

2011 No. 749

TERRORISM

**The Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order
2011**

Made - - - - - *16th March 2011*

Coming into force - - - - - *17th March 2011*

At the Court at Buckingham Palace, the 16th day of March 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the power conferred on Her by section 54(1) of the Terrorist Asset-Freezing etc. Act 2010(a), is pleased, by and with the advice of Her Privy Council, to make the following Order:

1. This Order may be cited as the Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order 2011 and shall come into force on 17th March 2011.
2. Part 1 of, and Part 1 of Schedule 2 to, the Terrorist Asset-Freezing etc. Act 2010 shall extend to the Isle of Man, subject to the modifications specified in the Schedule to this Order.

Judith Simpson
Clerk of the Privy Council

SCHEDULE

Article 2

Modifications to be made in the extension of Part 1 of, and Part 1 of Schedule 2 to, the Terrorist Asset-Freezing etc. Act 2010 to the Isle of Man

1. Any reference to the Treasury means the Isle of Man Government Department of that name established under section 1(1) of the Government Departments Act 1987 (an Act of Tynwald)(a).
2. Any reference to the High Court means the High Court of Justice of the Isle of Man.
3. Any reference to an Act of Tynwald, or to a provision of an Act of Tynwald, shall be construed as including a reference to that Act or provision as amended or replaced by or under any other such Act or provision.
4. In section 2(4) (Treasury's power to make final designation), for "Terrorism Act 2000" substitute "Anti-Terrorism and Crime Act 2003 (an Act of Tynwald)(b)".
5. In section 10(7) (confidential information), omit "(in Scotland, the Court of Session)" and "(in Scotland, an interdict)".
6. In section 17(2) (licences), at the end insert " , as it has effect in the Isle of Man by virtue of the European Communities (Terrorism Measures) Order 2002(c)".
7. In section 20(5) (powers to request information), for "United Kingdom" substitute "Isle of Man".
8. In section 23(1)(g) (general power to disclose information)—
 - (a) in paragraph (i), before "the United Kingdom" insert "the Isle of Man or"; and
 - (b) in paragraph (ii), omit " , the Isle of Man".
9. In section 24 (co-operation with UK or international investigations)—
 - (a) in the heading, for "UK" substitute "Isle of Man"; and
 - (b) for "United Kingdom" substitute "Isle of Man".
10. In section 25 (application for provisions)—
 - (a) for subsection (2) substitute—

"(2) But nothing in this Chapter authorises a disclosure—

 - (a) that contravenes the Data Protection Act 2002 (an Act of Tynwald)(d), or
 - (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (an Act of Tynwald)(e).";
 - (b) in subsection (3), before "counsel or solicitor" insert "advocate,"; and
 - (c) in subsection (6)—
 - (i) before the definition of "information" insert—

"“advocate” means a person entitled by law to practise as such in the Isle of Man;"; and

(a) 1987 c.13.
(b) 2003 c.6.
(c) SD 111/02.
(d) 2002 c.2.
(e) 1988 c.18.

- (ii) in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.
- 11.** In section 26(2) (appeal to the court in relation to designations), omit “or, in Scotland, the Court of Session”.
- 12.** In section 27(2) (review of other decisions by the court), omit “or, in Scotland, the Court of Session.”.
- 13.** In section 28 (appeals and reviews: supplementary)—
- (a) omit subsections (1) to (3); and
 - (b) for sub-section 28(4) substitute—
 - “(4) The provisions of sections 25 to 27 of the Terrorism (Finance) Act 2009 (an Act of Tynwald)(a) apply in relation to proceedings—
 - (a) on an appeal under section 26 or an application under section 27, or
 - (b) on a claim arising from any matter to which such an appeal or application relates,
 as they apply in relation to proceedings in the High Court on an application under section 23 of that Act or on a claim arising from any matter to which such an application relates.”.
- 14.** Omit section 29 (initial exercise of powers to make rules of court).
- 15.** For section 30 (Treasury report on operation of Part 1) substitute—
- “**30.** As soon as reasonably practicable after the end of each calendar year the Treasury must—
 - (a) prepare a report about its exercise during that year of its functions under this Part, and
 - (b) lay a copy of the report before Tynwald.”.
- 16.** Omit section 31 (independent review of operation of Part 1).
- 17.** In section 32 (penalties)—
- (a) in each place it occurs—
 - (i) for “indictment” substitute “information”;
 - (ii) for “imprisonment” substitute “custody”;
 - (iii) for “the relevant maximum” substitute “12 months”; and
 - (iv) for “the statutory maximum” substitute “£5,000”;
 - (b) omit subsections (3) and (5); and
 - (c) in subsection (4), for “level 5 on the standard scale” substitute “£5,000”.
- 18.** In section 33 (extra-territorial application of offences)—
- (a) In subsection (1)—
 - (i) in the first place it occurs, for “United Kingdom”, substitute “Isle of Man”;
 - (ii) in paragraph (b), for “any part of the United Kingdom” substitute “the Isle of Man”;
 - (iii) at the end of paragraph (a), omit “or”;
 - (iv) at the end of paragraph (b), insert “, or”;
 - (v) after paragraph (b) insert—
 - “(c) a body incorporated or constituted under the law of any territory included in an Order made by Her Majesty in Council under section 33(3) of this Act as it has effect in the United Kingdom.”; and

(a) 2009 c.8.

- (b) omit subsections (3) and (4).
- 19.** In section 35 (jurisdiction to try offences)—
- (a) in subsection (1)—
- (i) for “United Kingdom”, in the first place it occurs, substitute “Isle of Man”;
- (ii) in paragraph (a), for “at any place in the United Kingdom” substitute “in the Isle of Man”; and
- (iii) in paragraph (b), for “at any such place” substitute “in the Isle of Man”; and
- (b) omit subsections (2) to (4).
- 20.** In section 36 (time limit for proceedings for summary offences)—
- (a) in subsection (1)—
- (i) for “England and Wales” substitute “the Isle of Man”; and
- (ii) for “magistrates’ court” substitute “court of summary jurisdiction (within the meaning of section 3 of the Interpretation Act 1976 (an Act of Tynwald)(a))”;
- (b) omit subsections (2) to (3); and
- (c) in subsection (4), omit “(or, in Scotland, the Lord Advocate)”.
- 21.** In section 37(1) (consent to prosecution), for “may not be instituted” to the end, substitute “may not be instituted except by or with the consent of the Attorney General for the Isle of Man.”.
- 22.** In section 38 (procedure for offences by unincorporated bodies)—
- (a) in subsection (2), for “(6)” substitute “(4)”;
- (b) in subsection (3), for “England or Wales or Northern Ireland” substitute “the Isle of Man”;
- (c) in subsection (4)(b), for sub-paragraphs (i) and (ii) substitute—
- “(i) section 10 of the Criminal Jurisdiction Act 1993 (an Act of Tynwald)(b);
- (ii) section 32 of the Summary Jurisdiction Act 1989 (an Act of Tynwald)(c).”;
- and
- (d) omit subsections (5) and (6).
- 23.** In section 41 (meaning of ‘relevant institution’)—
- (a) in subsection (1), for paragraphs (a) and (b) substitute—
- “(a) a person who is licensed under the Financial Services Act 2008 (an Act of Tynwald)(d) to carry on a regulated activity within the meaning of section 3 of that Act;
- (b) a person who is an authorised insurer within the meaning of the Insurance Act 2008 (an Act of Tynwald)(e); or”;
- and
- (b) omit subsection (2).
- 24.** In section 42 (interpretation: general)—
- (a) in subsection (1)—
- (i) before the definition of “designated person” insert—
- ““custody” has the same meaning as in the Custody Act 1995 (an Act of Tynwald)(f).”;
- and

(a) 1976 c.20.
 (b) 1993 c.9.
 (c) 1989 c.15.
 (d) 2008 c.8.
 (e) 2008 c.16.
 (f) 1995 c.1.

- (ii) for the definition of “enactment” substitute—
 - ““enactment” includes any public document (within the meaning of section 3 of the Interpretation Act 1976 (an Act of Tynwald)(a));” and
 - (b) in subsection (4), for “made by statutory instrument” until the end, substitute—
 - “laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting before which the order is so laid or at the next following sitting resolves that the instrument shall be annulled, the order shall cease to have effect.”.
- 25.** In section 44 (Crown application)—
- (a) in subsection (3), omit the words “or, in Scotland, the Court of Session”; and
 - (b) omit subsection (5).
- 26.** Omit section 45(1) (consequential amendments, repeals and revocations).
- 27.** In section 46 (transitional provisions and savings)—
- (a) in subsection (1)—
 - (i) after “2010” insert “as it has effect in the Isle of Man”; and
 - (ii) after “Part” insert “for the Isle of Man”;
 - (b) in subsection (2), for “anything that” to the end, substitute—
 - “anything that was done or omitted by a person other than the Treasury in the period beginning with 4 February 2010 and ending with the coming into force of the Act of 2010.”;
 - (c) in subsection (4)(c), for “on 31 December 2010” substitute “for the Isle of Man on 31 March 2011”;
 - (d) in subsection (5), for “Terrorism (United Nations Measures) Order 2009 (SI 2009/1747)” substitute “Terrorism (United Nations Measures) (Isle of Man) Order 2001 (SI 2001/3364)”;
 - (e) in subsection (6)(a), for “2009” substitute “2001”;
 - (f) omit subsection (9); and
 - (g) in subsection (10)—
 - (i) for “section 16 of the Interpretation Act 1978(b)” (general savings) substitute “section 15 of the Interpretation Act 1976 (an Act of Tynwald)”;
 - (ii) for “section 64(1)(e) of the Counter Terrorism Act 2008(c)” (UN terrorism orders) substitute “section 24(1)(a) of the Terrorism (Finance) Act 2009 (an Act of Tynwald)(d)”;
 - (iii) in paragraph (a), for “section 63 of the Act of 2008” (application to set aside financial restrictions decision) substitute “section 23 of the Act of 2009”.
- 28.** Omit section 47 (power to repeal Part).
- 29.** In Schedule 2, Part 1 (repeals and revocations: Terrorist Asset-Freezing), in the table—
- (a) for “Terrorism (United Nations Measures) Order 2001 (SI 2001/3365)” substitute “The Terrorism (United Nations Measures) (Isle of Man) Order 2001 (SI 2001/3364)”;
 - (b) omit the entry for “Financial Services and Markets Act 2000 (Consequential Amendments) (No.2) Order 2001 (SI 2001/3801)”;

(a) 1976 c.20.
 (b) 1978 c.30.
 (c) 2008 c.28.
 (d) 2009 c.8.

- (c) for “Al-Qa’ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111)” substitute “The Al-Qa’ida and Taliban (United Nations Measures) (Isle of Man) Order 2002 (SI 2002/259)”;
- (d) omit the entries from “Terrorism (United Nations Measures) Order 2001 (Amendment) Regulations 2003 (SI 2003/1297)” to “Transfer of Funds (Information on the Payer) Regulations (SI 2007/3298)”;
- (e) in the second column, in the entry for the Counter-Terrorism Act 2008(a), for “Section 64(1)(e)” (UN terrorism orders) until the end, substitute “Section 75(2)(g)” (amendment of definition of “terrorism” etc);
- (f) omit the entries from “Payment Services Regulations 2009 (SI 2009/209)” to the end; and
- (g) at the end of the table insert the following entry—

| | |
|---|---------------------|
| “Terrorism (Finance) Act 2009 (an Act of Tynwald) | Section 24(1)(a).”. |
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends Part 1 (including Part 1 of Schedule 2) of the Terrorist Asset-Freezing etc. Act 2010 to the Isle of Man, subject to the modifications specified in the Schedule.

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(a) 2008 c.28.

STATUTORY INSTRUMENTS

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2011

£5.75