
STATUTORY INSTRUMENTS

1999 No. 3134

The Afghanistan (United Nations Sanctions) (Channel Islands) Order 1999

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Afghanistan (United Nations Sanctions) (Channel Islands) Order 1999 and shall come into force on 26th November 1999.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 15th October 1999, this Order shall be amended, cease to have effect or its operation shall be suspended, 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 the Bailiwick of Guernsey and in the Bailiwick of Jersey only.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“Attorney General” means—

- (a) in the application of this Order to the Bailiwick of Guernsey, the Attorney General for Guernsey; and
- (b) in the application of this Order to the Bailiwick of Jersey, the Attorney General for Jersey;

“body corporate” includes a partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;

“funds”, means financial assets and economic benefits of any kind, including, but not necessarily limited to, 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; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;

“police officer”, in relation to Jersey, has the meaning provided in the Police Powers (Jersey) Law 1974;

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of the resolution mentioned above;

“the Taliban” means the Afghan political faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan.

Assets of the Taliban

3.—(1) Except under the authority of a written licence granted under this article:

- (a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
- (b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee;

no person shall make any funds to which this article applies available to or to the benefit of the Taliban or any such undertaking.

(2) This article applies to any funds owned or controlled directly or indirectly by the Taliban, or by an undertaking owned or controlled by the Taliban, as designated by the Sanctions Committee in the London, Edinburgh and Belfast Gazettes.

Application of article 3

4.—(1) The provisions of article 3 of this Order shall apply to any person within the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person or a British National (Overseas); or
- (b) is a body incorporated or constituted under the law of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

(2) Any person specified in paragraph (1) above who contravenes the provisions of Article 3 of this Order shall be guilty of an offence under this Order.

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

5.—(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 under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, the Finance and Economics Committee of the Bailiwick of Jersey under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, the Finance and Economics Committee of the Bailiwick of Jersey, after the doing of the act authorised by the licence.

Obtaining of evidence and information

6. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under any enactment relating to customs or of an offence against any provision of law with respect to similar matters for the time being in force in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey.

Investigations by the Agent of the Impôts

7. Where, in the case of the Bailiwick of Jersey, the Agent of the Impôts or any officer of the Impôts investigates or proposes to investigate any matter with a view to determining whether there are grounds for believing that an offence under this Order has been committed, the matters shall be treated as an assigned matter within the meaning of Article 1(1) of the Customs and Excise (General Provisions) (Jersey) Law, 1972.

Penalties and proceedings

8.—(1) Any person guilty of an offence against article 4(2) of this Order shall be liable in the Bailiwick of Guernsey—

- (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 six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of 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 paragraph 5(b) or (d) of the Schedule to this Order shall be liable, in the Bailiwick of Guernsey—

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of 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 5(1) or (2) above or paragraph 5(a) or (c) of the Schedule to this Order shall be liable—

- (i) in the Bailiwick of Guernsey, on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both; and
- (ii) in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding six months or to a fine or to both.

(4) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Summary proceedings in the Bailiwick of Guernsey and any proceedings in the Bailiwick of Jersey for an offence under this Order, being an offence alleged to have been committed outside the Bailiwick in question, may be commenced at any time not later than 12 months from the date on which the person charged first enters that Bailiwick after committing the offence.

(6) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey having jurisdiction in the place where that person is for the time being.

(7) No proceedings for an offence under this Order, in its application to the Bailiwick of Jersey, shall be instituted except by, or with the consent of, the Attorney General for Jersey:

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

9.—(1) The Lieutenant Governor or, as the case may be, the Finance and Economics Committee, or the Attorney General, may, to such extent and subject to such restrictions and conditions as he or it may think proper, delegate or authorise the delegation of any of his or its powers under this Order (other than the power to give authority under the Schedule to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him or it, and references in this Order to the Lieutenant Governor, Finance and Economics Committee and Attorney General shall be construed accordingly.

(2) Any licence granted by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, by the Finance and Economics Committee of the Bailiwick of Jersey, under this Order 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 authority which granted it.

A. K. Galloway
Clerk of the Privy Council