
STATUTORY INSTRUMENTS

2016 No. 937

CRIMINAL LAW

The Al-Qaida (Asset-Freezing) (Amendment) Regulations 2016

<i>Made</i>	- - - -	<i>21st September 2016</i>
<i>Laid before Parliament</i>		<i>21st September 2016</i>
		<i>22nd September</i>
<i>Coming into force</i>	- -	<i>2016</i>

The Treasury are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to Annex I to Council Regulation (EC) No 881/2002 of 27 May 2002⁽³⁾ imposing certain restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations, or to Annex I to Council Regulation No 1686/2016 of 20 September 2016⁽⁴⁾ imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaida and natural and legal persons, entities or bodies associated with them to be construed as a reference to the relevant Annex as amended from time to time.

The Treasury, in exercise of powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Al-Qaida (Asset-Freezing) (Amendment) Regulations 2016 and shall come into force on 22nd September 2016.

(1) [S.I. 2010/1834](#).
(2) [1972 c.68](#). Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c.51](#)) and the European Union (Amendment) Act 2008 ([c.7](#)), Schedule 1, Part 1. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006, and amended by [S.I. 2007/1388](#) and the European Union (Amendment) Act 2008, Schedule, Part 1.
(3) OJ No L 139, 29.5.2002, p.9, as amended by Council Regulation (EC) No 561/2003 of 27 March 2003 (OJ No L 82, 29.3.2002, p.1), Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJ No L 363, 20.12.2006, p.1), Council Regulation (EU) No 1286/2009 of 22 December 2009 (OJ No L 346, 23.12.2009, p.42), Council Regulation (EU) No 754/2011 of 1 August 2011 (OJ No L 199, 2.8.2011, p.23), Council Regulation (EU) No 596/2013 of 24 June 2013 (OJ No L 172, 25.6.2013, p.1), and Council Regulation (EU) No 363/2016 of 14 March 2016 (OJ No L 68, 15.3.2016, p.1). Annex I was most recently amended by Commission Implementing Regulation (EU) 2016/1683 of 19 September 2016 (OJ No L 254, 20.9.2016, p.18).
(4) OJ No L 255, 21.9.2016, p.1.

Amendments to the Al-Qaida (Asset-Freezing) Regulations 2011

2. The Al-Qaida (Asset-Freezing) Regulations 2011⁽⁵⁾ are amended in accordance with regulations 3 to 7.

3. In the title, for “Al-Qaida” substitute “ISIL (Da’esh) and Al-Qaida”.

4. In regulation 1(1) (citation, commencement and application), for “Al-Qaida” substitute “ISIL (Da’esh) and Al-Qaida”.

5. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “the Council Regulation” substitute—

““the 2002 Council Regulation” means Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain restrictive measures directed against certain persons and entities associated with the ISIL (Da’esh) and Al-Qaida organisations, and a reference to Annex I to that Regulation is to be construed as a reference to that Annex as amended from time to time;”⁽⁶⁾

“the 2016 Council Regulation” means Council Regulation No 1686/2016 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da’esh) and Al-Qaida and natural and legal persons, entities or bodies associated with them, and a reference to Annex I to that Regulation is to be construed as a reference to that Annex as amended from time to time;”.

(ii) for the definition of “designated person” substitute—

““designated person” means a person, entity, body or group listed in Annex I to the 2002 Council Regulation or Annex I to the 2016 Council Regulation;”.

(b) for paragraph (3) substitute—

“(3) Where the 2002 Council Regulation applies, any expression used both in these Regulations and in the 2002 Council Regulation has the meaning that it bears in the 2002 Council Regulation. Where the 2016 Council Regulation applies, any expression used both in these Regulations and in the 2016 Council Regulation has the meaning that it bears in the 2016 Council Regulation.”.

6. In regulation 3(1) (freezing of funds and economic resources), for the words “controlled by” substitute “controlled (directly or indirectly) by”.

7. In regulation 8 (credits to a frozen account), for paragraph (1) substitute—

“(1) To the extent that the prohibitions in regulations 4 and 5 apply because a designated person is listed in Annex I to the 2002 Council Regulation, those prohibitions are not contravened by a person who credits a frozen account with—

(a) interest or other earnings due on the account, or

(b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.”.

Consequential Amendments

8. The primary and secondary legislation mentioned in the Schedule is amended as set out in that Schedule.

(5) S.I. 2011/2742, as amended by S.I. 2013/472 and modified by the Wales Act 2014 (c.29), section 4(4)(a).

(6) This amends the reference to Council Regulation (EC) 881/2002 of 27 May 2002 so that the reference is to that Regulation as amended by Council Regulation (EU) 363/2016 and it re-names the definition to enable a further definition relating to Council Regulation No 1686/2016 to be added.

21st September 2016

Guto Bebb
Guy Opperman
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE

Regulation 8

Consequential Amendments

Consequential amendments to primary legislation

1. In section 63(1) of the Counter-Terrorism Act 2008(7), for paragraph (ae) substitute—
“(ae) the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2011/2742 as renamed by S.I. 2016/937),”.

Consequential amendments to secondary legislation

2. In regulation 2(1) of the Money Laundering Regulations 2007(8), in the definition of “terrorist financing”, for sub-paragraph (d), substitute—

“(d) regulation 10 of the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2011/2742 as renamed by S.I. 2016/937); or”.

3. In regulation 2(1) of the Transfer of Funds (Information on the Payer) Regulations 2007(9), in the definition of “terrorist financing”, for sub-paragraph (d), substitute—

“(d) regulation 10 of the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2011/2742 as renamed by S.I. 2016/937); or”.

4. In regulation 13(4)(d) of the Payment Services Regulations 2009(10), for “the Al-Qaida (Asset-Freezing) Regulations 2011”, substitute “the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2011/2742 as renamed by S.I. 2016/937)”.

5. In regulation 13(8)(d) of the Electronic Money Regulations 2011(11), for “the Al-Qaida (Asset-Freezing) Regulations 2011”, substitute “the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2011/2742 as renamed by S.I. 2016/937)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Council Regulation (EC) No 881/2002 (“the 2002 Council Regulation”) of 27th May 2002 (OJ No L 139 29.5.2002, p.9) imposes sanctions relating to certain persons and entities associated with the Al-Qaida network. These include restrictive measures freezing the funds and economic resources of persons and entities listed in Annex I to the 2002 Council Regulation. Criminal penalties for the breach of the restrictive measures imposed by the 2002 Council Regulation are imposed in the UK by the Al-Qaida (Asset-Freezing) Regulations 2011 (“the 2011 Regulations”).

(7) 2008 c.28. Amendment to insert section 63(1)(ae) made by S.I. 2011/2742.

(8) S.I. 2007/2157. Relevant amendments to Regulation 2(1) made by S.I. 2009/1912, S.I. 2011/2742 and the Terrorist Asset-Freezing etc. Act 2010 (c.38), sections 45(1) and 52(1), Schedule 1, Part 1, paragraph 6, and Schedule 2, Part 1.

(9) S.I. 2007/3298. Relevant amendments to Regulation 2(1) made by S.I. 2009/1912, S.I. 2011/2742 and the Terrorist Asset-Freezing etc. Act 2010 (c.38), sections 45(1) and 52(1), Schedule 1, Part 1, paragraph 7, and Schedule 2, Part 1.

(10) S.I. 2009/209. Relevant amendments to Regulation 13 made by S.I. 2011/2742 and the Terrorist Asset-Freezing etc. Act 2010 (c.38), sections 45(1) and 52(1), Schedule 1, Part 1, paragraph 8, and Schedule 2, Part 1.

(11) S.I. 2011/99. Relevant amendment to Regulation 13(8)(d) made by S.I. 2011/2742.

Council Regulation (EU) No 363/2016 of 14th March 2016 (OJ No L 68, 15.3.2016, p.1) (“Council Regulation 363/2016”) amended the 2002 Council Regulation to reflect changes adopted by United Nations Security Council Resolution 2253 (2015), which ensured, amongst other things, that persons or entities supporting ISIL (Da’esh) are eligible for listing by the United Nations.

Council Regulation No 1686/2016 (“the 2016 Council Regulation”) of 20 September 2016 (OJ No L 255, 21.9.2016, p.1) imposes additional restrictive measures against ISIL (Da’esh) and Al-Qaida and natural and legal persons, entities or bodies associated with them. These include restrictive measures freezing the funds and economic resources of persons and entities listed in Annex I to the 2016 Council Regulation.

These Regulations amend the 2011 Regulations. These amendments reflect certain amendments made by Council Regulation 363/2016 to the 2002 Council Regulation. The amendments also ensure that the enforcement provisions in the 2011 Regulations apply to the enforcement of the 2016 Council Regulation as well as the 2002 Council Regulation.

Regulations 3 and 4 of these Regulations amend the title and citation respectively of the 2011 Regulations to the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011.

Regulation 5(a)(i) amends the reference to Council Regulation (EC) 881/2002 of 27 May 2002 in regulation 2 of the 2011 Regulations so that the reference is to that Regulation as amended by Council Regulation 363/2016. It also inserts a new definition to define the 2016 Council Regulation.

Regulation 5(a)(ii) amends the definition of designated person in regulation 2 of the 2011 Regulations to include a person, entity, body or group listed in Annex I to the 2016 Council Regulation as well as those listed in Annex I to the 2002 Council Regulation.

Regulation 6 amends regulation 3(1) of the 2011 Regulations to confirm that the prohibition on dealing with funds or economic resources includes both direct and indirect conduct.

Regulation 7 amends regulation 8(1) of the 2011 Regulations. The amendment limits the exception to the prohibitions in regulations 4 and 5 of the 2011 Regulations to designated person listed in Annex I to the 2002 Council Regulation (the same exception was not included in the 2016 Council Regulation).

The Schedule sets out consequential amendments to primary and secondary legislation so that references in other legislation to the 2011 Regulations are to the amended title (as amended by regulations 3 and 4 of these Regulations).

An impact assessment has not been produced for this instrument as no significant impact on the costs of business and the voluntary sector is foreseen.

A list of designated persons is available on the internet at: www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets or can be obtained from Financial Sanctions, H.M. Treasury, 1 Horse Guards Road, London SW1A 2HQ.

Further information is available from Financial Sanctions, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and on the H.M. Treasury website (www.gov.uk/government/organisations/hm-treasury).