



Isle of Man

Ellan Vannin

AT 13 of 2014

**TERRORISM AND OTHER CRIME
(FINANCIAL RESTRICTIONS) ACT 2014**



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**Isle of Man***Ellan Vannin*

TERRORISM AND OTHER CRIME (FINANCIAL RESTRICTIONS) ACT 2014

Signed in Tynwald: 18 November 2014
Received Royal Assent: 18 November 2014
Announced to Tynwald: 18 November 2014

AN ACT to re-enact with amendments the Terrorism (Finance) Act 2009, the Terrorist Asset-Freezing etc. Act 2010 (Isle of Man) Order 2011 and parts of the Anti-Terrorism and Crime Act 2003; to amend further the Anti-Terrorism and Crime Act 2003 and the Proceeds of Crime Act 2008; to amend other legislation in connection with bail, sexual offences and the enforcement of fines and other financial penalties; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Terrorism and Other Crime (Financial Restrictions) Act 2014.

2 Commencement

- (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Department may by order appoint and different days may be appointed for different purposes of this Act.¹
- (2) An order under subsection (1) may make such transitional and saving provisions as the Department considers necessary or expedient.

3 Interpretation

In this Act unless the context otherwise requires —

“**action**” includes omission;

“**appropriate body**” means a body that regulates or is representative of any trade, profession, business or employment carried on by the person to be dealt with under section 36 (power to impose civil penalties) or section 39 (contravention of requirement imposed by direction) as the case may be;

“**biological weapon**” means anything within section 1(1)(a) or (b) of the Biological Weapons Act 1974 (of Parliament), as that Act has effect in the Island;

“**business in the regulated sector**” has the same meaning as in paragraph 1 of Schedule 4 to the *Proceeds of Crime Act 2008*;

“**chemical weapon**” means a chemical weapon as defined by section 1(1) of the Chemical Weapons Act 1996 (of Parliament), as that Act has effect in the Island, other than one the intended use of which is only for permitted purposes (as defined by section 1(3) of that Act);

“**conduct**” includes acts and omissions;

“**country**” includes territory;

“**Department**” means Department of Home Affairs;

“**designated person**” means —

- (a) a person designated by the Treasury for the purposes of Part 2 (including a designation that has effect by virtue of section 24(1));
- (b) a natural or legal person, group or entity included in the list provided for by Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism as it has effect in the Island¹;

“**designation**” means a designation under section 18 or section 19;

“**directed person**”, in relation to a direction, means a person in relation to whom a direction is made;

“**direction**” means a direction given under section 6 or section 7;

“**document**” means information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“**economic resources**” means assets of every kind, whether tangible or intangible, movable or immovable, that are not funds but can be used to obtain funds, goods or services;

“**enforcement officer**” means any person carrying out any functions under this Act on behalf of the Treasury;

¹ See the European Communities (Terrorism Measures) Order 2002 SD111/02.

“**final designation**” means a designation under section 18 (including any such designation as renewed);

“**final direction**” means a direction under section 6;

“**final freezing order**” means an order made under section 14;

“**financial services**” has the meaning given by section 4;

“**financially restricted person**” means a person who is the subject of a financial restriction order;

“**financial restriction order**” means any of the measures described in Part 2;

“**financing**”, for the purposes of proliferation or terrorism, means —

- (a) the use of funds, or the making available of funds, for the purposes of proliferation or terrorism as the case may be; or
- (b) the acquisition, possession, concealment, conversion or transfer of funds that are (directly or indirectly) to be used or made available for those purposes;

“**freezing order**” means an order made under section 14 or section 15;

“**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 persons, 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 derivative products;
- (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 or bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export financing;

“**interim designation**” means a designation under section 19;

“**interim direction**” means a direction given under section 7;

“**interim freezing order**” means an order made under section 15;

“**money laundering**” means an act that falls within section 158(11) of the *Proceeds of Crime Act 2008*;

“**notice**” means a notice in writing;

“**nuclear weapon**” includes a nuclear explosive device that is not intended for use as a weapon;

“**proliferation**” means the development or production of nuclear, radiological, biological or chemical weapons or systems for their delivery;

“**radiological weapon**” means a device designed to cause destruction, damage or injury by means of the radiation produced by the decay of radioactive material;

“**relevant institution**” means —

- (a) a person who is licensed under the *Financial Services Act 2008* to carry on a regulated activity within the meaning of section 3 of that Act; or
- (b) a person who is an authorised insurer within the meaning of the *Insurance Act 2008*;

“**relevant person**”, in relation to a direction, means any of the persons to whom the direction is given;

“**relevant supervisory authority**” means such body, being a body mentioned in paragraph 2 of Schedule 4 to the *Proceeds of Crime Act 2008*, as determined by the Department in respect of persons acting in the course of a business in the regulated sector;

“**special advocate**” means a person appointed under section 62;

“**terrorism**” has the same meaning as in section 1 of the *Anti-Terrorism and Crime Act 2003*.

4 Meaning of “**financial services**”

(1) In this Act “**financial services**” means any service of a financial nature, including (but not limited to) —

- (a) insurance-related services consisting of —
 - (i) direct life assurance;
 - (ii) direct insurance other than life assurance;
 - (iii) reinsurance and retrocession;
 - (iv) insurance intermediation, such as brokerage and agency;
 - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
- (b) banking and other financial services consisting of —
 - (i) accepting deposits and other repayable funds;
 - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - (iii) financial leasing;

- (iv) payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
 - (v) providing guarantees or commitments;
 - (vi) financial trading (as defined in subsection (2));
 - (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
 - (viii) money brokering;
 - (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
 - (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
 - (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).
- (2) In subsection (1)(b)(vi), "financial trading" means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in —
- (a) money market instruments (including cheques, bills and certificates of deposit);
 - (b) foreign exchange;
 - (c) derivative products (including futures and options);
 - (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
 - (e) transferable securities;
 - (f) other negotiable instruments and financial assets (including bullion).

5 Meaning of "resident"

- (1) A resident of the Island is —
- (a) an individual who is ordinarily resident in the Island;
 - (b) a body incorporated or constituted under the law of the Island; or

- (c) a limited liability company, partnership or other unincorporated association formed under the law of the Island.
- (2) A resident of a country outside the Island is —
 - (a) an individual who is ordinarily resident in such a country;
 - (b) a body incorporated under the law of such a country; or
 - (c) a limited liability company, partnership or other unincorporated association formed under the law of such a country.
- (3) For the purposes of this section a branch situated in a country outside the Island of a body incorporated under the law of the Island is to be treated as a body incorporated under the law of the country where the branch is situated.

PART 2 – FINANCIAL RESTRICTION ORDERS

DIVISION 1 – DIRECTIONS IN RESPECT OF FINANCING OF PROLIFERATION OR TERRORISM OR MONEY LAUNDERING

6 Power to give final directions

- (1) The Treasury may give a direction (a “**final direction**”) to a person mentioned in section 9 (a “**relevant person**”) if one or more of the following conditions is met in relation to a country.
- (2) The first condition is that the Financial Action Task Force has advised that measures should be taken in relation to the country because of the risk of financing of proliferation or terrorism or money laundering activities being carried on —
 - (a) in the country;
 - (b) by the government of the country; or
 - (c) by persons resident in the country.
- (3) The second condition is that the Treasury reasonably believes that there is a risk that financing of terrorism or money laundering activities are being carried on —
 - (a) in the country;
 - (b) by the government of the country; or
 - (c) by persons resident in the country,and that this poses a significant risk to the national interests of the Island.
- (4) The third condition is that the Treasury reasonably believes that —
 - (a) proliferation in the country; or
 - (b) the doing of anything that facilitates proliferation —
 - (i) in the country;

- (ii) by the government of the country; or
- (iii) by persons resident in the country,

poses a significant risk to the national interests of the Island.

7 Power to give interim directions

- (1) The Treasury may give a direction (an “**interim direction**”) to a person mentioned in section 9 if either of the following conditions is met in relation to a country.
- (2) The first condition is that the Treasury reasonably suspects that there is a risk that financing of terrorism or money laundering activities are being carried on —
 - (a) in the country;
 - (b) by the government of the country; or
 - (c) by persons resident in the country,and that this poses a significant risk to the national interests of the Island.
- (3) The second condition is that the Treasury reasonably suspects that —
 - (a) proliferation in the country; or
 - (b) the doing of anything that facilitates proliferation —
 - (i) in the country;
 - (ii) by the government of the country; or
 - (iii) by persons resident in the country,poses a significant risk to the national interests of the Island.
- (4) The Treasury may not give more than one interim direction to the same person in relation to the same, or substantially the same, evidence.

8 Requirements to be contained in directions

Schedule 1 makes further provision about the requirements that may be contained in directions and the persons (“**directed persons**”) in relation to whom they are given.

9 Persons to whom a direction may be given

- (1) A direction may be given to —
 - (a) a particular person acting in the course of a business in the regulated sector;
 - (b) any description of persons acting in the course of a business in the regulated sector; or
 - (c) all persons acting in the course of a business in the regulated sector.

- (2) A direction may make different provision in relation to different descriptions of relevant person.
- (3) The Treasury may by order amend this section so as to make any other provision as to the persons to whom a direction may be given.
- (4) Any such order must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which it is laid or at the next following sitting fails to approve it, the order ceases to have effect.

10 General directions to be given by order

- (1) A direction given to —
 - (a) a description of persons acting in the course of a business in the regulated sector; or
 - (b) all persons acting in the course of a business in the regulated sector,must be contained in an order made by the Treasury.
- (2) If the order contains requirements of a kind mentioned in paragraph 6 of Schedule 1 (limiting or ceasing business) it must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which it is laid or at the next following sitting fails to approve it, the order ceases to have effect.
- (3) An order's ceasing to have effect in accordance with subsection (2) does not affect anything done under the order.
- (4) An order to which subsection (2) does not apply must be laid before Tynwald as soon as practicable after it is made.

11 Specific directions: notification and duration

- (1) This section applies in relation to a direction given to a particular person.
- (2) The Treasury must give notice of the direction to the person.
- (3) Without limiting the power to give a further direction, the direction (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of —
 - (a) in the case of a final direction, a year; and
 - (b) in the case of an interim direction, 30 days,beginning with the day on which the direction is given.
- (4) The Treasury may vary or revoke the direction at any time.
- (5) If the direction is varied or ceases to have effect (whether on revocation or otherwise), the Treasury must give notice of that fact to the person.

12 General directions: publication and duration

- (1) This section applies to an order containing directions under section 10.
- (2) The Treasury must take such steps as it considers appropriate to publicise the making of the order.
- (3) An order —
 - (a) revoking the order; or
 - (b) varying the order so as to make its provisions less onerous,must be laid before Tynwald as soon as practicable after it is made.
- (4) The order (if not previously revoked and whether or not varied) ceases to have effect at the end of the period of a year beginning with the day on which it was made, but this does not limit the power to make a further order.
- (5) If the order is varied or ceases to have effect (whether on revocation or otherwise), the Treasury must take such steps as it considers appropriate to publicise that fact.

DIVISION 2 – ASSET-FREEZING

SUB-DIVISION 1 – GENERAL FREEZING OF FUNDS

13 Freezing orders: general

- (1) A freezing order is an order that prohibits persons from making funds available to or for the benefit of any person specified in the order.
- (2) The order must provide that the following are the persons who are so prohibited —
 - (a) all persons in the Island, and
 - (b) all persons elsewhere who are residents of the Island.
- (3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available —
 - (a) any person the Treasury reasonably believes to have taken or to be likely to take the action referred to in section 14;
 - (b) any person the Treasury reasonably believes has provided or is likely to provide assistance (directly or indirectly) to such person;
 - (c) any person the authority making the request under section 14(4) specifies that the freezing order to be made in response to that request is to apply to.
- (4) A person may be specified under subsection (3) by —
 - (a) being named in the order, or

- (b) falling within a description of persons set out in the order.
- (5) The description must be such that a reasonable person would know whether or not he or she fell within it.
- (6) A freezing order may be made in respect of funds regardless of whether they are owned or held by more than one person.
- (7) Schedule 2 makes further provision about the requirements that may be contained in freezing orders.

14 Power to make final freezing orders

- (1) The Treasury may make a freezing order (a “**final freezing order**”) if —
 - (a) both of the conditions in subsections (2) and (3) are satisfied; or
 - (b) the condition in subsection (4) is satisfied.
- (2) The condition is that the Treasury reasonably believes that —
 - (a) action to the detriment of the economy (or part of the economy) of the Island or of any country outside the Island; or
 - (b) action constituting a threat to the life or property of a resident of the Island or a resident of a country outside the Island,has been, or is likely to be, taken by any person.
- (3) The condition is that the person (or if more than one, all of them) is —
 - (a) the government of a country outside the Island; or
 - (b) a resident of the Island or a resident of a country outside the Island.
- (4) The condition is that the Treasury —
 - (a) has received a request to make a freezing order from an authority outside the Island which appears to the Treasury to have the function of making requests to freeze funds; and
 - (b) considers it appropriate in the circumstances to make the order.

15 Power to make interim freezing orders

- (1) The Treasury may make a freezing order (an “**interim freezing order**”) if —
 - (a) the Treasury reasonably suspects that —
 - (i) action to the detriment of the economy (or part of the economy) of the Island or of any country outside the Island; or
 - (ii) action constituting a threat to the life or property of a resident of the Island or a resident of a country outside the Island,has been, or is likely to be, taken by any person; and

- (b) the condition set out in section 14(3) is satisfied.
- (2) The Treasury may not make more than one interim freezing order concerning the same person in relation to the same, or substantially the same, evidence.

16 Duration of freezing orders

- (1) An interim freezing order ceases to have effect —
 - (a) at the end of the period of 30 days starting with the date on which it was made, or
 - (b) on the making of a final freezing order concerning the same person,whichever is the earlier.
- (2) A final freezing order ceases to have effect at the end of a period of a year starting with the date on which it was made.
- (3) The Treasury must keep a freezing order under review.

17 Procedure for making freezing orders

- (1) A power to make a freezing order is exercisable by order made by the Treasury.
- (2) A freezing order must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting so resolves, it ceases to have effect.

SUB-DIVISION 2 – FREEZING OF TERRORIST ASSETS

18 Power to make final designations

- (1) The Treasury may make a designation under this section (a “**final designation**”) if —
 - (a) it reasonably believes —
 - (i) that the person is or has been involved in terrorist activity;
 - (ii) that the person is owned or controlled directly or indirectly by a person within sub-paragraph (i); or
 - (iii) that the person is acting on behalf of or at the direction of a person within sub-paragraph (i); and
 - (b) it considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.
- (2) For this purpose involvement in terrorist activity is any one or more of the following —

- (a) the commission, preparation or instigation of acts of terrorism;
 - (b) conduct that facilitates the commission, preparation or instigation of such acts, or that is intended to do so;
 - (c) conduct that gives support or assistance to persons who are known or believed by the person concerned to be involved in conduct falling within paragraph (a) or (b).
- (3) It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.
- (4) In subsection (1)(b) “financial restrictions” includes a reference to restrictions relating to economic resources.

19 Power to make interim designations

- (1) The Treasury may make a designation under this section (an “**interim designation**”) if —
- (a) it reasonably suspects —
 - (i) that the person is or has been involved in terrorist activity,
 - (ii) that the person is owned or controlled directly or indirectly by a person within sub-paragraph (i); or
 - (iii) that the person is acting on behalf of or at the direction of a person within sub-paragraph (i), and
 - (b) it considers that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.
- (2) Section 18(2) to (4) apply for the purposes of this section as they apply for the purposes of that section.
- (3) The Treasury may not make more than one interim designation of the same person in relation to the same, or substantially the same, evidence.

20 Notification of designations

- (1) Where the Treasury makes a designation of a person, it must —
- (a) give written notice of the designation to the designated person; and
 - (b) take steps to publicise the designation.
- (2) Unless one or more of the following conditions is met, the Treasury must take steps to publicise the designation generally.
- (3) The conditions are that —
- (a) the Treasury believes that the designated person is an individual under the age of 18; or

- (b) the Treasury considers that disclosure of the designation should be restricted —
 - (i) in the interests of national security;
 - (ii) for reasons connected with the prevention or detection of serious crime; or
 - (iii) in the interests of justice.
- (4) If one or more of those conditions is met, the Treasury must inform only such persons as it considers appropriate.
- (5) If that ceases to be the case, the Treasury must —
 - (a) give written notice of that fact to the designated person; and
 - (b) take steps to publicise the designation generally.

21 Duration and renewal of final designations

- (1) A final designation expires at the end of the period of a year beginning with the date on which it was made, unless it is renewed.
- (2) The Treasury may renew a final designation at any time before it expires, if the requirements in section 18(1)(a) and (b) continue to be met.
- (3) A renewed final designation expires at the end of the period of a year beginning with the date on which it was renewed (or last renewed), unless it is renewed again.
- (4) Section 20 applies to the renewal (and any subsequent renewal) of a final designation.
- (5) When a final designation expires the Treasury must —
 - (a) give written notice of that fact to the designated person; and
 - (b) take reasonable steps to bring that fact to the attention of the persons informed of the designation.

22 Duration of interim designations

- (1) An interim designation expires —
 - (a) at the end of the period of 30 days beginning with the date on which it was made; or
 - (b) on the making of a final designation in relation to the same person,whichever is the earlier.
- (2) When an interim designation expires the Treasury must —
 - (a) give written notice of that fact to the designated person; and
 - (b) take reasonable steps to bring that fact to the attention of the persons informed of the designation.

- (3) When an interim designation expires on the making of a final designation in relation to the same person –
 - (a) a notice under subsection (2) may be combined with a notice under section 20(1)(a); and
 - (b) steps under subsection (2) may be combined with steps under section 20(1)(b) to publicise the final designation.

23 Variation or revocation of designations

- (1) The Treasury may vary or revoke a designation at any time.
- (2) When a designation is varied or revoked the Treasury must –
 - (a) give written notice of the variation or revocation to the designated person; and
 - (b) take reasonable steps to bring the variation or revocation to the attention of the persons informed of the designation.

DIVISION 3 – FINANCIAL RESTRICTION ORDERS DEPENDENT ON ACTION OF UK TREASURY

24 Financial restriction measures made by the United Kingdom

- (1) Any measure effected by the United Kingdom Treasury after the coming into operation of this section that is the equivalent to a freezing order or designation has effect in the Island as if made under Division 2 and in the same terms.
- (2) The fact that a measure that is the equivalent to a direction has been effected by the United Kingdom Treasury is to be taken as sufficient for the Treasury to form the same reasonable belief or suspicion that gave rise to the effecting of the measure.
- (3) If the measure mentioned in subsection (2) –
 - (a) is set aside (whether or not on appeal) following proceedings under section 63 of the Counter-Terrorism Act 2008 (of Parliament);
 - (b) ceases to have effect under paragraph 15(3), or is contained in an order which ceases to have effect under paragraph 16(4), of Schedule 7 to that Act; or
 - (c) is revoked under paragraph 15(4) of Schedule 7 to that Act or is contained in an order which was revoked in accordance with paragraph 16(3) of Schedule 7 to that Act,

any direction made in reliance on that measure is treated as revoked on the date that the decision to set aside takes effect or the measure ceases to have effect or is revoked or the order containing the measure ceases to have effect or is revoked, as the case may be.

- (4) The Treasury may, by order, amend this section.
- (5) An order under this section shall not come into operation unless approved by Tynwald.

PART 3 – ENFORCEMENT

DIVISION 1 – DISCLOSURE REQUIREMENTS

25 Power to require information

- (1) The Treasury may require a financially restricted person to provide information concerning –
 - (a) funds or economic resources owned, held or controlled by or on behalf of the financially restricted person; or
 - (b) any disposal of such funds or economic resources.
- (2) The Treasury may require a financially restricted person to provide such information as the Treasury may reasonably require about expenditure by, on behalf of, or for the benefit of, the financially restricted person.
- (3) The power in subsection (1) or (2) is exercisable only when the Treasury believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Act.
- (4) The Treasury may require a person acting under a licence granted under section 51 to provide information concerning –
 - (a) funds or economic resources dealt with under the licence; or
 - (b) funds, economic resources or financial services made available under the licence.
- (5) The Treasury may require any person in or resident in the Island to provide such information as the Treasury may reasonably require for the purpose of –
 - (a) establishing for the purposes of this Act –
 - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a financially restricted person;
 - (ii) the nature and amount or quantity of any funds, economic resources or financial services made available directly or indirectly to, or for the benefit of, a financially restricted person; or
 - (iii) the nature of any financial transactions entered into by a financially restricted person;
 - (b) monitoring compliance with or detecting evasion of this Act; or

- (c) obtaining evidence of the commission of an offence under this Act.
- (6) A requirement for information to be given under this section must be by way of written notice setting out the reasons why it is required.
- (7) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (8) If no such period is specified, the information must be provided within a reasonable time.
- (9) A notice under this section may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.
- (10) Information required under this section may relate to any period of time during which a person is, or was, a financially restricted person.
- (11) Information required under subsection (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a financially restricted person (as well as, or instead of, any subsequent period of time).

26 Production of documents

- (1) A notice under section 25 may include a requirement to produce specified documents or documents of a specified description.
- (2) Where the Treasury requires that documents be produced, it may —
 - (a) take copies of or extracts from any document so produced;
 - (b) require any person producing a document to give an explanation of it; and
 - (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, require any person who is —
 - (i) in the case of a partnership, a present or past partner or employee of the partnership;
 - (ii) in any other case, a present or past officer or employee of the body concerned,to give such an explanation.
- (3) Where the Treasury requires a financially restricted person or a person acting under a licence granted under section 51 to produce documents, that person must —
 - (a) take reasonable steps to obtain the documents (if not already in the person's possession or control);
 - (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

- (4) In relation to a document in electronic form the power to require production of it includes a power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.
- (5) The production of a document does not affect any lien that a person has on the document.

27 Offence of failure to comply with requirement for information or documents

- (1) A person commits an offence 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 fulfil any requirement for information or documents under section 25 or section 26;
 - (b) knowingly or recklessly gives any information, or produces any document, that is false in a material particular in response to such a requirement;
 - (c) with intent to evade the provisions of this Act, destroys, mutilates, defaces, conceals or removes any document; or
 - (d) otherwise intentionally obstructs the Treasury in the exercise of its powers under this Act.
- (2) If a person is convicted of an offence under this section, the court may make an order requiring that person, within such period as may be specified in the order, to fulfil the requirement.
- (3) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding £5,000 or to both.

28 Entry, inspection etc. without a warrant

- (1) If an enforcement officer has reasonable cause to believe that any premises are being used by a financially restricted person in connection with the person's business activities, the Treasury may on producing evidence of authority at any reasonable time —
 - (a) enter the premises;
 - (b) inspect the premises;
 - (c) observe the carrying on of business activities by the financially restricted person;
 - (d) inspect any document found on the premises; and
 - (e) require any person on the premises to provide an explanation of any document or to state where it may be found.

- (2) The enforcement officer may take copies of, or make extracts from, any document found under subsection (1).
- (3) The enforcement officer may exercise powers under this section only if the information or document sought to be obtained as a result is reasonably required in connection with the exercise of the Treasury's functions under this Act.
- (4) In this section "premises" means any premises other than premises used only as a dwelling.

29 Entry to premises under warrant

- (1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.
- (2) The first set of conditions is —
 - (a) that there is on the premises proposed to be specified in the warrant a document in relation to which a requirement could be imposed under section 26; and
 - (b) that if such a requirement were to be imposed —
 - (i) it would not be complied with; or
 - (ii) the document to which it relates would be removed, tampered with or destroyed.
- (3) The second set of conditions is —
 - (a) that a person on whom a requirement has been imposed under section 26 has failed (wholly or in part) to comply with it; and
 - (b) that there is on the premises proposed to be specified in the warrant a document that has been required to be produced.
- (4) The third set of conditions is —
 - (a) that an enforcement officer has been obstructed in the exercise of a power under section 28; and
 - (b) that there is on the premises proposed to be specified in the warrant a document that could be inspected under section 28(1)(d).
- (5) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by an enforcement officer that there are reasonable grounds for suspecting that —
 - (a) an offence under this Act has been, is being or is about to be committed by a financially restricted person; and

- (b) there is on the premises proposed to be specified in the warrant a document relevant to whether that offence has been, is being or is about to be committed.
- (6) A warrant issued under this section authorises an enforcement officer —
- (a) to enter the premises specified in the warrant;
 - (b) to be accompanied by any person specified in the warrant;
 - (c) to search the premises and take possession of anything appearing to be a document specified in the warrant or to take, in relation to any such document, any other steps which may appear to be necessary for preserving it or preventing interference with it;
 - (d) to take copies of, or extracts from, any document specified in the warrant;
 - (e) to require any person on the premises to provide an explanation of any document appearing to be of the kind specified in the warrant or to state where it may be found; and
 - (f) to use such force as may reasonably be necessary.

30 Reporting obligations of relevant institutions

- (1) A relevant institution must inform the Treasury as soon as practicable if —
- (a) the institution knows, or has reasonable cause to suspect, that a person —
 - (i) is a financially restricted person; or
 - (ii) has committed an offence under this Act; and
 - (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.
- (2) A relevant institution informing the Treasury under subsection (1) must state —
- (a) the information or other matter on which the knowledge or suspicion is based; and
 - (b) any information it holds about the person by which the person can be identified.
- (3) Subsection (4) applies if —
- (a) a relevant institution informs the Treasury under subsection (1) that it knows, or has reasonable cause to suspect, that a person is a financially restricted person; and
 - (b) that person is a customer of the institution.

- (4) The relevant institution must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution that fails to comply with any requirement of subsection (1), (2) or (4) commits an offence and is liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding £5,000 or to both.

31 General power to disclose information or evidence

- (1) The Treasury may disclose any information or evidence obtained by it in exercise of its powers under this Part (including any document so obtained and any copy or extract made of any document so obtained) —
 - (a) to a police officer;
 - (b) to any person holding or acting in any office under or in the service of —
 - (i) the Government of the Island;
 - (ii) the Crown in right of the Government of the United Kingdom;
 - (iii) the Crown in right of the Scottish Administration, the Northern Ireland Administration or the Welsh Assembly Government;
 - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or
 - (v) the Government of any British overseas territory;
 - (c) to any law officer of the Crown for the Island or any other part of the British Islands;
 - (d) to the Legal Services Commission, the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission;
 - (e) to the Financial Supervision Commission continued under section 1 of the *Financial Services Act 2008*, the Insurance and Pensions Authority continued under Schedule 1 of the *Insurance Act 2008* and any body of any other part of the British Islands exercising a function equivalent to one or both of these bodies;
 - (f) for the purpose of giving assistance or co-operation, pursuant to the relevant Security Council resolutions, to —
 - (i) any organ of the United Nations; or
 - (ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country;

- (g) with a view to instituting, or otherwise for the purposes of, any proceedings (whether civil or criminal and in respect of any subject matter) —
 - (i) in the Island for an offence under this Part; or
 - (ii) in any other part of the British Islands or any British overseas territory, for an offence under a similar provision in any such jurisdiction; or
 - (h) with the consent of a person who, in the person's own right, is entitled to the information or to possession of the document, copy or extract, to any third party.
- (2) In subsection (1)(h) “in the person's own right” means not merely in the capacity as a servant or agent of another person.
- (3) For the purposes of subsection (1)(f) “the relevant Security Council resolutions” are —
- (a) resolution 1373 (2001) adopted by the Security Council of the United Nations on 28 September 2001;
 - (b) resolution 1452 (2002) adopted by the Security Council of the United Nations on 20 December 2002;
 - (c) resolution 1718 (2006) adopted by the Security Council of the United Nations on 14 October 2006;
 - (d) resolution 1737 (2006) adopted by the Security Council of the United Nations on 23 December 2006;
 - (e) resolution 1747 (2007) adopted by the Security Council of the United Nations on 24 March 2007;
 - (f) resolution 1803 (2008) adopted by the Security Council of the United Nations on 3 March 2008;
 - (g) resolution 1874 (2009) adopted by the Security Council of the United Nations on 12 June 2009; and
 - (h) resolution 1929 (2010) adopted by the Security Council of the United Nations on 9 June 2010.
- (4) The Treasury may by order amend subsection (3) so as to add further relevant Security Council resolutions or remove any that are superseded.
- (5) Any such order must be 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 so resolves, it ceases to have effect.

32 Disclosure and the intelligence services

- (1) A person may disclose information or evidence to any of the British intelligence services for the purposes of the exercise by that service of any of its functions.
- (2) A disclosure under this section does not breach —

- (a) any obligation of confidence owed by the person making the disclosure; or
- (b) any other restriction on the disclosure of information (however imposed).

33 Information to be kept confidential

- (1) If the Treasury in accordance with section 20(4) informs only certain persons of a designation, it may specify that information contained in it is to be treated as confidential.
- (2) A person (“P”) who —
 - (a) is provided with information that is to be treated as confidential in accordance with subsection (1); or
 - (b) obtains such information,must not disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.
- (3) However, the prohibition in subsection (2) does not apply to any disclosure made by P with lawful authority.
- (4) For this purpose information is disclosed with lawful authority only if and to the extent that —
 - (a) the disclosure is by, or is authorised by, the Treasury;
 - (b) the disclosure is by or with the consent of the designated person;
 - (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of this Part or any other enactment; or
 - (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.
- (5) This section does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.
- (6) A person who contravenes the prohibition in subsection (2) commits an offence and is liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding £5,000 or to both.
- (7) The High Court may, on the application of —
 - (a) the person who is the subject of the information; or
 - (b) the Treasury,

grant an injunction to prevent a breach of the prohibition in subsection (2).

34 Co-operation with local or international investigations

The Treasury must take such steps as it considers appropriate to co-operate with any investigation, in the Island or elsewhere, relating to the funds, economic resources or financial transactions of a financially restricted person.

35 Application of provisions

- (1) Nothing done under this Division is to be treated as a breach of any restriction imposed by statute or otherwise.
- (2) But nothing in this Division authorises a disclosure —
 - (a) that contravenes the *Data Protection Act 2002*; 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*.
- (3) Nothing in this Division is to be read as requiring a person who has acted as advocate or other legal adviser to any person to disclose any privileged information in the person's possession in that capacity.
- (4) This Division does not limit the circumstances in which information or evidence may be disclosed apart from this Division.
- (5) This Division does not limit the powers of the Treasury to impose conditions in connection with the discharge of its functions under section 51 (licences).
- (6) In this section —

“information” includes documents;

“privileged information” means information with respect to which a claim to legal professional privilege could be maintained in legal proceedings.

DIVISION 2 – CIVIL PENALTIES FOR BREACHES OF DIRECTIONS

36 Power to impose civil penalties

- (1) The Treasury may impose a penalty of such amount as it considers appropriate on a person who fails to comply with —
 - (a) a requirement of a direction; or
 - (b) a condition of a licence granted under paragraph 7 of Schedule 1 (directions limiting or ceasing business: exemption by licence).
- (2) The Treasury may impose a penalty of such amount as it considers appropriate on a relevant person who has intentionally participated in

activities knowing that the object or effect of them was (whether directly or indirectly) to circumvent a requirement of a direction.

- (3) No penalty may be imposed under subsection (1) if the Treasury is satisfied that the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
- (4) In deciding whether to impose a penalty under this section the Treasury must consider whether the person followed any relevant guidance which was at the time —
 - (a) issued by the relevant supervisory authority or any other appropriate body; and
 - (b) published in a manner that, in the Treasury’s opinion, is suitable to bring the guidance to the attention of persons likely to be affected by it.
- (5) A person on whom a penalty is imposed under subsection (1) or subsection (2) is not liable to be proceeded against for an offence under section 39 or section 40 in respect of the same failure or participation in the same activities as the case may be..
- (6) A penalty imposed under this section is payable to the Treasury and is recoverable as a debt due to it.
- (7) Any penalty under this section received by the Treasury is to be applied towards expenses incurred by it in connection with its functions under this Act or for any incidental purpose.
- (8) In this section “appropriate” means effective, proportionate and dissuasive.

37 Procedure on imposition of civil penalty

- (1) This section applies if the Treasury proposes to impose a penalty on a person under this Division.
- (2) The Treasury must give the person notice of —
 - (a) the proposal to impose the penalty and the proposed amount;
 - (b) the reasons for imposing the penalty; and
 - (c) the right to make representations to the Treasury within a specified period (which may not be less than 28 days).
- (3) The Treasury must then decide, within a reasonable period, whether to impose a penalty under this Division and must give the person notice —
 - (a) if it decides not to impose a penalty, of that decision;
 - (b) if it decides to impose a penalty, of the following matters —
 - (i) the decision to impose a penalty and the amount;
 - (ii) the reasons for the decision; and
 - (iii) the right to appeal under section 38.

38 Appeal against imposition of civil penalty

- (1) A person may appeal against a decision of the Treasury under section 37 to a court of summary jurisdiction.
- (2) On the appeal the court may —
 - (a) set aside the decision appealed against; and
 - (b) impose any penalty that could have been imposed by the Treasury or remit the matter to it.

DIVISION 3 – OFFENCES

SUB-DIVISION 1 – OFFENCES IN CONNECTION WITH DIRECTIONS

39 Contravention of requirement imposed by direction

- (1) A person who contravenes a requirement of a direction commits an offence, subject to the following provisions.
- (2) No offence is committed if the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
- (3) In deciding whether a person has committed an offence under this section the court must consider whether the person followed any relevant guidance that was at the time —
 - (a) issued by the relevant supervisory authority or any other appropriate body; and
 - (b) published in a manner that, in its opinion, is suitable to bring the guidance to the attention of persons likely to be affected by it.
- (4) A person guilty of an offence under this section is liable —
 - (a) on conviction on information to custody for not more than 2 years, a fine, or to both; or
 - (b) on summary conviction, to a fine not exceeding £5,000.
- (5) A person convicted of an offence under this section is not liable to a penalty under section 36 in respect of the same failure.

40 Relevant person circumventing direction requirements

- (1) A relevant person who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement of a direction commits an offence.
- (2) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years or a fine or to both;

- (b) on summary conviction, to a fine not exceeding £5,000.
- (3) A person who is convicted of an offence under this section is not liable to a penalty under section 36(2) in respect of participation in the same activities.

41 Offences in connection with licences

- (1) A person commits an offence if he or she, for the purpose of obtaining a licence under paragraph 7 of Schedule 1 —
 - (a) provides information that is false in a material respect or a document that is not what it purports to be; and
 - (b) knows that, or is reckless as to whether, the information is false or the document is not what it purports to be.
- (2) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years or a fine or to both;
 - (b) on summary conviction, to a fine not exceeding £5,000.

SUB-DIVISION 2 – OFFENCES IN CONNECTION WITH FREEZING ORDERS

42 Offences

- (1) A person commits an offence if he or she —
 - (a) contravenes a prohibition imposed by a freezing order; or
 - (b) engages in an activity knowing or intending that it will enable or facilitate the contravention of a prohibition imposed by a freezing order by another person.
- (2) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years or a fine or to both;
 - (b) on summary conviction, to a fine not exceeding £5,000.

43 Defence

A person does not commit an offence under section 42 if the person proves that he or she did not know and had no reason to suppose that the person to whom or for whose benefit funds were made available, or were to be made available, was the person (or one of the persons) specified in the freezing order as a person to whom or for whose benefit funds are not to be made available.

SUB-DIVISION 3 – OFFENCES IN CONNECTION WITH DESIGNATIONS

44 Freezing of funds and economic resources

- (1) A person (“P”) must not deal with funds or economic resources 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 subsection (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 any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management;
 - (b) in relation to economic resources, exchange or use in exchange for funds, goods or services.
- (3) Subsection (1) is subject to sections 50 and 51 (exceptions and licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

45 Making funds or financial services available to designated person

- (1) A person (“P”) must not make funds or financial services available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or financial services so available.
- (2) Subsection (1) is subject to sections 50 and 51 (exceptions and licences).
- (3) A person who contravenes the prohibition in subsection (1) commits an offence.

46 Making funds or financial services available for benefit of designated person

- (1) A person (“P”) must not make funds or financial services available 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 financial services so available.
- (2) For the purposes of this section —
 - (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and

- (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
- (3) Subsection (1) is subject to sections 50 and 51 (exceptions and licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

47 Making economic resources available to designated person

- (1) A person (“P”) must not make economic resources available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect —
 - (a) that P is making the economic resources so available; and
 - (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.
- (2) Subsection (1) is subject to section 51 (licences).
- (3) A person who contravenes the prohibition in subsection (1) commits an offence.

48 Making economic resources available for benefit of designated person

- (1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.
- (2) For the purposes of this section —
 - (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
 - (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
- (3) Subsection (1) is subject to section 51 (licences).
- (4) A person who contravenes the prohibition in subsection (1) commits an offence.

49 Circumventing prohibitions etc.

A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) —

- (a) to circumvent any of the prohibitions in sections 44 to 48; or
- (b) to enable or facilitate the contravention of any such prohibition.

50 Exceptions

- (1) The prohibitions in sections 44 to 46 are not contravened by a relevant institution crediting a frozen account with —
 - (a) interest or other earnings due on the account; or
 - (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.
- (2) The prohibitions in sections 45 and 46 on making funds available do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.
- (3) The prohibition in section 46 is not contravened by the making of a payment that —
 - (a) is a benefit under or by virtue of an enactment relating to social security (irrespective of the name or nature of the benefit); and
 - (b) is made to a person who is not a designated person,whether or not the payment is made in respect of a designated person.
- (4) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with subsection (1)(b) or (2).
- (5) In this section “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

51 Licences

- (1) The prohibitions in sections 44 to 48 do not apply to anything done under the authority of a licence granted by the Treasury.
- (2) Where relevant such a licence also constitutes authorisation under Article 6 of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, as it has effect in the Island².
- (3) A licence must specify the acts authorised by it and may be —
 - (a) general or granted to a category of persons or to a particular person;
 - (b) subject to conditions;
 - (c) of indefinite duration or subject to an expiry date.
- (4) The Treasury may vary or revoke a licence at any time.
- (5) On the grant, variation or revocation of a licence, the Treasury must —

² See the European Communities (Terrorism Measures) Order 2002 SD111/02.

- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person;
 - (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the licence.
- (6) A person commits an offence who, for the purpose of obtaining a licence, knowingly or recklessly —
- (a) provides information that is false in a material respect; or
 - (b) provides or produces a document that is not what it purports to be.
- (7) A person who purports to act under the authority of a licence but who fails to comply with any conditions included in the licence commits an offence.

52 Penalties for prohibition offences

- (1) A person guilty of an offence under section 44, 45, 46, 47, 48 or 49 is liable —
- (a) on conviction on information, to custody for a term not exceeding 7 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding £5,000 or to both.
- (2) A person guilty of an offence under section 51 is liable —
- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding £5,000 or to both.

SUB-DIVISION 4 – OFFENCES: GENERAL PROVISIONS

53 Liability of officers of bodies corporate, etc.

- (1) If an offence under this Part committed by a body corporate is shown —
- (a) to have been committed with the consent or the connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on the part of any such officer,
- the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) If an offence under this Part committed by a partnership is shown —
- (a) to have been committed with the consent or the connivance of a partner; or
 - (b) to be attributable to any neglect on the part of a partner,

the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

- (3) If an offence under this Part committed by an unincorporated association (other than a partnership) is shown —
- (a) to have been committed with the consent or the connivance of an officer of the association; or
 - (b) to be attributable to any neglect on the part of any such officer,
- the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.
- (5) In this section —
- “officer” includes —
- (a) in relation to a body corporate, a director, manager, secretary, chief executive, member of the committee of management and its registered agent;
 - (b) in relation to an unincorporated association, any officer of the association and any member of its governing body; and
 - (c) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, the company's manager, the registered agent and its members,

and any person purporting to act in such a capacity;

“partner” includes a person holding himself or herself out to be a partner (within the meaning of section 16(1) of the *Partnership Act 1909*).

54 Proceedings against unincorporated bodies

- (1) Proceedings for an offence under this Part alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of its members).
- (2) In proceedings for such an offence brought against a partnership or unincorporated association —
- (a) section 10 of the *Criminal Jurisdiction Act 1993* (arraignment); and
 - (b) section 32 of the *Summary Jurisdiction Act 1989* (procedure),
- apply as they do in relation to a body corporate.
- (3) Rules of court relating to the service of documents have effect in relation to proceedings for an offence under this Part as if the partnership or association were a body corporate.

- (4) A fine imposed on the partnership or association on its conviction of such an offence is to be paid out of the funds of the partnership or association.

55 Offences committed outside the Island

- (1) An offence under this Part may be committed by conduct wholly or partly outside the Island by —
- (a) a resident of the Island;
 - (b) a person acting in the course of a business in the regulated sector despite the conduct giving rise to it taking place wholly or partly outside the Island; or
 - (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 the Terrorist Asset-Freezing etc. Act 2010 (of Parliament) as it has effect in the United Kingdom.
- (2) In such a case —
- (a) the conduct constitutes the offence concerned;
 - (b) proceedings for the offence may be taken in the Island; and
 - (c) the offence may for all incidental purposes be treated as having been committed in the Island.
- (3) Nothing in this section affects any criminal liability arising otherwise than under this section.

56 Time limit for summary proceedings

- (1) An offence under this Part that is triable only by a court of summary jurisdiction may be so tried if proceedings are brought —
- (a) at any time within 3 years after the commission of the offence; and
 - (b) within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.
- (2) For the purposes of this section a certificate of the prosecutor as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

PART 4 — SUPERVISION OF EXERCISE OF POWERS

57 Application to court in relation to financial restriction orders

- (1) This section applies to any decision of the Treasury (whenever made) in connection with the exercise of any of its functions under —

- (a) the Al-Qa'ida and Taliban (United Nations Measures) (Isle of Man) Order 2002;
 - (b) Part 2.
- (2) Any person affected by the decision may apply to the High Court to set aside the decision.
- (3) However, no application may be made under this section to set aside a decision to make a direction if the Treasury certifies that, in making the order, it formed a reasonable belief concerning a risk to the interests of the Island in reliance on a measure effected by the United Kingdom Treasury described in section 24(2).
- (4) If, to the Treasury's knowledge, the measure mentioned in subsection (3) or the order containing it is varied in a material particular, that subsection does not apply unless any direction made by the Treasury in reliance on it has been amended to achieve an equivalent effect.
- (5) A certificate under subsection (3) must specify the measure on which the Treasury relied.
- (6) On an application under this section the High Court may make such order as it considers appropriate.
- (7) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.
- (8) If the court sets aside a decision of the Treasury to which this section applies the court must quash the relevant direction or order.
- (9) An application to set aside a decision of the Treasury to which this section applies may be made only under this section.
- (10) The Treasury may by order amend subsection (1) by —
 - (a) adding other Orders in Council made under section 1 of the United Nations Act 1946 (of Parliament) that apply to the Island (whether directly or by virtue of section 71);
 - (b) providing that a reference to a specified Order in Council is to that order as amended by a further Order in Council (made after the passing of this Act); or
 - (c) removing an Order in Council.
- (11) An order under subsection (10) must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting so resolves, it ceases to have effect.

58 Review of other decisions by the court

- (1) This section applies to any decision of the Treasury in connection with its functions under this Part other than a decision to which section 57 applies.
- (2) Any person affected by a decision to which this section applies may apply to the High Court for the decision to be set aside.
- (3) In determining whether the decision should be set aside, the court must apply the principles applicable on determining a petition of dolence.
- (4) If the court decides that a decision should be set aside it may make any such order, or give any such relief, as may be made or given in those proceedings.

59 Appeals and reviews: supplementary

Sections 60 to 62 apply in relation to proceedings —

- (a) on an application under section 57 or section 58 or any appeal from such an application; or
- (b) on a claim arising from any matter to which such an application or appeal relates.

60 General provisions about rules of court

- (1) No rules of court may be made without regard having been had to —
 - (a) the need to secure that the decisions that are the subject of the proceedings are properly reviewed; and
 - (b) the need to secure that disclosures of information are not made where they would be contrary to the public interest.
- (2) Rules of court may make provision —
 - (a) about the mode of proof and about evidence in the proceedings;
 - (b) enabling or requiring the proceedings to be determined without a hearing; and
 - (c) about legal representation in the proceedings.
- (3) Rules of court may make provision —
 - (a) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of that party);
 - (b) enabling the court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of that party);
 - (c) about the functions of a person appointed as a special advocate; and

- (d) enabling the court to give a party to the proceedings a summary of evidence taken in the party's absence.
- (4) In this section —
 - (a) references to a party to the proceedings do not include the Treasury;
 - (b) references to a party's legal representative do not include a person appointed as a special advocate.
- (5) Nothing in this section shall be read as restricting the power to make rules of court or the matters to be taken into account when doing so.

61 Rules of court about disclosure

- (1) Rules of court must secure that the Treasury is required to disclose —
 - (a) material on which it relies;
 - (b) material which adversely affects its case; and
 - (c) material which supports the case of a party to the proceedings.

This is subject to the following provisions of this section.
- (2) Rules of court must secure —
 - (a) that the Treasury has the opportunity to make an application to the court for permission not to disclose material otherwise than to —
 - (i) the court; and
 - (ii) any person appointed as a special advocate;
 - (b) that such an application is always considered in the absence of every party to the proceedings (and every party's legal representative);
 - (c) that the court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
 - (d) that, if permission is given by the court not to disclose material, it must consider requiring the Treasury to provide a summary of the material to every party to the proceedings (and every party's legal representative);
 - (e) that the court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (3) Rules of court must secure that in cases where the Treasury —
 - (a) does not receive the court's permission to withhold material, but elects not to disclose it; or

- (b) is required to provide a party to the proceedings with a summary of material that is withheld, but elects not to provide the summary,
- provision to the following effect applies.
- (4) The court must be authorised –
- (a) if it considers that the material or anything that is required to be summarised might adversely affect the Treasury’s case or support the case of a party to the proceedings, to direct that the Treasury must not rely on such points in its case, or must make such concessions or take such other steps, as the court may specify; or
- (b) in any other case, to ensure that the Treasury does not rely on the material or (as the case may be) on that which is required to be summarised.
- (5) Nothing in this section, or in rules of court made under it, is to be read as requiring the court to act in a manner inconsistent with Article 6 of the Convention (within the meaning of section 19(1) of the *Human Rights Act 2001*).
- (6) In this section –
- (a) references to a party to the proceedings do not include the Treasury;
- (b) references to a party’s legal representative do not include a person appointed as a special advocate.

62 Appointment of special advocate

- (1) The Attorney General may appoint a person, to be known as a “**special advocate**”, to represent the interests of a party to any proceedings to which this section applies if the party (and any legal representative of the party) is excluded from any part of the proceedings.
- (2) A person appointed as a special advocate is not responsible to the party to the proceedings whose interests the person is appointed to represent.
- (3) A person may be appointed as a special advocate only if he or she is qualified to act as an advocate in accordance with section 7 of the *Advocates Act 1976*.

PART 5 – SUPPLEMENTARY

63 Delegation of Treasury functions

- (1) The Treasury may, by order, delegate any of its functions under this Act, other than any power to make orders, to any organisation in the Island

responsible for the prevention of, and investigation into, financial crime and the financing of terrorism.

- (2) An order under this section must be laid before Tynwald as soon as practicable after it is made and if Tynwald, at the sitting at which the document is so laid or the next following sitting so resolves, it ceases to have effect.

64 Notices

- (1) A notice under this Act may be given to a person —
 - (a) by posting it to the person's last known address; or
 - (b) where the person is a body corporate, partnership or unincorporated association, by posting it to the registered or principal office of the body, partnership or association, or if no registered or principal office can be ascertained, by posting it to the last known address of an officer in the case of a body corporate or partner in the case of a partnership.
- (2) If the body required to give a notice to a person under this Act does not have an address for the person it must make arrangements for the notice to be given to the person at the first available opportunity, which may include by electronic means.

65 Report to Tynwald

- (1) As soon as reasonably practicable after the end of each year the Treasury must prepare a report about the exercise during that year of its functions under this Act and the exercise of any of its functions delegated under section 63.
- (2) If no such functions have been exercised during that year the report must indicate that.
- (3) The report must be laid before Tynwald.

66 Supervision by relevant supervisory authority

The relevant supervisory authority must take appropriate measures to monitor persons acting in the course of a business in the regulated sector for the purpose of securing compliance by those persons with the requirements of any direction.

67 Assistance in preparing guidance

The Treasury must provide such assistance as may reasonably be required by the relevant supervisory authority or other appropriate body drawing up guidance that, when issued and published would be relevant guidance for the purposes of this Act.

68 Codes relating to the financing of proliferation and terrorism

- (1) The Department must make such codes as it considers appropriate for the purpose of preventing and detecting the financing of proliferation and terrorism.
- (2) A code under this section may in particular —
 - (a) provide practical guidance with respect to the requirements of any statutory provision relating to the benefits or proceeds of proliferation or terrorism or the treatment of relevant property;
 - (b) require any person carrying on a business in the regulated sector to institute and operate such systems, procedures, record-keeping, controls and training as may be specified in the code;
 - (c) require persons carrying on, employed in or otherwise concerned in a business in the regulated sector to comply with such systems, procedures, record-keeping, controls and training as are required to be instituted and operated under paragraph (b);
 - (d) provide that in such cases of contravention of a code as are specified in the code, such persons as are so specified shall each be guilty of an offence and liable —
 - (i) on conviction on information, to custody for not more than 2 years, a fine or to both; and
 - (ii) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000 or to both.
- (3) A code under this section may incorporate by reference any relevant regulations, codes, directions and guidance made or issued by any relevant supervisory authority or any other appropriate body.
- (4) Before making a code under this section the Department must consult any person or body that appears to it to be appropriate.
- (5) A code under this section is a statutory document and must be laid before Tynwald as soon as practicable after it is made and if Tynwald, at the sitting at which the document is so laid or the next following sitting so resolves, it ceases to have effect.
- (6) A failure on the part of any person to observe any provision of a code does not of itself render that person liable to —
 - (a) any civil proceeding; or
 - (b) except as provided under subsection (2)(d), any criminal proceeding.
- (7) In this section “relevant property” means —
 - (a) money or other property that is likely to be used for the purposes of proliferation or terrorism (including any resources of a proscribed organisation within the meaning of section 2 of the *Anti-Terrorism and Crime Act 2003*),

- (b) proceeds of the commission of acts of proliferation or terrorism, and
 - (c) proceeds of acts carried out for the purposes of proliferation or terrorism.
- (8) In subsection (7) –
- (a) a reference to proceeds of an act includes a reference to any property that wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission); and
 - (b) the reference to an organisation’s resources includes a reference to any money or other property that is applied or made available, or is to be applied or made available, for use by the organisation.

69 Power to apply certain Orders in Council to the Island

- (1) The Council of Ministers may, by order, apply to the Island, with such modifications as it considers appropriate, any Order in Council made under the United Nations Act 1946 (of Parliament) for the implementation of United Nations’ resolutions relating to international terrorism, conflict, crime against humanity and connected matters and the text of the Order in Council as so modified must be annexed to the order.
- (2) An order under this section must be laid before Tynwald and will cease to have effect unless Tynwald approves it at the sitting at which it is laid or the next following sitting.

70 Crown application

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of a provision of this Act makes the Crown criminally liable.
- (3) The High Court may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes a contravention of a provision of this Act.
- (4) Nothing in this section affects Her Majesty in her private capacity.

71 Amendment to the Bail Act 1952

- (1) The *Bail Act 1952* is amended as follows.
- (2) After “bail by recognizance” in sections 15(1) (arrest of person who breaches conditions of bail) and 15A(1)(a) (breach of condition) insert “or police bail”.
- (3) After the definition of “bail condition” in section 15C insert –

“ **“police bail”** means bail granted or varied in accordance with Part IV of the *Police Powers and Procedures Act 1998*; and”.

72 Amendment to the Summary Jurisdiction Act 1989

- (1) The *Summary Jurisdiction Act 1989* is amended as follows.
- (2) [Amended section 94A(5).]

73 Amendment to the Sexual Offences Act 1992

- (1) The *Sexual Offences Act 1992* is amended as follows.
- (2) [Amended section 10.]

74 Amendment to the Police Powers and Procedures Act 1998

For “section 52” in section 50A(3)(b) and (5)(b) of the *Police Powers and Procedures Act 1998* substitute “section 15 of the *Bail Act 1952*”.

75 Amendments to the Anti-Terrorism and Crime Act 2003

The *Anti-Terrorism and Crime Act 2003* is amended in accordance with Schedule 3.

76 Amendment to the Proceeds of Crime Act 2008

- (1) The *Proceeds of Crime Act 2008* is amended as follows.
- (2) [Amended section 157(2)(d)(i).]
- (3) [Amended the following sections —
 - (a) section 159(5);
 - (b) section 163(2)(e);
 - (c) section 170(2)(e);
 - (d) section 170(10)(a);
 - (e) section 182(4); and
 - (f) section 188(4).]
- (4) [Amended section 198.]
- (5) [Amended section 223.]

77 Repeals

- (1) Schedule 4 has effect.
- (2) This section, sections 71 to 76 and Schedules 3 and 4 are repealed —
 - (a) on the day after this Act is promulgated if all their provisions are in operation on its promulgation; or²

- (b) otherwise, on the day after the last provision of those sections and Schedules are brought into operation.
- (3) No repeal made by this Act —
 - (a) revives any Act amended by the repealed provision as the Act operated before the amendment commenced;
 - (b) revives anything not in operation or existing when the amendment took effect; or
 - (c) affects the continuing operation of the amendment.

SCHEDULE 1

[Section 8]

REQUIREMENTS OF DIRECTIONS

1 Interpretation

(1) In this Schedule —

“**business relationship**” means a business, professional or commercial relationship between a relevant person and a customer, that the relevant person, at the time when contact is established, expects to have an element of duration;

“**enhanced customer due diligence measures**” means measures to —

- (a) establish the identity of the relevant person;
- (b) obtain information about —
 - (i) the relevant person and the person’s business; and
 - (ii) the source of the person’s funds; and
- (c) assess the risk of the relevant person’s being involved in —
 - (i) financing of terrorism;
 - (ii) money laundering; or
 - (iii) proliferation or the facilitation of proliferation.

(2) In this Schedule a reference to a transaction or business relationship with a relevant person includes a reference to a transaction or business relationship with any third party that ultimately benefits, or is intended to benefit, a relevant person.

2 Requirements that may be imposed by a direction

(1) A direction may impose requirements in relation to transactions or business relationships with —

- (a) a person carrying on business in the country concerned;
- (b) the government of the country;
- (c) a person resident in the country; or
- (d) a body corporate that is a subsidiary of a body corporate within head (a) or (c).

(2) The direction may impose requirements in relation to —

- (a) a particular person within sub-paragraph (1);
- (b) any description of persons within that sub-paragraph; or
- (c) all persons within that sub-paragraph.

- (3) The kinds of requirement that may be imposed by a direction are specified in paragraphs 3 to 6.
- (4) A direction may make different provision —
 - (a) in relation to different descriptions of directed person; and
 - (b) in relation to different descriptions of transaction or business relationship.
- (5) The requirements imposed by a direction must be proportionate having regard to the advice mentioned in section 6(2) or, as the case may be, the risk mentioned in subsections (3) or (4) of that section, to the national interests of the Island.
- (6) In this paragraph “subsidiary” means a body corporate (whether or not incorporated under the Companies Acts 1931 to 2004 or the *Companies Act 2006*) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another section 1 of the *Companies Act 1974* applies with the necessary modifications.

3 Customer due diligence

- (1) A direction may require a relevant person to undertake enhanced customer due diligence measures —
 - (a) before entering into a transaction or business relationship with a directed person; and
 - (b) during a business relationship with such a person.
- (2) The direction may do either or both of the following —
 - (a) impose a general obligation to undertake enhanced customer due diligence measures;
 - (b) require a directed person to undertake specific measures identified or described in the direction.

4 On-going monitoring

- (1) A direction may require a relevant person to undertake enhanced on-going monitoring of any business relationship with a directed person.
- (2) The direction may do either or both of the following —
 - (a) impose a general obligation to undertake enhanced on-going monitoring;
 - (b) require a relevant person to undertake specific measures identified or described in the direction.
- (3) “On-going monitoring” of a business relationship means —
 - (a) keeping up to date information and documents obtained for the purposes of customer due diligence measures; and

- (b) scrutinising transactions undertaken or proposed to be undertaken during the course of the relationship (and, where appropriate, the source of funds for those transactions) to ascertain whether the transactions are consistent with the relevant person's knowledge of the directed person and the directed person's business.

5 Systematic reporting

- (1) A direction may require a relevant person to provide such information and documents as may be specified in the direction relating to transactions and business relationships with directed persons.
- (2) A direction imposing such a requirement must specify how the direction is to be complied with, including —
 - (a) the person to whom the information and documents are to be provided; and
 - (b) the period within which, or intervals at which, information and documents are to be provided.
- (3) The power conferred by this paragraph is not exercisable in relation to information or documents in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (4) The exercise of the power conferred by this paragraph and the provision of information under it is not otherwise subject to any restriction on the disclosure of information, whether imposed by statute or otherwise.

6 Limiting or ceasing business

A direction may require a relevant person not to enter into or continue to participate in —

- (a) a specified transaction or business relationship with a directed person;
- (b) a specified description of transactions or business relationships with a directed person; or
- (c) any transaction or business relationship with a directed person.

7 Directions limiting or ceasing business: exemption by licence

- (1) The following provisions apply where a direction contains requirements of a kind mentioned in paragraph 6.
- (2) The Treasury may grant a licence to exempt acts specified in the licence from those requirements.
- (3) A licence may be —
 - (a) general or granted to a description of persons or to a particular person;

- (b) subject to conditions; or
 - (c) of indefinite duration or subject to an expiry date.
- (4) The Treasury may vary or revoke a licence at any time.
- (5) On the grant, variation or revocation of a licence, the Treasury must –
 - (a) in the case of a licence granted to a particular person, give notice of the grant, variation or revocation to that person; or
 - (b) in the case of a general licence or a licence granted to a description of persons, take such steps as the Treasury considers appropriate to publicise the grant, variation or revocation of the licence.

SCHEDULE 2

[Section 13(7)]

REQUIREMENTS OF FREEZING ORDERS**1 Funds**

A freezing order may include provision that funds include gold, cash, deposits, securities (such as stocks, shares and debentures) and such other matters as the order may specify.

2 Making funds available

- (1) A freezing order must include provision as to the meaning (in relation to funds) of making available to or for the benefit of a person.
- (2) In particular, an order may provide that the expression includes —
 - (a) allowing a person to withdraw from an account;
 - (b) honouring a cheque payable to a person;
 - (c) crediting a person's account with interest;
 - (d) releasing documents of title (such as share certificates) held on a person's behalf;
 - (e) making available the proceeds of realisation of a person's property;
 - (f) making a payment to or for a person's benefit (for instance under a contract, or as a gift or under any enactment such as enactments relating to social security); and
 - (g) such other acts as the order may specify.

3 Licences

- (1) A freezing order must include —
 - (a) provision for the granting of licences authorising funds to be made available;
 - (b) provision that a prohibition under the order is not to apply if funds are made available in accordance with a licence.
- (2) In particular, an order may provide —
 - (a) that a licence may be granted generally or to a specified person or persons or description of persons;
 - (b) that a licence may authorise funds to be made available to or for the benefit of persons generally or a specified person or persons or description of persons;
 - (c) that a licence may authorise funds to be made available generally or for specified purposes;

- (d) that a licence may be granted in relation to funds generally or to funds of a specified description;
- (e) for a licence to be granted in pursuance of an application or without an application being made;
- (f) for the form and manner in which applications for licences are to be made;
- (g) for licences to be granted by the Treasury or a person authorised by the Treasury;
- (h) for the form in which licences are to be granted;
- (i) for licences to be granted subject to conditions;
- (j) for licences to be of a defined or indefinite duration;
- (k) for the charging of fees in connection with licences; and
- (l) for the variation and revocation of licences.

4 Compensation

- (1) A freezing order may include provision for the award of compensation to or on behalf of a person on the grounds that the person has suffered loss as a result of —
 - (a) the order;
 - (b) the fact that a licence has not been granted under the order;
 - (c) the fact that a licence under the order has been granted on particular terms rather than others; or
 - (d) the fact that a licence under the order has been varied or revoked.
- (2) In particular, the order may include provision —
 - (a) about the person who may make a claim for an award;
 - (b) about the person to whom a claim for an award is to be made (which may be provision that it is to be made to the High Court);
 - (c) about the procedure for making and deciding a claim;
 - (d) that no compensation is to be awarded unless the claimant has behaved reasonably (which may include provision requiring him or her to mitigate his or her loss, for instance by applying for a licence);
 - (e) that compensation must be awarded in specified circumstances or may be awarded in specified circumstances (which may include provision that the circumstances involve negligence or other fault);
 - (f) about the amount that may be awarded;
 - (g) about who is to pay any compensation awarded (which may include provision that it is to be paid or reimbursed by the Treasury); or

- (h) about how compensation is to be paid (which may include provision for payment to a person other than the claimant).

5 Treasury's duty to give reasons

- (1) A freezing order must include the provision set out in this paragraph.
- (2) If —
 - (a) a person is specified in the order as a person to whom or for whose benefit funds are not to be made available in accordance with section 13(3); and
 - (b) he or she makes a written request to the Treasury to give him or her the reason why he or she is so specified,as soon as is practicable the Treasury must give the person the reason in writing.
- (3) This paragraph does not apply if, or to the extent that, particulars of the reason would not be required to be disclosed to the applicant in proceedings to set aside the freezing order.

SCHEDULE 3

[Section 75]

AMENDMENTS TO THE ANTI-TERRORISM AND CRIME ACT 2003**1 Amendment of definition of terrorism**

[Amended section 1.]

2 Amendment of publication requirements

[Amended section 2(4).]

3 Amendment relating to facilitating funding

[Amended section 9(1)(b)(iii).]

4 Amendment relating to money laundering

[Amended section 10.]

5 Amendments relating to businesses in the regulated sector and supervisory authorities

[Amended section 11(8)(a) and 14(10).]

6 Amendments widening extent of disclosure

- (1) [Amended section 26(1), (2) and (6).]
- (2) [Amended the marginal note to section 27.]
- (3) [Amended section 59].
- (4) [Amended paragraph 8(1)(b) and (2) and 12(2) of Schedule 5.]
- (5) [Amended the heading to Schedule 5 and the description of it in section 24.]
- (6) [Amended paragraph 1(3)(b) of Schedule 6.]
- (7) [Amended Schedule 10.]

7 Amendment of stop and search powers

- (1) [Amended section 32.]
- (2) [Inserted section 32AA.]
- (3) [Substituted sections 33 to 36 and inserted section 36A.]
- (4) [Amended section 75.]
- (5) [Amended section 76.]

(6) [Inserted Schedule 8B.]

8 Life of search warrants

[Inserted paragraph 17 in Schedule 5.]

9 Removal of limitation on life of Act

[Substituted section 82.]

SCHEDULE 4

[Section 77]

REPEALS

Act	Extent
Anti-Terrorism and Crime Act 2003	Part VII. In section 77(2) the words “a freezing order or”. Schedules 1 and 9.
Proceeds of Crime Act 2008	Section 141(6).
Terrorism (Finance) Act 2009	The whole Act.
Anti-Terrorism and Crime (Amendment) Act 2011	Sections 25, 26, 27, 50 and 57.

ENDNOTES

Table of Endnote References

¹ ADO ss 3 to 70, 72, 73 and 75 to 77 (and consequently Schs 1 to 4) in operation 1 January 2015 for all purposes [SD2014/0393].

² Act promulgated 6 July 2015.