

2014 No. 2710

OVERSEAS TERRITORIES

The Russia, Crimea and Sevastopol (Sanctions) (Overseas Territories) Order 2014

Made - - - - *8th October 2014*
Laid before Parliament *15th October 2014*
Coming into force - - *16th October 2014*

At the Court at Buckingham Palace, the 8th day of October 2014

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), 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 Russia, Crimea and Sevastopol (Sanctions) (Overseas Territories) Order 2014.

(2) It comes into force on 16th October 2014.

(3) 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

(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 10(2) and Schedule 3 also apply to any relevant person mentioned in those provisions (and for this purpose “relevant person” has the meaning given in article 10(4) and (5)).

(a) 1833 c.85.

(b) 1887 c.54 and 1945 c.7.

(3) Article 20 applies to—

- (a) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus and St Helena, Ascension and Tristan da Cunha as set out in paragraph 1 of Schedule 2, and
- (b) the Falkland Islands and South Georgia and the South Sandwich Islands subject to the modification set out in paragraph 2(2) of Schedule 2.

(4) 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, 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. 269/2014 adopted by the Council of the European Union on 17th March 2014^(a) concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;

“the Crimea and Sevastopol Regulation” means Council Regulation (EU) No 692/2014 adopted by the Council of the European Union on 23rd June 2014^(b) concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol;

“designated person” means any person, entity or body listed in Annex I 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;

“dual-use goods and technology” means the items listed in Annex I to Council Regulation (EC) No 428/2009^(c);

“exploitation” means the exploration, prospecting for, extraction, refining and management of oil, gas and mineral resources and provision of related geological services but does not include maintenance to ensure the safety of existing infrastructure;

“export” includes shipment as stores;

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

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

^(a) O.J. L.78 17.03.2014 p.6.

^(b) O.J. L. 183 24.6.2014, p.9.

^(c) O.J. L. 134 29.5.2009, p.1.

- (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,
- (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,
- (g) documents providing evidence of an interest in funds or financial resources, or
- (h) any other instrument of export financing;

“goods” includes items, materials and equipment;

“goods originating in Crimea or Sevastopol” means goods which are wholly obtained from Crimea or in Sevastopol or which have undergone their last substantial transformation there in accordance with the meaning of those terms set out in Articles 23 and 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992^(a);

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

“insurance” means an undertaking or commitment where a natural or legal 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;

“investment services” means—

- (a) the reception and transmission of orders relating to one or more financial instruments;
- (b) the execution of orders on behalf of clients;
- (c) dealing on own account;
- (d) portfolio management;
- (e) investment advice;
- (f) the underwriting of financial instruments or the placing of financial instruments on a firm commitment basis;
- (g) the placing of financial instruments without a firm commitment basis; or
- (h) any service relating to the admission to trading on a regulated market or trading on a multilateral trading facility;

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

“mineral resources” means the minerals listed in Annex II of the Crimea and Sevastopol Regulation;

“money-market instruments” means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers but excluding instruments of payment;

“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;

“owner”, in relation to a ship, where the owner is not the operator, means the operator and any person to whom it is chartered;

“person” means any natural or legal person, entity or body;

(a) O.J. L. 302, 19.10.1992, p.1.

“refining” means processing, conditioning and preparation for sale;

“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;

“restricted goods” means—

- (a) the goods, software and technology specified in Schedule 2 to the Export Control Order 2008(a), 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(b) as amended from time to time;

“the Russia Sanctions Regulation” means Council Regulation (EU) No 833/2014 adopted by the Council of the European Union on 31st July 2014(c) concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine;

“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(4);

“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;

“transferable securities” means the following classes of securities which are negotiable on the capital market, with the exception of instruments of payment—

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
- (c) any other securities giving the right to acquire or sell any such transferable securities;

“vehicle” means land transport vehicle.

(a) S.I. 2008/3231.

(b) O.J. C. 85 22.3.2012, p.1.

(c) O.J. L. 229 31.7.2014, p.1.

- (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^(a), 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 in this Order and in either the Council Regulation or the Crimea and Sevastopol Regulation or the Russia Sanctions Regulation has the meaning given in the relevant 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.

PART 1

Prohibitions under the Crimea and Sevastopol Regulation

Prohibition on imports

- 4.—(1) It is an offence for a person to knowingly—
- (a) import into the Territory goods originating in Crimea or Sevastopol; or
 - (b) provide (directly or indirectly) financing or financial assistance related to the import of such goods.
- (2) Paragraph (1) does not apply to goods originating in Crimea or Sevastopol which have been made available for examination to, and have been controlled by, the Ukrainian authorities and which have been granted a certificate of origin by the Government of Ukraine.

Investment in infrastructure

- 5.—(1) It is an offence for a person to knowingly—
- (a) grant any loan or credit specifically relating to the creation, acquisition or development of infrastructure in the transport, telecommunications or energy sectors in Crimea or Sevastopol;
 - (b) acquire or extend participation in enterprises established in Crimea or Sevastopol that are engaged in the creation, acquisition or development of infrastructure in the transport, telecommunications or energy sectors in Crimea or Sevastopol; or
 - (c) create any joint venture relating to the creation, acquisition or development of infrastructure in the transport, telecommunications or energy sectors in Crimea or Sevastopol.
- (2) It is an offence for a person to knowingly—

(a) 2000 c.8.

- (a) grant any loan or credit specifically relating to the exploitation of oil, gas or mineral resources in Crimea or Sevastopol;
- (b) acquire or extend participation in enterprises established in Crimea or Sevastopol that are engaged in the exploitation of oil, gas or mineral resources in Crimea or Sevastopol; or
- (c) create a joint venture relating to the exploitation of oil, gas or mineral resources in Crimea or Sevastopol.

(3) It is an offence for a person to knowingly provide (directly or indirectly) technical assistance or brokering services related to the activities referred to in paragraphs (1) and (2).

(4) This article is subject to articles 13 and 14.

Equipment and technology related to infrastructure development

6.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) equipment and technology as listed in Annex III to the Crimea and Sevastopol Regulation—

- (a) to any person in Crimea or Sevastopol; or
- (b) for use in Crimea or Sevastopol.

(2) It is an offence for a person to knowingly provide (directly or indirectly) technical assistance or brokering services related to the equipment and technology listed in Annex III to the Crimea and Sevastopol Regulation, or related to the provision, manufacture or maintenance of such items—

- (a) to any person in Crimea or Sevastopol; or
- (b) for use in Crimea or Sevastopol.

(3) It is an offence for a person to knowingly provide (directly or indirectly) financing or financial assistance related to the equipment and technology listed in Annex III to the Crimea and Sevastopol Regulation—

- (a) to any person in Crimea or Sevastopol; or
- (b) for use in Crimea or Sevastopol.

(4) This article is subject to articles 13 and 14.

PART 2

Prohibitions under the Russia Sanctions Regulation

Dual-use goods and technology

7.—(1) Subject to paragraph (2), it is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) dual-use goods and technology—

- (a) to any person in Russia;
- (b) for use in Russia; or
- (c) to any person listed in Annex IV to the Russia Sanctions Regulation.

(2) Nothing in paragraph (1)(a) or (b) prevents any sale, supply, transfer or export unless the dual-use goods and technology are intended for military use or for delivery to a military end-user.

(3) This article is subject to articles 13 and 14.

Transfer of oil exploration technologies

8.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) any of the technologies listed in Annex II to the Russia Sanctions Regulation—

- (a) to any person in Russia; or
 - (b) for use in Russia.
- (2) This article is subject to articles 13 and 14.

Providing services for oil exploration

9.—(1) It is an offence for a person to knowingly provide (directly or indirectly) to any person in Russia the following services necessary for deep water oil exploration and production, arctic oil exploration and production, or shale oil projects in Russia—

- (a) drilling services;
- (b) well testing services;
- (c) logging and completion services; or
- (d) the supply of specialised floating vessels.

(2) Nothing in paragraph (1) prevents the execution of a contract or framework agreement concluded before 16th October 2014 or an ancillary contract concluded after that date which is necessary for the execution of such a contract or agreement.

(3) Nothing in paragraph (1) prevents the supply of any services which are necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment.

Providing or carrying restricted goods

10.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) restricted goods—

- (a) to any person in Russia, or
- (b) for use in Russia.

(2) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (3) for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Russia to any destination in Russia.

(3) The following fall within this paragraph—

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

(4) A “relevant person”, in relation to a ship, aircraft or vehicle falling within paragraph (3)(a) or (b), means—

- (a) the owner or master of the ship,
- (b) the charterer, operator or commander of the aircraft, or
- (c) the driver or operator of the vehicle.

(5) A “relevant person”, in relation to a ship or aircraft falling within paragraph (3)(c) means—

- (a) the charterer of the ship or aircraft, or
- (b) 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).

(6) Paragraph (2) is without prejudice to any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

(7) This article is subject to articles 13 and 14.

Providing assistance related to restricted goods and dual use goods and technology

11.—(1) 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 or dual-use goods and technology—

- (a) to any person in Russia, or
- (b) for use in Russia.

(2) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance or manufacture of restricted goods or dual-use goods and technology—

- (a) by any person in Russia, or
- (b) for use in Russia.

(3) Nothing in paragraphs (1) or (2) prevents any provision of assistance related to dual-use goods and technology unless the goods or technology are intended for military use or for delivery to a military end-user.

(4) This article is subject to articles 13 and 14.

Financial measures

12.—(1) It is an offence for a person to knowingly purchase, sell or provide (directly or indirectly) investment services for, or assist in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 30 days issued after 16th October 2014, by—

- (a) an institution listed in Annex III to the Russia Sanctions Regulation; or
- (b) a legal person, entity or body established outside the Territory which is owned (directly or indirectly) by more than 50% by an institution listed in Annex III to the Russia Sanctions Regulation; or
- (c) a legal person, entity or body acting on behalf of a person, entity or body referred to in paragraph (b) or an institution listed in Annex III to the Russia Sanctions Regulation.

(2) It is an offence for a person to knowingly purchase, sell, or provide (directly or indirectly) investment services for, or assist in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 30 days issued after 16th October 2014, by—

- (a) a person listed in Annex V to the Russia Sanctions Regulation;
- (b) a person listed in Annex VI to the Russia Sanctions Regulation;
- (c) a legal person, entity or body established outside the Territory which is owned (directly or indirectly) by more than 50% by a person listed in Annex V or VI of the Russia Sanctions Regulation; or
- (d) a legal person, entity or body acting on behalf or at the direction of a person referred to in paragraphs (a), (b) or (c).

(3) It is an offence for a person to knowingly grant, or be part of any arrangement to grant (directly or indirectly), a loan or credit after 16th October 2014 with a maturity exceeding 30 days to any person referred to in paragraphs (1) or (2).

(4) Paragraph (3) does not apply to a loan or credit which has as a specific and documented objective—

- (a) the provision of financing for imports or exports of goods and non-financial services between the Territory and Russia which are not prohibited under this Order; or
- (b) the provision of emergency funding to meet solvency and liquidity criteria for legal persons established in the Territory, which are owned by more than 50% by any person listed in Annex III to the Russia Sanctions Regulation.

PART 3

General

Licences granted by the Governor

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 5, 6, 7, 8, 10, or 11.

(2) A person is not guilty of an offence under article 5, 6, 7, 8, 10, or 11 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) the activities set out in articles 5, 6(1) and (3), 8, 10 and 11 where the activity concerns the execution of an obligation arising from a contract or agreement concluded on or before 16th October 2014;
- (b) the activities set out in article 8(1) provided the Governor has no reasonable grounds to believe that the sale, supply, transfer or export of the technologies is for projects related to deep water oil exploration and production, Arctic oil exploration and production, or shale oil projects in Russia;
- (c) the activities set out in article 11 where they relate to the provision of assistance necessary to the maintenance and safety of existing capabilities within the Territory, unless the Governor has reasonable grounds to believe that those activities relate to projects pertaining to deep water oil exploration and production, Arctic oil exploration and production, or shale oil projects in Russia.

(4) Where a licence is requested pursuant to this article, exporters shall supply the Governor with all relevant information required for their application for an export authorisation.

(5) A licence 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.

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

(7) 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 written notice of the grant, 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, variation or revocation of the licence.

(8) Any notice to be given to a person by the Governor under paragraph (7) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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

14. A person is not guilty of an offence under article 5, 6, 7, 8, 10, or 11 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

15.—(1) No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Order, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by—

- (a) a designated person;
- (b) any person who has been convicted of an offence under this Order;
- (c) any person, if the claim relates to goods the import of which is prohibited under article 4;
- (d) entities referred to in paragraphs (b) or (c) of article 12(1), paragraphs (c) and (d) of article 12(2), or listed in Annexes III, IV, V or VI to the Russia Sanctions Regulation;
- (e) any natural person of Russian nationality or a legal person, entity or body established in Russia; or
- (f) any person acting on behalf of one of the persons referred to in subparagraphs (a) to (e).

(2) 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 the enforcement of that claim.

Requirement to publish relevant lists

16.—(1) The Governor must—

- (a) publish a list of restricted goods and the lists in Annexes II, III, IV, V and VI to the Russian Sanctions Regulation and Annexes II and III to the Crimea and Sevastopol Regulation; and
- (b) keep the lists 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

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

Functions of the Governor

18.—(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

19. 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 articles 4 to 12; or
- (b) to enable or facilitate the contravention of any such prohibition.

Penalties

20.—(1) A person guilty of an offence under article 4, 5, 6, 7, 8, 9, 10, 11, 12 or 19 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 13(11), or paragraph 4(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 4(a) or 6 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

21.—(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.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE 1

Article 1(3)

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

Application of Article 20 to particular Territories

Application of article 20

1.—(1) Article 20 applies as follows to—

- (a) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, and
- (b) St Helena, Ascension and Tristan da Cunha.

(2) A person guilty of an offence under article 4, 5, 6, 7, 8, 9, 10, 11, 12 or 19 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 13(11), or paragraph 4(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 4(a) or 6 of Schedule 3 is liable on conviction to imprisonment for a term not exceeding three 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.

2.—(1) Article 20 applies to the Falkland Islands and South Georgia and the South Sandwich Islands subject to the following modification.

(2) When the Magistrates' Court is sentencing a person following a summary conviction for an offence under this Order, any penalties which would be available to the Magistrates' Court under article 20 on indictment for the offence are available to the Court as if they were penalties so available on summary conviction.

SCHEDULE 3

Article 17

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, or a relevant person, 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, or
- (b) obtaining evidence of the commission of an offence under this Order.

(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;
 - (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.

Suspected ships, aircraft or vehicles

- 3.—**(1) Where an authorised officer reasonably suspects that a ship, aircraft or vehicle has been, is being, or is about to be used in the commission of an offence under article 10, the officer may—
- (a) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory until notified by an authorised officer that it may depart, or
 - (b) in relation to a ship, require the relevant person to take any of the steps mentioned in sub-paragraph (2).
- (2) Those steps are—
- (a) to stop the ship from proceeding with the voyage on which it is engaged or about to engage, until notified by an authorised officer that it may proceed;
 - (b) to not land any part of the ship's cargo at any port specified by the officer, except with the officer's consent;
 - (c) if the ship is in port in the Territory, to cause it to remain there until notified by an authorised officer that it may depart;
 - (d) if the ship is in any other place, to take it to a port specified by the officer and keep it there until notified by an authorised officer that it may depart.
- (3) The authorised officer may take such steps as appear necessary to secure compliance with a requirement under this paragraph, including in particular—
- (a) entering any land,
 - (b) using reasonable force, and
 - (c) detaining the ship, aircraft or vehicle and any goods it is carrying.

Offences

- 4.** 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.

5. Where a person is convicted of an offence under paragraph 4(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.

6.—(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

7.—(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 or 3 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

8. 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;

“relevant person” has the meaning given in article 10(4) and (5).

“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 imposed on Crimea, Sevastopol and Russia by EU Council Decision 2014/386/CFSP of 23 June 2014 (as amended by EU Council Decision 2014/507/CFSP of 30 July 2014) and EU Council Decision 2014/512/CFSP of 31 July 2014 (as amended by EU Council Decision 2014/659/CFSP of 8 September 2014).

The sanctions imposed include—

- (a) a ban on the import of goods originating in Crimea or Sevastopol;
- (b) a ban on financing such imports;
- (c) a prohibition on certain investment activities in Crimea and Sevastopol and Russia;
- (d) a ban on the supply to Crimea and Sevastopol of equipment and technology related to infrastructure development;
- (e) the imposition of an arms embargo on Russia;
- (f) a ban on the supply of dual-use equipment and technology to Russia;
- (g) a ban on the supply of assistance related to military and dual-use goods
- (h) a ban on the transfer of oil exploration technologies to Russia; and
- (i) a ban on the provision of services for oil exploration to Russia.

The Order makes provision for the Governor to license certain activities in line with exemptions under the sanctions regime.

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