
STATUTORY INSTRUMENTS

2009 No. 1747

The Terrorism (United Nations Measures) Order 2009

PART 5

Miscellaneous

Officers of a body corporate etc.

20.—(1) 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 officer's part,

the officer as well as the body corporate is guilty of an offence.

(2) Paragraph (1) also applies in relation to an institution which is not a body corporate, with the substitution for the reference to an officer of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body's affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.

Penalties

21.—(1) A person guilty of an offence under article 10, 11, 12, 13, 14 or 16 is liable—

- (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—
 - (i) in England, Wales and Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (ii) in Scotland to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum or to both.

(2) A person guilty of an offence under article 8 or 17 is liable—

- (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—
 - (i) in England, Wales and Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (ii) in Scotland to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum or to both.

(3) A person guilty of an offence under article 18(3) or paragraph 7 of the Schedule is liable 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 both.

Proceedings

22.—(1) Proceedings against any person for an offence may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) In England and Wales, summary proceedings for an offence may be tried by a magistrates' court if any information is laid—

- (a) before the end of twelve months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge, but
- (b) not later than three years from the commission of the offence.

(3) In Scotland—

- (a) summary proceedings for an offence may be commenced—
 - (i) before the end of twelve months from the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge, but
 - (ii) not later than three years from the commission of the offence; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(4) In Northern Ireland, summary proceedings for an offence may be instituted—

- (a) before the end of twelve months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge, but
- (b) not later than three years from the commission of the offence.

(5) For the purposes of this article—

- (a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate as to the date on which such evidence as is referred to in paragraphs (2) to (4) came to the prosecutor's or the Lord Advocate's knowledge is conclusive evidence of that fact, and
- (b) a certificate purporting to be so signed is presumed to be so signed unless the contrary is proved.

(6) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence, the constable may arrest that person without a warrant.

(7) No proceedings for an offence, other than for a summary offence, may be instituted in England, Wales or Northern Ireland except with the consent of the Attorney General or, as the case may be, the Advocate General for Northern Ireland.

(8) Whether or not such consent has been given, paragraph (7) does not prevent—

- (a) 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.

(9) Until the coming into force of section 27 of the Justice (Northern Ireland) Act 2002⁽²⁾, the reference in paragraph (7) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.

(1) 1995 c.46.

(2) 2002 c.26.

(10) In this article, “offence” means an offence under this Order.

Notices

23.—(1) This article has effect in relation to any notice to be given to a person by the Treasury under article 6(1)(a), 7(a) or 17(4)(a).

(2) Any such notice may be given—

(a) by posting it to the person’s last known address; or

(b) where the person is a body corporate which has its registered or principal office in the United Kingdom, by posting it to that office.

(3) Where the Treasury do not have an address in the United Kingdom for the person, they must make arrangements for the notice to be given to the person at the first available opportunity.

Postponement etc. of the operation of the Security Council Resolutions

24.—(1) If the Security Council of the United Nations takes any decision which has the effect of postponing, suspending or cancelling the operation of the Security Council Resolutions, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part as the case may be, in accordance with that decision.

(2) The Secretary of State must publish particulars of the decision in a notice in the London, Edinburgh and Belfast Gazettes.

The Crown

25.—(1) This Order binds the Crown, subject to the following provisions of this article.

(2) No contravention by the Crown of a provision of this Order makes the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Nothing in this article affects Her Majesty in her private capacity; and this is to be construed as if section 38(3) of the Crown Proceedings Act 1947⁽³⁾ (meaning of Her Majesty in her private capacity) were contained in this Order.

Transitional, revocation and saving provision

26.—(1) Subject to paragraphs (2), (3) and (4), the 2006 Order is revoked.

(2) Where a direction made by the Treasury under article 4 of the 2006 Order had effect immediately before the coming into force of this Order, the 2006 Order continues to apply for the purposes of that direction as if it had not been revoked by paragraph (1).

(3) Where a direction made by the Treasury under the Terrorism (United Nations Measures) Order 2001⁽⁴⁾ had effect immediately before the coming into force of this Order by virtue of article 20(2) of the 2006 Order, the 2001 Order continues to apply for the purpose of that direction as if it had not been revoked by the 2006 Order.

(4) A direction to which paragraph (2) or (3) applies ceases to have effect on 31st August 2010 unless revoked by the Treasury before that date.

(3) 1947 c.44.

(4) S.I. 2001/3365 as amended by S.I. 2001/3801, S.I. 2002/111, S.I. 2003/1297, S.I. 2005/1525 and S.I. 2005/3389.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
