SCHEDULE 5

Article 10

Evidence and information

Power to require information or documents

1.—(1) An authorised officer may request any person in, or resident in, the Territory to provide any information or produce any document in the person's possession or control which the officer may require for the purpose of—

(a) securing compliance with, or detecting evasion of, this Order,

(b) obtaining evidence of the commission of an offence under this Order,

(c) establishing the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person,

(d) establishing the nature of any financial transactions entered into by a designated person, or

(e) cooperating with any international investigation in accordance with article 6(1).

(2) When exercising the power in sub-paragraph (1), an authorised officer may—

(a) take copies of or extracts from any document so produced,

(b) request any person producing a document to give an explanation of it, and

(c) where that person is a body corporate, request any person who is a present or past officer or employee of the body corporate to give such an explanation.

(3) Any person to whom a request is made must comply with it within such time and in such manner as may be specified in the request.

(4) Nothing in this paragraph is to be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged information or document in the person's possession in that capacity.

Powers of search and entry to obtain evidence or information

2.—(1) A justice of the peace may grant a search warrant if satisfied by information on oath that—

(a) there are reasonable grounds for suspecting that—

(i) an offence under this Order has been or is being committed, or

(ii) information or a document requested by an authorised officer under paragraph 1 has not been provided or produced; and

(b) evidence of the commission of the offence, or the information or document so requested, is to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this paragraph is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) An authorised officer who enters and searches a ship, aircraft, vehicle or premises under a warrant issued under this paragraph may—

(a) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the officer to be necessary;

(b) inspect and seize anything found in the course of a search if the officer reasonably suspects that—

(i) it is evidence in relation to an offence under this Order,

(ii) it is information or a document requested (but not provided or produced) under paragraph 1, or

(iii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;

(c) take copies of any document;

(d) require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form).

(4) An authorised officer may, if necessary, use reasonable force in the exercise of the powers conferred by this paragraph.

(5) Anything seized under sub-paragraph (3) may be retained for so long as is necessary in all the circumstances.

(6) An authorised officer who enters a ship, aircraft, vehicle or premises under a warrant issued under this paragraph, or by virtue of sub-paragraph (3)(a), may—

(a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to believe to be in possession of anything which may be required as evidence for the purposes of proceedings in respect of an offence under this Order, and

(b) seize anything found in such a search.

(7) A search of a person under sub-paragraph (6) must be carried out by a person of the same sex.

Offences relating to information etc.

3. It is an offence for a person to—

(a) without reasonable excuse, refuse or fail 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,

(b) knowingly or recklessly give any information, or produce any document, which is false in a material particular in response to such a request,

(c) destroy, mutilate, deface, conceal or remove any document with intent to evade the provisions of this Schedule, or

(d) otherwise intentionally obstruct any person in the exercise of that person's powers under this Schedule.

4. Where a person is convicted of an offence under paragraph 3(a), the court may make an order requiring the person, within such period as may be specified in the order, to give the requested information or produce the requested document.

5.—(1) It is an offence for a person to disclose information or a document obtained in accordance with this Order (including a copy or extract made of such a document) except—

(a) to a person who would have been authorised to request the information or document under this Order;

(b) to a person holding or acting in any office under or in the service of—

(i) the Crown in right of the Government of the United Kingdom,

(ii) the Government of the Isle of Man,

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,

(iv) the States of Jersey, or

(v) the Government of any British overseas territory;

(c) for the purpose of giving assistance or cooperation, with the authority of the Governor, to—

(i) any organ of the United Nations, or

(ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the government of any State or territory;

(d) with a view to instituting, or otherwise for the purposes of, any proceedings—

(i) in the Territory, for an offence under this Order, or

(ii) in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory (other than the Territory), for an offence under a similar provision in any such jurisdiction;

(e) to the Financial Services Authority of the United Kingdom or to the relevant authority with responsibility in any other State or territory for regulating and supervising financial services business; or

(f) to any third party, with the consent of a person who, in the person's own right, is entitled to the information or to possession of the document, copy or extract.

(2) In sub-paragraph (1)(f) "in the person's own right" means not merely in the person's capacity as a servant or agent of another person.

6. An authorised officer must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

7. In this Schedule "authorised officer" means—

(a) a police or customs officer, or

(b) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case.

8. Anything done in accordance with this Schedule is not to be treated as a breach of any restriction imposed by statute or otherwise.