

SCHEDULE 1

Article 1(3)

Territories to which this Order extends

Anguilla
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena, Ascension and Tristan da Cunha
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Turks and Caicos Islands
Virgin Islands

SCHEDULE 2

Article 7

Customs powers and investigations

Power to demand evidence of destination of restricted goods

1.—(1) An authorised officer may require a person who exports or carries restricted goods from the Territory to provide proof to the officer's satisfaction that the goods have reached an authorised destination.

(2) For the purposes of sub-paragraph (1), "an authorised destination" means a destination to which the exportation or carriage of the goods is—

- (a) authorised by a licence granted by the Governor under article 10, or
- (b) not otherwise prohibited under this Order.

(3) It is an offence for a person ("P") to fail to comply with a requirement under sub-paragraph (1), unless P proves that the goods reached a destination other than an authorised destination without P's consent or connivance.

Requirement for declaration as to carriage of restricted goods: power to search persons

2.—(1) An authorised officer may require a person who is about to leave the Territory ("P") to—

- (a) declare whether P is carrying restricted goods destined for Eritrea or for delivery (directly or indirectly) to, or to the order of, any person in Eritrea, and
- (b) produce any such goods that P is carrying.

(2) It is an offence for P to—

- (a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1), or
- (b) knowingly or recklessly make a declaration which is false in a material particular.

(3) An authorised officer may search P for the purpose of finding out whether P is carrying restricted goods.

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- (4) A search under sub-paragraph (3) must be carried out by a person of the same sex as P.
- (5) It is an offence for P to fail without reasonable excuse to comply with a request to be searched under sub-paragraph (3).

Investigation of suspected ships, aircraft or vehicles

3.—(1) Where an authorised officer reasonably suspects that a ship, aircraft or vehicle has been, is being, or is about to be used in the commission of an offence under article 7(3), the officer may—

- (a) stop and enter it;
 - (b) search it;
 - (c) require the relevant person to provide such information relating to the ship, aircraft or vehicle and any goods it is carrying, and produce for inspection such documents and goods, as the officer may specify;
 - (d) in relation to a ship, require the relevant person to do anything mentioned in sub-paragraph (2);
 - (e) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory until notified by an authorised officer that it may depart.
- (2) Further to sub-paragraph (1)(d), the officer may require the relevant person to do any of the following—
- (a) stop the ship from proceeding with the voyage on which it is engaged, or about to engage, until notified by an authorised officer that it may proceed;
 - (b) not land any part of the ship's cargo at any port specified by the officer, except with the officer's consent;
 - (c) if the ship is in port in the Territory, cause it to remain there until notified by an authorised officer that it may depart;
 - (d) if the ship is in any other place, take it to a port specified by the officer and keep it there until notified by an authorised officer that it may depart.
- (3) The officer may take such steps as appear necessary to carry out a search under sub-paragraph (1)(b), or secure compliance with a requirement under sub-paragraph (1)(c), (d) or (e), including in particular—
- (a) entering any land,
 - (b) using reasonable force, and
 - (c) detaining the ship, aircraft or vehicle and any goods it is carrying.
- (4) The officer may seize any restricted goods from the ship, aircraft or vehicle.
- (5) Any restricted goods seized may be forfeited, disposed of or transferred as appropriate.
- (6) It is an offence for a relevant person to—
- (a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1)(c), (d) or (e),
 - (b) knowingly or recklessly provide information or a document which is false in a material particular in response to a requirement under sub-paragraph (1)(c), or
 - (c) otherwise intentionally obstruct an authorised officer, or a person acting under the officer's authority, in the exercise of any power conferred by this paragraph.

Exercise of customs powers: general

4.—(1) Any power exercisable by an authorised officer under this Schedule may be exercised by a person acting under the officer’s authority.

(2) An authorised officer, or a person acting under the officer’s authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

(3) Any power conferred by this Schedule to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

(4) An authorised officer may exercise any power conferred by paragraph 3 in relation to—

- (a) any ship within the seaward limits of the territorial sea of the Territory,
- (b) a ship registered in the Territory while it is on the high seas, or
- (c) any aircraft or vehicle in the Territory.

(5) But a power conferred by paragraph 3 may not be exercised in relation to a ship falling within sub-paragraph (6) unless—

- (a) in the case of a ship falling only within sub-paragraph (6)(a), the Territory is entitled under international law to exercise the power without the consent of the flag state, or
- (b) in any other case, the Governor, with the consent of the Secretary of State, has authorised the exercise of the power.

(6) A ship falls within this sub-paragraph if it is—

- (a) a ship flying the flag of, or registered in, a State or territory other than the Territory,
- (b) a warship that belongs to a government of a State or territory other than the Territory, or
- (c) any other ship that is being used by such a government only for non-commercial purposes.

(7) The Governor may authorise the exercise of a power under sub-paragraph (5)(b) only if the flag state has consented to the Territory exercising the power (whether generally or in relation to the ship in question).

(8) In giving such authority, the Governor must impose such conditions or limitations on the exercise of the power as are necessary to give effect to any conditions or limitations imposed by the flag state.

(9) This Schedule is without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

Interpretation

5. In this Schedule—

“authorised officer” means—

- (a) a commissioned naval or military officer,
- (b) a police or customs officer, or
- (c) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case;

“high seas” means seas that are not within the seaward limits of—

- (a) the territorial sea of the Territory, or
- (b) the territorial sea adjacent to a State or territory outside the Territory;

“relevant person” has the meaning given in article 7(5) and (6).

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SCHEDULE 3

Article 2

Application of Articles 16 and 17 to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

1. A person guilty of an offence under article 4, 7, 8, 9 or 15 is liable on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

2. A person guilty of an offence under article 6 or 10(10), paragraph 2(2)(b) or paragraph 3(6) (b) or (c) of Schedule 2, or paragraph 3(b), (c) or (d) of Schedule 6 is liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

3. A person guilty of an offence under paragraph 3(6)(a) of Schedule 2 or paragraph 3(a) or paragraph 5 of Schedule 6 is liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

4. A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on conviction to a fine not exceeding £5,000 or its equivalent.

5. If an offence under this Order committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer of the body corporate, or

(b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

6. Proceedings against a 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.

7. Proceedings for an offence under this Order must not be instituted in the Territory except with the consent of the Attorney General and Legal Adviser.

8. Nothing in paragraph 7 prevents—

(a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence, or

(b) the remand in custody or on bail of any person charged with an offence.

SCHEDULE 4

Article 2

Application of Article 16 to the Falkland Islands and to South Georgia and the South Sandwich Islands

1. This Schedule applies when the Magistrates' Court is sentencing a person following a summary conviction for an offence under this Order.

2. Any penalties which would be available to the Magistrates' Court under article 16 on conviction on indictment for the offence are available to the Court as if they were penalties so available on summary conviction.

SCHEDULE 5

Article 2

Application of Article 16 to St Helena, Ascension and Tristan da Cunha

1. A person guilty of an offence under article 4, 7, 8, 9 or 15 is liable on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

2. A person guilty of an offence under article 6 or 10(10), paragraph 2(2)(b) or paragraph 3(6)(b) or (c) of Schedule 2 or paragraph 3(b), (c) or (d) of Schedule 6 is liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

3. A person guilty of an offence under paragraph 3(6)(a) of Schedule 2 or paragraph 3(a) or paragraph 5 of Schedule 6 is liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

4. A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on conviction to a fine not exceeding £5,000 or to its equivalent.

5. If an offence under this Order committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
- (b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

SCHEDULE 6

Article 13

Evidence and information

Power to require information or documents

1.—(1) An authorised officer may request any person in, or resident in, the Territory to provide any information or produce any document in the person's possession or control which the officer may require for the purpose of—

- (a) securing compliance with, or detecting evasion of, this Order,
- (b) obtaining evidence of the commission of an offence under this Order,
- (c) establishing the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person,
- (d) establishing the nature of any financial transactions entered into by a designated person, or
- (e) cooperating with any international investigation in accordance with article 6(1).

(2) When exercising the power in sub-paragraph (1), an authorised officer 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, request any person who is a present or past officer or employee of the body corporate to give such an explanation.

(3) Any person to whom a request is made must comply with it within such time and in such manner as may be specified in the request.

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(4) Nothing in this paragraph is to be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged information or document in the person's possession in that capacity.

Powers of search and entry to obtain evidence or information

2.—(1) A justice of the peace may grant a search warrant if satisfied by information on oath that—

- (a) there are reasonable grounds for suspecting that—
 - (i) an offence under this Order has been or is being committed, or
 - (ii) information or a document requested by an authorised officer under paragraph 1 has not been provided or produced; and
- (b) evidence of the commission of the offence, or the information or document so requested, is to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this paragraph is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) An authorised officer who enters and searches a ship, aircraft, vehicle or premises under a warrant issued under this paragraph may—

- (a) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the officer to be necessary;
- (b) inspect and seize anything found in the course of a search if the officer reasonably suspects that—
 - (i) it is evidence in relation to an offence under this Order,
 - (ii) it is information or a document requested (but not provided or produced) under paragraph 1, or
 - (iii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;
- (c) take copies of any document;
- (d) require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form);

(4) An authorised officer may, if necessary, use reasonable force in the exercise of the powers conferred by this paragraph.

(5) Anything seized under sub-paragraph (3) may be retained for so long as is necessary in all the circumstances.

(6) An authorised officer who enters a ship, aircraft, vehicle or premises under a warrant issued under this paragraph, or by virtue of sub-paragraph (3)(a), may—

- (a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to believe to be in possession of anything which may be required as evidence for the purposes of proceedings in respect of an offence under this Order, and
- (b) seize anything found in such a search.

(7) A search of a person under sub-paragraph (6) must be carried out by a person of the same sex.

(8) The powers in this paragraph are without prejudice to the powers in paragraph 3 of Schedule 2.

Offences relating to information etc.

3. It is an offence for a person to—

- (a) without reasonable excuse, refuse or fail 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 give any information, or produce any document, which is false in a material particular in response to such a request,
- (c) destroy, mutilate, deface, conceal or remove any document with intent to evade the provisions of this Schedule, or
- (d) otherwise intentionally obstruct any person in the exercise of that person's powers under this Schedule.

4. Where a person is convicted of an offence under paragraph 3(a), the court may make an order requiring the person, within such period as may be specified in the order, to give the requested information or produce the requested document.

5.—(1) It is an offence for a person to disclose information or a document obtained in accordance with this Order (including a copy or extract made of such a document) except—

- (a) to a person who would have been authorised to request the information or document under this Order;
- (b) to a 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 Government of the Isle of Man,
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the States of Jersey, or
 - (v) the Government of any British overseas territory;
- (c) for the purpose of giving assistance or cooperation, with the authority of the Governor, 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 State or territory;
- (d) with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in the Territory, for an offence under this Order, or
 - (ii) in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory (other than the Territory), for an offence under a similar provision in any such jurisdiction;
- (e) to the Financial Services Authority of the United Kingdom or to the relevant authority with responsibility in any other State or territory for regulating and supervising financial services business; or
- (f) to any third party, with the consent of a person who, in the person's own right, is entitled to the information or to possession of the document, copy or extract.

(2) In sub-paragraph (1)(f) "in the person's own right" means not merely in the person's capacity as a servant or agent of another person.

6. An authorised officer must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

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7. In this Schedule “authorised officer” means—
 - (a) a police or customs officer, or
 - (b) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case.
8. Anything done in accordance with this Schedule is not to be treated as a breach of any restriction imposed by statute or otherwise.