
STATUTORY INSTRUMENTS

2012 No. 1389

The Iran (Restrictive Measures) (Overseas Territories) (Amendment) Order 2012

Amendment of the principal Order

6. After article 3, insert—

“RESTRICTED GOODS AND ASSISTANCE

Supply of EU restricted goods to Iran

3A. Any person who—

- (a) supplies or delivers;
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the delivery of,

EU restricted goods to any person in Iran, or for use in Iran, shall be guilty of an offence under this Order, unless they prove that they did not know and had no reasonable cause to suspect that the goods in question were to be supplied or delivered to a person in, or for use in, Iran.

Exportation of EU restricted goods to Iran

3B.—(1) EU restricted goods shall not be exported from the Territory to any destination in Iran or to any destination for the purpose of delivery, directly or indirectly, to, or to the order of, any person in Iran, or for use in Iran.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of EU restricted goods in contravention of paragraph (1) shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty both of an offence under paragraph (3) above and of an offence under article 3A, they shall not be guilty of the offence under paragraph (3) above.

Assistance related to EU restricted goods

3C. Any person who, directly or indirectly, provides to any person in Iran, or for use in Iran

- (a) any technical assistance or brokering services related to EU restricted goods; or
- (b) financing or financial assistance related to EU restricted goods (including, in particular, grants, loans and export credit insurance, for any supply, delivery

or export of such items or for any provision of related technical assistance or brokering services),

shall be guilty of an offence under this Order, unless they prove that they did not know and had no reasonable cause to suspect that the technical assistance, brokering services, financing or financial assistance in question was to be provided to a person in, or for use in, Iran.

Supply of telecommunications monitoring equipment etc to Iran

3D. Any person who, except under the authority of a licence granted by the Governor—

- (a) supplies or delivers;
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the delivery of,

telecommunications monitoring equipment, technology or software, directly or indirectly, to any person in Iran, or for use in Iran, shall be guilty of an offence under this Order, unless they prove that they did not know and had no reasonable cause to suspect that the equipment, technology or software in question were to be supplied or delivered to a person in, or for use in, Iran.

Exportation of telecommunications monitoring equipment etc to Iran

3E.—(1) Except under the authority of a licence granted by the Governor, telecommunications monitoring equipment, technology and software shall not be exported from the Territory to any destination in Iran or to any destination for the purpose of delivery, directly or indirectly, to, or to the order of, any person in Iran.

(2) Any telecommunications monitoring equipment, technology and software which is exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of telecommunications monitoring equipment, technology and software in contravention of paragraph (1) shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty both of an offence under paragraph (3) above and of an offence under article 3D, they shall not be guilty of the offence under paragraph (3) above.

Assistance related to telecommunications monitoring equipment etc

3F. Any person who, except under the authority of a licence granted by the Governor, directly or indirectly, provides to any person in, or for use in, Iran—

- (a) any technical assistance or brokering services related to telecommunications monitoring equipment, technology and software, to the provision, manufacture, maintenance and use of such equipment and technology, or to the provision, installation, operation or updating of such software, or
- (b) any financing or financial assistance related to telecommunications monitoring equipment, technology and software,

shall be guilty of an offence under this Order, unless they can prove that they did not know and had no reasonable cause to suspect that the technical assistance, brokering services, financing or financial assistance in question were to be provided to a person in, or for use in, Iran.

Provision of telecommunications or internet monitoring or interception services to Iran

3G. Any person who, except under the authority of a licence granted by the Governor, provides telecommunications or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, the government of Iran, or any Iranian public bodies, corporations or agencies, or any person acting on their behalf or at their direction, shall be guilty of an offence under this Order unless they can prove that they did not know and had no reasonable cause to suspect that the services were to be provided to, or for the direct or indirect benefit of, such persons.

Use of ships, aircraft and vehicles: EU restricted goods and telecommunications monitoring equipment etc

3H.—(1) Without prejudice to the generality of articles 3A and 3D, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of EU restricted goods or telecommunications monitoring equipment, technology or software if the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then—

- (a) in the case of a ship or aircraft registered in the Territory, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered, if they are a person referred to in paragraph (2) (a) or (b) and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator and driver of the vehicle,

shall be guilty of an offence under this Order, unless they prove that they did not know and had no reasonable cause to suspect that the carriage of goods in question was, or formed part of, carriage from any place outside Iran to any destination in Iran.

(4) Any EU restricted goods or telecommunications monitoring equipment, technology or software subject to carriage in contravention of paragraph (1) shall be liable to forfeiture.

(5) Nothing in paragraph (1) shall apply where the supply, delivery or exportation of the telecommunications monitoring equipment, technology or software concerned to Iran was authorised by a licence granted by the Governor.

(6) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Licences

3I.—(1) Subject to paragraph (2), the Governor may grant a licence under articles 3D to 3G and paragraphs (3), (4), (5) and (6) of article 9 shall apply in respect of such licences.

(2) The Governor must not grant a licence under paragraph (1) if he or she has reasonable grounds to determine that the equipment, technology or software in question would be used for monitoring or interception of internet or telephone communications in Iran by the government of Iran, or by any Iranian public bodies, corporations, or agencies or any person or entity acting on their behalf or at their direction.

Customs powers to demand evidence of destination which goods reach

3J.—(1) Any exporter or any shipper of EU restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish, within such time as the Governor may allow, proof to the Governor's satisfaction that the goods have reached a destination to which their exportation was not prohibited by this Order and if they fail to do so, they shall be guilty of an offence under this Order, unless they prove that they did not consent to or connive at the goods reaching any destination other than a destination to which their exportation was not prohibited under this Order.

(2) Any exporter or any shipper of telecommunications monitoring equipment, technology or software which has been exported from the Territory shall, if so required by the Governor, furnish, within such time as the Governor may allow, proof to the Governor's satisfaction that the goods have reached either—

- (a) a destination to which they were authorised to be exported by a licence granted under this Order; or
- (b) a destination to which their exportation was not prohibited by this Order,

and if they fail to do so, they shall be guilty of an offence under this Order, unless they prove that they did not consent to or connive at the goods reaching any destination other than a destination referred to in paragraph (a) or (b).

Declaration as to goods: powers of search

3K.—(1) Any person who is about to leave the Territory shall, if they are required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not they have with them any EU restricted goods or telecommunications monitoring equipment, technology or software which are destined for Iran, or for use in Iran, or for delivery, directly or indirectly, to or to the order of any person in Iran; and
- (b) produce any such goods, equipment, technology or software which they have with them.

(2) Any such officer, and any person acting under their direction, may search that person for the purpose of ascertaining whether they have with them any such goods, equipment, technology or software, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make such a declaration, or fails to produce any such goods, equipment, technology or software, or refuses to allow themselves to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to their knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

(5) Before or on exercising any power conferred by this article, an authorised person shall if requested to do so, produce evidence of their authority.

Investigation, etc of suspected ships

3L.—(1) Where any authorised officer has reason to suspect that any ship to which article 3H applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) the officer may (either alone or accompanied and assisted by persons under their authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;
 - (b) the officer may request the owner or the master of the ship to furnish such information relating to the ship and her cargo and produce for their inspection such documents so relating and such cargo as they may specify; and
 - (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of article 3H(1), any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, shall seize any EU restricted goods or telecommunications monitoring equipment, technology or software and may take the further action specified in paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is either—
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is specified by the officer; or
 - (b) to request the master of the ship to take any one or more of the following steps—
 - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
 - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
 - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and
 - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 3O(3), where—
- (a) a master refuses or fails to comply with a request made under paragraph (2)(b); or
 - (b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any authorised officer may take such steps as appear to them to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of their authority.

- (5) In this article “authorised officer” means—
- (a) any commissioned naval or military officer;
 - (b) any British consular officer;

- (c) any police or customs officer; or
- (d) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc of suspected aircraft

3M.—(1) Where any authorised person has reason to suspect that any aircraft to which article 3H applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) they may (either alone or accompanied and assisted by persons under their authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) they may request the charterer, the operator and the commander of the aircraft, or any of them, to furnish such information relating to the aircraft and its cargo and produce for their inspection such documents so relating and such cargo as they may specify; and
- (c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander, or any of them, to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 3O(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, they may take such steps as appear to them to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, for that purpose—

- (a) may enter, or authorise entry, upon any land and upon that aircraft;
- (b) may detain, or authorise the detention of, that aircraft and any of its cargo;
- (c) shall seize and dispose of any EU restricted goods or telecommunications monitoring equipment, technology and software; and
- (d) may use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of their authority.

(4) In this article, “authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc of suspected vehicles

3N.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 3H—

- (a) they may (either alone or accompanied and assisted by persons under their authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) they may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for their inspection such documents so relating and such goods as they may specify;

- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 3O(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, they may take such steps as appear to them to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, for that purpose—

- (a) may enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) may detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) may use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of their authority.

(4) In this article, “authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 3L, 3M and 3N

3O.—(1) No information furnished or document produced by any person in pursuance of a request made under article 3L, 3M or 3N shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in their capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in their own right;
- (b) to any person empowered under article 3L, 3M or 3N to request that the information or document be furnished or produced, or to any person holding or acting in any office under or in the service of—
 - (i) the Crown in respect of the Government of the United Kingdom;
 - (ii) the Government of the Isle of Man;
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
 - (iv) the State of Jersey; or
 - (v) the Government of any British overseas territory;
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings—
 - (i) in the Territory for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory; or

(d) for the purpose of giving assistance or cooperation, pursuant to the Regulation, to any person in the service of the Council of the European Union, the European Commission or the government of any country.

(2) Any power conferred by article 3L, 3M or 3N to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 3L(2)(a);
- (b) a master of a ship or its owner or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 3L, 3M or 3N by any person empowered to make it; or
 - (ii) furnishes any document or information which to their knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;
- (c) a master, owner or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of their powers under article 3L, 3M or 3N.

(4) Nothing in article 3L, 3M or 3N or this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.”.