STATUTORY INSTRUMENTS

2018 No. 60

CRIMINAL LAW

The Andrey Lugovoy and Dmitri Kovtun Freezing Order 2018

Approved by both Houses of Parliament

Made - - - -	*at 10.00 a.m. on 19th January 2018*
Laid before Parliament	*at 1.00 p.m. on 19th January 2018*
Coming into force - -	*at 12 noon on 22nd January 2018*

The Treasury believe that action constituting a threat to the life of one or more nationals or residents of the United Kingdom has been taken by certain persons who are residents of a country or territory outside the United Kingdom.

The Treasury, in exercise of the powers conferred by sections 4 and 14 of and Schedule 3 to the Anti-terrorism, Crime and Security Act 2001(**1**), and having consulted the Secretary of State in accordance with section 10(5) of that Act, make the following Order.

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Andrey Lugovoy and Dmitri Kovtun Freezing Order 2018 and shall come into force at 12 noon on 22nd January 2018.

(2) Subject to paragraph (3) this Order extends to the United Kingdom.

(3) The prohibitions imposed by article 4 apply to the following persons—

(a) a person in the United Kingdom;

(b) any person elsewhere who is—

(i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(ii) a person who under the British Nationality Act 1981(**2**) is a British subject;

(iii) a British protected person within the meaning of that Act;

(iv) a body incorporated under the law of any part of the United Kingdom.

Interpretation

2.—(1) In this Order—

(**1**) 2001 c.24.
(**2**) 1981 c.61.

"the 2000 Act" means the Financial Services and Markets Act 2000(**3**);

"body corporate" includes a Scottish partnership and "a body incorporated under the law of any part of the United Kingdom" is to be interpreted accordingly;

"frozen funds" has the meaning in article 4(1);

"funds" means financial assets and economic benefits of any kind, including (but not limited to)—

(a) gold, cash, cheques, claims on money, drafts, money orders and other payment instruments;

(b) deposits with relevant institutions or other persons, 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 derivative products;

(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, bills of sale; and

(g) documents providing evidence of an interest in funds or financial resources;

(2) "relevant institution" means—

(a) a person who has permission under Part 4A of the 2000 Act(**4**) (permission to carry on regulated activities); and

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights)(**5**) which has permission under paragraph 15 of that Schedule(**6**) (as a result of qualifying for authorisation under paragraph 12 of that Schedule)(**7**) to accept deposits.

(3) The definition of "relevant institution" in paragraph (2) must be read with—

(a) section 22(**8**) of the 2000 Act (regulated activities),

(b) any relevant order under that section(**9**), and

(c) Schedule 2(**10**) to the 2000 Act (regulated activities).

Specified persons

3.—(1) The following are specified persons for the purposes of this Order (being persons believed by the Treasury to have taken action constituting a threat to the life of one or more nationals or residents of the United Kingdom)—

(a) Andrey Lugovoy; and

(b) Dmitri Kovtun.

(**3**) 2000 c.8.
(**4**) Part 4A (sections 55A-55Z, 55Z1-55Z4) substituted, for Part IV (sections 40-55), by the Financial Services Act 2012, section 11(2).
(**5**) As amended by S.I. 2006/3221 and S.I. 2013/3115.
(**6**) As amended by S.I. 2003/2066, S.I. 2007/3253, S.I. 2012/1906, S.I. 2013/1881 and S.I. 2015/575.
(**7**) As amended by S.I. 2007/126, S.I. 2007/3253, S.I. 2012/1906 and 2017/701.
(**8**) Section 22 was amended by the Financial Services Act 2012 (c.21), section 7(1).
(**9**) S.I. 2001/544 as amended, most recently by S.I. 2017/1212.
(**10**) Schedule 2 was amended by the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, Schedule 2, paragraph 1, the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1, the Financial Services Act 2012, section 7(2) to (5) and section 8 and by S.I. 2013/1881.

(2) If a specified person makes a written request, the Treasury must as soon as is practicable, and in writing, give him the reason why he has been specified.

Freezing prohibitions

4.—(1) The provisions of this article apply in relation to the following funds ("frozen funds")—

(a) funds owned, held or controlled by Andrey Lugovoy; and

(b) funds owned, held or controlled by Dmitri Kovtun.

(2) A person must not make frozen funds available to or for the benefit of a specified person.

(3) A person must not make frozen funds available to a person at the direction or instruction of a specified person

(4) A person must not deal with frozen funds.

(5) For the purposes of this article, making funds available to or for the benefit of a specified person includes—

(a) allowing a specified person to withdraw from an account;

(b) honouring a cheque payable to a specified person;

(c) crediting a specified persons account with interest;

(d) releasing documents of title (such as share certificates) held on behalf of a specified person;

(e) making available the proceeds of realisation of property belonging to a specified person; and

(f) making a payment to or for the benefit of a specified person.

(6) In this article "deal with" means—

(a) use, alter, move, allow access to or transfer;

(b) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

(c) make any other change that would enable use, including portfolio management.

Freezing prohibitions: offences

5.—(1) A person referred to in article 1(3) who fails to comply with a prohibition imposed by article 4 commits an offence.

(2) A person who engages in an activity knowing or intending that it will enable or facilitate the commission by another person of an offence under paragraph (1) commits an offence.

(3) It is a defence to the offences in this article for a person ("P") to prove that P did not know and had no reason to suppose that—

(a) in relation to the prohibition in article 4(2), the person to whom or for whose benefit frozen funds were made available, or were to be made available;

(b) in relation to the prohibition in article 4(3), the person at the direction or instruction of whom frozen funds were made available, or were to be made available;

(c) in relation to the prohibition in article 4(4), the person who owned, held or controlled the frozen funds,

was a specified person.

Licensing

6.—(1) The Treasury may, by licence, authorise frozen funds to be made available.

(2) A licence may authorise a person to deal with frozen funds.

(3) The prohibitions in article 4 do not apply in respect of frozen funds made available or dealt with in accordance with a licence granted under this article.

(4) A licence may be—

(a) of indefinite duration or subject to an expiry date;

(b) subject to conditions;

(c) granted generally or to a person or persons named or described in the licence;

(d) granted in relation to frozen funds generally or to funds of a description specified in the licence.

(5) A licence may authorise funds to be made available—

(a) generally or for purposes specified in the licence;

(b) to or for the benefit of persons generally or a person or persons named or described in the licence.

(6) The Treasury may vary or revoke a licence at any time.

(7) The Treasury, where they grant, vary or revoke a licence, must—

(a) in the case of a licence granted to a particular person give written notice of the licence, 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 Treasury consider appropriate to publicise the licence, variation or revocation.

Licensing procedure and offences

7.—(1) A person applying for a licence must—

(a) apply in writing; and

(b) include such documentation and information that may be required for taking the relevant licensing decision.

(2) The Treasury—

(a) are not required to consider an application which is incomplete; but

(b) if an application is incomplete, must inform the applicant of the further documentation or information required.

(3) The Treasury may grant a licence without an application having been made.

(4) The Treasury may authorise a person to grant licences on their behalf.

(5) A person ("P") who provides information, or produces a document, which P knows is false in a material particular with a view to obtaining a licence is guilty of an offence.

(6) A person who recklessly provides information, or produces a document, which is false in a material particular with a view to obtaining a licence is guilty of an offence.

Information

8. The Schedule (which contains provisions concerning information and documents, and disclosure) has effect.

Penalties

9.—(1) A person guilty of an offence under article 5 is liable—