

**EXPLANATORY MEMORANDUM TO**  
**THE TERRORISM (UNITED NATIONS MEASURES) ORDER 2006**

**2006 No. 2657**

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. **Description**

The Terrorism (United Nations Measures) Order 2006 (SI 2006/#####) (the "Order"), which replaces the Terrorism (United Nations Measures) Order 2001 (No. 3365), makes provision for the freezing of terrorist assets. It gives effect to UN Security Council Resolution 1373(2001) and provides penalties for offences under Regulation (EC) No. 2580/2001 (OJ No. L 344, 28.12.2001 p. 70).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None.

4. **Legislative Background**

- 4.1 On 28<sup>th</sup> September 2001, the United Nations Security Council adopted resolution 1373(2001) which requires Member States to freeze the assets of those involved in terrorist acts, and to prohibit funds and financial services being made available to those involved in terrorist acts. The Terrorism (United Nations Measures) Order 2001 implemented the requirements of UNSCR 1373 for the UK.

- 4.2 On 27<sup>th</sup> December 2001, the European Council Common Position 2001/931/CFSP, pursuant to UNSCR 1373 (2001), established an EC maintained list of individuals and entities involved in terrorism. Council Regulation (EC) No 2580/2001 implemented prohibitions in relation to the persons on the EC list, in particular an asset freeze and prohibitions on making funds and financial services available to the persons. The list itself is published and updated by Council Decisions.

- 4.3 The new Order imposes a freeze on the funds and economic resources of a person designated by the EC or domestically, and anyone else involved in terrorism, and prohibits funds, economic resources and financial services from being made available to such persons. The Order provides for the domestic designation power to apply on the basis of reasonable grounds to suspect that a person is or may be a person who commits, attempts to commit, participates

in or facilitates the commission of acts of terrorism, or falls into related categories. There is an appeal mechanism in relation to domestic designations and provision is made for licences to be granted to enable basic expenses to be met

## **5. Extent**

This instrument applies to the United Kingdom and elsewhere to British citizens and others with a UK connection.

## **6. European Convention on Human Rights**

As the instrument is not subject to affirmative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Order has two functions:

- To establish penalties for breach of the EC Regulation, which sets out the regime for freezing assets of individuals listed at the EC and for prohibiting funds and financial services from being made available to them. The Regulation is directly applicable in UK law but penalties for its breach require UK secondary legislation.
- To establish, consistent with UNSCR 1373 and the provisions of the EC Regulation, the UK's own national regime for designating terrorist suspects at the domestic level.

7.2 The Order provides for the freezing of assets and prohibition of funds and financial services being made available in the case of both international and domestic designations of individuals. In the former case, the Order makes reference to the latest EC Council Decision which lists persons, (2006/379/EC (OJ No. L 144, 31.5.2006, p.21)). In the latter case, the Order enables the Treasury not to impose the prohibition on making funds and financial services available to the designated person. The Order also enables the Treasury to make a direction with limited publicity, and in such a case, to require the information in the direction to be treated as confidential.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached.

## **9. Contact**

Patrick Guthrie at Her Majesty's Treasury, Tel: 0207 270 5067 or e-mail: [patrick.guthrie@hm-treasury.gov.uk](mailto:patrick.guthrie@hm-treasury.gov.uk) can answer queries regarding the instrument.

### *Regulatory Impact Assessment*

## **The Terrorism (United Nations Measures) Order 2006**

**2006 No. 2657**

### **1. Title of proposal**

The Terrorism (United Nations Measures) Order 2006

### **2. Purpose and intended effect**

The Order replaces the Terrorism (United Nations Measures) Order 2001 (No. 3365). It gives effect to UN Security Council Resolutions 1373(2001) and provides enforcement for Regulation (EC) No. 2580/2001 (OJ No. L 344, 28.12.2001 p. 70) in relation to those listed in Council Decision 2006/379/EC (OJ No. L 144, 31.5.2006, p21) (the "EC Regulation").

### **3. Consultation**

No consultation was carried out on this RIA. The Order updates the current Terrorism (United Nations Measures) Order 2001, enforces the EC Regulation's provisions which are already directly applicable and provides for mechanisms which enable a more targeted approach to applying the financial sanctions, including confidentiality provisions. In the current circumstances, where there may be an operational requirement for such provisions, there was considered to be a sufficiently urgent requirement to dispense with consultation.

### **4. Options**

The UK is required to give effect to the UN Resolutions and to provide the mechanisms for enforcing the EC Regulations. The provisions allow for some flexibility in the operation of the domestic financial sanctions.

## **5. Costs and benefits**

### **Sectors and groups affected:**

Financial institutions and financial service providers

### **Benefits:**

Financial sanctions against suspected terrorists are a key element of international counter-terrorism efforts. The UN Security Council requires Member States to implement financial sanctions regimes contained in the UN Resolutions. The UK is also required to provide for enforcement of EC Regulations. Consistent with those requirements under international law, the Terrorism (United Nations Measures) Order 2006 ensures that these financial sanctions are fully enforceable in the UK. Updating the drafting of the legislation in line with best practice also promotes clarity and aids compliance.

### **Costs:**

Under the existing Terrorism (United Nations Measures) Order 2001, financial institutions already have to check whether they hold funds in the name of designated persons. They will incur no extra compliance costs as a result of this new Order. Other providers of financial services (for example insurance companies) already have to check whether they are providing services to individuals who are on the EU terrorism list. This Order will extend those checks also to individuals who are designated in the UK. The Government is mindful of the compliance costs associated with financial sanctions and seeks to ensure that financial sanctions are well targeted and are based on good identifying information to help financial institutions and service providers administer them.

## **6. Small Firms Impact Test**

Not applicable – no particular impact on small firms.

## **7. Competition assessment**

Not applicable – no particular competition impact.

## **8. Enforcement, sanctions and monitoring**

The provisions are set out in the Order.

The Order provides for criminal offences to enforce an asset freeze and prohibitions on making funds and financial services available to designated persons.

Financial institutions are required to provide information on compliance.

## **9. Implementation and delivery plan**

Not applicable – no further implementation is required.

**10. Post-implementation review**

Not applicable – no further implementation is required.

**11. Summary and recommendation**

The Terrorism (United Nations Measures) Order 2006 gives effect to our international obligations on counter-terrorist financing by ensuring that the UK's domestic asset freezing regime is more closely aligned with UN and EU asset freezing regimes.

**Declaration and publication**

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs and that in the circumstances it is appropriate to dispense with consultation before bringing these measures into effect*

**Signed** .....

**Date**

**Ed Balls, Economic Secretary, HM Treasury**

**Contact point for enquiries and comments: name, address, telephone number and email address.**

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