

**2009 No. 888**

**OVERSEAS TERRITORIES**

**The Judicial Proceedings in Specified Overseas Territories  
(Restrictive Measures) Order 2009**

<i>Made</i> - - - -	<i>8th April 2009</i>
<i>Laid before Parliament</i>	<i>9th April 2009</i>
<i>Coming into force</i> - -	<i>30th April 2009</i>

At the Court at Windsor Castle, the 8th day of April 2009

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), section 16(5) of the Export Control Act 2002(b), section 112 of the Saint Helena Act 1833(c) and the British Settlements Acts 1887 and 1945(d), and in exercise of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Judicial Proceedings in Specified Overseas Territories (Restrictive Measures) Order 2009 and shall come into force on 30th April 2009.

(2) This article extends to both:

- (a) the Sovereign Base Areas of Akrotiri and Dhekelia; and
- (b) the Falkland Islands, South Georgia and the South Sandwich Islands, the British Antarctic Territory, Saint Helena and Dependencies, the British Indian Ocean Territory, and Pitcairn, Henderson, Ducie and Oeno Islands.

(3) The remainder of this Order extends to those territories so far as:

- (a) each instrument specified in a heading of Schedule 1 extends to those territories; and
- (b) any modification below applies to them.

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(a) 1946 c.45.  
(b) 2002 c.28.  
(c) 1833 c. 85.  
(d) 1887 c.54 and 1945 c.7.

## **Modification formula**

2.—(1) This article relates to each instrument specified in a heading of Schedule 1.

(2) In its application to the Sovereign Base Areas of Akrotiri and Dhekelia, each existing provision of that instrument entered in column 1 of Schedule 1 is to be read as modified by the modifying provision in article 3 specified in the corresponding entry in column 2.

(3) In its application to the Falkland Islands, South Georgia and the South Sandwich Islands, the British Antarctic Territory, Saint Helena and Dependencies, the British Indian Ocean Territory, and Pitcairn, Henderson, Ducie and Oeno Islands, each instrument for which a new provision is entered in column 1 of Schedule 1 is to be read as modified by—

- (a) the addition of that new provision, and
- (b) the text of that new provision being inserted as set out in the supplementing provision in article 4 specified in the corresponding entry in column 2.

## **General modifying provisions applicable to the Sovereign Base Areas of Akrotiri and Dhekelia**

3. The modifying provisions referred to in article 2(2) are as follows—

- (a) the words “Any person who commits an offence” are replaced by the following words: “Any person guilty of an offence”;
- (b) the words “if tried on information before the Senior Judge’s Court,” are omitted;
- (c) the words “if tried before the Judge’s Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both” are omitted;
- (d) the words “is guilty of a misdemeanour and” are omitted; and
- (e) the words “Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.” are omitted.

## **General supplementing provision applicable to the Falkland Islands, South Georgia and the South Sandwich Islands, the British Antarctic Territory, Saint Helena and Dependencies, the British Indian Ocean Territory, and Pitcairn, Henderson, Ducie and Oeno Islands**

4. The supplementing provision referred to in article 2 (3)(b) is as follows: “When the Magistrate’s Court is sentencing a person following summary conviction for an offence under this Order, alternatively to the penalties applicable to that offence upon summary conviction, there shall be available to the Magistrate’s Court any penalties which would be applicable upon conviction for that offence on indictment.”

## **Specific modifying provisions applicable to the Sovereign Base Areas of Akrotiri and Dhekelia**

5.—(1) The provisions of the following instruments are to be read as further modified in relation to the Sovereign Base Areas of Akrotiri and Dhekelia in accordance with the following paragraphs.

(2) In Schedule 2 to the Iraq (United Nations Sanctions) (Overseas Territories) Order 2000(a), the words “if tried before the Judge’s Court, to imprisonment for a term not exceeding six months, or a fine not exceeding £5,000 or its equivalent, or both” in paragraph 1 are omitted.

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(a) S.I. 2000/3242 as amended by S.I. 2001/395, 2001/3649, 2003/1347, 2003/1516 and 2004/2671, and by the British Overseas Territories Act 2002 c. 8.

(3) In Schedule 2 to the Lebanon and Syria (United Nations Measures) (Overseas Territories) Order 2006(a), paragraph 6 is omitted.

(4) In Schedule 2 to the North Korea (United Nations Measures) (Overseas Territories) Order 2006(b):

- (a) the words “on indictment” and “and on summary conviction to a fine not exceeding £5,000 or its equivalent or to both” in paragraph 3;
- (b) the word “summary” where it occurs in paragraphs 4 and 5; and
- (c) paragraph 7,

are omitted.

(5) In Schedule 2 to the Overseas Territories (Zimbabwe) (Restrictive Measures) Order 2002(c), the words “if tried before the Judge’s Court, to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or to both” in paragraph 1 are omitted.

(6) In Schedule 5 to the Trade in Goods (Control) (Overseas Territories) Order 2004(d), the words “if tried before the Judge’s Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both” in paragraph 2 are omitted.

(7) In Schedule 5 to the Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004(e), the words “guilty of a misdemeanour and” where they occur in paragraphs 1 and 3, and the words “if tried before the Judge’s Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both” in paragraph 2 are omitted.

(8) In the United Nations Arms Embargoes (Dependent Territories) Order 1995(f), for article 11, there is substituted the article so numbered in Schedule 2.

*Judith Simpson*  
Clerk of the Privy Council

## SCHEDULE 1

Article 2

The Al-Qa’ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002(g):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3, 4 and 5	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3, 4 and 5	Article 3(d)
Schedule 2, paragraph 7	Article 3(e)
New provision added as Article 19(11)	Article 4

The Belarus (Restrictive Measures) (Overseas Territories) Order 2006(h):

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- (a) S.I. 2006/311.
  - (b) S.I. 2006/3327 as amended by S.I. 2007/1347.
  - (c) S.I. 2002/1077 as amended by S.I. 2004/1111, 2004/2036 and 2005/3183.
  - (d) S.I. 2004/3102.
  - (e) S.I. 2004/3103.
  - (f) S.I. 1995/1032 as amended by S.I. 1997/272, 1998/1502, 2000/1106, 2002/2631 and 2004/2036, and by the British Overseas Territories Act 2002 c. 8.
  - (g) S.I. 2002/112 as amended by S.I. 2002/266 and 2004/2036, and by the British Overseas Territories Act 2002 c. 8.
  - (h) S.I. 2006/1909.

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3, and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 9(9)	Article 4

The Burma (Restrictive Measures) (Overseas Territories) Order 2004(a):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3, 4 and 5	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3, 4 and 5	Article 3(d)
Schedule 2, paragraph 7	Article 3(e)
New provision added as Article 19(10)	Article 4

The Democratic Republic of the Congo (Restrictive Measures) (Overseas Territories) Order 2003(b):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3, and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 15(10)	Article 4

The Democratic Republic of the Congo (United Nations Sanctions) (Overseas Territories) Order 2005(c):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraphs 1 and 2	Article 3(b) and 3(c)
Schedule 2, paragraphs 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 9(9)	Article 4

The International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004(d):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 9(9)	Article 4

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(a) S.I. 2004/1979 as amended by S.I. 2004/3333.  
(b) S.I. 2003/2627 as amended by S.I. 2004/2036 and 2005/1988.  
(c) S.I. 2005/1461.  
(d) S.I. 2004/3039.

The Iraq (United Nations Sanctions) (Overseas Territories) Order 2000(a):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2 and 3	Article 3(a)
Schedule 2, paragraph 1	Article 3(b)
Schedule 2, paragraphs 2 and 3	Article 3(d)
Schedule 2, paragraph 5	Article 3(e)
New provision added as Article 11(8)	Article 4

The Iraq (United Nations Sanctions) (Overseas Territories) Order 2003(b):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 19(10)	Article 4

The Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005(c):

Column 1 (provisions of instrument modified)	Column 2 (provision of this Order)
Schedule 2, paragraphs 1, 2, 3, 4 and 5	Article 3(a)
Schedule 2, paragraphs 1 and 2	Article 3(b) and 3(c)
Schedule 2, paragraphs 3, 4 and 5	Article 3(d)
Schedule 2, paragraph 7	Article 3(e)
New provision added as Article 19(10)	Article 4

The Lebanon and Syria (United Nations Measures) (Overseas Territories) Order 2006(d):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2 and 3	Article 3(a)
Schedule 2, paragraphs 1 and 2	Article 3(b) and 3(c)
Schedule 2, paragraph 3	Article 3(d)
New provision added as Article 11(5)	Article 4

The North Korea (United Nations Measures) (Overseas Territories) Order 2006(e):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2 and 3	Article 3(a)
Schedule 2, paragraphs 1 and 2	Article 3(b) and 3(c)
Schedule 2, paragraph 3	Article 3(d)
New provision added as Article 23(7)	Article 4

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- (a) S.I. 2000/3242 as amended by S.I. 2001/395, 2001/3649, 2003/1347, 2003/1516 and 2004/2671, and by the British Overseas Territories Act 2002 c. 8.  
(b) S.I. 2003/1516 as amended by S.I. 2004/1983, 2004/2036 and 2004/2671.  
(c) S.I. 2005/242 as amended by S.I. 2006/610.  
(d) S.I. 2006/311.  
(e) S.I. 2006/3327 as amended by S.I. 2007/1347.

The Somalia (United Nations Sanctions) (Overseas Territories) Order 2002(a):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 15(10)	Article 4

The Sudan (Restrictive Measures) (Overseas Territories) Order 2004(b):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 15(10)	Article 4

The Sudan (United Nations Measures) (Overseas Territories) Order 2005(c):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraphs 1 and 2	Article 3(b) and 3(c)
Schedule 2, paragraphs 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 9(9)	Article 4

The Terrorism (United Nations Measures) (Overseas Territories) Order 2001(d):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2 and 3	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)
Schedule 2, paragraphs 2 and 3	Article 3(d)
Schedule 2, paragraph 5	Article 3(e)
New provision added as Article 11(8)	Article 4

The Uzbekistan (Restrictive Measures) (Overseas Territories) Order 2006(e):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 2, paragraph 1	Article 3(b) and 3(c)

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(a) S.I. 2002/2631.

(b) S.I. 2004/349 as amended by S.I. 2004/1980.

(c) S.I. 2005/1258.

(d) S.I. 2001/3366 as amended by S.I. 2002/112, and by the British Overseas Territories Act 2002 c. 8.

(e) S.I. 2006/310.

Schedule 2, paragraphs 2, 3 and 4	Article 3(d)
Schedule 2, paragraph 6	Article 3(e)
New provision added as Article 15(10)	Article 4

The Overseas Territories (Zimbabwe) (Restrictive Measures) Order 2002(a):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 2, paragraphs 1, 2, 3, 4 and 5	Article 3(a)
Schedule 2, paragraph 1	Article 3(b)
Schedule 2, paragraphs 2, 3, 4 and 5	Article 3(d)
Schedule 2, paragraph 7	Article 3(e)
New provision added as Article 19(10)	Article 4

The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(b):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 4, paragraphs 1, 2, 3 and 4	Article 3(a)
Schedule 4, paragraphs 2 and 3	Article 3(b) and 3(c)
Schedule 4, paragraphs 1 and 4	Article 3(d)
Schedule 4, paragraph 6	Article 3(e)
Schedule 2, new provision added as paragraph 16(12)	Article 4

The Trade in Goods (Control) (Overseas Territories) Order 2004(c):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 5, paragraphs 1, 2 and 3	Article 3(a)
Schedule 5, paragraph 2	Article 3(b)
Schedule 5, paragraphs 1 and 3	Article 3(d)
Schedule 5, paragraph 5	Article 3(e)
Schedule 2, new provision added as paragraph 9(9)	Article 4

The Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004(d):

Column 1 (provisions of instrument modified)	Column 2 (provisions of this Order)
Schedule 5, paragraphs 1, 2 and 3	Article 3(a)
Schedule 5, paragraph 2	Article 3(b)
Schedule 5, paragraph 5	Article 3(e)
Schedule 2, new provision added as paragraph 8(9)	Article 4

The United Nations Arms Embargoes (Dependent Territories) Order 1995(e)

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(a) S.I. 2002/1077 as amended by S.I. 2004/1111, 2004/2036 and 2005/3183.  
(b) S.I. 2004/3101.  
(c) S.I. 2004/3102.  
(d) S.I. 2004/3103.  
(e) S.I. 1995/1032 as amended by S.I. 1997/272, 1998/1502, 2000/1106, 2002/2631 and 2004/2036, and by the British Overseas Territories Act 2002 c. 8.

Column 1 (provisions of instrument modified)  
New provision added as Article 11(10)

Column 2 (provisions of this Order)  
Article 4

## SCHEDULE 2

Article 5(8)

### “MODIFIED TEXT - ARTICLE 11

**11.**—(1) Any person guilty of an offence under article 3(3) or article 8(3) or (3A) of this Order shall be liable 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 9(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 3 to this Order shall be liable 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 6(1) or (2) or article 7(3) of this Order shall be liable 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 7(2) of this Order shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 9(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 3 to this Order shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) 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.

(7) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

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.”



## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends certain Orders applying to the Overseas Territories relating to restrictive measures adopted by the United Nations and the European Union, and related Orders made under the Export Control Act 2002 applying to the Territories. The penalties and offences provisions of the Orders are modified by this Order in relation to the Sovereign Base Areas of Akrotiri and Dhekelia, and in relation to the Falklands Islands, South Georgia and South Sandwich Islands, the British Antarctic Territory, Saint Helena and Dependencies, the British Indian Ocean Territory, and the Pitcairn Islands to reflect the current constitution and procedures, including sentencing powers, of the judicial authorities in these territories. The effect of the modifications is to make available to the Resident Judge's Court in the Sovereign Base Areas, and the Magistrate's Court in the Falkland Islands and other territories specified in article 1(2)(b), the higher penalties applicable to conviction on indictment when sentencing.

Article 1 provides for citation, commencement and extent. Apart from this article, which extends to all the specified territories, the remainder of the Order extends to specific territories so far as the instruments in Schedule 1 extend to those territories, and so far as any modification in the remainder of the Order applies to them.

Article 2 provides a formula whereby the modifications are effected. The instruments to be modified are listed in Schedule 1. Under each instrument are listed in column 1 the provisions of that instrument which are to be modified by the modifying or supplementary provision in the corresponding entry in column 2. By this means, article 2(2) applies the general modifying provisions set out in article 3 in relation to the Sovereign Base Areas. Article 2(3) applies the general supplementary provision set out in article 4 in relation to the territories specified in article 1(2)(b).

Article 3 contains the general modifying provisions referred to in article 2(2) which are applicable to the Sovereign Base Areas.

Article 4 contains the general supplementing provision applicable to the territories specified in Article 1(2)(b).

Article 5 contains specific modifying provisions to a number of instruments in relation to the Sovereign Base Areas.

Schedule 1 contains the instruments the specified provisions of which are to be read as modified by article 2.

Schedule 2 consists of the modified text to be substituted in accordance with article 5(8).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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**2009 No. 888**

**OVERSEAS TERRITORIES**

The Judicial Proceedings in Specified Overseas Territories  
(Restrictive Measures) Order 2009

£5.50