



# Terrorist Asset-Freezing etc. Act 2010

## 2010 CHAPTER 38

### PART 1

#### TERRORIST ASSET-FREEZING

### CHAPTER 4

#### SUPPLEMENTARY PROVISIONS

#### *Offences*

### 32 Penalties

- (1) A person guilty of an offence under section 11, 12, 13, 14, 15 or 18 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, to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding the statutory maximum or to both.
- (2) A person guilty of an offence under section 10 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, to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding the statutory maximum or to both.
- (3) For the purposes of subsections (1)(b) and (2)(b) “the relevant maximum” is—
  - (a) in England and Wales, 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003);
  - (b) in Scotland, 12 months;
  - (c) in Northern Ireland, 6 months.

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*Status: Point in time view as at 17/12/2010.*

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- (4) A person guilty of an offence under section 19(5) or 22 is liable on summary conviction to imprisonment for a term not exceeding the relevant maximum or to a fine not exceeding level 5 on the standard scale or to both.
- (5) For the purposes of subsection (4) “the relevant maximum” is—
- (a) in England and Wales, 51 weeks (or 6 months, if the offence was committed before the commencement of section 281(4) and (5) of the Criminal Justice Act 2003);
  - (b) in Scotland or Northern Ireland, 6 months.

### **33 Extra-territorial application of offences**

- (1) An offence under this Part may be committed by conduct wholly or partly outside the United Kingdom by—
- (a) a UK national, or
  - (b) a body incorporated or constituted under the law of any part of the United Kingdom.
- (2) In subsection (1) “UK national” means—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (3) Her Majesty may by Order in Council provide for this section to have effect as if the list of persons in subsection (1) included a body incorporated or constituted under the law of any territory named in the Order.
- (4) An Order under subsection (3) may name—
- (a) one or more of the Channel Islands,
  - (b) the Isle of Man, or
  - (c) one or more of the British overseas territories.
- (5) In this section “conduct” includes acts and omissions.
- (6) Nothing in this section affects any criminal liability arising otherwise than under this section.

### **34 Liability of officers of body corporate etc.**

- (1) Where an offence under this Part committed by a body corporate—
- (a) is committed with the consent or connivance 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, or
  - (b) is attributable to any neglect on the part of any such person,
- that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

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- (3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director 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.

### **35 Jurisdiction to try offences**

- (1) Where an offence under this Part is committed outside the United Kingdom—
- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (2) In the application of subsection (1) to Scotland, any such proceedings against a person may be taken—
- (a) in any sheriff court district in which the person is apprehended or is in custody, or
  - (b) in such sheriff court district as the Lord Advocate may determine.
- (3) In subsection (2) “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).
- (4) In section 28(2) of the Counter-Terrorism Act 2008 (jurisdiction to try offences committed in another part of the UK: offences to which the section applies), after paragraph (c) insert—
- “(d) an offence under any provision of Part 1 of the Terrorist Asset-Freezing etc. Act 2010.”

### **36 Time limit for proceedings for summary offences**

- (1) In England and Wales an information relating to an offence under section 19(5) or 22 may be tried by a magistrates' court if it is laid—
- (a) at any time within three years after the commission of the offence, and
  - (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (2) In Scotland—
- (a) proceedings for an offence under section 19(5) or 22 may be commenced—
    - (i) before the end of the period 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, and
    - (ii) not later than three years after the commission of the offence, and
  - (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of this subsection as for the purposes of that section.

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- (3) In Northern Ireland a magistrates' court has jurisdiction to hear and determine a complaint charging the commission of an offence under section 19(5) or 22 provided that the complaint is made—
- (a) at any time within three years after the commission of the offence, and
  - (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (4) For the purposes of this section a certificate of the prosecutor (or, in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

### **37 Consent to prosecution**

- (1) Proceedings for an offence under this Part (other than an offence under section 19(5) or 22) may not be instituted—
- (a) in England and Wales, except by or with the consent of the Attorney General;
  - (b) in Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland.
- (2) Nothing in subsection (1) prevents—
- (a) the arrest of a person in respect of an offence under this Part, or
  - (b) the remand in custody or on bail of a person charged with such an offence.

### **38 Procedure for offences by unincorporated bodies**

- (1) A fine imposed on an unincorporated body on its conviction of an offence under this Part must be paid out of the funds of the body.
- (2) Subsections (3) to (6) apply if it is alleged that an offence under this Part has been committed by an unincorporated body (as opposed to by a member of the body).
- (3) Proceedings in England and Wales or Northern Ireland for such an offence must be brought in the name of the body.
- (4) For the purposes of such proceedings—
- (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) in England and Wales, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
    - (ii) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)).
- (5) For the purposes of proceedings in Scotland for such an offence—
- (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
  - (b) in the case of proceedings on indictment, section 70 of the Criminal Procedure (Scotland) Act 1995 applies as it applies in relation to a body corporate.

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- (6) Subsection (5)(b) does not apply so far as the amendments made to section 70 of the Act of 1995 by section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 (proceedings on indictment against organisations) are in force instead.

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