
STATUTORY INSTRUMENTS

2005 No. 1461

The Democratic Republic of the Congo (United Nations Sanctions) (Overseas Territories) Order 2005

MAKING FUNDS AVAILABLE AND FREEZING OF FUNDS

Making funds available to a designated person

3. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds available to or for the benefit of any designated person or a person acting on behalf of a designated person shall be guilty of an offence under this Order.

Freezing of funds

4.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be a designated person or a person acting on behalf of a designated person, the Governor may by notice direct that those funds are not to be made available to any person, except under the authority of a licence granted by the Governor under article 3.

(2) A direction given under paragraph (1) shall specify either—

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 3 in respect of the funds in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held (“the owner”).

(6) A recipient shall be treated as complying with the requirement under paragraph (5) if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside, and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

Facilitation of activities prohibited under article 3 or 4(9)

5. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 3 or 4(9) is guilty of an offence under this Order.

Failure to disclose knowledge or suspicion of measures

6.—(1) A relevant institution is guilty of an offence if—

- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time—
 - (i) is a designated person; or
 - (ii) is a person acting on behalf of a designated person; or
 - (iii) has committed an offence under article 3, 4(9), 5 or 7(2); and
- (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the Governor—

- (a) its knowledge or suspicion that a person is a designated person, a person acting on behalf of a designated person, or a person who has committed an offence under article 3, 4(9), 5 or 7(2), or
- (b) any information or other matter on which that knowledge or suspicion is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.