

2016 No. 371

OVERSEAS TERRITORIES

The Iran (Sanctions) (Overseas Territories) Order 2016

(Legal Notice 32 of 2016)

Made - - - - 15th March 2016

Laid before Parliament 16th March 2016

Coming into force - - 17th March 2016

At the Court at Buckingham Palace, the 15th day of March 2016

Present,

The Queen's Most Excellent Majesty in Council

Under article 41 of the Charter of the United Nations, the Security Council of the United Nations has, by resolution adopted on 20th July 2015(a), called upon Her Majesty's Government in the United Kingdom to apply certain measures to give effect to decisions of the Council in relation to Iran:

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(b), section 112 of the Saint Helena Act 1833(c), the British Settlements Acts 1887 and 1945(d), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Iran (Sanctions) (Overseas Territories) Order 2016 and comes into force on 17th March 2016.

(2) It extends to the territories listed in Schedule 1.

Application of the Order

2.—(1) This Order applies to—

(a) any person in the Territory;

(b) any person elsewhere who is—

(i) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory, or

(a) S/RES/2231 (2015).
(b) 1946 c.45.
(c) 1833 c.85.
(d) 1887 c.54 and 1945 c.7.

- (ii) a body incorporated or constituted under the law of any part of the Territory; and
- (c) any person onboard a ship or aircraft that is registered in the Territory.

(2) Article 27 applies to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha as set out in Schedule 2.

(3) In the application of this Order to any territory listed in Schedule 1, the expression “the Territory” in this Order means that territory.

Interpretation

3.—(1) In this Order, unless otherwise provided—

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“assistance” means any form of assistance, including advice, training, technical assistance, financing and financial assistance, investment services, brokering services or other services, including the provision of armed mercenary personnel, and the transfer of financial resources and services;

“brokering services” means—

- (a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country, or
- (b) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator of the aircraft, or, if there is no operator, the person who is for the time being the pilot in command of the aircraft;

“the Council Regulation” means Council Regulation (EU) No. 267/2012 adopted by the Council of the European Union on 23rd March 2012(a) concerning restrictive measures against Iran;

“designated person” means any person listed in Annex VIII, IX, XIII or XIV to the Council Regulation;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

“export” includes shipment as stores;

“financing and financial assistance” includes grants, loans and export credit insurance, insurance and reinsurance;

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

“funds” means financial assets and benefits of every kind, including (but not limited to)—

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments,
- (b) deposits with relevant institutions or other entities, balances on accounts, debts and debt obligations,

(a) O.J.L.88 24.2.2012, p.1. The Council Regulation was most recently amended by Council Regulation (EU) 2015/1861 of 18 October 2015 (O.J.L.274 18.10.2015, p.1) and Council Implementing Regulation (EU) 2015/1862 of 18 October 2015 (O.J.L. 274 18.10.2015 p.161).

- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts,
- (d) interest, dividends or other income on or value accruing from or generated by assets,
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments,
- (f) letters of credit, bills of lading and bills of sale, and
- (g) documents showing evidence of an interest in funds or financial resources;

“goods” includes items, materials and equipment;

“Governor” means the Governor or other officer administering the Government of the Territory;

“insurance” means an undertaking or commitment where a person is obliged, in return for a payment, to provide another person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment;

“Iranian person” means—

- (a) the State of Iran or any public authority of the State of Iran,
- (b) any natural person in, or resident in, Iran,
- (c) any legal person, entity or body having its registered office in Iran, or
- (d) any legal person, entity or body, inside or outside Iran, owned or controlled directly or indirectly by one or more of the persons, entities or bodies mentioned in paragraphs (a) to (c);

“JCPOA” means the Joint Comprehensive Plan of Action of 14 July 2015 annexed to resolution 2231 (2015);

“master”, in relation to a ship, includes any person for the time being in charge of the ship;

“officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate or any person who has purported to act in any such capacity;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

“prohibited goods” means any goods, software or technology, including restricted goods, the sale, supply, transfer or export of which is an offence under article 9, 10, 12 or 14 to 16;

“reinsurance” means the activity consisting in accepting risks ceded by an insurance undertaking or by another reinsurance undertaking or, in the case of the association of underwriters known as Lloyd’s, the activity consisting in accepting risks, ceded by any member of Lloyd’s, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd’s;

“relevant institution” means—

- (a) any person who may lawfully accept deposits in or from within the Territory by way of business, or
- (b) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“relevant person”—

- (a) in relation to a ship, aircraft or vehicle falling within article 19(1)(a) or (b), means—
 - (i) the owner, charterer or master of the ship,
 - (ii) the owner, charterer, operator or commander of the aircraft, or
 - (iii) the owner, driver or operator of the vehicle, and
- (b) in relation to a ship or aircraft falling within article 19(1)(c), means—
 - (i) the charterer of the ship or aircraft, or

- (ii) the master of the ship, or operator of the aircraft, if the master or operator is a person mentioned in article 2(1)(a) or (b);

“resolution 2231 (2015)” means the United Nations Security Council resolution adopted on 20th July 2015(a);

“restricted goods” means—

- (a) the goods, software and technology specified in Schedule 2 to the Export Control Order 2008(b), and
- (b) so far as not covered by paragraph (a), the goods, software and technology specified in the Common Military List of the European Union(c) as amended from time to time;

“ship” includes every description of vessel used in navigation;

“shipment” includes loading into an aircraft;

“stores” means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried in them;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;

“the Territory” has the meaning given in article 2(3);

“transfer” in relation to funds means—

- (a) any transaction carried out on behalf of a payer through a payment service provider by electronic means, with a view to making funds available to a payee at a payment service provider, regardless of whether the payer and the payee are the same person, or
- (b) any transaction by non-electronic means such as in cash, cheques or accountancy orders, with a view to making funds available to a payee regardless of whether the payer and payee are the same person;

“vehicle” means land transport vehicle.

(2) For the purpose of the definition of “relevant institution” in paragraph (1)—

- (a) the activity of accepting deposits has the meaning given by section 22 of the Financial Services and Markets Act 2000(d), taken with Schedule 2 to that Act and any order under section 22 of that Act; and
- (b) a person is not regarded as accepting deposits by way of business if—
 - (i) the person does not hold himself or herself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which the person accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) An expression used both in this Order and in the Council Regulation has the meaning given in the Council Regulation.

(5) A reference in this Order to any enactment (including legislation of the European Union) or statutory instrument is to be construed as a reference to that enactment or instrument as amended from time to time.

(a) S/RES/2231 (2015).

(b) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2015/351 and amended by S.I. 2015/940.

(c) O.J.C. 107 9.4.2014, p.1.

(d) 2000 c.8. Section 22 was amended by section 7 of the Financial Services Act 2012 (c.21).

PART 1

Freezing funds etc.

Dealing with funds and economic resources

4.—(1) It is an offence for a person (“P”), including the designated person, to deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In paragraph (1), “deal with” means—

(a) in relation to funds—

(i) use, alter, move, allow access to or transfer,

(ii) deal with the funds in any other way that would result in a change in volume, amount, location, ownership, possession, character or destination, or

(iii) make any other change that would enable use, including portfolio management; and

(b) in relation to economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the resources.

(3) It is an offence for a person (“P”) to make funds or economic resources available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect, that—

(a) P is making the funds or economic resources so available; and

(b) in the case of economic resources, the designated person would be likely to exchange them, or use them in exchange, for funds, goods or services.

(4) It is an offence for a person (“P”) to make funds or economic resources available (directly or indirectly) to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or economic resources so available.

(5) For the purposes of paragraph (4)—

(a) funds or economic resources are made available for the benefit of a designated person only if that person obtains, or is able to obtain, a significant financial benefit from the funds or economic resources; and

(b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(6) No liability arises for any person concerned in the freezing of funds or economic resources in accordance with this article unless it is proved that the funds or economic resources were frozen or withheld as a result of negligence.

(7) This article is subject to articles 5, 7 and 21.

Credits to a frozen account

5.—(1) Nothing in article 4 prevents a person from crediting a frozen account with—

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

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

(c) payments due under a judicial, administrative or arbitral lien or judgment.

(2) Nothing in article 4 prevents a relevant institution from crediting a frozen account where it receives funds transferred to the account.

Supply of financial messaging services

6.—(1) It is an offence for a person (“P”) to supply specialised financial messaging services, which are used to exchange financial data, to a designated person if P knows, or has reasonable cause to suspect, that P is supplying such a service to a designated person.

(2) This article is subject to articles 7 and 21.

Licences granted by the Governor in relation to article 4 or 6

7.—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under article 4 or 6.

(2) A person is not guilty of an offence under article 4 or 6 in respect of anything done by the person under the authority of a licence granted by the Governor.

(3) A licence may, in particular, relate to—

- (a) payment of basic expenses of designated persons and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines, medical treatment, taxes, insurance premiums and public utility charges;
- (b) payment of reasonable professional fees and expenses associated with the provision of legal services;
- (c) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- (d) payment of necessary extraordinary expenses;
- (e) satisfaction of a judicial, administrative or arbitral lien established, or judgment entered, before the designated person was so designated and not for the benefit of a designated person;
- (f) payment by a designated person due under a contract or agreement concluded, or an obligation that arose, before the designated person was so designated provided that—
 - (i) the contract or arrangement is not related to an activity that constitutes an offence under this Order, and
 - (ii) the payment is not for the benefit of a designated person;
- (g) payment necessary for—
 - (i) the civil nuclear cooperation projects described in Annex III to the JCPOA, or
 - (ii) activities directly related to the goods and technology listed in Annex I or II to the Council Regulation, or any other activity required for the implementation of the JCPOA;
- (h) payment necessary for the official purposes of a diplomatic mission or consular post or international organisation enjoying immunities in accordance with international law, provided that the payment does not involve the release of funds or economic resources of a person listed in Annex VIII or XIII to the Council Regulation; and
- (i) payment necessary for activities directly related to equipment referred to in paragraph 2(c), subparagraph 1 of Annex B to resolution 2231 (2015) for light water reactors, provided that the payment does not involve the release of funds or economic resources of a person listed in Annex VIII or XIII to the Council Regulation.

Information relating to funds etc.

8.—(1) The Governor must take such steps as the Governor considers appropriate to cooperate with any international investigation relating to the funds, economic resources or financial transactions of—

- (a) a designated person;
- (b) a person owned or controlled by a designated person; or
- (c) a person acting on behalf of, or at the direction of, a designated person.

(2) A relevant institution must inform the Governor as soon as practicable if it knows or suspects that a customer—

- (a) is a designated person; or

- (b) has committed an offence under article 4 or 20(7).
- (3) When informing the Governor under paragraph (2), the relevant institution must state—
 - (a) the information or other matter on which the knowledge or suspicion is based;
 - (b) any information it holds about the customer by which the customer can be identified; and
 - (c) if the customer is a designated person, the nature and amount or quantity of any funds or economic resources held by the relevant institution for the customer since the customer first became a designated person.
- (4) A relevant institution must inform the Governor as soon as practicable if it credits a frozen account in accordance with article 5(1)(b) or (c) or (2).
- (5) It is an offence for a relevant institution to fail to comply with a requirement of paragraph (2), (3) or (4).
- (6) Anything done by a relevant institution in accordance with this article is not to be treated as a breach of any restriction imposed by statute or otherwise.
- (7) In this article, “customer”, in relation to a relevant institution, includes—
 - (a) a person who is or has been a customer of the institution at any time since the coming into force of this Order; or
 - (b) a person with whom the institution has had dealings in the course of its business since the coming into force of this Order.

PART 2

Restricted goods etc.

Offences related to restricted goods

- 9.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) restricted goods—
- (a) to any Iranian person; or
 - (b) for use in Iran.
- (2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of restricted goods if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.
- (3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of restricted goods—
- (a) to any Iranian person; or
 - (b) for use in Iran.
- (4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of restricted goods—
- (a) by any Iranian person; or
 - (b) for use in Iran.
- (5) It is an offence for a person (“P”) to knowingly enter into any arrangement for participation, or increase in participation, in any Iranian person that P knows, or has reasonable cause to suspect, is engaged in the manufacture of restricted goods.
- (6) In paragraph (5), “participation” includes the making of loans or credit.
- (7) It is an offence for a person to knowingly purchase, import or transport from Iran (directly or indirectly) restricted goods.
- (8) This article does not apply in respect of—

- (a) non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the European Union and its Member States in Iran; or
- (b) the transfer (direct or indirect) to, or for use in or for the benefit of, Iran through the Territory of items referred to in paragraph 2(c), subparagraph 1 of Annex B to resolution 2231 (2015) for light water reactors.

Offences related to goods and technology listed in Annex I to the Council Regulation

10.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) goods and technology listed in Annex I to the Council Regulation or other relevant goods—

- (a) to any Iranian person; or
- (b) for use in Iran.

(2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of goods and technology listed in Annex I to the Council Regulation or other relevant goods if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of goods and technology listed in Annex I to the Council Regulation or other relevant goods—

- (a) to any Iranian person; or
- (b) for use in Iran.

(4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of goods and technology listed in Annex I to the Council Regulation or other relevant goods—

- (a) by any Iranian person; or
- (b) for use in Iran.

(5) It is an offence for a person (“P”) to knowingly enter into any arrangement with an Iranian person (“I”), or any person acting on I’s behalf or at I’s direction, if P knows, or has reasonable cause to suspect, the arrangement would enable I to participate, or increase I’s participation, in commercial activities involving—

- (a) uranium mining; or
- (b) production or use of nuclear materials as listed in Part 1 of the Nuclear Suppliers Group list, as set out in Annex I to the Council Regulation.

(6) In paragraph (5), “arrangement” includes the acceptance of loans or credit.

(7) It is an offence for a person to knowingly purchase, import or transport from Iran (directly or indirectly) goods and technology listed in Annex I to the Council Regulation.

(8) In this article, “other relevant goods” means any goods and technology which the person has been informed by the Governor could contribute to reprocessing- or enrichment-related or heavy water-related activities inconsistent with the JCPOA.

(9) This article is subject to articles 11 and 21.

Licences related to article 10

11.—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under article 10.

(2) A person is not guilty of an offence under article 10 in respect of anything done under the authority of a licence granted by the Governor.

(3) A licence may not be granted authorising the supply, sale, transfer or export to Iran of equipment referred to in paragraph 2(c), subparagraph 1 of Annex B to resolution 2231 (2015) for light water reactors unless the Governor is satisfied—

- (a) requirements, as appropriate, of the Guidelines referred to in paragraph 22(c) of resolution 2231 (2015) have been met; and
- (b) the Governor has obtained, and is in a position to exercise effectively, a right to verify the end-use and end-use location of any supplied item.

(4) A licence for any activity to which this paragraph applies may not be granted unless the Governor is satisfied—

- (a) all activities are undertaken strictly in accordance with the JCPOA;
- (b) requirements, as appropriate, of the Guidelines referred to in paragraph 22(c) of resolution 2231 (2015) have been met; and
- (c) the Governor has obtained, and is in a position to exercise effectively, a right to verify the end-use and end-use location of any supplied item.

(5) Paragraph (4) applies to activities mentioned in article 10(1) to (4) that are directly related to—

- (a) the modification of two cascades at the Fordow facility for stable isotope production;
- (b) the export of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium; or
- (c) the modernisation of the Arak reactor based on the agreed conceptual design and, subsequently, the agreed final design of such reactor.

Offences related to goods and technology listed in Annex II to the Council Regulation

12.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) goods and technology listed in Annex II to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of goods and technology listed in Annex II to the Council Regulation if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of goods and technology listed in Annex II to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of goods and technology listed in Annex II to the Council Regulation—

- (a) by any Iranian person; or
- (b) for use in Iran.

(5) It is an offence for a person (“P”) to knowingly enter into any arrangement with an Iranian person (“I”), or any person acting on I’s behalf or at I’s direction, if P knows, or has reasonable cause to suspect, the arrangement would enable I to participate, or increase I’s participation, in commercial activities involving technologies listed in Annex II to the Council Regulation.

(6) In paragraph (5), “arrangement” includes the acceptance of loans or credit.

(7) It is an offence for a person to knowingly purchase, import or transport from Iran (directly or indirectly) goods and technology listed in Annex II to the Council Regulation.

(8) This article is subject to articles 13 and 21.

Licences related to article 12

13.—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under article 12.

(2) A person is not guilty of an offence under article 12 in respect of anything done under the authority of a licence granted by the Governor.

(3) A licence may not be granted if the Governor has reasonable grounds to determine that the activity would contribute to reprocessing- or enrichment-related, heavy water-related, or other nuclear related activities inconsistent with the JCPOA.

(4) A licence may not be granted authorising the sale, supply, transfer or export of goods and technology listed in Annex II to the Council Regulation unless the Governor has obtained, and is in a position to exercise effectively, a right to verify the end-use and end-use location of any supplied item.

(5) A licence for any activity to which this paragraph applies may not be granted unless the Governor is satisfied—

- (a) all activities are undertaken strictly in accordance with the JCPOA; and
- (b) the Governor has obtained, and is in a position to exercise effectively, a right to verify the end-use and end-use location of any supplied item.

(6) Paragraph (5) applies to activities mentioned in article 12(1) to (4) that are directly related to—

- (a) the modification of two cascades at the Fordow facility for stable isotope production;
- (b) the export of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium; or
- (c) the modernisation of the Arak reactor based on the agreed conceptual design and, subsequently, the agreed final design of such reactor.

Offences related to goods and technology listed in Annex III to the Council Regulation

14.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods—

- (a) to any Iranian person; or
- (b) for use in Iran.

(2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods—

- (a) to any Iranian person; or
- (b) for use in Iran.

(4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods—

- (a) by any Iranian person; or
- (b) for use in Iran.

(5) It is an offence for a person (“P”) to knowingly enter into any arrangement with an Iranian person (“I”), or any person acting on I's behalf or at I's direction, if P knows, or has reasonable cause to suspect, the arrangement would enable I to participate, or increase I's participation, in

commercial activities involving goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods.

(6) In paragraph (5), “arrangement” includes the acceptance of loans or credit.

(7) It is an offence for a person to knowingly purchase, import or transport from Iran (directly or indirectly) goods and technology listed in Annex III to the Council Regulation or other relevant nuclear goods.

(8) In this article, “other relevant nuclear goods” means any goods and technology which the person has been informed by the Governor could contribute to the development of nuclear weapon delivery systems.

Offences related to software listed in Annex VIIA to the Council Regulation

15.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) software listed in Annex VIIA to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of software listed in Annex VIIA to the Council Regulation if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of software listed in Annex VIIA to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of software listed in Annex VIIA to the Council Regulation—

- (a) by any Iranian person; or
- (b) for use in Iran.

(5) This article is subject to articles 17 and 21.

Offences related to graphite and raw or semi-finished metals listed in Annex VIIB to the Council Regulation

16.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) graphite and raw or semi-finished metals listed in Annex VIIB to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(2) It is an offence for a relevant person (“RP”) to knowingly use a ship, aircraft or vehicle to which article 19(1) applies for the carriage of graphite and raw or semi-finished metals listed in Annex VIIB to the Council Regulation if RP knows, or has reasonable cause to suspect, the carriage is, or forms part of, carriage from any place outside Iran to any destination in Iran.

(3) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of graphite and raw or semi-finished metals listed in Annex VIIB to the Council Regulation—

- (a) to any Iranian person; or
- (b) for use in Iran.

(4) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of graphite and raw or semi-finished metals listed in Annex VIIB to the Council Regulation—

- (a) by any Iranian person; or
- (b) for use in Iran.

(5) This article does not apply in respect of goods listed in Annex I, II or III to the Council Regulation or in Annex I to Council Regulation (EC) No. 428/2009 of 5 May 2009(a) setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

(6) This article is subject to articles 17 and 21.

Licences related to articles 15 and 16

17.—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under article 15 or 16.

(2) A person is not guilty of an offence under article 15 or 16 in respect of anything done under the authority of a licence granted by the Governor.

(3) A licence may not be granted authorising the sale, supply, transfer or export of software listed in Annex VIIA, or graphite and raw or semi-finished metals listed in Annex VIIB, to the Council Regulation if the Governor has reasonable grounds to determine that the sale, supply, transfer or export is for or may be intended for use in connection with—

- (a) reprocessing- or enrichment-related, heavy water-related, or other nuclear-related activities inconsistent with the JCPOA;
- (b) Iran’s military or ballistic missile programme; or
- (c) the direct or indirect benefit of the Iranian Revolutionary Guard Corps.

(4) A licence may not be granted authorising any activity referred to in article 15 or 16 unless the Governor is satisfied that the contracts in respect of the activity include appropriate end-user guarantees.

Offences related to provision of services to ships and aircraft carrying prohibited goods

18.—(1) It is an offence for a person (“P”) to knowingly provide a relevant service to—

- (a) a ship owned or controlled (directly or indirectly) by an Iranian person; or
- (b) a cargo aircraft owned or controlled (directly or indirectly) by an Iranian person,

where P knows or has reasonable cause to believe that the ship or aircraft is carrying prohibited goods.

(2) For the purposes of paragraph (1), “relevant service” means—

- (a) any servicing of a ship, including bunkering or ship supply services; or
- (b) in the case of a cargo aircraft, engineering or maintenance services.

(3) Paragraph (1) applies until any cargo being carried by the ship or aircraft has been inspected and, if necessary, seized and disposed of.

(4) This article does not apply if the relevant service is necessary for humanitarian and safety purposes.

Additional provisions in relation to ships, aircraft and vehicles

19.—(1) For the purpose of articles 9(2), 10(2), 12(2), 14(2), 15(2) and 16(2), this article applies to—

- (a) a ship, aircraft or vehicle within the Territory;

(a) O.J.L. 134 29/5.2009, p.1.

- (b) a ship or aircraft registered in the Territory; or
- (c) any other ship or aircraft that is for the time being chartered to a person mentioned in article 2(1)(a) or (b).

(2) Articles 9(2), 10(2), 12(2), 14(2), 15(2) and 16(2) are without prejudice to any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

PART 3

General

Licences granted by the Governor

20.—(1) Any licence granted under this Order must specify the acts authorised by it and may be—

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions; and
- (c) of indefinite duration or subject to an expiry date.

(2) The Governor may, with the consent of the Secretary of State, suspend, vary or revoke a licence at any time.

(3) On the grant, suspension, variation or revocation of a licence, the Governor must—

- (a) in the case of a licence granted to a particular person, give written notice of the grant, suspension, variation or revocation to that person; and
- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Governor considers appropriate to publicise the grant, suspension, variation or revocation of the licence.

(4) Any notice to be given to a person by the Governor under paragraph (3) may be given—

- (a) by posting it to the person's last known address; or
- (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office in the Territory of the body or partnership.

(5) Where the Governor does not have an address in the Territory for the person, the Governor must make arrangements for the notice to be given to the person at the first available opportunity.

(6) Failing to comply with any condition in the licence is acting in a way that is not authorised by the licence unless—

- (a) the licence was modified after the completion of the act authorised by the licence; and
- (b) the alleged failure to comply with a condition in the licence would not have been a failure if the licence had not been so modified.

(7) It is an offence for a person to knowingly or recklessly make any statement or give any document or information which is false in a material particular for the purpose of obtaining a licence.

(8) A licence granted in connection with the application for which the false statement was made or the false document or information given is void from the time it was granted.

Licences granted outside the Territory

21. A person is not guilty of an offence under articles 4, 6, 10, 12, 15 or 16 in respect of anything done by the person—

- (a) outside the Territory; and
- (b) under the authority of a licence granted in accordance with any provisions of the law in force in the place where it is done corresponding with the provisions of this Order.

Claims for indemnity or under contract

22.—(1) No claim in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by this Order shall be enforced if it is made by—

- (a) a designated person; or
- (b) a person acting on behalf of a designated person.

(2) Paragraph (1) applies in particular to any claim for indemnity or any other claim of this type, such as a claim under guarantee (including a financial guarantee or indemnity).

(3) In any proceedings for the enforcement of such a claim, the burden of proof that the claim is not prohibited is on the person seeking to enforce that claim.

Requirement to publish list of designated persons and restricted goods

23.—(1) The Governor must—

- (a) publish a list of designated persons and restricted goods; and
- (b) keep the list up to date.

(2) The Governor may publish a list under paragraph (1) in any form the Governor considers appropriate, including by means of a website.

Evidence and information

24. Schedule 3 contains further provision about obtaining evidence and information.

Functions of the Governor

25.—(1) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor's functions under this Order to any person, or class or description of persons.

(2) References in this Order to the Governor are to be construed accordingly.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

Circumvention and contravention of prohibitions

26. It is an offence for a person to intentionally participate in an activity, knowing that the object or effect of the activity is (directly or indirectly)—

- (a) to circumvent any of the prohibitions in article 4, 6, 9, 10, 12, 14 to 16 or 18; or
- (b) to enable or facilitate the contravention of any such prohibition.

Penalties

27.—(1) A person guilty of an offence under article 4, 6, 9, 10, 12, 14 to 16, 18 or 26 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) A person guilty of an offence under article 8 or 20(7), or paragraph 3(b), (c) or (d) of Schedule 3 is liable—

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

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) A person guilty of an offence under paragraph 3(a) or 5 of Schedule 3 is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(4) 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 part of an officer of the body corporate, the officer as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished accordingly.

Proceedings

28.—(1) Proceedings against a person for an offence may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(2) Summary proceedings for an offence alleged to have been committed outside the Territory may be instituted within the period of 12 months beginning with the date on which the person charged first enters the Territory after committing the offence.

(3) Proceedings for an offence must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(4) Nothing in paragraph (3) prevents—

(a) the arrest, or the issue or execution of a warrant for 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.

(5) A reference in this article to an offence is to an offence under this Order.

Revocations

29. The following Orders are revoked—

(a) The Iran (Restrictive Measures) (Overseas Territories) Order 2012(a);

(b) The Iran (Restrictive Measures) (Overseas Territories) (Amendment) (No.2) Order 2013(b);

(c) The Iran (Restrictive Measures) (Overseas Territories) (Amendment and Suspension) Order 2015(c); and

(d) The Iran (Restrictive Measures) (Overseas Territories) (Amendment) (No.2) Order 2015(d).

Savings

30. A licence which was granted by the Governor under the Iran (Restrictive Measures) (Overseas Territories) Order 2012 and was in effect immediately before the coming into force of this Order has effect as if it were granted under this Order.

Ceri King
Deputy Clerk of the Privy Council

(a) S.I. 2012/1756.
(b) S.I. 2013/1444.
(c) S.I. 2015/825.
(d) S.I. 2015/1772.

SCHEDULE 1

Article 1(2)

Territories to which this Order extends

Anguilla
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands St
Helena, Ascension and Tristan da Cunha South
Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Turks and Caicos Islands
Virgin Islands

SCHEDULE 2

Article 2(2)

Application of Article 27 to particular Territories

Application of article 27

1.—(1) Article 27 applies as follows to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha.

(2) A person guilty of an offence under article 4, 6, 9, 10, 12, 14 to 16, 18 or 26 is liable on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

(3) A person guilty of an offence under article 8 or 20(7), or paragraph 3(b), (c) or (d) of Schedule 3, is liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(4) A person guilty of an offence under paragraph 3(a) or 5 of Schedule 3 is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) 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 part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

Evidence and information

Power to require information, documents or goods

1. —(1) An authorised officer may request a person in or resident in the Territory to provide any information or produce any document or goods 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 8(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 a person producing a document to give an explanation of it; and
- (c) where that person is a body corporate, request a person who is a present or past officer or employee of the body corporate to give such an explanation.

(3) A 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) Any power under this Schedule to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

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

Search warrants

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, is being, or is about to be committed, or
 - (ii) any information, document or goods requested by an authorised officer under paragraph 1 has or have not been provided or produced; and
- (b) evidence in relation to the offence, or the information, document or goods so requested, is or are 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) take such steps as appear to the officer to be necessary, including in particular any steps mentioned in sub-paragraph (4);

- (c) 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, a document or goods 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; and
- (d) take copies of any document.
- (4) The steps mentioned in sub-paragraph (3)(b) include—
 - (a) entering any land;
 - (b) using reasonable force; and
 - (c) stopping a ship, aircraft or vehicle for the purposes of entering and searching it.
- (5) An authorised officer who enters a ship, aircraft, vehicle or premises under a warrant issued under this paragraph 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.
- (6) Anything seized under sub-paragraph (3)(c) or (5)(b) may be—
 - (a) retained for so long as is necessary in all the circumstances; and
 - (b) forfeited, disposed of or transferred as appropriate.
- (7) A search of a person under sub-paragraph (5) must be carried out by a person of the same sex.

Offences

- 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 a 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 Conduct 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.

Exercise of powers: general

6.—(1) Any power exercisable by an authorised officer under this Schedule may be exercised by a person acting under the officer's authority.

(2) An authorised officer, or a person acting under the officer's authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

(3) An authorised officer may exercise any power under paragraph 2 in relation to—

- (a) a ship within the seaward limits of the territorial sea of the Territory;
- (b) a ship registered in the Territory while it is on the high seas; or
- (c) an aircraft or vehicle in the Territory.

(4) But such a power may not be exercised in relation to a ship falling within sub-paragraph (5) unless—

- (a) in the case of a ship falling only within sub-paragraph (5)(a), the Territory is entitled under international law to exercise the power without the consent of the flag state; or
- (b) in any other case, the Governor, with the consent of the Secretary of State, has authorised the exercise of the power.

(5) A ship falls within this sub-paragraph if it is—

- (a) a ship flying the flag of, or registered in, a State or territory other than the Territory;
- (b) a warship that belongs to a government of a State or territory other than the Territory; or
- (c) any other ship that is being used by such a government only for non-commercial purposes.

(6) The Governor may authorise the exercise of a power under sub-paragraph (4)(b) only if the flag state has consented to the Territory exercising the power (whether generally or in relation to the ship in question).

(7) In giving such authority, the Governor must impose such conditions or limitations on the exercise of the power as are necessary to give effect to any conditions or limitations imposed by the flag state.

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

(9) This Schedule is without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

Interpretation

7. In this Schedule—

“authorised officer” means—

- (a) a commissioned officer of the armed forces of the Territory,
- (b) a police or customs officer of the Territory, or
- (c) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case;

“high seas” means seas that are not within the seaward limits of—

- (a) the territorial sea of the Territory, or
- (b) the territorial sea adjacent to a State or territory outside the Territory;

“justice of the peace” includes other competent judicial authorities within the Territory responsible for granting search warrants.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect in specified Overseas Territories to sanctions in respect of Iran set out in United Nations Security Council resolution 2231 (2015) (“resolution 2231”) and the Joint Comprehensive Plan of Action (“JCPOA”) annexed to that resolution. It also reflects the implementation of these sanctions by the European Union in Council Decision 2010/413/CFSP of 26 July 2010, as amended most recently by Council Decision (CFSP) 2015/1863 of 18 October 2015 (“the 2015 Council Decision”), and Council Regulation (EU) No. 267/2012 of 23 March 2012, as amended most recently by Council Regulation (EU) 2015/1861 and Council Implementing Regulation (EU) 2015/1862, both of 18 October 2015 (“the 2015 Council Regulations”).

The JCPOA annexed to resolution 2231 provides for staged sanctions relief for Iran in exchange for Iran verifiably limiting its nuclear programme. The 2015 Council Decision and 2015 Council Regulations were adopted to reduce the restrictive measures against Iran consistent with the first stage of sanctions relief set out in the JCPOA and resolution 2231, and entered into force on 16th January 2016.

This Order revokes and replaces the Iran (Restrictive Measures) (Overseas Territories) Order 2012 to implement the revised package of sanctions in the Overseas Territories. The sanctions include the freezing of funds and economic resources of designated persons, as well as trade restrictions in respect of specified goods. The Order also makes provision for the Governor to license certain activities in line with exemptions under the sanctions regime.

© Crown copyright 2016

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.00

UK201603086 03/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/371>

ISBN 978-0-11-114540-1



9 780111 145401