

2011 No. 2701

PREVENTION AND SUPPRESSION OF TERRORISM
PROCEEDS OF CRIME

The Terrorism Act 2000 and Proceeds of Crime Act 2002
(Business in the Regulated Sector) Order 2011

<i>Made</i> - - - -	<i>10th November 2011</i>
<i>Laid before Parliament</i>	<i>11th November 2011</i>
<i>Coming into force</i> - -	<i>12th December 2011</i>

The Treasury make the following Order in exercise of the powers conferred on them by paragraph 5 of Schedule 3A to the Terrorism Act 2000(a) and paragraph 5 of Schedule 9 to the Proceeds of Crime Act 2002(b).

Citation and commencement

1. This Order may be cited as the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) Order 2011 and comes into force on 12th December 2011.

Amendment of Schedule 3A to the Terrorism Act 2000

2.—(1) Part 1 of Schedule 3A to the Terrorism Act 2000 (regulated sector)(c) is amended as follows.

(2) In paragraph 1 (business in the regulated sector)—

(a) after sub-paragraph (1)(r) insert—

“(s) the auctioning by an auction platform of two-day spot or five-day futures, within the meanings given by Article 3 of the Emission Allowance Auctioning Regulation.”;

(b) after sub-paragraph (8), insert—

“(9) For the purposes of sub-paragraph (1)(s) “auction platform” means a platform on which auctions of emissions allowances are held in accordance with the Emission Allowance Auctioning Regulation.”.

(3) In paragraph 3(1) (interpretation), at the appropriate place insert—

““the Emission Allowance Auctioning Regulation” means Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other

(a) 2000 c.11. Schedule 3A was inserted by the Anti-terrorism, Crime and Security Act 2001 (c.24), section 3, Schedule 2, Part 3, paragraphs 5(1) and (6).

(b) 2002 c. 29.

(c) Part 1 of Schedule 3A was substituted by S.I. 2007/3288; there are other amending instruments but none is relevant.

aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;”(a).

Amendment of Schedule 9 to the Proceeds of Crime Act 2002

3.—(1) Part 1 of Schedule 9 to the Proceeds of Crime Act 2002 (business in the regulated sector)(b) is amended as follows.

(2) In paragraph 1 (business in the regulated sector)—

(a) after sub-paragraph (1)(r) insert—

“(s) the auctioning by an auction platform of two-day spot or five-day futures, within the meanings given by Article 3 of the Emission Allowance Auctioning Regulation.”;

(b) after sub-paragraph (8), insert—

“(9) For the purposes of sub-paragraph (1)(s) “auction platform” means a platform on which auctions of emissions allowances are held in accordance with the Emission Allowance Auctioning Regulation.”.

(3) In paragraph 3(1) (interpretation), at the appropriate place insert—

““the Emission Allowance Auctioning Regulation” means Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;”.

Review

4.—(1) The Treasury must from time to time—

- (a) carry out a review of articles 2 and 3,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to how Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (which is implemented in part by means of articles 2 and 3 of this Order) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by articles 2 and 3,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

(a) OJ No. L 302, 18.11.10, p.1.

(b) Part 1 of Schedule 9 was substituted by S.I. 2007/3287; there are other amending instruments but none is relevant.

*Michael Fabricant
Brooks Newmark*

10th November 2011

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the definition of a business in the regulated sector for the purposes of Part 3 of the Terrorism Act 2000 (c.11) (terrorist property) and Part 7 of the Proceeds of Crime Act 2002 (c.29) (money laundering) by adding the activity of auctioning certain emission allowances. Those Parts contain provisions relating to the reporting of suspicious activity, including requirements and offences specific to such businesses.

The framework for the auctioning of emissions allowances is set out in Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances (OJ No. L 302, 18.11.10, p.1). The Regulation requires Member States to apply certain of their domestic measures implementing EU measures on money laundering and terrorist financing to the auctioning of emissions allowances.

Article 4 requires the Treasury to review the operation and effect of this Order and publish a report within five years after it comes into force and within every five years after that.

An Impact Assessment of the effect that this Order will have on the costs of business and the voluntary sector is available on HM Treasury's website (hm-treasury.gov.uk) and is published with the Explanatory Memorandum alongside this Order on the legislation.gov.uk website.

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STATUTORY INSTRUMENTS

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