
STATUTORY INSTRUMENTS

1999 No. 3134

UNITED NATIONS

**The Afghanistan (United Nations
Sanctions) (Channel Islands) Order 1999**

<i>Made</i>	- - - -	<i>24th November 1999</i>
<i>Laid before Parliament</i>		<i>25th November 1999</i>
<i>Coming into force</i>	- -	<i>26th November 1999</i>

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 15th October 1999, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Afghanistan:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Afghanistan (United Nations Sanctions) (Channel Islands) Order 1999 and shall come into force on 26th November 1999.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 15th October 1999, this Order shall be amended, cease to have effect or its operation shall be suspended, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the Channel Islands so as to be law, respectively, in the Bailiwick of Guernsey and in the Bailiwick of Jersey only.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“Attorney General” means—

(1) 1946 c. 45.

- (a) in the application of this Order to the Bailiwick of Guernsey, the Attorney General for Guernsey; and
 - (b) in the application of this Order to the Bailiwick of Jersey, the Attorney General for Jersey;
- “body corporate” includes a partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;
- “funds”, means financial assets and economic benefits of any kind, including, but not necessarily limited to, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;
- “police officer”, in relation to Jersey, has the meaning provided in the Police Powers (Jersey) Law 1974;
- “the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of the resolution mentioned above;
- “the Taliban” means the Afghan political faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan.

Assets of the Taliban

3.—(1) Except under the authority of a written licence granted under this article:

- (a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
- (b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee;

no person shall make any funds to which this article applies available to or to the benefit of the Taliban or any such undertaking.

(2) This article applies to any funds owned or controlled directly or indirectly by the Taliban, or by an undertaking owned or controlled by the Taliban, as designated by the Sanctions Committee in the London, Edinburgh and Belfast Gazettes.

Application of article 3

4.—(1) The provisions of article 3 of this Order shall apply to any person within the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person or a British National (Overseas); or
- (b) is a body incorporated or constituted under the law of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

(2) Any person specified in paragraph (1) above who contravenes the provisions of Article 3 of this Order shall be guilty of an offence under this Order.

Offences in connection with applications for licences, conditions attaching to licences, etc.

5.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, the Finance and Economics Committee of the Bailiwick of Jersey under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, the Finance and Economics Committee of the Bailiwick of Jersey, after the doing of the act authorised by the licence.

Obtaining of evidence and information

6. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under any enactment relating to customs or of an offence against any provision of law with respect to similar matters for the time being in force in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey.

Investigations by the Agent of the Impôts

7. Where, in the case of the Bailiwick of Jersey, the Agent of the Impôts or any officer of the Impôts investigates or proposes to investigate any matter with a view to determining whether there are grounds for believing that an offence under this Order has been committed, the matters shall be treated as an assigned matter within the meaning of Article 1(1) of the Customs and Excise (General Provisions) (Jersey) Law, 1972.

Penalties and proceedings

8.—(1) Any person guilty of an offence against article 4(2) of this Order shall be liable in the Bailiwick of Guernsey—

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

(2) Any person guilty of an offence under paragraph 5(b) or (d) of the Schedule to this Order shall be liable, in the Bailiwick of Guernsey—

- (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 six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(3) Any person guilty of an offence under article 5(1) or (2) above or paragraph 5(a) or (c) of the Schedule to this Order shall be liable—

- (i) in the Bailiwick of Guernsey, on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both; and

(ii) in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding six months or to a fine or to both.

(4) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Summary proceedings in the Bailiwick of Guernsey and any proceedings in the Bailiwick of Jersey for an offence under this Order, being an offence alleged to have been committed outside the Bailiwick in question, may be commenced at any time not later than 12 months from the date on which the person charged first enters that Bailiwick after committing the offence.

(6) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey having jurisdiction in the place where that person is for the time being.

(7) No proceedings for an offence under this Order, in its application to the Bailiwick of Jersey, shall be instituted except by, or with the consent of, the Attorney General for Jersey:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of powers

9.—(1) The Lieutenant Governor or, as the case may be, the Finance and Economics Committee, or the Attorney General, may, to such extent and subject to such restrictions and conditions as he or it may think proper, delegate or authorise the delegation of any of his or its powers under this Order (other than the power to give authority under the Schedule to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him or it, and references in this Order to the Lieutenant Governor, Finance and Economics Committee and Attorney General shall be construed accordingly.

(2) Any licence granted by the Lieutenant Governor of the Bailiwick of Guernsey or, as the case may be, by the Finance and Economics Committee of the Bailiwick of Jersey, under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority which granted it.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 6

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Attorney General (or any person authorised by him for that purpose either generally or in a particular case) or in the case of the Bailiwick of Guernsey the Chief Revenue Officer or in the case of the Bailiwick of Jersey the Agent of the Impôts may request any person in or resident in the Bailiwick in question to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order: and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) above shall be taken to require any person who has acted as advocate for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If in the case of the Bailiwick of Guernsey or the Bailiwick of Jersey the Bailiff is satisfied by information on oath:

- (a) That there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs or an offence under any provision of law with respect to similar matters that is for the time being in force in the Bailiwick in question has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 above and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) A police officer or other person authorised by a warrant under sub-paragraph (1) above who has entered any premises or any vehicle, ship or aircraft may do any or all of the following things:

- (a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in sub-paragraph (1) above;
- (b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in sub-paragraph (1) above;
- (c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 above; or

(d) seize anything that it is necessary to seize in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in sub-paragraph (1) above; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in sub-paragraph (1) above.

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Islands of Alderney and Sark, any reference to the Bailiff includes a reference, in the case of Alderney, to the Chairman of the Court of Alderney and, in the case of Sark, to the Seneschal.

3. A person authorised.

- (a) in Guernsey, by the Attorney General or by the Chief Revenue Officer; or
- (b) in Jersey, by the Agent of the Impôts:

to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) above shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his 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 his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the States of Guernsey or Alderney or the Chief Pleas of Sark or, as the case may be, the States of Jersey; or
- (c) on the authority of the Attorney General, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance

with or detecting evasion of measures in relation to Afghanistan decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs or for an offence under any provision of law with respect to similar matters that is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

5. Any person 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 by any person who is empowered to make it; or
- (b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, gives effect in the Channel Islands to the imposition of restrictions pursuant to a decision of the Security Council of the United Nations in Resolution No. 1267 of 15th October 1999 on certain actions making available or otherwise transferring funds and and financial resources to or for the benefit of the Taliban.