
STATUTORY INSTRUMENTS

2010 No. 2937

CRIMINAL LAW

**The Iran (European Union Financial
Sanctions) Regulations 2010**

<i>Made</i>	- - - -	<i>9th December 2010</i>
<i>Laid before Parliament</i>		<i>10th December 2010</i>
<i>Coming into force</i>	- -	<i>11th December 2010</i>

The Treasury are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to an Annex to Council Regulation (EU) No 961/2010⁽³⁾ to be construed as a reference to that Annex as amended from time to time.

The Treasury, in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Iran (European Union Financial Sanctions) Regulations 2010, and shall come into force on 11th December 2010.

(2) An offence under these Regulations 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.

(1) European Communities (Designation) (No.3) Order 2010 (S.I. 2010/1834).

(2) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and the European Union (Amendment) Act 2008 (c.7), Schedule 1. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule 1.

(3) OJ L 281, 27.7.2010, p1.

(3) In paragraph (2)—

“conduct” includes acts and omissions;

“UK national” means—

- (a) a British citizen,
- (b) a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or
- (c) a person who under the British Nationality Act 1981(4) is a British subject and who has the right of abode in the United Kingdom.

Interpretation

2.—(1) In these Regulations—

“the 2000 Act” means the Financial Services and Markets Act 2000(5);

“the Council Regulation” means Council Regulation (EU) No 961/2010 of 25th October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007, and any reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“designated person” means a person, entity or body listed in Annex VII or Annex VIII to the Council Regulation;

“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;

“relevant institution” means—

- (a) a person who has permission under Part 4 of the 2000 Act (permission to carry on regulated activities)(6);
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights)(7) which has permission under paragraph 15 of that Schedule(8) (as a result of qualifying for authorisation under paragraph 12 of that Schedule(9)) to accept deposits; or
- (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers.

(2) The definition of “relevant institution” in paragraph (1) must be read with—

- (a) section 22 of the 2000 Act (the classes of activity and categories of investment),
- (b) any relevant order under that section(10), and
- (c) Schedule 2 to that Act (regulated activities).

(3) Any expression used both in these Regulations and in the Council Regulation has the meaning that it bears in the Council Regulation.

(4) 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b) and the Nationality, Immigration and Asylum Act 2002 (c.41), sections 15 and 161, Schedule 2, paragraph 1(i) and Schedule 9.

(5) 2000 c.8.

(6) As amended by the Financial Services Act 2010 (c.28), section 3.

(7) As amended by S.I. 2006/3221.

(8) As amended by S.I. 2003/2066, S.I. 2007/3253, the Enterprise Act 2002 (c.40), section 278(1), Schedule 25, paragraphs 19(a) and 40(1), and the Consumer Credit Act 2006 (c.14), section 33(9).

(9) As amended by S.I. 2007/126 and S.I. 2007/3253.

(10) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) as amended, most recently by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010 (S.I. 2010/86).

PART 2

Funds and Economic Resources

Freezing of funds and economic resources

3.—(1) A person (“P”) must not deal with funds or economic resources belonging to, or 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 paragraph (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; and

(b) in relation to economic resources, exchange or use in exchange for funds, goods or services.

(3) Paragraph (1) is subject to regulations 8 and 9.

(4) A person who contravenes the prohibition in paragraph (1) commits an offence.

Making funds available to a designated person

4.—(1) A person (“P”) must not make funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to regulations 8 and 9.

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

Making funds available for the benefit of a designated person

5.—(1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making funds so available.

(2) For the purposes of this regulation—

(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) Paragraph (1) is subject to regulations 8 and 9.

(4) A person who contravenes the prohibition in paragraph (1) commits an offence.

Making economic resources available to a designated person

6.—(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) Paragraph (1) is subject to regulation 9.

- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.

Making economic resources available for the benefit of a designated person

7.—(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 regulation—
- (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) Paragraph (1) is subject to regulation 9.
- (4) A person who contravenes the prohibition in paragraph (1) commits an offence.

Credits to a frozen account

8.—(1) The prohibitions in regulations 3 to 5 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 regulations 4 and 5 on making funds available do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

(3) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with paragraph (1)(b) or (2).

(4) In this regulation “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

Licences

9.—(1) The prohibitions in regulations 3 to 7 do not apply to anything done under the authority of a licence granted by the Treasury.

- (2) 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.
- (3) The Treasury may vary or revoke a licence at any time.
- (4) 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.

(5) 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.

(6) 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.

PART 3

Restrictions on Transfers of Funds and on Financial Services

Transfers of funds

10.—(1) Subject to paragraph (2), a transfer of funds to or from an Iranian person, entity or body—

(a) which is due on a transaction regarding foodstuffs, healthcare, medical equipment or for humanitarian purposes, and is of more than 10,000 euro, must have been notified in advance in writing to the relevant competent authority,

(b) which is due on a transaction other than one referred to in sub-paragraph (a)—

(i) if it is of more than 10,000 euro but less than 40,000 euro, must be notified in advance in writing to the relevant competent authority, and

(ii) if it is of 40,000 euro or more, must have received prior authorisation from the relevant competent authority.

(2) Paragraph (1) does not apply where—

(a) amounts are credited to a frozen account in accordance with regulation 8 (or, in another Member State, Article 20 of the Council Regulation), or

(b) an authorisation for the transfer has been granted—

(i) by a competent authority in accordance with Article 13 of the Council Regulation, or

(ii) by the Treasury under regulation 9, or by a competent authority of another Member State in accordance with Article 17, 18 or 19 of the Council Regulation.

(3) A person (“P”) who carries out a transfer of funds to, or receives a transfer of funds from, an Iranian person, entity or body other than in accordance with paragraph (1) commits an offence if P knows or has reasonable cause to suspect that the transfer of funds is to or from such a person.

(4) For the purposes of this regulation and regulation 11, “the relevant competent authority” is—

(a) in the case of a transfer of funds to an Iranian person, entity or body, the competent authority of the Member State in which the initial order to execute the transfer is given,

(b) in the case of a transfer of funds from an Iranian person, entity or body, the competent authority of the Member State in which—

(i) the payee is resident, or

(ii) the payment service provider is established.

(5) In this regulation—

(a) a reference to an amount in euro includes a reference to the equivalent amount in another currency, and

(b) a reference to a transfer of funds of a particular amount includes a transfer executed in several operations which appear to be linked, as well as a transfer executed in a single operation.

Notifications and authorisations

11.—(1) A notification or request for authorisation for the purposes of regulation 10 must be made to the relevant competent authority—

- (a) in the case of a transfer of funds to an Iranian person, entity or body, by or on behalf of the payment service provider of the payer,
- (b) in the case of a transfer of funds from an Iranian person, entity or body, by or on behalf of the payment service provider of the payee.

(2) If the payment service provider of the payer or the payee does not fall within the category of persons to whom the Council Regulation applies (by virtue of Article 39 of the Regulation), the notification or request for authorisation must be made by the payer or payee to the competent authority of the Member State in which the payer or payee is resident.

(3) The relevant competent authority shall be deemed to have given authorisation for the purposes of regulation 10 if, after the period of 28 days beginning with the day upon which the authority received a request for authorisation, the authority has not objected in writing to the transfer.

(4) An authorisation granted by the Treasury 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.

(5) The Treasury may vary or revoke an authorisation at any time.

(6) On the grant, variation or revocation of an authorisation, the Treasury must—

- (a) in the case of an authorisation granted to a particular person, give written notice of the grant, variation or revocation to that person,
- (b) in the case of a general authorisation or an authorisation granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the authorisation.

(7) A person commits an offence who, for the purpose of making a notification or obtaining an authorisation, 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.

(8) A person who purports to act under an authorisation granted by the Treasury but who fails to comply with any conditions included in the authorisation commits an offence.

Branches and subsidiaries of Iranian credit and financial institutions

12.—(1) A branch or subsidiary established within the UK of a credit or financial institution domiciled in Iran must notify the Treasury in writing of all transfers of funds carried out or received by the branch or subsidiary.

(2) A notification under paragraph (1) must—

- (a) specify the names of the parties to the transaction, the amount of funds transferred, and the date of the transaction;
- (b) include the following information where it is available to the branch or subsidiary—
 - (i) the nature of the transaction;
 - (ii) the nature of any goods which are the subject of the transaction;
 - (iii) whether those goods are subject to Annex I, II, III, IV or VI of the Council Regulation;

- (iv) where the export of goods is subject to authorisation, the number of the licence granted; and
- (c) be made within five working days after the day on which the transfer of funds is carried out or received by the branch or subsidiary.
- (3) A person who fails to comply with paragraph (1) commits an offence.
- (4) A person commits an offence who, for the purpose of making a notification under paragraph (1), 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.

Credit and financial institutions: accounts and correspondent banking relationships

- 13.**—(1) A credit or financial institution must not—
- (a) open a new bank account,
 - (b) establish a new correspondent banking relationship, or
 - (c) establish a new joint venture,
- with a person falling within paragraph (2).
- (2) The following persons fall within this paragraph—
- (a) a credit or financial institution domiciled in Iran, including the Central Bank of Iran;
 - (b) a branch or subsidiary, wherever located, of a credit or financial institution domiciled in Iran;
 - (c) a credit or financial institution that is not domiciled in Iran but is controlled by a person or entity domiciled in Iran.
- (3) A credit or financial institution which—
- (a) contravenes a prohibition in paragraph (1), and
 - (b) knows or has reasonable cause to suspect that the account, relationship or venture is with a person falling within paragraph (2),
- commits an offence.
- (4) A credit or financial institution must not—
- (a) open a new representative office in Iran, or
 - (b) establish a new branch or subsidiary in Iran.
- (5) A credit or financial institution which contravenes a prohibition in paragraph (4) commits an offence.

Agreements

- 14.**—(1) A person (“P”) must not conclude an agreement for, or on behalf of, a person falling within regulation 13(2) which relates to the opening of a representative office or the establishment of a branch or subsidiary in the European Union if P knows or has reasonable cause to suspect that the agreement is for, or on behalf of, such a person.
- (2) A person who contravenes the prohibition in paragraph (1) commits an offence.

Acquisition or extension of ownership interest

15.—(1) A person falling within regulation 13(2) must not acquire or extend a participation, or acquire any other ownership interest, in a credit or financial institution.

(2) A person who contravenes the prohibition in paragraph (1) commits an offence.

Sale or purchase of bonds

16.—(1) A person (“P”) must not sell or purchase public or public-guaranteed bonds issued after 26th July 2010, directly or indirectly, to or from a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to suspect that the sale or purchase is to or from such a person, entity or body.

(2) A person (“P”) must not provide brokering services with respect to public or public-guaranteed bonds issued after 26th July 2010 to a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to believe that the services are being provided to such a person, entity or body.

(3) A person (“P”) must not assist a person, entity or body falling within paragraph (4) to issue public or public-guaranteed bonds, by providing—

- (a) brokering services;
- (b) advertising; or
- (c) any other service with respect to such bonds,

if P knows or has reasonable cause to suspect that P is assisting such a person, entity or body.

(4) The following persons, entities and bodies fall within this paragraph—

- (a) Iran or its Government, and its public bodies, corporations and agencies;
- (b) a credit or financial institution domiciled in Iran, including the Central Bank of Iran;
- (c) a branch or subsidiary, wherever located, of a credit or financial institution domiciled in Iran;
- (d) a credit or financial institution that is not domiciled in Iran but is controlled by a person or entity domiciled in Iran;
- (e) a person, entity or body acting on behalf of or at the direction of a legal person, entity or body falling within sub-paragraphs (a) to (d);
- (f) a legal person, entity or body owned or controlled by a person, entity or body falling within sub-paragraphs (a) to (e).

(5) A person who contravenes a prohibition in paragraph (1), (2) or (3) commits an offence.

Insurance and reinsurance

17.—(1) A person (“P”) must not provide insurance or re-insurance to—

- (a) Iran or its Government, and its public bodies, corporations and agencies;
- (b) any other Iranian legal person, entity or body; or
- (c) a person, entity or body acting on behalf of or at the direction of a person, entity or body referred to in sub-paragraph (a) or (b),

if P knows or has reasonable cause to suspect that the insurance or reinsurance is being provided to such a person, entity or body.

(2) The prohibition in paragraph (1) does not apply to the provision of compulsory or third party insurance to Iranian persons, entities or bodies based in the European Union.

- (3) The prohibition in paragraph (1)(c) does not apply to the provision of—
- (a) insurance, including health and travel insurance, to individuals (other than designated persons) acting in their private capacity, or
 - (b) re-insurance relating to insurance falling within sub-paragraph (a).
- (4) The prohibition in paragraph (1)(c) does not prevent the provision of insurance or re-insurance to the owner of a vessel, aircraft or vehicle which is chartered by a person, entity or body referred to in paragraph (1)(a) or (b), provided that the person, entity or body to which it is chartered is not a designated person.
- (5) For the purposes of paragraph (1)(c), a person, entity or body does not act at the direction of a person, entity or body referred to in paragraph (1)(a) or (b) where the direction is for the purposes of docking, loading, unloading or safe transit of a vessel or aircraft temporarily in Iranian waters or airspace.
- (6) The prohibition in paragraph (1) applies to the extension or renewal of an insurance or re-insurance agreement concluded before 27th October 2010, but, subject to regulations 4 to 7, does not apply to compliance with an insurance or reinsurance agreement concluded before that date.
- (7) A person who contravenes the prohibition in paragraph (1) commits an offence.

PART 4

Offences

Circumventing provisions etc.

18. 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 regulations 3 to 7, 10 and 12 to 17, or
- (b) to enable or facilitate the contravention of any such prohibition.

Officers of a body corporate etc.

19.—(1) Where an offence under these Regulations 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 paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (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.

Penalties

20.—(1) A person guilty of an offence under any of regulations 3 to 7 and 9 to 18 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 three months or to a fine not exceeding the statutory maximum or to both.

(2) A person guilty of an offence under paragraph 1(5) or paragraph 4(1) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

Proceedings

21.—(1) Proceedings against any person for an offence may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) In England and Wales an information relating to an offence that is triable by a magistrates' court may be so tried 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.

(3) In Scotland—

- (a) summary proceedings for an offence may be commenced—
 - (i) before the end 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 Procedures (Scotland) Act 1995⁽¹¹⁾ (time limit for certain offences) applies for the purposes of this paragraph as it applies for the purposes of that section.

(4) In Northern Ireland summary proceedings for an offence may be instituted—

- (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.

(5) For the purposes of this regulation 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.

Consent to prosecution

22.—(1) Proceedings for an offence under these Regulations (other than for a summary offence) 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 paragraph (1) prevents—

(11) 1995 c.46.

- (a) the arrest of a person in respect of an offence under these Regulations, or
- (b) the remand in custody or on bail of any person charged with such an offence.

PART 5

Miscellaneous

Information provisions

23. The Schedule (which contains provisions concerning information gathering and disclosure) has effect.

Notices

24.—(1) This regulation has effect in relation to any notice to be given to a person by the Treasury under regulation 9 or 11.

(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.

The Crown

25.—(1) These Regulations bind the Crown.

(2) No contravention by the Crown of a provision of these Regulations makes the Crown criminally liable.

(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 these Regulations.

(4) Nothing in this regulation affects Her Majesty in her private capacity.

(5) Paragraph (4) is to be read as if section 38(3) of the Crown Proceedings Act 1947⁽¹²⁾ (meaning of Her Majesty in her private capacity) were contained in these Regulations.

Amendment

26. In section 63(1) of the Counter-Terrorism Act 2008 (application to set aside financial restrictions decision)⁽¹³⁾, after paragraph (aa) insert—

“(ab) the Iran (European Union Financial Sanctions) Regulations 2010 (S.I. 2010/2937),”.

Revocations

27. The following instruments are revoked—

⁽¹²⁾ 1947 c.44.

⁽¹³⁾ 2008 c.28. Section 63(1) was amended by the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010 (S.I. 2010/1197).

- (a) the Iran (European Community Financial Sanctions) Regulations 2007⁽¹⁴⁾, and
- (b) the Iran (European Community Financial Sanctions) (Amendment) Regulations 2010⁽¹⁵⁾.

Saving

28. Any licence which was granted by the Treasury under regulation 10 of the Iran (European Community Financial Sanctions) Regulations 2007 and was in effect immediately before the coming into force of these Regulations shall have effect as if it were a licence granted by the Treasury under regulation 9 of these Regulations.

9th December 2010

Michael Fabricant
Angela Watkinson
Two of the Lords Commissioners of Her
Majesty's Treasury

⁽¹⁴⁾ S.I. 2007/1374.
⁽¹⁵⁾ S.I. 2010/2613.

SCHEDULE

Regulation 23

Information Provisions

Reporting obligations of relevant institutions

- 1.—(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
 - (ii) has committed an offence under any of regulations 3 to 7 and 9 to 18, 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 sub-paragraph (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) Sub-paragraph (4) applies if—
 - (a) a relevant institution informs the Treasury under sub-paragraph (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 sub-paragraph (1), (2) or (4) commits an offence.

Powers to request information

- 2.—(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 sub-paragraph (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 these Regulations.
- (4) The Treasury may request a person acting under a licence granted under regulation 9 to provide information concerning—
 - (a) funds or economic resources dealt with under the licence, or
 - (b) funds or economic resources 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 establishing for the purposes of these Regulations—

Status: This is the original version (as it was originally made).

- (a) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person;
 - (b) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person; or
 - (c) the nature of any financial transactions entered into by a designated person.
- (6) The Treasury may request any person in or resident in the United Kingdom to provide such information as the Treasury may reasonably require—
- (a) for the purpose of establishing for the purposes of these Regulations the nature, amount and purpose of any transfer of funds to or from an Iranian person, entity or body, or
 - (b) concerning the provision of insurance or re-insurance to a person, entity or body referred to in regulation 17(1)(a), (b) or (c).
- (7) The Treasury may request a relevant institution to provide such information as the Treasury may reasonably require concerning its dealings with a person falling within regulation 13(2).
- (8) 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) monitoring compliance with or detecting evasion of these Regulations, or
 - (b) obtaining evidence of the commission of an offence under these Regulations.
- (9) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (10) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (11) 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.
- (12) Information requested under this paragraph may relate to any period of time during which a person is, or was, a designated person.
- (13) Information requested under sub-paragraph (1)(b), (2) or (5)(c) 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).

Production of documents

- 3.—(1) A request under paragraph 2 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 regulation 9 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).

Failure to comply with request for information

- 4.—(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 Schedule;
 - (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
 - (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
 - (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under this Schedule.

(2) Where a person is convicted of an offence under this paragraph, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

General power to disclose information

5.—(1) The Treasury may disclose any information obtained by them in exercise of their powers under these Regulations (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 the Legal Services Commission, the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission;
- (e) to the Financial Services 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;
- (f) for the purpose of giving assistance or co-operation, pursuant to the Council Regulation, 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 these Regulations, 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

Status: This is the original version (as it was originally made).

(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.

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

Application of provisions

6.—(1) Nothing done under this Schedule is to be treated as a breach of any restriction imposed by statute or otherwise.

(2) But nothing in this Schedule authorises a disclosure that—

(a) contravenes the Data Protection Act 1998⁽¹⁶⁾, or

(b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000⁽¹⁷⁾.

(3) Nothing in this Schedule 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 Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.

(5) This Schedule does not limit the powers of the Treasury to impose conditions in connection with the discharge of their functions under regulation 9.

(6) In this paragraph—

“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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the enforcement of Council Regulation (EU) No. 961/2010 of 25th October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ L 281, 27.10.10, p1) (“the Council Regulation”).

The measures include the freezing of funds and economic resources of persons listed by the United Nations Security Council under UN Security Council Resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010) and by the Council of the European Union under Council Decision 2010/413/CFSP of 26th July 2010 (as amended), and ensuring that funds and economic resources are not made available to them or for their benefit. They also include broader financial sanctions measures.

Regulation 2 defines designated persons as any person named in Annex VII or VIII to the Council Regulation (as amended from time to time). Annex VII includes those persons listed by the United Nations Security Council, and Annex VIII includes those persons listed by the Council of the European Union.

⁽¹⁶⁾ 1998 c.29.

⁽¹⁷⁾ 2000 c.23.

Regulations 3 to 7 provide that it is an offence to deal with the funds or economic resources of a designated person, or to make funds or economic resources available directly or indirectly, to or for the benefit of, a designated person.

Regulation 8 provides for exceptions to the offences in the circumstances set out in the Council Regulation.

Regulation 9 provides a licensing procedure to enable funds and economic resources to be exempted from the prohibitions.

Regulation 10 provides that it is an offence to transfer funds to or from certain persons in or connected to Iran, if the transfers have not been notified or authorised in accordance with the Council Regulation. Regulation 11 sets out who must make a notification or apply for authorisation.

Regulation 12 provides that offences are committed where a branch or subsidiary of an Iranian bank does not comply with the requirements of the Council Regulation to notify the Treasury of details of transfers of funds.

Regulation 13 provides that it is an offence for a credit or financial institution to establish certain relationships with an Iranian bank, or to open a representative office or establish a branch in Iran.

Regulation 14 provides that it is an offence to conclude an agreement for an Iranian bank relating to the creation of a representative office, branch or subsidiary in the European Union.

Regulation 15 provides that an offence is committed if an Iranian bank acquires an ownership interest in a credit or financial institution.

Regulation 16 provides that offences are committed if a person sells or purchases bonds to or from an Iranian person, provides brokering services to an Iranian person, or assists an Iranian person in the issue of bonds.

Regulation 17 provides that an offence is committed if insurance or re-insurance is provided to Iranian persons.

Regulation 18 provides that circumvention of the prohibitions in regulations 3 to 7, 10, and 12 to 17 is an offence.

Regulations 19 to 22 contain provision about penalties, proceedings and who, in relation to bodies corporate and other bodies, may be prosecuted for an offence under the Regulations.

Regulation 26 amends the Counter-Terrorism Act 2008 so that an application to the High Court to set aside any decision of the Treasury under these Regulations is subject to the procedure set out in that Act and in Part 79 of the Civil Procedure Rules.

Regulation 27 revokes the Regulations which currently make provision for penalties for contravention of the asset freezing measures contained in the Council Regulation. Regulation 28 provides that any licences which were issued under those revoked Regulations continue to have effect for the purposes of these Regulations.

The Schedule makes provision for information gathering and information disclosure.

A list of designated persons is available on the Internet at: www.hm-treasury.gov.uk/fin_sanctions_index.htm.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. Further information is available from the Asset Freezing Unit, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and on HM Treasury's website (www.hm-treasury.gov.uk).