

2017 No. 157

TERRORISM

The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) (Amendment) Order 2017

(Legal Notice 7 of 2017)

Made - - - - 15th February 2017

Coming into force - - 8th March 2017

At the Court at Buckingham Palace, the 15th day of February 2017

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, in exercise of the power conferred by section 54(1) of the Terrorist Asset-Freezing etc. Act 2010(a), makes the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) (Amendment) Order 2017 and comes into force on 8th March 2017.

(2) In this Order, “the principal Order” means the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011(b).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

Amendments to the principal Order

2. The principal Order is amended in accordance with articles 3 to 5.

3. For article 3(2), substitute—

“(2) In its application to the Sovereign Base Areas of Akrotiri and Dhekelia, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha, the Act is subject to the additional modifications set out in Schedule 3.”.

4.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1, after ““governor””, insert “, except where the word “Treasury” is introduced by any of the subsequent modifications”.

(3) For paragraph 4, substitute—

“4. For section 1, substitute—

“1. In this Part “designated person” means—

(a) 2010 c.38.

(b) S.I. 2011/750, as amended by the Wales Act 2014 (c.29), section 4(4)(a) and S.I. 2013/534.

- (a) a person designated by the Treasury in accordance with this Part as it applies in the United Kingdom;
 - (b) a person included in the list provided for by Article 2(3) of Council Regulation (EC) 2580/2001 of 27 December 2001(a) on specific restrictive measures directed against certain persons and entities with a view to combating terrorism; or
 - (c) a person designated by the Governor for the purposes of this Part.””.
- (4) In paragraph 5—
 - (a) renumber the existing text as subparagraph (2); and
 - (b) before subparagraph (2) (as renumbered), insert—
 - “(1) After section 2(1), insert—
 - “(1A) Before making a final designation under subsection (1), the Governor must consult the Secretary of State.””.
- (5) After paragraph 5, insert—
 - “5A. In section 4, after subsection (2), insert—
 - “(2A) Before renewing (or further renewing) a final designation, the Governor must consult the Secretary of State.”.
 - 5B. In section 5(1), after “may” insert “, after consulting the Secretary of State,””.
- (6) For paragraph 6, substitute—
 - “6. In section 6—
 - (a) after subsection (1), insert—
 - “(1A) Before making an interim designation under subsection (1), the Governor must consult the Secretary of State.”; and
 - (b) in subsection (2), for “(4)” substitute “(8)”.
 - 6A. In section 9(1), after “may” insert “, after consulting the Secretary of State,””.
- (7) After paragraph 7, insert—
 - “7A. In sections 11(3), 12(2) and 13(3), for “sections 16 and 17” substitute “sections 16, 17 and 17A”.
 - 7B. In sections 14(2) and 15(3), for “section 17” substitute “sections 17 and 17A”.”.
- (8) For paragraph 9, substitute—
 - “9. In section 17—
 - (a) omit subsection (2); and
 - (b) after subsection (4), insert—
 - “(4A) Before granting, varying or revoking a licence, the Governor must—
 - (a) where the licence relates to a person referred to in section 1(a) or (b), consult the Treasury; and
 - (b) where the licence relates to a person referred to in section 1(c), consult the Secretary of State.”.
 - 9A. After section 17, insert—

(a) O.J. No. L. 344, 28.12.2001, p.70.

“Licences granted outside the Territory

17A. The prohibitions in sections 11 to 15 do not apply to anything done—

- (a) outside the Territory; and
- (b) under the authority of a licence granted in accordance with any provisions of the law in force in the place where it is done corresponding with the provisions of this Act.”.

9B. In sections 20(4) and 21(3), after “section 17” insert “or a licence referred to in section 17A(b)”.”.

(9) In paragraph 19—

- (a) in subparagraph (2), after “12 months”, insert “and for “the statutory maximum” substitute “£5,000 or its equivalent””; and
- (b) in subparagraph (3), for ““statutory maximum”” substitute “£5,000 or its equivalent”.

(10) In paragraph 22, before subparagraph (1), insert—

“(1ZA) In section 36(1), for “England and Wales” substitute “the Territory” and omit “by a magistrates’ court”.”.

(11) For paragraph 23, substitute—

“23.—(1) For the heading to section 37, substitute “Proceedings”.

(2) For section 37(1), substitute—

“(1ZA) Proceedings against a person for an offence under this Part may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(1) Proceedings for an offence under this Part must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.”.

(12) In paragraph 24(3), for “section 38(5) and (6)” substitute “section 38(4)(b), (5) and (6)”.

(13) For paragraph 26(2), substitute—

“(2) Omit section 42(3) and (4).”.

(14) For paragraph 28, substitute—

“28. In section 45, omit subsection (1).”.

5.—(1) Schedule 3 is amended as follows.

(2) For the heading, substitute—

“Additional modifications in the extension of the Terrorist Asset-Freezing etc. Act 2010 to the Sovereign Base Areas of Akotiri and Dhekelia, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha”.

(3) In paragraphs 1 and 2, after “Dhekelia” wherever it occurs insert “, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha”.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 (S.I. 2011/750) (as amended) (“the principal Order”). The principal Order extends, with

modifications, Part 1 of the Terrorist-Asset Freezing etc. Act 2010 (“the Act”) to the Overseas Territories. The amendments in article 4(3) alter the definition of “designated person” in the principal Order so this includes:

- (a) persons designated by the Treasury under Part 1 of the Act as it applies in the United Kingdom;
- (b) persons designated by the Council of the European Union under Article 2(3) of Council Regulation (EC) 2580/2001 of 27 December 2001; and
- (c) persons designated by the Governor of an Overseas Territory.

Such persons will be subject to the asset freeze regime provided for in the principal Order.

The amendments in article 4(4) to (6) introduce requirements for the Governor to consult the Secretary of State before designating any person under the Act (as extended by the principal Order). The amendments in article 4(8) introduce requirements for the Governor to consult the Treasury before granting, varying or revoking a licence in respect of a person described in paragraphs (a) and (b) above, and to consult the Secretary of State before granting, varying or revoking a licence in respect of a person described in paragraph (c) above.

The Order also makes other minor amendments to the principal Order.

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£4.25

UK201702079 02/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/157>

ISBN 978-0-11-115446-5



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