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STATUTORY INSTRUMENTS

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**1999 No. 3135**

**UNITED NATIONS**

**The Afghanistan (United Nations  
Sanctions) (Isle of Man) Order 1999**

*Made* - - - - - *24th November 1999*  
*Laid before Parliament* *25th November 1999*  
*Coming into force* - - - *26th November 1999*

At the Court of Buckingham Palace, the 24th day of November 1999

Present,

The Queen's Most Excellent Majesty in Council

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<sup>(1)</sup>, 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) (Isle of Man) 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 amending, 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 Isle of Man, as part of its law.

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(1) 1946 c. 45.

## **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—

“body corporate” includes a limited liability company constituted under the Limited Liability Companies Act 1996 (an Act of Tynwald) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent;

“custody” means custody within the meaning of the Custody Act 1995 (an Act of Tynwald);

“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;

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of the resolutions mentioned above;

“the Taliban” means the Afghan political faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan;

“the Treasury” means the Isle of Man Treasury, a department of the Government of the Isle of Man.

## **Assets of the Taliban**

3.—(1) Except under the authority of a written licence granted by or on behalf of the Treasury under this article, 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 Isle of Man and to any person elsewhere who:

(a) is ordinarily resident in the Isle of Man and is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British protected person or a British National (Overseas); or

(b) is a body incorporated or constituted under the law of the Isle of Man.

(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 Treasury 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 Treasury 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, by or on behalf of the Treasury, of information for the purpose of securing compliance with or detecting evasion of this Order.

### **Penalties and proceedings**

7.—(1) Any person guilty of an offence against article 4(2) of this Order shall be liable:

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

(2) Any person guilty of an offence under paragraph 3(b) or (c) of the Schedule to this Order shall be liable:

- (a) on conviction on information to custody for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to custody for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(3) Any person guilty of an offence under article 5(1) or (2) of this Order shall be liable:

- (a) on conviction on information to custody for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under paragraph 3(a) of the Schedule to this Order shall be liable on summary conviction to custody for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) 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.

(6) Notwithstanding anything in section 75(1) of the Summary Jurisdiction Act 1989 (an Act of Tynwald), a complaint relating to an offence under this Order which is triable by a court of summary jurisdiction may be heard if it is made at any time within 3 years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(7) For the purposes of this article:

- (a) a certificate signed by or on behalf of the prosecutor as to the date on which such evidence as is referred to in paragraph (6) above came to his knowledge shall be conclusive evidence of that fact; and
- (b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(8) Subsection (2) of section 27 of the Police Powers and Procedures Act 1998 (an Act of Tynwald) shall apply to offences under this order which are not arrestable offences by virtue of the term of custody for which a person may be sentenced in respect of them, as if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(9) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted except by the Treasury or by or with the consent of the Attorney General for the Isle of Man:

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 of the Treasury**

8.—(1) The Treasury may to such extent and subject to such restrictions and conditions as it may think proper, delegate or authorise the delegation of any of 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 it, and references in this Order to the Treasury shall be construed accordingly.

(2) Any licence granted 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 Treasury (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in the Isle of Man to furnish to it (or to that authorised person) any information in his possession or control, or to produce to it (or that authorised person) any document in his possession or control, which it (or to 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 the foregoing sub-paragraph 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. No information furnished or document produced (including any copy of or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under Schedule 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 Government of the Isle of Man; or
- (c) on the authority of the Treasury, 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.

3. 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

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(c) 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.

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, gives effect in the Isle of Man 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 financial resources to or for the benefit of the Taliban.