



At the Court at Buckingham Palace

THE 17th DAY OF MARCH 2010

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

Her Majesty, by virtue and in exercise of all the powers in Her Majesty vested, is pleased, by and with the advice of Her Privy Council to order hereby as follows:

PART 1
INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Counter-Terrorism (Terrorist Financing, Money Laundering and Certain Other Activities: Financial Restrictions) (Turks and Caicos Islands) Order 2010 and comes into force on 18th March 2010.

Extent

2. This Order extends to the Turks and Caicos Islands.

Interpretation

3. ... (1) The Interpretation Act 1978⁽¹⁾ shall apply, with the necessary modifications, for the purpose of interpreting this Order, and otherwise in relation thereto, as it applies for the purpose of interpreting, and otherwise in relation to, Acts of Parliament.

(2) In this Order—

“Attorney General” means the Attorney General of the Turks and Caicos Islands and includes any person for the time being lawfully performing the functions of the Attorney General;

“business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;

(1) 1978 c.30.

“conduct” includes acts and omissions;

“country” includes territory;

“document” means information recorded in any form;

“Governor” means the Governor of the Turks and Caicos Islands and includes any person for the time being lawfully performing the functions of Governor;

“justice” means a magistrate as defined in section 2 of the Magistrate's Court Ordinance (Cap 11) of the Turks and Caicos Islands;

“Magistrate’s Court” means the Magistrate’s Court of the Turks and Caicos Islands referred to in the Magistrate’s Court Ordinance (Cap 12) of the Turks and Caicos Islands;

“notice” means a notice in writing;

“Supreme Court” means the Supreme Court of the Turks and Caicos Islands referred to in the Supreme Court Ordinance (Cap 11) of the Turks and Caicos Islands.

(3) In this Order—

- (a) references to conviction on indictment are references to conviction after trial before the Supreme Court;
- (b) references to summary conviction are references to conviction after trial by the Magistrate’s Court;
- (c) the “statutory maximum” means the fine prescribed by the law of the Turks and Caicos Islands, as for the time being in force, as the upper limit of the fines that the Magistrate’s Court may impose on offenders in respect of any single criminal offence (disregarding any special provision authorising a greater fine to be imposed in respect of any particular offence).

(4) Where any provision of this Order confers any function on the Governor, it is to be construed as conferring that function on him to be exercised by him acting in his discretion.

(5) In this Order any reference to an amount in one currency includes the equivalent amount in any other currency.

PART 2 DIRECTIONS

Conditions for giving a direction

4.—(1) The Governor may give a direction under this Order if one or more of the following conditions is met in relation to a country.

(2) The first condition is that the Financial Action Task Force has advised that measures should be taken in relation to the country because of the risk of terrorist financing or money laundering activities being carried on

- (a) in the country;
- (b) by the government of the country; or
- (c) by persons resident or incorporated in the country.

(3) The second condition is that the Governor reasonably believes that there is a risk that terrorist financing or money laundering activities are being carried on—

- (a) in the country;
 - (b) by the government of the country; or
 - (c) by persons resident or incorporated in the country,
- and that this poses a significant risk to the interests of the Turks and Caicos Islands or the United Kingdom.

(4) The third condition is that the Governor reasonably believes that—

- (a) the development or production of nuclear, radiological, biological or chemical weapons in the country, or
 - (b) the doing in the country of anything that facilitates the development or production of such weapons,
- poses a significant risk to the interests of the Turks and Caicos Islands or the United Kingdom.

(5) The power to give a direction is not exercisable in relation to an EEA state.

Main definitions

5.—(1) “Terrorist financing” means—

- (a) the use of funds, or the making available of funds, for the purposes of terrorism, or
- (b) the acquisition, possession, concealment, conversion or transfer of funds that are (directly or indirectly) to be used or made available for those purposes.

(2) “Terrorism” means the use or threat of action where—

- (a) the action falls within paragraph (3);
- (b) the use or threat is designed to influence the government or an international governmental organisation or intimidate the public or a section of the public; and
- (c) the use or threat is made for the purpose of advancing a political, religious, racial, or ideological cause.

(3) Action falls within this paragraph if it—

- (a) involves serious violence against a person;
- (b) involves serious damage to property;
- (c) endangers a person’s life, other than that of a person committing the action;
- (d) creates a serious risk to the health or safety of the public or a section of the public; or
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system.

(4) The use or threat of action falling within paragraph (3) which involves the use of firearms or explosives is terrorism whether or not paragraph (2)(b) is satisfied.

- (5) In paragraphs (2), (3) and (4)—
- (a) “action” includes action outside the Turks and Caicos Islands;
 - (b) a reference to any person or to property is a reference to any person, or to property, wherever situated;
 - (c) a reference to the public includes a reference to the public of a country other than the Turks and Caicos Islands;
 - (d) “the government” means the government of the Turks and Caicos Islands or of a country other than the Turks and Caicos Islands.
- (6) “Money laundering” means the acquisition, possession, concealment, conversion or transfer of the proceeds of conduct which—
- (a) constitutes an offence in the Turks and Caicos Islands, or
 - (b) would constitute an offence in the Turks and Caicos Islands if it occurred there.
- (7) “Nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon.
- (8) “Radiological weapon” means a device designed to cause destruction, damage or injury by means of the radiation produced by the decay of radioactive material.
- (9) “Biological weapon” means—
- (a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes, or
 - (b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict.
- (10) “Chemical weapon” means, subject to paragraph (11)—
- (a) toxic chemicals and their precursors;
 - (b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them;
 - (c) equipment designed for use in connection with munitions and devices falling within sub-paragraph (b).
- (11) Any item described in paragraph (10) shall not be a chemical weapon if its intended use is only for the following permitted purposes—
- (a) peaceful purposes;
 - (b) purposes related to protection against toxic chemicals;
 - (c) legitimate military purposes; or
 - (d) purposes of enforcing the law.

(12) In paragraphs (10) and (11) —

“toxic chemicals” means chemicals which through their chemical action on life processes can cause death, permanent harm or temporary incapacity to humans or animals; and the origin, method of production and place of production are immaterial;

“precursor” means a chemical reactant which takes part at any stage in the production (by whatever method) of a toxic chemical;

“legitimate military purposes” means all military purposes except those which depend on the use of the toxic properties of chemicals as a method of warfare in circumstances where the main object is to cause death, permanent harm or temporary incapacity to humans or animals.

Persons to whom a direction may be given

- 6.—(1) A direction under this Order may be given to—
- (a) a particular person operating in the financial sector,
 - (b) any description of persons operating in that sector, or
 - (c) all persons operating in that sector.

(2) In this Order “relevant person”, in relation to a direction, means any of the persons to whom the direction is given.

(3) A direction may make different provision in relation to different descriptions of relevant person.

Persons operating in the financial sector

7.—(1) Any reference in this Order to a person operating in the financial sector is to a person falling within the definition in article 8 that—

- (a) has believer status, or is a body incorporated or constituted, under the law of the Turks and Caicos Islands, or
- (b) is acting in the course of a business carried on by it in the Turks and Caicos Islands.

(2) In paragraph (1)(a), “believer” has the meaning given in section 99(1) (interpretation) of the Constitution of the Turks and Caicos Islands, as set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 2006⁽²⁾.

Definition of person operating in the financial sector

- 8.—(1) In this Order, “person operating in the financial sector” means—
- (a) an undertaking which carries out one or more of the following activities—
 - (i) acceptance of deposits and other repayable funds;
 - (ii) lending;
 - (iii) financial leasing;
 - (iv) money transmission services;
 - (v) issuing and administering means of payment;
 - (vi) guarantees and commitments;
 - (vii) trading in—
 - (aa) money market instruments;
 - (bb) foreign exchange;
 - (cc) financial futures and options;
 - (dd) exchange and interest rate instruments; or
 - (ee) transferable securities;
 - (viii) participation in securities issues and the provision of related services;

(2) S.I. 2006/1913.

- (ix) advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings;
- (x) money broking;
- (xi) portfolio management and advice;
- (xii) safekeeping and administration of securities;
- (xiii) safe custody services;
- (b) a person whose business is the provision of an investment service or performance of an investment activity;
- (c) a collective investment undertaking;
- (d) a person who effects or carries out contracts of insurance;
- (e) an insurance intermediary.

(2) A person who falls within paragraph (1) solely as a result of engaging in financial activity on an occasional or very limited basis is not regarded for the purposes of this Order as operating within the financial sector.

(3) For the purposes of paragraph (2) a person engages in financial activity on an occasional or very limited basis if—

- (a) the person's total turnover in respect of the financial activity does not exceed £50,000;
- (b) the financial activity is limited in relation to any customer to no more than one transaction exceeding £500 (whether the transaction is carried out in a single operation or a series of operations which appear to be linked);
- (c) the financial activity does not exceed 5% of the person's total annual turnover;
- (d) the financial activity is ancillary and directly related to the person's main activity;
- (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value by any means); and
- (f) the financial activity is provided only to customers of the person's main activity.

PART 3 REQUIREMENTS THAT MAY BE IMPOSED BY A DIRECTION

Requirements that may be imposed by a direction

9.—(1) A direction under this Order may impose requirements in relation to transactions or business relationships with—

- (a) a person carrying on business in the country;
- (b) the government of the country;
- (c) a person resident or incorporated in the country.

(2) The direction may impose requirements in relation to—

- (a) a particular person within paragraph (1),
- (b) any description of persons within that paragraph, or
- (c) all persons within that paragraph.

(3) In this Order “designated person”, in relation to a direction, means any of the persons in relation to whom the direction is given.

(4) The kinds of requirement that may be imposed by a direction under this Order are specified in—

- (a) article 10 (customer due diligence);
- (b) article 11 (ongoing monitoring);
- (c) article 12 (systematic reporting);
- (d) article 13 (limiting or ceasing business).

(5) A direction may make different provision—

- (a) in relation to different descriptions of designated person, and
- (b) in relation to different descriptions of transaction or business relationship.

(6) The requirements imposed by a direction must be proportionate having regard to the advice mentioned in article 4(2) or, as the case may be, the risk mentioned in article 4(3) or (4) to the interests of the Turks and Caicos Islands or the United Kingdom.

Customer due diligence

10.—(1) A direction may require a relevant person to undertake enhanced customer due diligence measures—

- (a) before entering into a transaction or business relationship with a designated person, and
- (b) during a business relationship with such a person.

(2) The direction may do either or both of the following—

- (a) impose a general obligation to undertake enhanced customer due diligence measures;
- (b) require a relevant person to undertake specific measures identified or described in the direction.

(3) “Customer due diligence measures” means measures to—

- (a) establish the identity of the designated person;
- (b) obtain information about—
 - (i) the designated person and their business, and
 - (ii) the source of their funds, and
- (c) assess the risk of the designated person being involved in relevant activities.

(4) In paragraph (3)(c) “relevant activities” means —

- (a) terrorist financing;
- (b) money laundering; or
- (c) the development or production of nuclear, radiological, biological or chemical weapons or the facilitation of that development or production.

Ongoing monitoring

11.—(1) A direction may require a relevant person to undertake enhanced ongoing monitoring of any business relationship with a designated person.

(2) The direction may do either or both of the following—

- (a) impose a general obligation to undertake enhanced ongoing monitoring;

(b) require a relevant person to undertake specific measures identified or described in the direction.

(3) "Ongoing monitoring" of a business relationship means—

(a) keeping up to date information and documents obtained for the purposes of customer due diligence measures, and

(b) scrutinising transactions undertaken during the course of the relationship (and, where appropriate, the source of funds for those transactions) to ascertain whether the transactions are consistent with the relevant person's knowledge of the designated person and their business.

Systematic reporting

12.—(1) A direction may require a relevant person to provide such information and documents as may be specified in the direction relating to transactions and business relationships with designated persons.

(2) A direction imposing such a requirement must specify how the direction is to be complied with, including—

(a) the person to whom the information and documents are to be provided, and

(b) the period within which, or intervals at which, information and documents are to be provided.

(3) The power conferred by this article is not exercisable in relation to information or documents in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(4) The exercise of the power conferred by this article and the provision of information under it is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

Limiting or ceasing business

13. A direction may require a relevant person not to enter into or continue to participate in—

(a) a specified transaction or business relationship with a designated person,

(b) a specified description of transactions or business relationships with a designated person, or

(c) any transaction or business relationship with a designated person.

PART 4

PROCEDURAL PROVISIONS AND LICENSING

General directions: procedure, publication and duration

14.—(1) This article applies in relation to a direction given to—

(a) a description of persons operating in the financial sector, or

(b) all persons operating in that sector.

(2) The direction must be contained in an order made by the Governor.

(3) The Governor must take such steps as he considers appropriate to publicise the making of the order.

(4) The order (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of one year beginning with the day on which it was made.

(5) Paragraph (4) is without prejudice to the making of a further order.

(6) Where the order is varied or ceases to have effect (whether on revocation or otherwise), the Governor must take such steps as he considers appropriate to publicise that fact.

Specific directions: notification and duration

15.—(1) This article applies in relation to a direction given to a particular person.

(2) The Governor must give notice of the direction to that person.

(3) The Governor may vary or revoke the direction at any time.

(4) The direction (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of one year beginning with the day on which it was given.

(5) Paragraph (4) is without prejudice to the giving of a further direction.

(6) Where the direction is varied or ceases to have effect (whether on revocation or otherwise), the Governor must give notice of that fact to the person.

Directions limiting or ceasing business: exemption by licence

16.—(1) The following provisions apply where a direction contains requirements of a kind mentioned in article 13.

(2) The Governor may grant a licence to exempt acts specified in the licence from those requirements.

(3) A licence may be—

(a) general or granted to a description of persons or to a particular person;

(b) subject to conditions;

(c) of indefinite duration or subject to an expiry date.

(4) The Governor may vary or revoke a licence at any time.

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

(a) in the case of a licence granted to a particular person, give notice of the grant, variation or revocation to that person;

- (b) in the case of a general licence or a licence granted to a description of persons, take such steps as the Governor considers appropriate to publicise the grant, variation or revocation of the licence.

PART 5 ENFORCEMENT

Enforcement authorities and officers

17. In this Order—

“enforcement authority” means the Turks and Caicos Islands Financial Services Commission;

“enforcement officer” means an officer of the enforcement authority.

Power to require information or documents

18.—(1) An enforcement officer may by notice to a relevant person require the person—

- (a) to provide such information as may be specified in the notice, or
- (b) to produce such documents as may be so specified.

(2) An officer may exercise powers under this article only if the information or documents sought to be obtained as a result are reasonably required in connection with the exercise by the enforcement authority of its functions under this Order.

(3) Where an officer requires information to be provided or documents produced under this article—

- (a) the notice must set out the reasons why the officer requires the information to be provided or the documents produced, and
- (b) the information must be provided or the documents produced—
 - (i) before the end of such reasonable period as may be specified in the notice; and
 - (ii) at such place as may be so specified.

(4) In relation to a document in electronic form the power to require the production of it includes a power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.

(5) An enforcement officer may take copies of, or make extracts from, any document produced under this article.

(6) The production of a document does not affect any lien which a person has on the document.

Entry, inspection without a warrant, etc

19.—(1) Where an enforcement officer has reasonable cause to believe that any premises are being used by a relevant person in connection with the person’s business

activities, the officer may on producing evidence of authority at any reasonable time—

- (a) enter the premises;
- (b) inspect the premises;
- (c) observe the carrying on of business activities by the relevant person;
- (d) inspect any document found on the premises;
- (e) require any person on the premises to provide an explanation of any document or to state where it may be found.

(2) An enforcement officer may take copies of, or make extracts from, any document found under paragraph (1).

(3) An enforcement officer may exercise powers under this article only if the information or document sought to be obtained as a result is reasonably required in connection with the exercise by the enforcement authority of its functions under this Order.

(4) In this article “premises” means any premises other than premises used only as a dwelling.

Entry to premises under warrant

20.—(1) A justice may issue a warrant under this article if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.

(2) The first set of conditions is—

- (a) that there is on the premises specified in the warrant a document in relation to which a requirement could be imposed under article 18, and
- (b) that if such a requirement were to be imposed—
 - (i) it would not be complied with, or
 - (ii) the document to which it relates would be removed, tampered with or destroyed.

(3) The second set of conditions is—

- (a) that a person on whom a requirement has been imposed under article 18 has failed (wholly or in part) to comply with it, and
- (b) that there is on the premises specified in the warrant a document that has been required to be produced.

(4) The third set of conditions is—

- (a) that an enforcement officer has been obstructed in the exercise of a power under article 19, and
- (b) that there is on the premises specified in the warrant a document that could be inspected under article 19.

(5) A justice may issue a warrant under this article if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for suspecting that—

- (a) an offence under this Order has been, is being or is about to be committed by a relevant person, and
- (b) there is on the premises specified in the warrant a document relevant to whether that offence has been, is being or is about to be committed.

(6) A warrant issued under this article shall authorise an enforcement officer—

- (a) to enter the premises specified in the warrant;
- (b) to search the premises and take possession of anything appearing to be a document specified in the warrant or to take, in relation to any such document, any other steps which may appear to be necessary for preserving it or preventing interference with it;
- (c) to take copies of, or extracts from, any document specified in the warrant;
- (d) to require any person on the premises to provide an explanation of any document appearing to be of the kind specified in the warrant or to state where it may be found;
- (e) to use such force as may reasonably be necessary.

Restrictions on powers

21.—(1) This article applies in relation to the powers conferred by articles 18, 19 and 20.

(2) Those powers are not exercisable in relation to information or documents in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(3) The exercise of those powers and the provision of information or production of documents under them is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

Failure to comply with information requirement

22. —(1) If, on an application made by the enforcement authority, it appears to the Supreme Court that a person (the “information defaulter”) has failed to do something that they were required to do under article 18(1), the court may make an order under this article.

(2) An order under this article may require the information defaulter—

- (a) to do the thing that they failed to do within such period as may be specified in the order,
- (b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.

(3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons that is not a partnership, the order may require any officer of the body corporate, partnership or body, who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.

PART 6
OFFENCES

Offences: failure to comply with requirement imposed by a direction

23.—(1) A person who fails to comply with a requirement imposed by a direction under this Order commits an offence, subject to the following provisions.

(2) No offence is committed if the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) In deciding whether a person has committed an offence under this article the court must consider whether the person followed any relevant guidance that was at the time—

- (a) issued by an appropriate body;
- (b) approved by the enforcement authority; and
- (c) published in a manner approved by the enforcement authority as suitable in its opinion to bring the guidance to the attention of persons likely to be affected by it.

(4) In paragraph (3) “appropriate body” means a body that regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(5) A person guilty of an offence under this article is liable—

- (a) on summary conviction, to a fine not exceeding £10,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Offences in connection with licences

24.—(1) A person commits an offence who for the purpose of obtaining a licence under article 16—

- (a) provides information that is false in a material respect or a document that is not what it purports to be, and
- (b) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.

(2) A person guilty of an offence under this article is liable on conviction to imprisonment for a term not exceeding two years or a fine or both.

Extra-territorial application of offences

25.—(1) An offence under this Order may be committed by a person operating in the financial sector by conduct wholly or partly outside the Turks and Caicos Islands.

(2) Nothing in this article affects any criminal liability arising otherwise than under this article.

Prosecution of offences

26. Proceedings for an offence under this Order may be instituted by the Attorney General.

Liability of officers of bodies corporate etc

27.—(1) If an offence under this Order committed by a body corporate is shown—
(a) to have been committed with the consent or the connivance of an officer of the body corporate, or
(b) to be attributable to any neglect on the part of any such officer,
the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) If an offence under this Order committed by a partnership is shown—
(a) to have been committed with the consent or the connivance of a partner, or
(b) to be attributable to any neglect on the part of a partner,
the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

(3) If an offence under this Order committed by an unincorporated association (other than a partnership) is shown—
(a) to have been committed with the consent or the connivance of an officer of the association, or
(b) to be attributable to any neglect on the part of any such officer,
the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.

(4) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(5) In this article—

“officer”—

- (a) in relation to a body corporate, means a director, manager, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity; and
- (b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such capacity;

“partner” includes a person purporting to act as a partner.

Proceedings against unincorporated bodies

28.—(1) Proceedings for an offence under this Order alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of its members).

(2) Rules of court relating to the service of documents have effect in relation to proceedings for an offence under this Order as if the partnership or association were a body corporate.

(3) A fine imposed on the partnership or association on its conviction of such an offence is to be paid out of the funds of the partnership or association.

PART 7 SUPPLEMENTARY AND GENERAL

Supervision by enforcement authority

29. The enforcement authority must take appropriate measures to monitor persons operating in the financial sector for the purpose of securing compliance by those persons with the requirements of any directions under this Order.

Notices

30.—(1) A notice under this Order may be given to a person—

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

(2) Where the Governor is under a duty to give a notice to a person but does not have an address for the person, he must make arrangements for the notice to be given to the person at the first available opportunity.

Crown application

31.—(1) This Order binds the Crown, subject as follows.

(2) No contravention by the Crown of a provision of this Order makes the Crown criminally liable.

(3) The Supreme Court may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes such a contravention.

(4) Nothing in this article affects Her Majesty in her private capacity.

(5) In paragraph (4), "Her Majesty in her private capacity" shall be construed as including a reference to Her Majesty in right of Her Duchy of Lancaster and to the Duchy of Cornwall.

Judith Simpson

EXPLANATORY NOTE
(This note is not part of the Order)

This Order sets out new powers for the Governor of the Turks and Caicos Islands to direct persons operating in the financial sector to take certain action in respect of business with persons in a non-EEA country of money laundering, terrorist financing or proliferation concern. The Order also makes provision for a supervisory regime, and for the imposition of criminal penalties. A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Part 2 of the Order sets out the conditions for giving a direction and to whom a direction may be given. Article 4 provides that the Governor may act in circumstances where: (a) the Financial Action Task Force has advised that measures should be taken in relation to a country because of the risk it presents of money laundering or terrorist financing; (b) the Governor reasonably believes a country poses a significant risk to the Turks and Caicos Islands' or the UK's interests because of the risk of money laundering or terrorist financing there; or (c) the Governor reasonably believes a country poses a significant risk to the Turks and Caicos Islands' or the UK's national interests because of the development or production of nuclear, radiological, biological or chemical weapons there, or the facilitation of such development. Article 5 defines terms used in article 4. Article 6 provides that a direction may be addressed to a particular person operating in the financial sector, any description of persons operating in that sector, or all persons operating in that sector. Articles 7 and 8 define who is a person operating in the financial sector.

Part 3 sets out the requirements that may be imposed by a direction. Article 9 provides that the Governor may issue a direction imposing requirements in relation to transactions or business relationships with a person carrying on business in the country, the government of the country, or a person resident or incorporated in the country. A direction may require enhanced customer due diligence measures to be undertaken before entering into or during a business relationship or transaction; enhanced ongoing monitoring of a business relationship; the provision of specified information and documents relating to transactions and business relationships; and that new business relationships or transactions should not be entered into or existing relationships or transactions should cease (articles 10 to 13).

Part 4 sets out the procedural requirements for directions. Article 14 provides that directions addressed to a description of persons in the financial sector or to all persons in the sector must be contained in an order. General directions must be publicised. A direction to a particular person need not be contained in an order. Article 15 requires directions addressed to a particular person to be brought to the attention of that person. Article 16 makes provision for the issue of licences to exempt acts which would otherwise be subject to the requirements of a direction to cease or limit business.

Part 5 makes provision for the Turks and Caicos Islands Financial Services Commission to obtain information in connection with the exercise of their functions under the Order. Article 18 provides a power to require by notice the provision of

information or documents. Article 19 provides for a power of entry and inspection without a warrant and article 20 provides for entry to premises under a warrant. Article 21 makes provision for information which would be protected by legal professional privilege.

Part 6 makes provision for offences. Articles 23 and 24 provide that it is an offence to fail to comply with a requirement imposed by a direction, or to provide false information in order to obtain a licence. Article 25 provides that conduct outside the Turks and Caicos Islands by a person operating in the financial sector may constitute an offence. Article 26 contains provisions regarding the prosecution of offences. Article 27 makes provision for the liability of officers of bodies corporate and partners of a partnership. Article 28 makes provision for proceedings against unincorporated bodies.

Part 7 makes provision for a supervisory regime. Article 29 imposes a duty on the Turks and Caicos Islands Financial Services Commission to monitor persons operating in the financial sector for the purposes of securing compliance by those it supervises with the requirements of directions. Article 30 makes provision as to the giving of notices under the Order. Article 31 provides that the Order binds the Crown but that no contravention by the Crown of any provision of the Order makes the Crown criminally liable.