

CAYMAN ISLANDS



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STATUTORY INSTRUMENTS

2007 No. 2132

**THE IRAN (UNITED NATIONS MEASURES) (OVERSEAS
TERRITORIES) (AMENDMENT) ORDER 2007**

STATUTORY INSTRUMENTS

2007 No. 2132

UNITED NATIONS

EUROPEAN COMMUNITIES

**The Iran (United Nations Measures) (Overseas Territories)
(Amendment) Order 2007**

<i>Made</i>	<i>25th July 2007</i>
<i>Laid before Parliament</i>	<i>26th July 2007</i>
<i>Coming into force</i>	<i>27th July 2007</i>

At the Court at Buckingham Palace, the 25th day of July 2007

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 1747 (2007) adopted on 24th March 2007, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Iran.

The measures in resolution 1747 (2007) were given effect by the Council of the European Union in Council Common Position 2007/246/CFSP [1] adopted on 23rd April 2007, which amended Council Common Position 2007/140/CFSP [2] adopted on 27th February 2007, and which widened the scope of the restrictive measures imposed by resolution 1747 (2007).

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946 [3], section 112 of the Saint Helena Act 1833 [4], and the British Settlements Acts 1887 and 1945 [5], and in exercise of all 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 (United Nations Measures) (Overseas Territories) (Amendment) Order 2007 and shall come into force on 27th July 2007.

(2) In this Order, "the principal Order" means the Iran (United Nations Measures) (Overseas Territories) Order 2007 [6]

(3) This Order shall extend to the territories listed in Schedule 1 to the principal Order except Bermuda.

Amendment of the Principal Order

2. The principal Order is amended as follows:

(1) In Article 1:

- (a) By amending paragraph (1) by adding the words "and European Union" after the words "United Nations";
- (b) By deleting paragraph (4) and replacing it with the following paragraph (4):

" (4) Article 23 shall apply to the Falkland Islands and South Georgia and the South Sandwich Islands subject to the modification set out in Schedule 3."

(2) In Article 2(1):

- (a) By inserting the following definition between the definitions of "commander" and "designated person":

" "Council Common Position" means Council Common Position 2007/140/CFSP adopted by the Council of the European Union on 27th February 2007 as amended by Council Common Position 2007/246/CFSP adopted on 23rd April 2007;"

- (b) By deleting the definition of "designated person" and replacing it with the following definition:

" "designated person" means any person or entity designated in the Annex to the Security Council Resolution, or for the time being designated by the Security Council or the Committee pursuant to paragraph 12 of the Security Council Resolution, or listed in Annex 1 to Security Council Resolution 1747 (2007) adopted on 24th March 2007 or any person or entity listed in

Annex II of the Council Common Position as amended from time to time;"

- (c) By inserting the following definition between the definitions of "economic resources" and "export":

" "EC Regulation" means Council Regulation (EC) No 423/2007 adopted by the Council of the European Union on 19th April 2007 [7], as amended from time to time;"

- (d) By deleting the words "derivative products" at the end of paragraph (c) of the definition of "funds", and replacing them with the words "derivatives contracts".

- (e) By inserting the following definition between the definitions of "master" and "officer":

" "military goods" means the goods, software and technology specified in Part 1 of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 [8] made under the Export Control Act 2002 [9], as extended to the territories listed in Schedule 1 thereto by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 [10];"

- (f) By deleting the definition of "restricted goods" and replacing it with the following definition:

" "restricted goods" means all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems, specified in Security Council Documents S/2006/814 or S/2006/815, or as determined by the Security Council or the Committee pursuant to subparagraph 3(d) of the Security Council Resolution, or listed in Annex I or Annex II of the EC Regulation, and shall include such further items, materials, equipment, goods or technology as may be determined by the Government of the United Kingdom, in accordance with paragraph 4 of the Security Council Resolution and specified in instructions from a Secretary of State to the Governor, to be "restricted goods" for the purposes of this Order;"

- (g) By inserting the following definitions between the definitions of "the Security Council Resolution" and "stores":

" "ship" includes every description of vessel used in navigation;"

"shipment" includes loading into an "aircraft";

- (h) By replacing the full stop at the end of the definition of "Supreme Court" with a semi-colon and adding after the definition of "Supreme Court" the following definition:

" "vehicle" means a land transport vehicle."

- (3) In article 3, by amending the title of the article to read "Publicly available list of designated persons, restricted goods and military goods", by moving the word "and" from the end of paragraph (b) to the end of paragraph (c), replacing the full stop with a semi-colon, and adding a new paragraph (d) as follows:

"(d) cause a list of military goods to be published in the gazette of the Territory as necessary from time to time."

- (4) By deleting article 8 and replacing it with the following article 8:

"Procurement of restricted goods and military goods from Iran

8. (1) Except under the authority of a licence granted by the Governor under this article, the procurement of restricted goods or military goods from Iran is prohibited.

(2) Any restricted goods or military goods which are procured or attempted to be procured shall be liable to forfeiture.

(3) Any person knowingly concerned in the procurement or attempted procurement of restricted goods or military goods shall be guilty of an offence under this Order."

- (5) In article 9, by deleting the words "directly or indirectly" where they occur in paragraphs (1) and (3).

- (6) In article 11:

- (a) By adding after paragraph (1) the following paragraph (1A):

" (1A) Article 10 does not prevent a relevant institution from crediting a frozen account when it receives funds transferred to a frozen account by a third party."

- (b) By deleting paragraph (3) and replacing it with the following paragraph (3):

"(3) In this article "frozen account" means an account with a relevant institution which is held or controlled by a designated person."

(7) In article 23, by deleting in paragraph (3) the words "paragraph 2(3) of Schedule 4" and replacing them with the words "paragraph 2(3A) of Schedule 4", and in paragraph (3)(a) by deleting the words "of any amount".

(8) In article 24, by deleting subparagraph (4)(a) and replacing it with the following subparagraph:

"(a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or".

(9) By deleting Schedule 2 and replacing it with the following Schedule:

" SCHEDULE 2

Article 1(3)

APPLICATION OF ARTICLES 23 AND 24 TO THE
SOVEREIGN BASE AREAS OF AKROTIRI AND
DHEKELIA IN THE ISLAND OF CYPRUS

1. Any person guilty of an offence under article 4(1), 5(3), 6, 7(3), 8(3), 9(2), 10(2), 12, or 15 is liable on conviction to imprisonment for a term not exceeding seven years, or to a fine, or to both.

2. Any person guilty of an offence under article 14(6) or (7), 16(4), 20(3)(b)(ii), 21(1) or (2), or paragraph 2(3A) or 4(b) or (d) of Schedule 4, is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person guilty of an offence under article 20(3)(a), 20(3)(b)(i), 20(3)(c) or paragraph 4(a) or (c) of Schedule 4 is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5000 or its equivalent, or to both.

4. Any person guilty of an offence under article 16(3) is liable on conviction to a fine not exceeding £5000 or its equivalent.

5. Where a body corporate is guilty of an offence under this Order, and that offence is provided to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of an officer of the body corporate, he, as well as the body

corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

6. 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.

7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the Attorney General and Legal Adviser.

8. Irrespective of whether consent under paragraph 7 has been obtained, paragraph 7 does not prevent -

- a. the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence;
- b. remand in custody or on bail of any person charged with such an offence."

(10) In Schedule 4, by deleting paragraph 2(3) and replacing it with the following paragraphs (3) and (3A):

"(3) A relevant institution must inform the Governor without delay if it credits a frozen account in accordance with article 11(1A)."

(3A) A relevant institution which fails to comply with a requirement in subparagraph (1), (2) or (3) is guilty of an offence."

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Iran (United Nations Measures) (Overseas Territories) Order (SI 2007/282 "the principal Order") to give effect to Resolution 1747 (2007) adopted by the Security Council of the United Nations on 24th March 2007, and to wider restrictive measures adopted by the Council of the European Union in Council Regulation (EC) No 423/2007 on 19th April 2007, in implementation of Council Common Position 2007/140/CFSP adopted on 27th

February 2007, and in Council Common Position 2007/246/CFSP on 23th April 2007, which amended Council Common Position 2007/140/CFSP.

Resolution 1747 (2007) subjected the persons and entities listed in its Annex 1 to the asset freezing measures in resolution 1737 (2006) and prohibited the procurement of military goods and technology from Iran. In implementation of measures under Council Common Position 2007/140/CFSP, Council Regulation (EC) No 423/2007 imposed restrictions on the supply to Iran of specific proliferation-sensitive goods, additional to those specified by the UN. Council Common Position 2007/246/CFSP also adopted wider measures than resolution 1747 (2007), in particular by listing additional persons and entities subject to asset freezing measures.

As the European Union measures in Council Regulation (EC) No 423/2007 ("the EC Regulation") and in Council Common Position 2007/140/CFSP as amended by Council Common Position 2007/246/CFSP ("the Council Common Position") are wider in scope than those under resolution 1747 (2007), in addition to using the United Nations Act 1946 for the UN measures, it is necessary to give effect in this Order to the wider measures using additional statutory and prerogative enabling powers to legislate for the Overseas Territories. This amending Order applies to all the territories to which the principal Order extends except Bermuda, to which these additional enabling powers are not applicable.

The substantive provisions of this Order include the following amendments to the principal Order:

Article 2 amends the citation of the principal Order.

Article 2 also adds definitions of "Council Common Position", "EC Regulation", and "military goods". It amends the definition of "designated person" to include persons and entities listed additionally in Annex 11 of Council Common Position 2007/246/CFSP, and amends the definition of "restricted goods" to include items listed in Annexes 1 and 11 of Council Regulation (EC) No 423/2007. Definitions of "ship", "shipment" and "vehicle" are added, and the definition of "funds" is amended.

Article 2 amends article 3 of the principal Order to require the Governor to publish a list of military goods to be published in the gazette of the Territory.

Article 2 replaces the existing article 8 in the principal Order with a new article 8 which prohibits the procurement from Iran of military goods and technology, in addition to the existing prohibition on procurement of restricted goods. Minor amendments are made to article 9 of the principal Order to conform with

amendments made to equivalent implementing legislation in the United Kingdom for consistency with the EC Regulation.

Article 2 amends article 11 of the principal Order to allow the crediting of a frozen account with funds transferred to that account by a third party and to clarify the definition of "frozen account".

Article 2 amends article 23 of the principal Order to achieve consistency in the description of "fine", and amends article 24 to clarify the arrest provisions.

Schedule 2 of the principal Order is replaced to reflect the present court structure and procedure in the Sovereign Base Areas.

Schedule 4 of the principal Order is amended to require a relevant institution to inform the Governor if it credits a frozen account in accordance with article 11(1A), and makes failure to inform an offence.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Notes:

[1] OJ No L 106, 24.4.07, p.67.

[2] OJ No L 61, 28.2.07, p.49.

[3] 1946 c. 45.

[4] 1833 c. 85.

[5] 1887 c. 54 and 1945 c. 7.

[6] S.I. 2007/282.

[7] OJ No L 103, 20.4.07, p.1.

[8] S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

[9] 2002 c. 28.

[10] S.I. 2004/3101.
