STATUTORY INSTRUMENTS

2016 No. 371

OVERSEAS TERRITORIES

The Iran (Sanctions) (Overseas Territories) Order 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(**1**), 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(**2**), section 112 of the Saint Helena Act 1833(**3**), the British Settlements Acts 1887 and 1945(**4**), 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—

(**1**) S/RES/2231 (2015).
(**2**) 1946 c.45.
(**3**) 1833 c.85.
(**4**) 1887 c.54 and 1945 c.7.

(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 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(**5**) 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;

(**5**) 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).

"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,

(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(**6**);

"restricted goods" means—

(a) the goods, software and technology specified in Schedule 2 to the Export Control Order 2008(**7**), 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(**8**) 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(**9**), taken with Schedule 2 to that Act and any order under section 22 of that Act; and

(**6**) S/RES/2231 (2015).
(**7**) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2015/351 and amended by S.I. 2015/940.
(**8**) O.J.C. 107 9.4.2014, p.1.
(**9**) 2000 c.8. Section 22 was amended by section 7 of the Financial Services Act 2012 (c.21).

(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.

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.