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STATUTORY INSTRUMENTS

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**2002 No. 1822**

The Anti-terrorism (Financial and Other Measures) (Overseas Territories) Order 2002

PART II

TERRORIST PROPERTY

*Interpretation*

**Terrorist property**

5.—(1) In this Order “terrorist property” means—

- (a) money or other property which is likely to be used for the purposes of terrorism,
- (b) proceeds of the commission of acts of terrorism, and
- (c) proceeds of acts carried out for the purposes of terrorism.

(2) In paragraph (1) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission).

*Offences*

**Fund-raising**

6.—(1) A person commits an offence if he—

- (a) invites another to provide money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

(2) A person commits an offence if he—

- (a) receives money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

(3) A person commits an offence if he—

- (a) provides money or other property, and
- (b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

(4) In this article a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

### **Use and possession**

7.—(1) A person commits an offence if he uses money or other property for the purposes of terrorism.

(2) A person commits an offence if he—

- (a) possesses money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

### **Funding arrangements**

8. A person commits an offence if—

- (a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

### **Money laundering**

9.—(1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property—

- (a) by concealment,
- (b) by removal from the jurisdiction,
- (c) by transfer to nominees, or
- (d) in any other way.

(2) It is a defence for a person charged with an offence under paragraph (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

### **Disclosure of information: duty**

10.—(1) This article applies where a person—

- (a) believes or suspects that another person has committed an offence under any of articles 6 to 9, and
- (b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment.

(2) But this article does not apply if the information came to the person in the course of a business in the regulated sector (as defined in paragraph 1(12) of Schedule 1 for the purposes of that paragraph).

(3) The person commits an offence if he does not disclose to a constable as soon as is reasonably practicable—

- (a) his belief or suspicion, and
- (b) the information on which it is based.

(4) It is a defence for a person charged with an offence under paragraph (3) to prove that he had a reasonable excuse for not making the disclosure.

(5) Where—

- (a) a person is in employment,

(b) his employer has established a procedure for the making of disclosures of the matters specified in paragraph (3), and

(c) he is charged with an offence under that paragraph,

it is a defence for him to prove that he disclosed the matters specified in that paragraph in accordance with the procedure.

(6) Paragraph (3) does not require disclosure by a professional legal adviser of—

(a) information which he obtains in privileged circumstances, or

(b) a belief or suspicion based on information which he obtains in privileged circumstances.

(7) For the purposes of paragraph (6) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose—

(a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client,

(b) from a person seeking legal advice from the adviser, or from the person's representative, or

(c) from any person, for the purpose of actual or contemplated legal proceedings.

(8) For the purposes of paragraph (1)(a) a person shall be treated as having committed an offence under one of articles 6 to 9 if—

(a) he has taken an action or been in possession of a thing, and

(b) he would have committed an offence under one of those articles if he had been in the Territory at the time when he took the action or was in possession of the thing.

(9) A person guilty of an offence under this article shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both,

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

### **Disclosure of information: permission**

**11.**—(1) A person may disclose to a constable—

(a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property;

(b) any matter on which the suspicion or belief is based.

(2) A person may make a disclosure to a constable in the circumstances mentioned in article 10(1) and (3).

(3) Paragraphs (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(4) Where—

(a) a person is in employment, and

(b) his employer has established a procedure for the making of disclosures of the kinds mentioned in paragraph (1) and article 10(3),

paragraphs (1) and (2) shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

### **Disclosure of information: regulated and public sectors**

12. Schedule 1, which makes special provision for the disclosure of information by persons in the regulated and public sectors, shall have effect.

### **Cooperation with police**

13.—(1) A person does not commit an offence under any of articles 6 to 9 if he is acting with the express consent of a constable.

(2) Subject to paragraphs (3) and (4), a person does not commit an offence under any of articles 6 to 9 by involvement in a transaction or arrangement relating to money or other property if he discloses to a constable—

- (a) his suspicion or belief that the money or other property is terrorist property, and
- (b) the information on which his suspicion or belief is based.

(3) Paragraph (2) applies only where a person makes a disclosure—

- (a) after he becomes involved in the transaction or arrangement concerned,
- (b) on his own initiative, and
- (c) as soon as is reasonably practicable.

(4) Paragraph (2) does not apply to a person if—

- (a) a constable forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and
- (b) he continues his involvement.

(5) It is a defence for a person charged with an offence under any of articles 6(2) and (3) and 7 to 9 to prove that—

- (a) he intended to make a disclosure of the kind mentioned in paragraphs (2) and (3), and
- (b) there is reasonable excuse for his failure to do so.

(6) Where—

- (a) a person is in employment, and
- (b) his employer has established a procedure for the making of disclosures of the same kind as may be made to a constable under paragraph (2),

this article shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

(7) A reference in this article to a transaction or arrangement relating to money or other property includes a reference to use or possession.

### **Penalties**

14. A person guilty of an offence under any of articles 6 to 9 shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

### **Forfeitures**

15.—(1) The court by or before which a person is convicted of an offence under any of articles 6 to 9 may make a forfeiture order in accordance with the provisions of this article.

(2) Where a person is convicted of an offence under article 6(1) or (2) or 7, the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, he had in his possession or under his control, and
- (b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(3) Where a person is convicted of an offence under article 6(3) the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, he had in his possession or under his control, and
- (b) which, at that time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under article 8 the court may order the forfeiture of the money or other property—

- (a) to which the arrangement in question related, and
- (b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under article 9 the court may order the forfeiture of the money or other property to which the arrangement in question related.

(6) Where a person is convicted of an offence under any of articles 6 to 9, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(7) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this article, the court shall give him an opportunity to be heard before making an order.

(8) Schedule 2 (which makes further provision in relation to forfeiture orders under this article) shall have effect.

### **Forfeiture of terrorist cash**

**16.**—(1) Schedule 3 (which makes provision for enabling cash which—

- (a) is intended to be used for the purposes of terrorism, or
- (b) is, or represents, property obtained through terrorism,

to be forfeited in civil proceedings before a magistrate's court) shall have effect.

(2) The powers conferred by Schedule 3 are exercisable in relation to any cash whether or not proceedings have been brought for an offence in connection with the cash.

(3) Expressions used in this article have the same meanings as in Schedule 3.