

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3,155 of 9th March, 2000

LEGAL NOTICE NO. 21 OF 2000

1999 No. 3136

UNITED NATIONS

The Afghanistan (United Nations Sanctions) (Overseas Territories) Order 1999

Made	24th November 1999
Laid before Parliament	25th November 1999
Coming into force	26th November 1999

At the Court of Buckingham Palace, the 24th day of November 1999

Present,
The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 15th October 1999, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Afghanistan:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946¹, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, operation and extent.

1.(1) This Order may be cited as the Afghanistan (United Nations Sanctions) (Overseas Territories) Order 1999 and shall come into force on 26th November 1999.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling, amending or suspending the operation of the resolution adopted by it on 15th October 1999, this Order shall be amended, cease to have effect or its operation shall

¹ 1946 c. 45.

be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

3.

- (a) This Order shall extend to the territories listed in Schedule 2 to this Order.
- (b) In the application of this Order to any of the said territories the expression “the Territory” in this Order means that territory.

Interpretation.

2.(1) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say –

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“funds” means financial assets and economic benefits of any kind, including, but not necessarily limited to, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debt and debt obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing;

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

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of the resolution mentioned above;

“the Tabliban” means the Afghan political faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan.

Prohibition of Flights.

3.(1) Except under the authority of a written licence granted by the Governor under this article no aircraft, wherever registered, shall take off from or land in the Territory if it is owned, leased or operated by or on behalf of the Taliban.

(2) This article applies to any aircraft owned, leased or operated by or on behalf of the Taliban as designated by the Sanctions Committee; and particulars of any such designation shall be published by the Governor in the official gazette of the Territory.

(3) If any aircraft is used in contravention of the provisions of this article, then the operator and the commander of the aircraft shall be guilty of an offence against this Order.

Assets of the Taliban.

4.(1) Except under the authority of a written licence granted by or on behalf of the Governor under this article, no person shall make any funds to which this article applies available to or for the benefit of the Taliban or any such undertaking.

(2) This article applies to any funds owned or controlled directly or indirectly by the Taliban, or by an undertaking owned or controlled by the Taliban, as designated by the Sanctions Committee; and particulars of any such designation shall be published by the Governor in the official gazette of the Territory.

Application of article 4.

5.(1) The provisions of article 4 of this Order shall apply to any person within the Territory and to any person elsewhere who –

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British protected person or a British National (Overseas), and is ordinarily resident in the Territory; or

(b) is a body incorporated or constituted under the law of any part of the Territory.

(2) Any person specified in paragraph (1) of this article who contravenes the provisions of article 4 of this Order shall be guilty of an offence under this Order.

Offences in connection with applications for licences, conditions attaching to licences, etc..

6.(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Obtaining of evidence and information.

7. The provisions of Schedule 1 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, of information for the purpose of securing compliance with or detecting evasion of this Order.

Penalties and Proceedings.

8.(1) Any person guilty of an offence under article 3(2) of this Order shall be 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.

(2) Any person guilty of an offence under article 5(2) of this Order shall be 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.

(3) Any person guilty of an offence under article 6(1) or 6(2) of this Order shall be liable –

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

(4) Any person guilty of an offence under paragraph 3(a) of Schedule 1 to this Order shall be 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.

(5) Any person guilty of an offence under paragraph 3(b) or (c) of Schedule 1 to this Order shall be liable-

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

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Excise of Powers of the Governor.

9.(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

Miscellaneous.

10.(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

A K Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 7

EVIDENCE AND INFORMATION

1.(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2. No information furnished or document produced (including any copy of, or extract from, any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except –

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the services of the Government of any territory to which this Order extends; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Afghanistan decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order.

3. Any person who –

- (a) without reasonable excuse, refuses or fails 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 by any person who is empowered to make it; or
- (b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

SCHEDULE 2

Article 1(3)(a)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St. Helena
St. Helena Dependencies
South Georgia and the South Sandwich Islands
Turks and Caicos Islands
The UK Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus

EXPLANATORY NOTE

This Order, made under the United Nations Act 1946, imposes restrictions pursuant to a decision of the Security Council of the United Nations in resolution 1267 of 15th October 1999 by prohibiting any aircraft from taking off from or landing in the territories specified in Schedule 2 if it is owned, leased or operated by or on behalf of the Taliban. It also freezes assets of the Taliban or any undertaking owned or controlled by the Taliban.