otherwise.
- (2) But nothing in this Chapter authorises a disclosure that—
- contravenes the Data Protection Act 1998, or
  - is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (3) Nothing in this Chapter is to be read as requiring a person who has acted as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.
- (4) This Chapter does not limit the circumstances in which information may be disclosed apart from this Chapter.
- (5) This Chapter does not limit the powers of the Treasury to impose conditions in connection with the discharge of their functions under section 17 (licences).
- (6) In this section—
- “information” includes documents;
  - “privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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## CHAPTER 4

### SUPPLEMENTARY PROVISIONS

#### *Supervision of exercise of powers*

#### **26 Appeal to the court in relation to designations**

- (1) This section applies to any decision of the Treasury—
  - (a) to make or vary an interim or final designation of a person,
  - (b) to renew a final designation of a person, or
  - (c) not to vary or revoke an interim or final designation of a person.
- (2) The designated person concerned may appeal against any such decision to the High Court or, in Scotland, the Court of Session.
- (3) On such an appeal, the court may make such order as it considers appropriate.
- (4) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.

#### **27 Review of other decisions by the court**

- (1) This section applies to any decision of the Treasury in connection with their functions under this Part other than a decision to which section 26 applies (appeal to the court in relation to designations).
- (2) Any person affected by a decision to which this section applies may apply to the High Court or, in Scotland, the Court of Session, for the decision to be set aside.
- (3) In determining whether the decision should be set aside, the court must apply the principles applicable on an application for judicial review.
- (4) If the court decides that a decision should be set aside it may make any such order, or give any such relief, as may be made or given in proceedings for judicial review.

#### **28 Appeals and reviews: supplementary**

- (1) In paragraph 2 of Schedule 1 to the Senior Courts Act 1981 (business allocated to the Queen's Bench Division), after paragraph (bb) insert—
  - “(bc) all proceedings—
    - (i) on an appeal under section 26, or an application under section 27, of the Terrorist Asset-Freezing etc. Act 2010 (appeals and reviews by the court), or
    - (ii) on a claim arising from any matter to which such an appeal or application relates;”.
- (2) In section 18(1) of the Regulation of Investigatory Powers Act 2000 (exceptions to exclusion of intercept evidence), after paragraph (db) insert—
  - “(dc) any proceedings—
    - (i) on an appeal under section 26, or an application under section 27, of the Terrorist Asset-Freezing etc. Act 2010 (appeals and reviews by the court), or

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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- (ii) on a claim arising from any matter to which such an appeal or application relates,  
or any proceedings arising out of such proceedings;”.
- (3) In section 18(2)(zb) of that Act (persons to whom disclosure not to be made) after “paragraph (db)” insert “ or (dc) ”.
- (4) The provisions of sections 66 to 68 of the Counter-Terrorism Act 2008 (supplementary provisions relating to rules of court and special advocates) apply in relation to proceedings—
- (a) on an appeal under section 26 or an application under section 27 (appeals and reviews by the court), or
  - (b) on a claim arising from any matter to which such an appeal or application relates,
- as they apply in relation to financial restrictions proceedings within the meaning of section 65 of that Act.

## **29 Initial exercise of powers to make rules of court**

- (1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by section 28(4) in relation to proceedings in England and Wales—
  - (a) on an appeal under section 26, or
  - (b) on a claim arising from any matter to which such an appeal relates,
 those rules (together with any related rules of court) may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (2) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by section 28(4) in relation to proceedings in Northern Ireland—
  - (a) on an appeal under section 26, or
  - (b) on a claim arising from any matter to which such an appeal relates,
 those rules (together with any related rules of court) may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (3) Before making rules of court under this section, the Lord Chancellor must consult—
  - (a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales;
  - (b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (4) The Lord Chancellor is not required to undertake any other consultation before making the rules.
- (5) The requirements of subsection (3)(a) and (b) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (6) Rules of court made by the Lord Chancellor under this section—
  - (a) must be laid before Parliament, and
  - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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- (7) In reckoning the period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) If rules cease to have effect in accordance with subsection (6)(b)—
- (a) that does not affect anything previously done in reliance on the rules, and
  - (b) subsection (1) or (as the case may be) (2) applies as if the rules had not been made.
- (9) The following provisions do not apply to rules of court made by the Lord Chancellor under this section—
- (a) section 3(6) of the Civil Procedure Act 1997 (Parliamentary procedure for civil procedure rules);
  - (b) section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).
- (10) But section 4(1) of the Statutory Instruments Act 1946 (statutory instruments which are required to be laid before Parliament) applies to any such rules applicable to proceedings in Northern Ireland as it applies to a statutory instrument which is required to be laid before Parliament after being made.
- (11) Until section 85 of the Courts Act 2003 (process for making civil procedure rules) comes into force, in subsection (9)(a) above, for “section 3(6)” substitute “section 3(2)”.
- (12) In this section—
- “related rules of court” means rules of court that—
    - (a) are contained in the same instrument as the rules mentioned in subsection (1) or (as the case may be) (2), and
    - (b) relate specifically to the same kind of proceedings as those rules,
  - “rules of court” means rules for regulating the practice and procedure to be followed in the High Court or the Court of Appeal.

### **30 Treasury report on operation of Part 1**

- (1) As soon as reasonably practicable after the end of each reporting period, the Treasury must—
- (a) prepare a report about the exercise during that period of the powers conferred on them by this Part, and
  - (b) lay a copy of the report before Parliament.
- (2) The reporting periods are—
- (a) the period beginning when this Part comes into force and ending with the next 31 March, and
  - (b) each succeeding period of three months.

### **31 Independent review of operation of Part 1**

- (1) The Treasury must appoint a person to review the operation of this Part.

*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

[<sup>F5</sup>(2) In each calendar year the person appointed under subsection (1) must, by 31 January, inform the Treasury what (if any) reviews under this section the person intends to carry out in that year.

Those reviews must be completed during that year or as soon as reasonably practicable after the end of it.]

- (3) The person who conducts a review under this section must send the Treasury a report on its outcome as soon as reasonably practicable after completing the review.
- (4) On receiving a report under this section, the Treasury must lay a copy of it before Parliament.
- (5) The Treasury may pay the expenses of a person who conducts a review under this section and also such allowances as the Treasury determine.

#### Textual Amendments

**F5** S. 31(2) substituted (12.4.2015) by Counter-Terrorism and Security Act 2015 (c. 6), ss. 45(2), 52(2)(b)

### Offences

#### 32 Penalties

- (1) A person guilty of an offence under section 11, 12, 13, 14, 15 or 18 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, to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding the statutory maximum or to both.
- (2) A person guilty of an offence under section 10 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, to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding the statutory maximum or to both.
- (3) For the purposes of subsections (1)(b) and (2)(b) “the relevant maximum” is—
  - (a) in England and Wales, 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003);
  - (b) in Scotland, 12 months;
  - (c) in Northern Ireland, 6 months.
- (4) A person guilty of an offence under section 19(5) or 22 is liable on summary conviction to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding level 5 on the standard scale or to both.
- (5) For the purposes of subsection (4) “the relevant maximum” is—
  - (a) in England and Wales, 51 weeks (or 6 months, if the offence was committed before the commencement of section 281(4) and (5) of the Criminal Justice Act 2003);
  - (b) in Scotland or Northern Ireland, 6 months.



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*Status: Point in time view as at 12/04/2015.*

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### **33 Extra-territorial application of offences**

- (1) An offence under this Part may be committed by conduct wholly or partly outside the United Kingdom by—
  - (a) a UK national, or
  - (b) a body incorporated or constituted under the law of any part of the United Kingdom.
- (2) In subsection (1) “UK national” means—
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (3) Her Majesty may by Order in Council provide for this section to have effect as if the list of persons in subsection (1) included a body incorporated or constituted under the law of any territory named in the Order.
- (4) An Order under subsection (3) may name—
  - (a) one or more of the Channel Islands,
  - (b) the Isle of Man, or
  - (c) one or more of the British overseas territories.
- (5) In this section “conduct” includes acts and omissions.
- (6) Nothing in this section affects any criminal liability arising otherwise than under this section.

### **34 Liability of officers of body corporate etc.**

- (1) Where an offence under this Part committed by a body corporate—
  - (a) is committed with the consent or connivance 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, or
  - (b) is attributable to any neglect on the part of any such person,that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director 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.

### **35 Jurisdiction to try offences**

- (1) Where an offence under this Part is committed outside the United Kingdom—

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (2) In the application of subsection (1) to Scotland, any such proceedings against a person may be taken—
- (a) in any sheriff court district in which the person is apprehended or is in custody, or
  - (b) in such sheriff court district as the Lord Advocate may determine.
- (3) In subsection (2) “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).
- (4) In section 28(2) of the Counter-Terrorism Act 2008 (jurisdiction to try offences committed in another part of the UK: offences to which the section applies), after paragraph (c) insert—
- “(d) an offence under any provision of Part 1 of the Terrorist Asset-Freezing etc. Act 2010.”

### **36 Time limit for proceedings for summary offences**

- (1) In England and Wales an information relating to an offence under section 19(5) or 22 may be tried by a magistrates' court if it is laid—
- (a) at any time within three years after the commission of the offence, and
  - (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (2) In Scotland—
- (a) proceedings for an offence under section 19(5) or 22 may be commenced—
    - (i) before the end of the period 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, and
    - (ii) not later than three years after the commission of the offence, and
  - (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of this subsection as for the purposes of that section.
- (3) In Northern Ireland a magistrates' court has jurisdiction to hear and determine a complaint charging the commission of an offence under section 19(5) or 22 provided that the complaint is made—
- (a) at any time within three years after the commission of the offence, and
  - (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (4) For the purposes of this section a certificate of the prosecutor (or, in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

### **37 Consent to prosecution**

- (1) Proceedings for an offence under this Part (other than an offence under section 19(5) or 22) may not be instituted—
  - (a) in England and Wales, except by or with the consent of the Attorney General;
  - (b) in Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland.
- (2) Nothing in subsection (1) prevents—
  - (a) the arrest of a person in respect of an offence under this Part, or
  - (b) the remand in custody or on bail of a person charged with such an offence.

### **38 Procedure for offences by unincorporated bodies**

- (1) A fine imposed on an unincorporated body on its conviction of an offence under this Part must be paid out of the funds of the body.
- (2) Subsections (3) to (6) apply if it is alleged that an offence under this Part has been committed by an unincorporated body (as opposed to by a member of the body).
- (3) Proceedings in England and Wales or Northern Ireland for such an offence must be brought in the name of the body.
- (4) For the purposes of such proceedings—
  - (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) in England and Wales, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
    - (ii) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)).
- (5) For the purposes of proceedings in Scotland for such an offence—
  - (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
  - (b) in the case of proceedings on indictment, section 70 of the Criminal Procedure (Scotland) Act 1995 applies as it applies in relation to a body corporate.
- (6) Subsection (5)(b) does not apply so far as the amendments made to section 70 of the Act of 1995 by section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 (proceedings on indictment against organisations) are in force instead.

### *Interpretation*

### **39 Meaning of “funds” and “economic resources”**

- (1) In this Part, “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;

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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- (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 and other income on or value accruing from or generated by assets;
  - (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
  - (f) letters of credit, bills of lading and bills of sale;
  - (g) documents providing evidence of an interest in funds or financial resources;
  - (h) any other instrument of export financing.
- (2) In this Part, “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.

#### **40 Meaning of “financial services”**

- (1) In this Part, “financial services” 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;
    - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
  - (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;
    - (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 (as defined in subsection (2) below);
    - (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) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
    - (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
    - (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);

*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

- (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).
- (2) In subsection (1)(b)(vi), “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).

#### **41 Meaning of “relevant institution”**

- (1) In this Part “relevant institution” means—
- (a) a person that has permission under [F6Part 4A] of the Financial Services and Markets Act 2000 (permission to carry on regulated activity);
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or
  - (c) an undertaking that by way of business—
    - (i) operates a currency exchange office,
    - (ii) transmits money (or any representation of monetary value) by any means, or
    - (iii) cashes cheques that are made payable to customers.
- (2) The definition of “relevant institution” in subsection (1) must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act (classes of regulated activities and categories of investment).

#### **Textual Amendments**

**F6** Words in s. 41(1)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 132\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### **42 Interpretation: general**

- (1) In this Part—
- “designated person” has the meaning given by section 1;
  - “document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;
  - “economic resources” has the meaning given by section 39(2);

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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“enactment” includes—

- (a) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
- (b) an enactment comprised in, or in an instrument made under—
  - (i) an Act of the Scottish Parliament;
  - (ii) Northern Ireland legislation; or
  - (iii) a Measure or Act of the National Assembly for Wales;

“final designation” means a designation under section 2 (including any renewed such designation);

“financial services” has the meaning given by section 40;

“funds” has the meaning given by section 39(1);

“interim designation” means a designation under section 6;

“relevant institution” has the meaning given by section 41;

“the relevant Security Council resolutions” has the meaning given by subsection (2) below.

- (2) For the purposes of this Part “the relevant Security Council resolutions” are—
  - (a) resolution 1373 (2001) adopted by the Security Council of the United Nations on 28th September 2001, and
  - (b) resolution 1452 (2002) adopted by the Security Council of the United Nations on 20th December 2002.
- (3) The Treasury may by order amend subsection (2) so as to add further relevant Security Council resolutions or remove any that are superseded.
- (4) Any such order must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### *Miscellaneous*

#### **43 Service of notices**

- (1) This section applies in relation to any notice to be given to a person by the Treasury under this Part.
- (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, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office of the body or partnership concerned.
- (3) Where the Treasury do not have an address for the person, they must make arrangements for the notice to be given to the person at the first available opportunity.

#### **44 Crown application**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of a provision of this Part makes the Crown criminally liable.

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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- (3) 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 that constitutes a contravention of a provision of this Part.
- (4) Nothing in this section affects Her Majesty in her private capacity.
- (5) Subsection (4) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity) were contained in this Part.

#### **45 Consequential amendments, repeals and revocations**

- (1) Part 1 of Schedule 1 (which contains amendments consequential on this Part) has effect.
- (2) Part 1 of Schedule 2 (which contains repeals and revocations consequential on this Part) has effect.

#### **46 Transitional provisions and savings**

- (1) The Terrorist Asset-Freezing (Temporary Provisions) Act 2010 ceases to have effect on the coming into force of this Part.
- (2) The repeal by this Part of the Act of 2010 does not affect the continued validity, lawfulness or effectualness of anything that—
  - (a) was done or omitted by a person other than the Treasury in the period beginning with 4 February 2010 and ending with the coming into force of the Act of 2010, and
  - (b) was valid, lawful or effectual by virtue of section 2 of that Act (protection of things done or omitted in interim period).
- (3) Subsection (2) is without prejudice to the operation of section 16 of the Interpretation Act 1978 (general savings) in relation to the repeal by this Part of the Act of 2010.
- (4) In its application to the repeal by this Part of section 1 of the Act of 2010 (temporary validity of certain Orders in Council), section 16(1) of the Act of 1978 has effect as if—
  - (a) references to anything done, suffered, acquired, accrued or incurred under section 1 of the Act of 2010 included references to anything done, suffered, acquired, accrued or incurred under any Order deemed by that section to have been validly made,
  - (b) the reference to any offence committed against that enactment were a reference to any offence committed against any such Order, and
  - (c) at the end there were inserted “ and as if the enactment had not been due to cease to have effect on 31 December 2010 ”.
- (5) Anything done or omitted to be done by the Treasury under the Terrorism (United Nations Measures) Order 2009 (S.I. 2009/1747) is, if in force or effective immediately before the coming into force of this Part, to have effect as if done or omitted by the Treasury under any corresponding provision of this Part so far as that is required for continuing its effect on and after the coming into force of this Part.
- (6) In particular—
  - (a) any direction made, licence granted, or request for information or documents, by the Treasury under the Order of 2009 that is in force immediately before

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*Status: Point in time view as at 12/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1. (See end of Document for details)*

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the coming into force of this Part has effect, on or after the coming into force of this Part, as a final designation, a licence or (as the case may be) a request under any corresponding provision of this Part so far as that is required for continuing its effect on and after the coming into force of this Part, and

- (b) any information obtained by the Treasury under that Order (including any document so obtained and any copy or extract made of any document so obtained) is to be treated for the purposes of section 23 (general power to disclose information) as obtained by the Treasury under this Part.
- (7) Subsections (5) and (6) have effect despite the fact that (following the repeal of the Act of 2010) the Order concerned is not validly made under, or that any provision of it is not within the power conferred by, section 1 of the United Nations Act 1946.
  - (8) Any final designation that has effect by virtue of subsections (5) and (6) ceases to have effect at the end of the period of three months after this Part comes into force unless renewed (or revoked) by the Treasury under this Part.
  - (9) The references to offences under this Part in the new sub-paragraphs inserted by way of substitution by Part 1 of Schedule 1 are to be read as including references to any offences under—
    - (a) article 7, 8 or 10 of the Terrorism (United Nations Measures) Order 2006 (S.I. 2006/2657), or
    - (b) article 10, 11, 12, 13, 14 or 16 of the Order of 2009,
 that were committed while the Act of 2010 was in force.
  - (10) Without prejudice to the operation of section 16 of the Interpretation Act 1978, the repeal by this Part of section 64(1)(e) of the Counter-Terrorism Act 2008 (meaning of UN terrorism orders) does not affect—
    - (a) any financial restrictions proceedings on an application made under section 63 of the Act of 2008 before the coming into force of this Part, or
    - (b) any proceedings arising out of those proceedings.

#### **47 Power to repeal Part**

- (1) This section applies if the Security Council of the United Nations takes any decision that has the effect of terminating (permanently and without replacement) the operation of the relevant Security Council resolutions (in whole or in part).
- (2) The Treasury must lay before Parliament a draft order repealing this Part (in whole or in part) in accordance with the decision.
- (3) Any such order—
  - (a) may contain such incidental, consequential, supplementary, transitional, transitory or saving provision as the Treasury consider appropriate (including provision amending or repealing any enactment, whether in this Part or elsewhere),
  - (b) must be made by statutory instrument, and
  - (c) is not to be made unless the draft is approved by a resolution of each House of Parliament.



**Status:**

Point in time view as at 12/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Terrorist Asset-Freezing etc. Act 2010, Part 1.