



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 1

7th February 2000

The following are published in this Gazette:-

Notices 1 - 3.

Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000.

No. 1

28th January 2000

MARRIAGE ORDINANCE (CAP 43)**APPOINTMENT OF REGISTRAR**

I DONALD ALEXANDER LAMONT
Commissioner for South Georgia and the South
Sandwich Islands **IN EXERCISE** of my powers under
section 4 of the Marriage Ordinance and all other
powers enabling me **HEREBY APPOINT**

SARAH JANE LURCOCK

to be a Registrar for the purposes of solemnising
marriages generally in South Georgia and the South
Sandwich Islands.

Dated this 28th day of January 2000.

D A Lamont,
Commissioner.

No. 2

28th January 2000

MARRIAGE ORDINANCE (CAP 43)**APPOINTMENT OF REGISTRAR**

I DONALD ALEXANDER LAMONT
Commissioner for South Georgia and the South
Sandwich Islands **IN EXERCISE** of my powers under
section 4 of the Marriage Ordinance and all other

powers enabling me **HEREBY APPOINT**

PAULINE GRACE SHAW

to be a Registrar for the purposes of solemnising
marriages generally in South Georgia and the South
Sandwich Islands.

Dated this 28th day of January 2000.

D A Lamont,
Commissioner.

No. 3

28th January 2000

MARRIAGE ORDINANCE (Cap. 43)**CERTIFICATE OF REGISTRATION**

I DONALD ALEXANDER LAMONT
Commissioner for South Georgia and the South
Sandwich Islands **IN EXERCISE** of my powers under
section 6(2) of the Marriage Ordinance and all other
powers enabling me **HEREBY REGISTER** the
Church at Grytviken as a place at which marriages
may be celebrated and **GRANT** this Certificate of
Registration in respect of the Church at Grytviken.

Given at Stanley in the Falkland Islands under my
hand as witness the Public Seal this 2nd day of February
2000.

D A Lamont,
Commissioner.

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000

(No. 1 of 2000)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Interpretation
3. Amendment of Principal Ordinance

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

MARRIAGE ORDINANCE (CAP 43) (AMENDMENT) ORDINANCE 2000

(No. 1 of 2000)

AN ORDINANCE

(assented to: January 2000)

(commencement: on publication)

(published: 7th February 2000)

To amend the provisions of the Marriage Ordinance (Cap 43) of the Falkland Islands in its continued application to South Georgia and the South Sandwich Islands.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows —

Short title

1. This Ordinance may be cited as the Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000.

Interpretation

2. In this Ordinance the “Principal Ordinance” means the Marriage Ordinance (Cap 43) of the Falkland Islands having effect in South Georgia and the South Sandwich Islands by virtue of section 12 of the South Georgia and the South Sandwich Islands Order 1985.

Amendment of Principal Ordinance

3. The Principal Ordinance is amended by deleting section 8 and replacing it with the following ¾

“Declaration of intended marriage

8. One of the parties to the intended marriage shall make and sign before a magistrate, registrar, justice of the peace, British consular official or notary public a solemn declaration as in Form 1 in the First Schedule hereto, before any licence is granted.”

Made this 28th day of January 2000

D A Lamont,
Commissioner.



THE SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

No. 2

19th July 2000

The following are published in this Gazette:-

Notices 4 & 5.

**Afghanistan (United Nations Sanctions) (Overseas Territories) Order 1999;
Fisheries (Conservation and Management) Ordinance 2000.**

No. 4

APPOINTMENT OF ATTORNEY GENERAL

4th February 1999

IN EXERCISE of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling **I RICHARD PETER RALPH** Companion of the Most Distinguished Order of Saint Michael and Saint George Commander of the Royal Victorian Order Commissioner for South Georgia and the South Sandwich Islands **HEREBY** authorise **ROBERT MARK TITTERINGTON** to discharge the functions and duties of the post of Attorney General whenever the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** is unavailable to discharge the same through absence from the Falkland Islands.

Given under my hand and the Public Seal at Stanley on this 4th day of February 1999.

R P RALPH,
Commissioner.

No. 5

APPOINTMENT OF POSTMASTER

18th April 2000

IN EXERCISE of all powers enabling me **I DONALD ALEXANDER LAMONT** Commissioner for South Georgia and the South Sandwich Islands **APPOINT MOIRA ECCLES** to be Postmaster for South Georgia and the South Sandwich Islands for so long as she holds the position of Superintendent of Posts and Telecommunications in the Falkland Islands.

Given under my hand at Stanley this 18th day of April 2000.

D A LAMONT,
Commissioner.

**AFGHANISTAN (UNITED NATIONS SANCTIONS)
(OVERSEAS TERRITORIES) ORDER 1999**

(SI 1999/3136)

On 22 December 1999 the Committee established by the Security Council of the United Nations in paragraph 6 of its resolution 1267 (1999) of 15 October 1999, designated, for the purposes of paragraph 4(a) of that resolution, the following aircraft owned, leased, or operated by or on behalf of the Taliban:

Operator:	Owner:	Registration:	Make:	Model:	Serial:
Afghan Air Force	Afghan Air Force	229	Antonov	AN26	SFG1008
Afghan Air Force	Afghan Air Force	230	Antonov	AN26	SFG1009
Afghan Air Force	Afghan Air Force	231	Antonov	AN26	SFG1010
Afghan Air Force	Afghan Air Force	232	Antonov	AN26	SFG1011
Afghan Air Force	Afghan Air Force	233	Antonov	AN26	SFG1012
Afghan Air Force	Afghan Air Force	234	Antonov	AN26	SFG1013
Afghan Air Force	Afghan Air Force	235	Antonov	AN26	SFG1014
Afghan Air Force	Afghan Air Force	236	Antonov	AN26	SFG1015
Afghan Air Force	Afghan Air Force	237	Antonov	AN26	SFG1016
Afghan Air Force	Afghan Air Force	238	Antonov	AN26	SFG1017
Afghan Air Force	Afghan Air Force	239	Antonov	AN26	SFG1018
Afghan Air Force	Afghan Air Force	240	Antonov	AN26	SFG1019
Afghan Air Force	Afghan Air Force	241	Antonov	AN26	SFG1020
Afghan Air Force	Afghan Air Force	242	Antonov	AN26	SFG1021
Afghan Air Force	Afghan Air Force	243	Antonov	AN26	SFG1022
Afghan Air Force	Afghan Air Force	244	Antonov	AN26	SFG1023
Afghan Air Force	Afghan Air Force	245	Antonov	AN26	SFG1024
Afghan Air Force	Afghan Air Force	246	Antonov	AN26	SFG1025
Afghan Air Force	Afghan Air Force	247	Antonov	AN26	SFG1026
Afghan Air Force	Afghan Air Force	252	Antonov	AN26	SFG1027
Afghan Air Force	Afghan Air Force	268	Antonov	AN26	SFG1028
Afghan Air Force	Afghan Air Force	284	Antonov	AN32	AN32021
Afghan Air Force	Afghan Air Force	301	Antonov	AN32	AN32053
Afghan Air Force	Afghan Air Force	302	Antonov	AN32	AN32054
Afghan Air Force	Afghan Air Force	303	Antonov	AN32	AN32055
Afghan Air Force	Afghan Air Force	304	Antonov	AN32	AN32056
Afghan Air Force	Afghan Air Force	305	Antonov	AN32	AN32057
Afghan Air Force	Afghan Air Force	306	Antonov	AN32	AN32058
Afghan Air Force	Afghan Air Force	307	Antonov	AN32	AN32022
Afghan Air Force	Afghan Air Force	308	Antonov	AN32	AN32023
Afghan Air Force	Afghan Air Force	346	Antonov	AN32	AN32059
Afghan Air Force	Afghan Air Force	353	Antonov	AN32	AN32024
Afghan Air Force	Afghan Air Force	363	Antonov	AN32	AN32060
Afghan Air Force	Afghan Air Force	381	Antonov	AN12	AN12235
Afghan Air Force	Afghan Air Force	382	Antonov	AN12	AN12236
Afghan Air Force	Afghan Air Force	384	Antonov	AN12	AN12237
Afghan Air Force	Afghan Air Force	387	Antonov	AN12	4342205
Afghan Air Force	Afghan Air Force	388	Antonov	AN12	AN12238
Afghan Air Force	Afghan Air Force	390	Antonov	AN12	AN12239
Afghan Air Force	Afghan Air Force	T-001	Ilyushin	IL18	87010105
Afghan Air Force	Afghan Air Force	T-004	Antonov	AN26	SFG1007

Operator:	Owner:	Registration:	Make:	Model:	Serial:
Afghan Air Force	Afghan Air Force	T-005	Antonov	AN24	SFG1006
Ariana Afghan Airlines	Ariana Afghan Airlines	CCCP-87255	Yakoviev	YK40	AFG01
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-BAG	Antonov	AN24	7306602
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-BAH	Antonov	AN24	17306709
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-BAL	Antonov	AN26	14105
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-BAN	Antonov	AN26	14304
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-BAO	Antonov	AN26	14305
Ariana Afghan Airlines	Unconfirmed CIS operator	YA-DAA	Antonov	AN12	AN12353
Ariana Afghan Airlines	Polet Russian Air Company	YA-DAB	Antonov	AN12	5342801
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-DAG	Antonov	AN24	87304504
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-FAU	Boeing	B727	20343
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-FAW	Boeing	B727	19619
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-GAX	De Haviland	DHC6	331
Caspian Airlines	Ariana Afghan Airlines	EP-CPG	Tupolev	T154	748
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-DAF	Antonov	AN24	
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-DAJ	Antonov	AN24	47309603
Ariana Afghan Airlines	Ariana Afghan Airlines	YA-FAY	Boeing	B727	22289
Ariana Afghan Airlines	Tyumenaviatrans	YA-87486	Yakoviev	YK40	9441438

These particulars are published in accordance with article 3(2) of the above-mentioned Order.

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

RUSSELL THOMAS JARVIS,
Acting Commissioner.

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000

(No: 2 of 2000)

ARRANGEMENT OF PROVISIONS

Section

PART I
INTRODUCTORY

Short title, commencement and interpretation

1. Short title
2. Interpretation

Administration

3. Fishing waters
4. Director of Fisheries and Fisheries Protection Officers

Restriction of fishing and fishing-related operations

5. Licensing of fishing boats
6. Receiving and trans-shipping of fish and other fishing-related operations
7. Supplementary to sections 5 and 6
8. Report prior to entry
9. Fishing waters outside specified areas

PART II
PROVISIONS APPLYING IN OR IN RELATION TO SPECIFIED AREAS OF THE FISHING
WATERS

Introductory

10. Application and interpretation of this Part

Powers of Fishery Protection Officers

11. Powers of Fishery Protection Officers: introductory provisions
12. Powers referred to in section 11 and provisions related to those powers

Release of things seized or detained

13. Release of fishing boat, other vessel or thing if no proceedings are instituted
14. Security for and release of fishing boat, fish other vessel or thing by court

Miscellaneous offences relating to specified areas

15. Unstowed fishing gear
16. Reports on departure
17. Supplementary to sections 8 and 16

PART III
GENERAL

Provisions as to offences

18. Further provisions as to offences
19. Jurisdiction of Summary and Magistrate's Court
20. Forfeiture of licence
21. Administrative penalties for minor offences
22. Provisions as to amounts of fine which may be imposed and other orders to be made by a court on conviction
23. Detention or forfeiture of fishing boats on failure to pay or secure fine
24. Regulations
25. Service of proceedings and notices
26. Repeal and saving

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

RUSSELL THOMAS JARVIS,
Acting Commissioner.

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000

(No. 2 of 2000)

(assented to: 30 June 2000)
(commencement: in accordance with section 1)
(published: 19 July 2000)

AN ORDINANCE

To repeal the Fishing (Conservation and Management) Ordinance 1993 and to re-enact it with amendments.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows —

PART I
INTRODUCTORY

Short title, commencement and interpretation

Short title

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 2000 and shall come into force on such date as the Commissioner may appoint by notice published in the *Gazette*.

Interpretation

2. In this Ordinance unless the context otherwise requires —

“catch” and its correlatives include “take” and its correlatives;

“Convention” means the Convention on the Conservation of Antarctic Marine Living Resources made in Canberra on 20th May 1980, as amended from time to time, and includes any Protocol to that Convention and any decision or measure which is for the time being in force adopted pursuant to that Convention by the Commission to that Convention;

“Director of Fisheries” means the Director of Fisheries appointed as provided in section 4(1);

“Fisheries Protection Officer” means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);

“fish” means any sea fish, including shellfish, and any marine animal other than a bird;

“fish product” means anything made from or derived from fish;

“fishing” means the catching of fish and any other activity which can reasonably be expected to result in the catching of fish;

“fishing boat” means any vessel of whatever size, and in whatever way propelled, which is for the time being adapted or used for fishing;

“fishing gear” includes nets of every kind, fish-hooks, lines, pots, trawl doors and buoys;

“fishing licence” means a licence provided for under section 5;

“fishing-related operations” means the processing, storage, carriage or trans-shipment of fish aboard any vessel and any operation ancillary to any of those operations;

“fishing waters” means the fishing waters of South Georgia and the South Sandwich Islands provided for in section 3;

“individual” means a living person;

“internal waters” means those sea waters on the landward side of the base line from which the territorial sea is measured;

“Maritime Zone” means the zone of that name established by and defined in a Proclamation of the Commissioner dated 7th May 1993 (Proclamation No 1 of 1993);

“this Ordinance” includes any regulations made under this Ordinance which are for the time being in force;

“processing” (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

“master”, in relation to a fishing boat, means both the person appearing to be the person who is for the time being in command or in charge of the boat and any person who is for the time being in charge of fishing operations on board that fishing boat;

“sea fish” means any fish or part of any fish found in the fishing waters;

“shellfish” includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish;

“specified area” means any area of the fishing waters for the time being the subject of an Order made under, or continuing to have effect as if made under, section 5(1);

“territorial sea” has the same meaning as it has by virtue of article 2 of the South Georgia and the South Sandwich Islands (Territorial Sea) Order 1989;

“trans-shipment licence” means a licence granted under section 6;

“trans-shipment of fish” includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed;

“the 1993 Ordinance” means the Fishing (Conservation and Management) Ordinance 1993.

Administration

Fishing waters

3. The fishing waters of South Georgia and the South Sandwich Islands comprise —

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the Maritime Zone.

Director of Fisheries and Fisheries Protection Officers

4.—(1) The Commissioner shall appoint a person to be the Director of Fisheries who shall administer this Ordinance and be responsible for —

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing and fishing-related operations;

- (e) the regulation of the conduct of fishing and fishing-related operations;
- (f) the issue, variation, suspension and revocation of licences for fishing and fishing-related operations;
- (g) the collection of fees in respect of fishing licences and trans-shipment licences;
- (h) the making of such reports to the Commissioner as the latter, in his discretion, may require;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of such of his duties as relate to the prosecution or non-prosecution of offences under this Ordinance he shall act in accordance with such directions as the Attorney General may give to him.

(3) This Ordinance shall be enforced by Fisheries Protection Officers acting (save as provided in subsection (2)) subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 12.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every police officer, customs officer, Marine Officer or Harbour Master of any harbour in South Georgia and the South Sandwich Islands, commissioned officer on any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

(5) In the performance of their duties under this Ordinance the Director of Fisheries and every Fishery Protection Officer shall have regard to the provisions of the Convention but the question as to whether the Director of Fisheries or any Fishery Protection Officer has done so in any particular instance shall not be inquired into in any court.

Restriction of fishing and fishing-related operations

Licensing of fishing boats

5.—(1) The Commissioner may by Order provide that in any of the fishing waters lying to the north of sixty degrees south of latitude specified in the Order (a "specified area") fishing is prohibited unless it is authorised by a licence granted by the Director of Fisheries or is permitted under subsection (14).

(2) Such an Order may apply to fishing boats generally in the specified area or to fishing —

- (a) for a specified description of fish;
- (b) by a specified method; or

(c) during a specified season of the year or other period.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an Order under this section, the master, the owner and the charterer (if any) of the fishing boat each commit an offence under this subsection and are each liable on conviction thereof to a fine not exceeding £500,000.

(4) An Order under this section may authorise the charging of a fee for licences under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence —

(a) the Commissioner may waive or reduce that fee if he sees fit to do so in the circumstances of the particular case;

(b) any such fee may be expressed to be variable in relation to all or any of the following matters —

(i) the size of the fishing boat;

(ii) the equipment in relation to fishing affixed to or employed upon or in connection with the fishing boat;

(iii) the facilities aboard the fishing boat for the storage, freezing, processing or other treatment of fish;

(iv) the area in which fishing is authorised;

(v) the description and quantities of fish which may be taken;

(vi) the method or methods of fishing authorised to be used.

(6) An Order under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence under this section may authorise fishing either unconditionally or subject to such conditions —

(a) as the Director of Fisheries may have been directed by the Commissioner to impose;

(b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the conduct of fishing and fishing-related operations by the licensee under authority of the licence;

(c) as to the use to which the fish may be put;

(d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or marine mammal to be found or likely to be found in the area to which the licence relates;

(e) as to the disposal of waste, effluvia or deleterious matter by the fishing boat to which the licence relates;

(f) otherwise as in the opinion of the Director of Fisheries may be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention,

as are contained in or specified in the licence, and the conditions subject to which a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(8) Subsection (7) has effect without prejudice to any power under section 24 to make regulations as to any matter as to which under subsection (7) conditions may be imposed.

(9) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(10) The Director of Fisheries —

(a) may from time to time vary a licence granted under this section;

(b) may revoke or suspend such a licence if he considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee, and whether that conduct was within a specified area or elsewhere.

(11) Where the Director of Fisheries varies, revokes or suspends a licence he may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of the fee paid in respect of that licence.

(12) If a licence condition is broken, the owner and charterer (if any) of the fishing boat named in the licence each commit an offence under this section and are each liable on conviction of that offence to a fine not exceeding £250,000.

(13) Any person who —

(a) for the purpose of obtaining a licence under this section; or

(b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries or to any person on his behalf of statistical information,

furnishes information which he knows to be false or recklessly furnishes information which is false in a material particular, commits an offence under this section and is liable to a fine not exceeding £100,000 and where a person other than the owner or charterer (if any) of the fishing boat in question furnishes such false information, that owner and that charterer (if any) as well as the person who actually furnished the information shall be deemed to have furnished it and to have committed the offence and shall be liable to be dealt with in respect of unless he or they shall prove that the person who actually furnished the information was not authorised to act on his or their behalf.

(14) Nothing in the foregoing provisions of this section or of any Order under it shall apply to fishing which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat of the Commission.

Receiving and trans-shipping of fish and other fish-related operations

6.—(1) In the subsequent provisions of this section “fish” includes fish products.

(2) The Commissioner may by Order provide that in any specified area (that is to say an area to which an Order under section 5(1) relates) or any part of any specified area described in the Order under this section any fishing-related operation is prohibited unless authorised by a licence granted by the Director of Fisheries.

(3) An Order made under this section may apply to the receiving fish generally or to the receiving of —

(a) a specified description of fish;

(b) fish taken by a specified method;

(c) fish taken in an area described in the Order (and whether within the fishing waters, the area to which the Convention relates or otherwise); or

(d) fish taken or trans-shipped during a specified period of the year or other period,

but it shall not prohibit the receiving of fish in circumstances to which subsection (11) applies and may provide for exemptions from the prohibitions contained in it.

(4) An Order made under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence —

(a) the Commissioner may waive or reduce that fee if he sees fit to do so in the circumstances of the particular case;

(b) any such fee may be expressed so as to be variable in relation to all or any of the following factors —

(i) the size of the fishing boat;

(ii) the facilities aboard the fishing boat for the storage, freezing, processing or other treatment of fish;

(iii) the area in which (and whether within the fishing waters, the area in relation to which the Convention relates or otherwise) the fish were taken or the place within a specified area (that is to say an area to which section 5(1) relates) in which the fish is trans-shipped;

(iv) the periods, times or particular voyages during which the fish was caught or trans-shipped;

(v) the description and quantities of fish that may be received;

(vi) the description of the fishing boat or method by which the trans-shipped fish was caught.

(6) An Order made under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence granted under this section may authorise the receiving of fish either unconditionally or subject to such conditions —

(a) as the Director of Fisheries may have been directed by the Commissioner to impose;

(b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the receiving of fish by, or the processing or treatment of fish aboard, the receiving vessel;

(c) as to the use to which the fish received may be put;

(d) prohibiting or restricting the use of any equipment or apparatus which might kill or harm any aquatic bird or marine mammal to be found or likely to be found in or in the vicinity of any place where the receiving of fish is authorised;

(e) as to the disposal of any waste, effluvia or deleterious matter by the fishing boat to which the licence relates;

(f) otherwise as may in the opinion of the Director of Fisheries be necessary or convenient to secure the fulfilment of any obligation under or objective of the Convention.

(8) Subsection (7) has effect without prejudice to any power under section 24 to make regulations as to any matters as to which under subsection (7) conditions may be imposed.

(9) Subsection (10), (11) and (13) of section 5 apply in relation to a licence granted under this section as they do in relation to a licence granted under section 5, substituting in those subsections wherever appropriate a reference to this section to any reference to that section.

(10) Where any vessel is used in contravention of any provision imposed by an Order under this section or of any condition of any licence granted under this section, the master, the owner and the charterer (if any) of the vessel each commit an offence under this subsection and each are liable on conviction of that offence to a fine not exceeding £500,000.

(11) Nothing in the foregoing provisions of this section or of any Order under it shall apply to any fishing-related operation which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat of the Commission.

Supplementary to sections 5 and 6

7.—(1) Any Order made under section 5(1) of the 1993 Ordinance which was in force immediately before the commencement of this Ordinance shall on the commencement of this Ordinance continue in force as if it had been made under section 5(1) of this Ordinance.

(2) Any licence granted under section 5 or 6 of the 1993 Ordinance and which was in force immediately before the commencement of this Ordinance shall on the commencement of this Ordinance continue in force as if it had been granted under section 5 or 6 of this Ordinance subject to the same terms and conditions (if any) to which it was subject immediately before the commencement of this Ordinance.

(3) With effect from the commencement of this Ordinance, and until they are revoked by an Order under section 6, the Fisheries (Trans-shipment and Export) Regulations 1990, in so far as they make provision which could be made by an Order under section 6, shall continue to have effect as if they had been made as an Order under this section and except as hereinbefore provided, in so far as they make provision which could be made as regulations under section 24 of this Ordinance, they shall continue to have effect as if they had been made under that section.

Report prior to entry

8.—(1) Not less than twelve hours and no more than twenty-four hours before it enters a specified area, and whether intending to fish therein or to exercise the right of free passage through the waters lying within that specified area, every fishing boat shall call by radio to the Marine Officer Grytviken or such other person or establishment as the Director of Fisheries may have approved for the purpose and provide the following information —

(a) the name and port and country of registry of the fishing boat and its international radio call sign;

(b) the estimated time and date of entry into the specified area and the co-ordinates of the point of entry and, in the case of a fishing boat intending to exercise the right of free passage through the specified area, the estimated time, date of its departure from the fishing waters and the co-ordinates of its intended point of departure;

(c) in the case of a fishing boat intending to fish in the specified area pursuant to a fishing licence granted under this Ordinance, the reference number or other sufficient details of the licence; and

(d) in any case, the quantity of fish, according to species, aboard the fishing boat.

(2) Fish reported pursuant to subsection (1) to be on board a fishing boat shall, in the absence of proof of circumstances tending to indicate that the report was materially false, be presumed to have been caught outside a specified area but, subject to that, if any fish is found on a fishing boat within the fishing waters, that fish shall be presumed, unless the contrary is proved, to have been taken within a specified area.

(3) If the requirements of subsection (1) of this section are contravened in respect of a fishing boat, the master, owner and the charterer (if any) of the fishing boat each commit an offence and each is liable on conviction of that offence to a fine not exceeding £100,000.

Fishing waters outside specified areas

9.—(1) In relation to such parts of the fishing waters as are not for the time being the subject of an Order under subsection 5(1) (that is to say, are not for the time being part of a specified area, with the effect that no licence under this Ordinance is required in relation to the undertaking of fishing or any fishing-related operations in them), the Commissioner may take or concur or assist in the taking of such measures for the conservation, increase or improvement of marine living resources therein as may be required so as to give effect to the Convention or so as to meet any obligation under, or objective of, the Convention.

(2) Nothing in subsection (1) shall be construed so as to permit the Commissioner to do, concur or assist in doing anything which, if subsection (1) had not been enacted, would be invalid or unlawful under the laws of South Georgia and the South Sandwich Islands.

(3) The Commissioner may exercise in such manner as he considers necessary or expedient to give effect to any obligation under, or objective of, the Convention such of his powers under section 24 to make regulations as are not solely related to the licensing of fishing boats and other vessels.

PART II
PROVISIONS APPLYING IN OR IN RELATION TO SPECIFIED AREAS OF THE FISHING
WATERS
Introductory

Application and interpretation of this Part

10.—(1) The provisions of this Part (that is to say, this section and sections 11 to 17 of this Ordinance) apply only in respect of —

- (a) every area which is a specified area that is to say, an area of the fishing waters in respect of which an Order under section 5(1) is for the time being in force (in the subsequent provisions of this Part called “a specified area”);
 - (b) fishing and fishing-related operations within a specified area; and
 - (c) fishing boats licensed to fish within a specified area under section 5 and vessels licensed to receive fish within a specified area under section 6.
- (2) In this Part, “fish”, where the context so admits, includes fish products.

Powers of Fishery Protection Officers

Powers of Fishery Protection Officers: introductory provisions

11.—(1) For the purposes of enforcing and administering the provisions of this Part or any regulations under section 24 so far as such regulations apply to any matter to which by virtue of section 10(1) the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 12(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any Order under section 5 or under section 6 for the time being in force.

(2) So far as is in accord with international law and practice, the powers referred to in subsection (1) may be exercised outside, as well as within, South Georgia and the South Sandwich Islands and the fishery waters and irrespective of whether the vessel in question is for the time being engaged in fishing or fishing-related operations.

(3) In exercising the powers conferred by section 12(1), a Fisheries Protection Officer may —

- (a) use such force as may reasonably be necessary; and
 - (b) engage the assistance of any person who may have been assigned to assist him in the exercise of those powers, provided that in such a case the Fisheries Protection Officer shall, subject to subsection (4), be liable for anything done by any such person if he would be liable had he himself done it.
- (4) A Fisheries Protection Officer shall not be liable to any civil or criminal proceedings for any thing done in the purported exercise of any of the powers conferred upon him by this Part, if the

court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

Powers referred to in section 11 and provisions related to those powers

12.—(1) The powers referred to in section 11(1) are —

- (a) a power to stop any fishing boat or any other vessel which it reasonably appears to him has been or may have been engaged in any fishing or fishing-related operation in a specified area;
- (b) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;
- (c) a power to board any such fishing boat or other vessel accompanied by such person or persons as may have been assigned to assist him or as he may engage to accompany him;
- (d) a power to require the attendance of the master and other persons aboard any such fishing boat or other vessel;
- (e) a power to make any examination and inquiry which appears to him to be necessary for any of the purposes mentioned in section 11(1) and, in particular —
 - (i) to examine any fish aboard the fishing boat or other vessel concerned and the equipment thereof, including the fishing gear and any other equipment related to, or possibly related to, any fishing or fishing-related operations and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him to be necessary for facilitating the examination;
 - (ii) to require any such persons on board the fishing boat or other vessel concerned to produce any document relating thereto, to its fishing or fishing-related operations or to the persons on board which is in that person's custody or possession and to take copies of any such document;
 - (iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or may have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to him to be necessary for facilitating the search;
 - (iv) where the fishing boat or other vessel is one in relation to which he has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence,

but nothing in subparagraph (iv) shall permit any document required, or appearing to be required, by the law of the fishing boat's or vessel's State of registry to be carried on board it to be seized and detained except where the fishing boat or vessel is detained in a port;

(f) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (e)(iv) has been committed, the following powers —

(i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in South Georgia and the South Sandwich Islands or in the Falkland Islands;

(ii) to detain or require the master to detain the fishing boat or other vessel in that place;

(iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or another Fisheries Protection Officer may permit and until such time as it may be released by him or another Fisheries Protection Officer or by a court;

(iv) to seize and detain any fishing gear, instruments or appliances which appear to him to have been, or may have been used in the commission of the offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court;

(v) to seize and detain any fish which appear to him to have been taken as a result of such offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court.

(2) It shall not be an excuse or reason for any person to refuse to answer, or fail to answer, any question, or to refuse to do so, fail to do so or to prevent another person from doing anything required by a Fisheries Protection Officer in the exercise of his powers under subsection (1) that to answer that question or to do that thing might or would tend to incriminate that person or any other person.

(3) Any information, document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of his powers under subsection (1) shall not be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

(4) Any person who on any fishing boat or other vessel —

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a Fisheries Protection Officer in the exercise of his powers under subsection (1);

(b) prevents, obstructs or attempts to prevent or obstruct, any other person from complying with any such requirement or answering any such question;

(c) assaults any Fisheries Protection Officer, or any person engaged to assist him, while that Officer is exercising any of those powers,

commits an offence under this subsection and is liable on conviction of that offence to a fine not exceeding £50,000.

(5) For the purposes of paragraph (a) of subsection (4), an excuse is not reasonable if it is an excuse or reason of a kind referred to in subsection (2).

Release of things seized or detained

Release of fishing boat, other vessel or thing if no proceedings are instituted

13.—(1) Where a fishing boat, fish, other vessel or thing has been seized or detained under any power conferred by section 12(1), a Fisheries Protection Officer may at any time release it if no proceedings have been commenced in relation to any offence in respect of which that fishing boat, fish, other vessel or thing could lawfully have been seized or detained under any power conferred by section 12(1).

(2) In any case where —

(a) a fishing boat, fish, other vessel or thing has been seized or detained under a power conferred by section 12(1); and

(b) no proceedings in respect of such an offence have been commenced within fourteen days of the arrival of that fishing boat or other vessel at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands to which it has, in accordance with section 12(1)(f)(i) been required to proceed or, in the case of any fish or other thing, within fourteen days of its arrival in South Georgia and the South Sandwich Islands or the Falkland Islands, or at any earlier time at which the Director of Fisheries is satisfied that no such offence has been committed,

the Director of Fisheries shall release the fishing boat, fish, other vessel or thing.

(3) Where a fishing boat, fish, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 12(1) and —

(a) has been brought to a place in South Georgia and the South Sandwich Islands or to a place in the Falkland Islands; and

(b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within fourteen days of the arrival of the fishing boat, fish,

other vessel or thing at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that the fishing boat, fish, other vessel or thing seized be released, whereupon it shall immediately be released.

(4) In subsection (3), “a court” means a court having jurisdiction under section 19(1) to try and determine proceedings in respect of an offence under this Ordinance.

Security for and release of fishing boat, fish other vessel or thing by court

14.—(1) Where proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, fish, other vessel or thing seized or detained under a power conferred by section 12(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

(2) The court may order the release of any fishing boat, fish, other vessel or thing so seized on being satisfied —

(a) that the applicant has given adequate security to the Crown in a sum appearing to the court to equal or exceed the relevant sum;

(b) that a person or persons approved by the court have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4), and in an amount appearing to the court to equal or exceed the relevant sum; or

(c) that there are special circumstances justifying the court proceeding under this paragraph, that a bond or bonds in a suitable form, conditioned in accordance with subsection (4), but in an amount appearing to the court to be less than the relevant sum,

and in this subsection “relevant sum” means the aggregate of —

(i) the maximum fine the court has power to impose in the event it convicts the owner, or as the case may be the charterer of the fishing boat;

(ii) (in the case only of an alleged offence under section 5(3) of (12)) the sum appearing to the court to be the value free on board Grytviken or Stanley (as the court sees fit) of all fish aboard the fishing boat immediately after the time of the alleged offence; and

(iii) the maximum amount it appears to the court that might reasonably be awarded to the Crown in respect of costs and expenses pursuant to section 19(2).

the master, owner or charterer (if any) of a fishing boat licensed under section 5 shall notify the Director of Fisheries in accordance with subsection (3).

(2) If subsection (1) is contravened the master, owner or charterer (if any) of the fishing boat each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made as nearly as possible immediately before departure of the following or such of the following as he may require —

(a) the name, port of registry, international radio call sign and fishing licence number of that fishing boat;

(b) the quantity of fish aboard the fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a specified area or a part of a specified area in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;

(c) if any fish of any species was, while the fishing boat was within a specified area trans-shipped to any other vessel or in any other manner disposed of particulars —

(i) of the name, port of registry, and international radio call sign of any vessel to which any fish was trans-shipped;

(ii) of the date or dates of the trans-shipping and the place at which it occurred;

(iii) in relation to each species so trans-shipped, of the quantity trans-shipped on every occasion and, in relation to each occasion, the quantity of that species trans-shipped which was taken under authority of the fishing licence and the quantity of that species of it which was not;

(d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same fishing licence;

(e) as to the expected next port of call of the fishing boat and its expected date of arrival thereat;

(f) as to the place or places it is expected that the fishing boat will discharge or trans-ship the fish aboard any other fishing boat or other vessel;

(g) if the fishing boat has discharged any fish other than by trans-shipping, particulars —

(i) of the date or dates of the discharge and the place at which it occurred;

(ii) in relation to each species so discharged, of the quantity discharged on every occasion and, in relation to each occasion, the quantity of that species discharged which was taken under authority of the fishing licence and of the quantity of that species which was not; and

(iii) in relation to each species so discharged, of the reasons for the discharge on each occasion.

(4) Before proceeding from any place in a specified area at which it is authorised by a licence under section 6 to receive fish, the master, owner or charterer (if any) of the vessel shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened the master, owner or charterer (if any) of the vessel each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made as nearly as possible before departure of the following or such of the following as he may require —

(a) the name, port of registry, international radio call sign and trans-shipment licence number of the vessel;

(b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a specified area, a statement in relation to each species of the quantity of it which was received under the authority of the trans-shipment licence and the quantity of it which was not;

(c) in relation to fish of any species received under the authority of the trans-shipment licence—

(i) the quantity of it received from any fishing boat from which it was received;

(ii) the date or dates on which and the place at which it was received;

(iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;

(d) whether or not it is expected that the vessel will return to receive fish under the authority of the same trans-shipment licence;

(e) the expected next port of call of the vessel and its expected date of arrival at that port;

(f) the place or places at which it is expected that the vessel will discharge or trans-ship the fish aboard the vessel.

(7) The proceeding provisions of this section have effect without prejudice to —

(a) any obligation under the conditions of any licence granted under section 5 or section 6;

(b) any obligation under any regulations made under section 24 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he directs.

(8) Where a person contravenes any provision of this section and has also contravened or thereafter contravenes any obligation under any other provision in such a manner as to constitute an offence, he may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

Supplementary to sections 8 and 16

17.—(1) For the sake of avoidance of doubt it is hereby declared that where a fishing boat has temporarily departed from a specified area or part thereof or, in the case of a vessel licensed to carry on any fishing-related operation, from the place it was authorised to carry on that operation, and thereafter returns to undertake further operations under the same licence, the provisions of section 8 and 16 apply to it on each occasion of entry or departure of that vessel.

(2) If any person, in purported compliance with any obligation under section 14 and 15, provides any information which to his knowledge is false or misleading or is incomplete, or recklessly as to its truth, falsehood, misleading nature or incompleteness, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

PART III

GENERAL

Provisions as to offences

Further provisions as to offences

18.—(1) Subject to section 8(2) (fish in certain circumstances to be presumed to have been caught outside a specified area), unless the contrary is proved any fish found on board a fishing boat shall for the purposes of this Ordinance be presumed to have been taken —

(a) within an area of the fishing waters in respect of which a licence under section 5 is required; or

(b) where a licence has been granted under section 5 restricting fishing to a part of such an area and the fishing boat is outside that area, within the vicinity in which the fishing boat is found.

(2) Unless the contrary is proved, any fish found on board a fishing boat of a species in respect of which that fishing boat is not authorised by a licence under section 5 to take shall be deemed

to have been taken within a specified area, but it shall be a defence in relation to an offence to which this subsection relates for the defendant to prove that the fish taken, if taken within a specified area, were taken inadvertently at a time when the fishing boat was seeking to take fish of a species it was authorised by such a licence to take.

(3) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate —

(a) that the fishing boat or other vessel was not licensed under section 5 or (as the case may be) section 6; or

(b) that the defendant or any other named person was not the holder of the licence; or

(c) that by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish product in a particular place,

shall, unless the contrary be proved, be sufficient evidence of the matter stated in the certificate.

(4) Where the owner or charterer of a fishing vessel is prosecuted in relation to an offence under this Ordinance, it is not a defence for him to show that the offence —

(a) was committed without his knowledge; or

(b) contrary to any instructions he may have given to any person.

(5) If, in any proceedings for an offence under section 5(3) it is proved beyond reasonable doubt that at a time relevant to the commission of the offence —

(a) fishing gear belonging to the vessel in question —

(i) was in use;

(ii) had recently been in use; or

(iii) was apparently about to be put into use;

(b) fish which occur in the specified area in question —

(i) were being processed aboard the vessel; or

(ii) had recently been processed aboard the vessel;

(c) fishing gear from the vessel was in the water, or

(d) fish which occur in a specified area (or the products of such fish) was stowed on board, the court in deciding whether or not the offence has been committed shall give such weight as it considers proper to any of the foregoing which is so proved.

(6) An attempt to commit an offence under this Ordinance constitutes an offence under this subsection and is punishable in respect of all persons who could have been prosecuted in respect of the offence which was attempted in the same manner as if that offence had been completed.

(7) Notwithstanding any provision or rule of law to the contrary a prosecution in respect of an offence under this Ordinance may be commenced at any time within twelve years of the date on which that offence appears to have been committed.

(8) Where any offence under this Ordinance or under regulations made under section 24 committed by an owner or charterer of a fishing boat or other vessel is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate (or, in the case of a body corporate existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction of Summary and Magistrate's Courts

19.—(1) All penalties, offences and proceedings under this Ordinance or any regulation may be recovered, prosecuted and taken before any court of summary jurisdiction in South Georgia and the South Sandwich Islands or, pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the Magistrate's Court of the Falkland Islands, and those courts have jurisdiction to try and determine any offence under this Ordinance or any regulation made thereunder.

(2) In respect of such offences and notwithstanding any provision of law to the contrary, any court before which, pursuant to subsection (1), any such offence is tried has jurisdiction to impose any fine provided for under this Ordinance and may award to the Crown such costs and expenses (including expenses incurred in exercise of any power under section 12(1) and expenses incurred in relation to the prosecution of any such offence) as may appear to it to be proper.

Forfeiture of licence

20. Every person who is convicted of an offence under this Ordinance or any regulation made under this Ordinance and is again convicted of such an offence shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence.

Administrative penalties for minor offences

21.—(1) Where the Commissioner has reasonable cause to believe that —

- (a) an offence against this Ordinance has been committed by any person in respect of any fishing boat;
- (b) the offence is of a minor nature; and
- (c) having regard to the previous conduct of the fishing boat and the person concerned it would be appropriate to impose a penalty under this section;

he may, unless the Attorney General has given a direction which has not been withdrawn to the Director of Fisheries that a prosecution in respect of the offence shall be brought, cause a notice in writing in accordance with subsection (2) to be served on that person.

(2) A notice under subsection (1) shall specify —

- (a) the date and nature of the offence;
- (b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and
- (c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by a court having jurisdiction to try and determine that offence, in which case the following shall apply —

- (a) no further proceedings shall be taken under this section by the Commissioner; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information charge in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by a court may by notice in writing served on the Commissioner —

- (a) admit the offence; and
- (b) bring to the attention of the Commissioner any matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on him —

- (a) require that proceedings in respect of the alleged offence shall be dealt with by a court; or
- (b) admit the offence;

he shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding in amount one third of the maximum fine to which the person would be liable if he were convicted of the offence by a court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 20.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) A penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence and without prejudice to the foregoing may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, where an offence has been admitted or is deemed to have been admitted under this section no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(12) Nothing in this section shall apply —

- (a) in respect of any offence or alleged offence under section 5(3) or 6(10); or
- (b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid.

Provisions as to amounts of fine which may be imposed and other orders to be made by a court on conviction

22.—(1) Before ordering an individual to pay a fine after convicting him of an offence under this Ordinance, the court shall inquire into and take into account the means of the individual to pay that fine within a reasonable time, but in respect of a person, other than an individual, convicted of an offence under this Ordinance, the court shall order that person to pay such fine (not being greater than the maximum it is permitted to impose in respect of the offence) as the court considers just and proper in all the circumstances of the case.

(2) Where the owner or charterer of a fishing boat is convicted of an offence under section 5(3) the court shall, in addition to any fine or other sum it orders to be paid, make an order of one or other of the kinds mentioned in subsections (3) and (4) of this section and in so doing shall take into account any representations made by or on behalf of the prosecution as to which of those orders it should make.

(3) An order under this subsection is an order that all the fish concerned in the offence be forthwith forfeit to the Crown.

(4) An order under this subsection is an order that the convicted person do within seven days pay to the Crown a sum appearing to the court to be the value free on board at Grytviken or Stanley (depending on the place of conviction) of all fish appearing to the court to have been concerned in the offence.

Detention or forfeiture of fishing boats on failure to pay or secure fine

23.—(1) Where a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under this Ordinance to pay a fine or costs and expenses or the value of the catch aboard the vessel or any part of that catch, the court shall, if no security has been given to the Crown for payment thereof or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the person so order shall give security for payment of the amount due, and the court shall further order the detention in such place within its jurisdiction as the court shall name of the fishing boat concerned, its equipment and the catch aboard it, until security to the satisfaction of the court is given or all sums hereinbefore referred to are paid, whichever shall first occur.

(2) Where a person is convicted of an offence under section 5(3) or (12) or section 6(10) and is ordered to pay a fine and that fine is not paid or security given within 7 days of the date of the order of the court, or such longer period as the court may have determined at the time the fine was imposed, the court shall, on the application of the Crown and unless sufficient cause is shown to the contrary, order that the fishing boat concerned in that offence and its equipment concerned in the commission of it, together with the catch aboard that fishing boat in so far as that catch has not already been forfeited under section 22(2) or such of the foregoing as are the subject of the application by the Crown, shall be forfeited to the Crown. On making an order under this subsection, the court shall revoke or vary any order under subsection (1) previously made in such manner as is in the circumstances it believes to be appropriate.

(3) On an order of forfeiture being made pursuant to subsection (2), the property to which it relates shall forthwith vest in the Crown free from encumbrances and may be disposed of in such a manner as the Commissioner, acting in his discretion, may direct.

(4) No appeal shall lie to any court against an order under subsection (2).

Regulations .

24.—(1) The Commissioner may make regulations for the better carrying into effect of the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, such regulations may provide for —

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that shall apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishing waters and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;
- (i) any matters in relation to which under section 5 of section 6 a condition may be imposed on the grant of a licence thereunder;
- (j) the designation by applicants for licences and licensees of authorised agents in South Georgia and the South Sandwich Islands or in the Falkland Islands in respect of fishing and fishing-related operations and otherwise for the purposes of this Ordinance;
- (k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;
- (l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(m) a fine of such amount as may be prescribed therein in respect of any offence under any such regulations (but so that no such fine shall exceed £100,000 and, subject to that limitation, so that different fines may be prescribed in relation to different offences);

(n) any other purpose related to any obligation under, or objective of, the Convention.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters, different specified areas, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

Service of proceedings and notices

25.—(1) Where an agent for the licensee under a licence is named in that licence —

(a) any summons to the owner, charterer or master of the fishing boat or other vessel to which such licence relates to attend before any court to answer to that summons shall be deemed to be duly served if it is shown that the summons was delivered to or received by that agent;

(b) any administrative penalty notice under section 21(1) shall be deemed to have been duly served on the owner, charterer or master of the boat (as the case may be) if it is shown that it was delivered to or received by that agent;

(c) the agent may, on behalf of the owner, charterer or master of the boat, give to the Commissioner any notice or notification which the owner, charterer or master of the boat could give under any provisions of this Ordinance; and

(d) any notice which the Director of Fisheries is empowered under this Ordinance or any regulations made under section 24 to give or serve upon the owner, charterer or master of the boat shall be deemed to have been duly given to or served upon that person if it is shown that it was delivered to or received by the agent.

(2) Subsection (1) has effect whether the summons or notice is delivered, served or given to the agent in South Georgia and the South Sandwich Islands, the Falkland Islands or elsewhere.

Repeal and saving

26.—(1) The Fisheries (Conservation and Management) Ordinance 1993 is hereby repealed.

(2) Notwithstanding the repeal effected by subsection (1) —

(a) any notice, form, order, rule, regulation or direction prescribed, made, issued or given under the 1993 Ordinance shall continue in force as if it had been prescribed, made, issued, or given under this Ordinance, and may be repealed, revoked, varied or amended accordingly;

(b) any Order or regulation made under any provision of the 1993 Ordinance in effect immediately before the commencement of this Ordinance shall after such commencement

continue in force as if it had been made under the corresponding provisions of this Ordinance; and

(c) any offence under any provision of the 1993 Ordinance committed before the commencement of this Ordinance may be prosecuted and punished under the provisions of the 1993 Ordinance as if it had not been repealed, but no greater punishment may be imposed in respect of any such offence than is permitted by the corresponding provisions of this Ordinance.

(3) Nothing in subsection (2) shall be construed as excluding the operation of any provisions of the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands (in its application to South Georgia and the South Sandwich Islands) which are not inconsistent with that subsection.

Enacted this thirtieth day of June 2000

R T Jarvis
Acting Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 3

12th October 2000

The following is published in this Gazette:-

Currency Ordinance 2000.

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

Currency Ordinance 2000

(No. 3 of 2000)

ARRANGEMENT OF PROVISIONS

Section

PART I
INTRODUCTORY

1. Short title
2. Interpretation

PART II
CURRENCY OF THE TERRITORY

3. Currency of the Territory
4. Legal tender etc
5. Issue of currency

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

CURRENCY ORDINANCE 2000

(No. 3 of 2000)

(assented to: 4th October 2000)
(commencement: in accordance with section 1)
(published: 12th October 2000)

AN ORDINANCE

To provide for the currency of South Georgia and the South Sandwich Islands and all matters related thereto.

ENACTED by the Commissioner as follows —

PART I
INTRODUCTORY

Short title

1. This Ordinance may be cited as the Currency Ordinance 2000 and shall come into force on such date as the Commissioner shall specify in a notice published in the Gazette.

Interpretation

2. In this Ordinance —

“sterling coin” means a coin of the United Kingdom coinage minted by the Royal Mint or otherwise by the authority of Her Majesty’s Government in the United Kingdom; and

“sterling note” and “note” means a note denominated in sterling issued by the Bank of England.

PART II CURRENCY OF THE TERRITORY

Currency of the Territory

3.—(1) The currency of the Territory shall be the pound sterling.

(2) Notwithstanding subsection (1) it shall be lawful for the Commissioner by Order under section 5(2) to authorise the issue of commemorative coins of the Territory in any denomination not exceeding five pounds and every such coin shall have parity in value with any sterling coin of the United Kingdom of the same denomination.

(3) The Commissioner shall at any time on demand buy any coin of the Territory for sterling coins or notes at par,

Provided that —

(a) the Commissioner shall not be required at any time to buy less than £10 in value of the coinage of the Territory;

(b) the Commissioner shall be entitled to charge and levy a person desiring to exchange Territory coins for United Kingdom coins or notes commission at such rate not exceeding two and a quarter per cent as he may, in his discretion, fix or such greater or lesser margins as are permitted by international monetary agreements which apply to or have been extended to the Territory as may, from time to time be prescribed, and the Commissioner is entitled, in addition, to recover from the seller any disbursements incurred by the Commissioner or any agent or correspondent of his in such transaction.

(4) The Commissioner shall be entitled to sell any commemorative coin of the Territory at such price over par as he may in his discretion determine.

Legal tender etc.

4.—(1) Subject to subsection (2), the following respective notes and coins shall be legal tender—

(a) in the case of Bank of England sterling notes, for the payment of any amount;

(b) in the case of coins of nickel brass, silver or gold or as to part of nickel brass and another part of cupro-nickel of a denomination of one pound or more, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount;

(c) in the case of cupro-nickel, silver or gold of a denomination of more than ten pence but less than one pound, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding ten pounds;

(d) in the case of coins of cupro-nickel, silver or gold of a denomination of ten pence or less, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding two pounds; and

(e) in the case of bronze coins or bronze sandwiching a layer of steel or any other metal, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding twenty pence.

(2) A note or coin that has been illegally dealt with is not legal tender.

(3) For the purposes of this Ordinance a note or coin has been illegally dealt with if it has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by having any name, word, device or number stamped or engraved thereon, whether it has or has not been thereby diminished or lightened.

(4) No person is entitled to recover from the Commissioner the value of any lost, stolen, mutilated or imperfect coin or of any coin which has been illegally dealt with.

Issue of currency

5.—(1) The Commissioner has the sole right to issue on behalf of the Government of the Territory coins and tokens having the appearance of coins.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding seven years and to a fine not exceeding £25,000.

(3) The Commissioner may by Order authorise the minting of such commemorative coins of the Territory of such denominations, weight, form, design and metal or metals as is specified in the Order.

Made this fourth day of October 2000

D A Lamont
Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 4

21st November 2000

The following is published in this Gazette:-

Post Office Order 2000.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

POST OFFICE

Post Office Order 2000

S. R. & O. No. 1 of 2000

Made: 6 November 2000

Published: 21 November 2000

Coming into force: in accordance with section 1

IN EXERCISE of my powers under section 4 of the Post Office Ordinance(a), and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Post Office Order 2000 and shall be deemed to have come into force on 1st November 2000.

Interpretation

2. In this Order unless the context otherwise requires —

“aerogramme” means a letter written on a form consisting of a single sheet of paper suitably folded and gummed on all sides and sold by the Post Office for the purpose of being used to send messages by air mail;

“inland” means the Falkland Islands, South Georgia and the South Sandwich Islands and the British Antarctic Territory; and

“printed paper” means reproductions on paper, cardboard or other materials commonly used in printing produced in several identical copies.

Postage rates

3. The rates of postage on the various categories of postal matter shall be as shown in the First, Second and Third Schedules to this Order and shall be effective from the coming into force of this Order.

Weight limitations

4. No item shall be accepted for transmission —

(a) Cap. 52 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (DS) The South Georgia and the South Sandwich Islands

- (a) as an overseas air mail letter or as an overseas small packet if it exceeds 2 kilograms in weight;
- (b) as an overseas air mail parcel;
- (c) as an overseas surface mail letter, printed paper or small packet if it exceeds 2 kilograms in weight;
- (d) as an overseas surface mail parcel if it exceeds 30 kilograms in weight;
- (e) as an inland letter, printed paper or small packet if it exceeds 2 kilograms in weight; or
- (f) as an inland parcel if it exceeds 10 kilograms in weight.

Aerogrammes

- 5.—(1) An aerogramme shall not be accepted for transmission by air mail —
- (a) if it has any enclosure; or
 - (b) if it is not sufficiently stamped for transmission as an aerogramme by air mail.
- (2) Where an aerogramme is not by virtue of paragraph (1) to be accepted for transmission by air mail, it may, at the discretion of the Postmaster, be accepted for transmission by surface mail if it is sufficiently stamped for such transmission.

Small packets

- 6.—(1) A class of postal packets called “small packets” is authorised with the object of affording facilities, in the international service, for the transmission of small articles of merchandise in the letter mails. The exchange of small packets is limited to those countries which have agreed to participate in the service.
- (2) The prohibitions applicable to letter post shall apply also to the service of small packets. In addition, the following shall be specially excluded from transmission in small packets —
- (a) letters, notes or documents having the character of actual and personal correspondence including tapes, disks or wires bearing recordings of current and personal messages (this prohibition shall not apply to open invoices reduced to the simplest form, the addresses of the addressee, the description of the article and the sender’s address);
 - (b) coins;
 - (c) banknotes;
 - (d) currency notes;
 - (e) negotiable instruments payable to the bearer;
 - (f) platinum, gold or silver, manufactured or not;
 - (g) precious stones;
 - (h) jewels and other valuable articles; and
 - (i) postage stamps, whether obliterated or not.
- (3) Small packets addressed to a destination outside the South Georgia and the South Sandwich Islands shall —
- (a) have securely fixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the postal authorities) which shall have been fully and properly completed by the sender; and
 - (b) be marked with the words “small packet” in the top left-hand corner of the obverse of the packet.
- A small packet not complying with this paragraph shall not be accepted for transmission by mail.
- (4) Small packets may be registered but not insured.

Exemptions from postage

7.—(1) The following postal articles may be accepted for transmission by mail without the prepayment of postage —

(a) postal articles originating in a department of the Government, posted in South Georgia and the South Sandwich Islands and bearing —

(i) the words “On Her Majesty’s Service” conspicuously marked at the top of the obverse of the item; and

(ii) in the lower left-hand or right-hand corner the official departmental stamp; and

(b) postal articles sent on postal business by the postal authorities.

(2) Postage shall ordinarily be prepaid by affixing adhesive postage stamps obtained from the postal authorities but, by arrangement between the sender and the Postmaster, may be prepaid by use of a franking machine approved by him and subject to compliance with such conditions the Postmaster may specify.

Unpaid or underpaid postage

8.—(1) Where the postage payable on any postal packet has not been prepaid or has not been fully prepaid, the following surcharge shall be payable —

(a) in the case of an overseas postal packet, the surcharge calculated according to the Detailed Regulations of the Universal Postal Union; and

(b) in the case of an inland postal packet, double the postage or double the deficiency as the case may be.

(2) An air mail packet on which no part, or part only, of the postage payable thereon has been paid may be dealt with as if it were not an airmail packet.

Undelivered parcels

9.—(1) Any parcel not collected within three months from the posting of a notification of arrival may be returned to the sender or otherwise disposed of as the Postmaster thinks fit.

(2) Any fee payable under this section shall be payable in cash in such manner as the Postmaster may direct.

Registration

10.—(1) The fees for registration shall be —

(a) inland - 50 pence; and

(b) overseas - £1.

(2) The maximum limit of compensation for the loss of a registered postal packet is £20 where the overseas fee has been paid and £10 otherwise.

Cash on delivery parcels

11. For cash on delivery parcels a fee equivalent of the rates of poundage for the time being charged by the United Kingdom Post Office on British Postal Orders and calculated by reference to the trade charge in respect of the parcel or sum of £300, which ever is the lower.

Insurance

12.—(1) Insurance shall be available only in relation to letters and parcels addressed to an address in the United Kingdom and any other country for the time being notified by the Postmaster.

(2) Insurance charges shall be £3 with the maximum insured value of £300.

Parcels and customs declarations

13. Paragraph 6(3)(a) above (customs declarations in relation to small packets addressed to overseas destinations) shall also apply to parcels so addressed.

Inland small packets

14.—(1) Paragraph 6(3)(b) above (marking of small packets addressed to overseas destinations) shall also apply to small packets addressed to inland destinations.

(2) Where an inland small packet is not marked as required by sub-paragraph (1) or exceeds 1 kilogram in weight it shall if it does not exceed 2 kilograms in weight attract postage at the rate applicable to letters and otherwise shall be treated as a parcel and be charged for and transmitted accordingly.

Made this sixth day of November 2000

D A Lamont
Commissioner

SCHEDULES

FIRST SCHEDULE

AIR MAIL RATES - TO ALL COUNTRIES

Letters - 43p first 20 gm, 25p each extra 10 gm (or part)
Small Packets - 33p first 20 gm, 15p each extra 10 gm (or part)
Printed Papers - 33p first 20 gm, 15p each extra 10 gm (or part)
Post Cards - 37p
Aerogramme - 40p
Illustrated Aerogramme - 52p

SECOND SCHEDULE

SURFACE MAIL RATES

- (a) not over 20 gm - 35p
- (b) over 20 gm but not over 100 gm - 80p
- (c) over 100 gm - 115p plus 35p for each 50 gm or part thereof that the weight exceeds 150 gm

SMALL PACKET AND PRINTED PAPER RATES

- (a) not over 20 gm - 25p
 - (b) over 20 gm but not over 100 gm - 70p
 - (c) over 100 gm - 95p plus 25p for each 50 gm or part thereof that the weight exceeds 150 gm
- Post Card - 25p
Literature for the Blind - Free

PARCELS

United Kingdom

Not over 1 kg - £8.00
£4.00 for each additional kg - maximum weight 30 kg

Other Countries

Parcels for some other countries need additional postage

THIRD SCHEDULE

INLAND RATES

- (a) not over 20 gm - 20p
 - (b) over 20 gm - 20p plus 15p for each 50 gm or part thereof that the weight exceeds 20 gm
- Post Card - 15p

SMALL PACKET AND PRINTED PAPER RATES

- (a) not over 20 gm - 10p
- (b) over 20 gm - 10p plus 7p for each 50 gm or part thereof that the weight exceeds 20 gm

INLAND PARCELS

- (a) not over 3 kg - £3.50p
- (b) not over 5 kg - £5.50p
- (c) not over 10 kg - £10.50p

EXPLANATORY NOTE

(not forming part of the above regulations)

This Order imposes air mail rates, surface mail rates and inland rates to be applied to all posted matter, to be applied from 1st November 2000.



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**
PUBLISHED BY AUTHORITY

No. 5

21st December 2000

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000

(SECTION 1)

NOTICE OF COMING INTO FORCE OF THE ORDINANCE

Pursuant to section 1 of the Fisheries (Conservation and Management) Ordinance 2000 I **APPOINT** 1 January 2001 as the day on which all the provisions of the Ordinance shall come into force.

Dated this twentieth day of December 2000.

Donald Alexander Lamont,
Commissioner.



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 1

23rd February 2001

The following is published in this Gazette -

Currency (Amendment) Ordinance 2001.

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

Currency (Amendment) Ordinance 2001

(No. 1 of 2001)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of the Currency Ordinance

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

CURRENCY (AMENDMENT) ORDINANCE 2001

(No. 1 of 2001)

(assented to: 14 February 2001)

(commencement: on publication)

(published: 23 February 2001)

AN ORDINANCE

To amend the Currency Ordinance

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows —

Short title

1. This Ordinance may be cited as the Currency (Amendment) Ordinance 2001.

Amendment of the Currency Ordinance

2. The Currency Ordinance 2000(a) is amended by the insertion of the words “in the case of any coin which is not a gold coin and twenty pounds in relation to any gold coin” after the words “five pounds” in section 3(2) of the Ordinance.

Made this fourteenth day of February 2001

D A Lamont
Commissioner

(a) No 3 of 2000



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 2

19th November 2001

The following are published in this Gazette -

Notice No. 1 of 2001 - Appointment of Acting Attorney General;

Trade Marks Ordinance 2001.

NOTICE

No. 1

19th November 2001.

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

APPOINTMENT OF ACTING ATTORNEY GENERAL

IN EXERCISE of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling I **DONALD ALEXANDER LAMONT** Commissioner for South Georgia and the South Sandwich Islands **HEREBY** authorise **GRAHAM JAMES CRIPPS** to discharge the functions and duties of the post of Attorney General whenever the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** is unavailable to discharge the same through absence from the Falkland Islands

Given under my hand and the Public Seal at Stanley on this first day of June 2001

D A Lamont
Commissioner

ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

TRADE MARKS ORDINANCE 2001

(No. 2 of 2001)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Repeal and saving
3. Extension to the South Georgia and the South Sandwich Islands of protection for certain trade marks

ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

Trade Marks Ordinance 2001

(No. 2 of 2001)

An Ordinance

(assented to: 8th November 2001)
(commencement: in accordance with section 1)
(published: 19th November 2001)

To repeal the Registration of United Kingdom Trade Marks Ordinance, to provide that trade marks which have effect in the United Kingdom shall have effect in South Georgia and the South Sandwich Islands and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Trade Marks Ordinance 2001 and shall come into force on such date as may be fixed by the Commissioner by notice published in the *Gazette*.

Repeal and saving

2.—(1) The Registration of United Kingdom Trade Marks Ordinance (“the disappplied Ordinance”) shall no longer have effect in South Georgia and the South Sandwich Islands.

(2) Notwithstanding subsection (1) but subject to subsection (3) of this section, the registration of any trade mark registered under the disappplied Ordinance which had effect immediately before the commencement of this Ordinance shall continue to have effect as if the Ordinance had not been disappplied.

(3) Where, by virtue of subsection (2) of this section, the registration of a trade mark continues to have effect, in respect of that trade mark section 9 of the Registration of United Kingdom Trade Marks Ordinance (power of the Supreme Court to declare that rights and privileges obtained by registration have not been acquired) shall continue to have effect as if that section had not been repealed, but without prejudice to the operation of section 3 of this Ordinance in respect of the trade mark in question.

Extension to South Georgia and the South Sandwich Islands of protection for certain trade marks

3.—(1) The proprietor of a trade mark which is in the United Kingdom a registered trade mark for the purposes of the Trade Marks Act 1994 (“the 1994 Act”) has exclusive rights in South Georgia and the South Sandwich Islands in that trade mark which are infringed by use of that trade mark in South Georgia and the South Sandwich Islands without his consent.

The acts amounting to infringement, if done without the consent of the proprietor, are those specified in section 10 of the 1994 Act, substituting “South Georgia and the South Sandwich Islands” for “United Kingdom” in that section, but a trade mark is not infringed by anything declared by sections 11 and 12 of the 1994 Act not to amount to infringement of it.

(2) Sections 14 to 19, 21 and 100 of the 1994 Act shall have effect in South Georgia and the South Sandwich Islands in and in relation to proceedings for infringement of a registered trade mark and so as to confer the like jurisdiction upon the Supreme Court as by virtue of those sections is in England enjoyed by the High Court.

(3) Sections 28 and 31 of the 1994 Act (licensing) shall have effect in South Georgia and the South Sandwich Islands in relation to all trade marks to which subsection (1) of this section relates.

(4) The provisions of the 1994 Act mentioned in the foregoing provisions of this section shall also have effect in South Georgia and the South Sandwich Islands —

(a) in relation to collective marks, subject to any modifications required by the provisions of Schedule I to the 1994 Act; and

(b) in relation to certification marks, subject to any modifications required by the provisions of Schedule II to the 1994 Act.

(5) Sections 92, 95, 97 and 99 of the 1994 Act shall apply in South Georgia and the South Sandwich Islands —

(a) with the substitution in section 92(4)(b) of the words “South Georgia and the South Sandwich Islands” for the words “United Kingdom”;

(b) with the substitution of the following subsection for section 92(6) —

“(6) A person who is convicted of an offence under this section is liable to a fine not exceeding fifty thousand pounds or imprisonment for a term not exceeding ten years.”

(c) with the substitution of the words “South Georgia and the South Sandwich Islands” for the words “England and Wales or Northern Ireland” in section 97(1);

(d) with the substitution of the words “court of summary jurisdiction” for the words “magistrates’ court” in section 97(2)(b);

(e) with the substitution of the following subsection for section 97(5) —

“(5) Any person aggrieved by an order under this section by a court of summary jurisdiction, or by a decision of such a court not to make such an order may appeal against that order or decision to the Supreme Court; and an order made by a court of summary jurisdiction under this section may contain such provision as appears to the court to be appropriate pending the making and determination of any appeal.”

(f) in section 97(8), by omission of the reference to the Trade Descriptions Act 1968.

(6) In this section, and in application by this section to South Georgia and the South Sandwich Islands of any provision of the 1994 Act —

“certification mark” has the meaning given by section 50(1) of the 1994 Act;

“collective mark” has the meaning given by section 49(1) of the 1994 Act; and

“registered trade mark” means a trade mark (within the meaning given by section 1 of the 1994 Act) which is a registered trade mark for the purposes of the 1994 Act.

Made this eighth day of November 2001

D A Lamont
Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 3

20th November 2001

The following is published in this Gazette -

The Civil Aviation Act 1982 (Overseas Territories)(No. 2) Order 2001.

2001 No. 3367

CIVIL AVIATION

**The Civil Aviation Act 1982 (Overseas Territories) (No. 2)
Order 2001**

Made - - - - - 9th October 2001

Coming into force - - - 10th October 2001

At the Court at Buckingham Palace, the 9th day of October 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 108 of the Civil Aviation Act 1982(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1. This Order may be cited as the Civil Aviation Act 1982 (Overseas Territories) (No. 2) Order 2001 and shall come into force on 10th October 2001.

Extension of section 76(4) of the Civil Aviation Act 1982

2. Section 76(4) of the Civil Aviation Act 1982, modified as in Schedule 1 to this Order, shall extend to the Territories specified in Schedule 2.

A. K. Galloway
Clerk of the Privy Council

(a) 1982 c. 16.

SCHEDULE 1

Article 2

CIVIL AVIATION ACT 1982

Section 76.—(4) Where an aircraft has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, section 40(2) of the Civil Aviation Act 1949(a) (as extended by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b) to any of the Territories specified in Schedule 2 to this Order) shall have effect as if for references to the owner of the aircraft there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

SCHEDULE 2

Article 2

TERRITORIES TO WHICH THIS ORDER APPLIES

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

(a) 1949 c. 67.
(b) S.I. 1969/592.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends, with modifications, section 76(4) of the Civil Aviation Act 1982 to the Territories listed in Schedule 2 to the Order. The liability of the owner under section 40(2) of the Civil Aviation Act 1949, as extended to those Territories, for loss or damage caused by an aircraft in flight or by a person in, or an article, animal or person falling from such an aircraft, is transferred to the person to whom the owner has demised, let or hired out the aircraft if the demise, let or hire is for a period of more than 14 days and no crew member is employed by the owner.



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 1

13th March 2002

The following is published in this Gazette -

Fisheries (Conservation and Management) (Amendment) Ordinance 2002.

ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

Fisheries (Conservation and Management) (Amendment) Ordinance 2002

(No. 1 of 2002)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of section 5 of principal Ordinance

ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

**FISHERIES (CONSERVATION AND MANAGEMENT)(AMENDMENT) ORDINANCE
2002**

(No. 1 of 2002)

(assented to: 8 March 2002)

(commencement: on publication)

(published: 13 March 2002)

AN ORDINANCE

To amend the Fisheries (Conservation and Management) Ordinance 2000

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

Short title

1. This Ordinance may be cited as the Fisheries (Conservation and Management)(Amendment) Ordinance 2002 and comes into force immediately on its publication in the Gazette.

Amendment of section 5 of the principal Ordinance

2. Section 5 of the Fisheries (Conservation and Management) Ordinance 2000 is amended by inserting the following subsection after subsection (10) —

“(10A) Notwithstanding any direction by the Commissioner under section 4(2), the Director of Fisheries shall, before issuing, varying, suspending or revoking a licence under any provision of this Ordinance, consult the Secretary of State on whether there would be any implications for foreign policy and shall act in accordance with such advice as he may receive from the Secretary of State.”

Made this eighth day of March 2002

D A Lamont
Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 2

26th June 2002

The following is published in this Gazette -

Post Office Order 2002, (S.R. & O. No. 1 of 2002).

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

POST OFFICE

Post Office Order 2002

S. R. & O. No: 1 of 2002

Made: 18th June 2002

Published: 26th June 2002

Commencing: 1st July 2002

IN EXERCISE of my powers under sections 3 and 4 of the Post Office Ordinance (a), I make the following Order —

Citation and commencement

1. This Order may be cited as the Post Office Order 2002 and shall come into force on 1 July 2002.

Interpretation

2. In this Order —

“Aerogramme” means a letter written on a form consisting of a single sheet of paper suitably folded and gummed on all sides and sold by the post office for the purpose of being used to send messages by airmail;

“Inland” means the Falkland Islands, the British Antarctic Territory and South Georgia and the South Sandwich Islands;

“Newspaper” means any paper containing public news intelligence of occurrences or any remarks or observations printed in it for sale, and published in South Georgia and the South Sandwich Islands or elsewhere periodically, or in parts or numbers at intervals not exceeding 26 days between the publication of any two such papers, parts or numbers; and also any printed paper printed in order to be dispersed, and made public weekly or more often, or at intervals not exceeding 26 days, containing only or principally advertisements; and

“Printed Paper” means a newspaper or a document which is a reproduction on paper, cardboard or other materials commonly used in printing, not less than six copies of which, identical in all respects, are intended to be mailed ;

Postage Rates

3. The rates of postage on the various categories of postal matter shall be as shown in the First, Second and Third Schedules to this Order.

(a) Of the Falkland Islands in its application to South Georgia and the South Sandwich Islands

Weight Limitations

4. The maximum weight for the following postal articles, for any destination, shall be —

- (a) letters 2 kg
- (b) printed papers 2 kg
- (c) small packets 2 kg
- (d) literature for the blind 7 kg
- (e) postal parcels 30 kg

Aerogrammes

5. — (1) An aerogramme shall not be accepted for transmission by airmail —

- (a) if it has any enclosure; or
- (b) if it is not sufficiently stamped for transmission as an aerogramme by airmail.

(2) Where an aerogramme is not by virtue of paragraph (1) to be accepted for transmission by airmail it may, at the discretion of the Postmaster, be accepted for transmission by surface mail if it is sufficiently stamped for such transmission.

Small Packets

6. — (1) A class of postal packets called “small packets” is authorised with the object of affording facilities, in the international service, for the transmission of small articles of merchandise in the letter mails. The small packets service is limited to those countries which have agreed to participate in it.

(2) The same prohibitions applicable to letter post also apply to the small packet service. In addition, the following are excluded from transmission in small packets —

- (a) letters, notes or documents having the character of actual and personal correspondence including tapes, discs or wires bearing recordings of current and personal messages;
- (b) coins, bank notes and currency notes;
- (c) negotiable instruments payable to bearer;
- (d) platinum, gold or silver, manufactured or not;
- (e) precious stones, jewels and other valuable articles; and
- (f) postage stamps whether obliterated or not.

(3) Small packets addressed to a destination outside the Falkland Islands shall —

- (a) have securely affixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the Postmaster) which shall have been fully and properly completed by the sender; and

- (b) be marked with the words “small packet” in the top left-hand corner of the obverse of the packet.

A small packet which does not comply with this paragraph shall not be accepted for transmission by mail.

- (4) Small packets may be registered, but may not be insured.

Exemptions from Postage

7. (1) The following postal articles may be accepted for transmission by mail without the pre payment of postage —

- (a) postal articles originating in a department of the Government posted in the Falkland Islands and bearing —

- (i) the words “On Her Majesty’s Service” conspicuously marked at the top of the obverse of the item; and

- (ii) in the lower left-hand or right-hand corner of the obverse of the item, the official departmental stamp; and

- (b) postal articles sent on postal business by the postal authorities.

(2) Postage shall ordinarily be pre-paid by affixing adhesive postage stamps obtained from the postal authorities but, by arrangement between the sender and the Postmaster, may be pre-paid by use of a franking machine approved by him and subject to compliance with such conditions as he may specify.

Unpaid or Underpaid Postage

8. —(1) Where the postage payable on any postal packet has not been pre-paid or has not been fully pre-paid, the following surcharge is payable —

- (a) in the case of an overseas postal packet, the surcharge calculated according to the Detailed Regulations of the Universal Postal Union; and

- (b) in the case of an inland postal packet, double the postage or double the deficiency as the case may be.

(2) An airmail packet on which no part, or part only, of the postage payable thereon has been paid may be dealt with as if it were not an airmail packet.

Undelivered Parcels

9. Any parcel not collected within three months from the posting of a notification of arrival may be returned to the sender or otherwise disposed of as the Postmaster thinks fit.

Registration

10. — (1) The fees for registration are —

(a) Inland 50p; and

(b) Overseas £1.00

(2) The maximum limit of compensation for the loss of a registered postal packet is £20 where the overseas fee has been paid and £10 otherwise.

Cash on Delivery Parcels

11. For cash on delivery parcels a fee equivalent to the rates of poundage for the time being charged by the United Kingdom Post Office on British Postal Orders and calculated by reference to the trade charge in respect of the parcel or the sum of £300, whichever is the lower.

Postal Orders

12. — (1) The rates of poundage on British Postal Orders shall be those for the time being in force under the legislation relating to the United Kingdom Post Office with such additional charge by way of poundage as the Postmaster may determine.

(2) The value of a postal order may be increased by affixing such number of postage stamps of such type and to such aggregate value as is for the time being permitted by the United Kingdom Post Office.

Insurance

13. — (1) Insurance shall be available only in relation to letters and parcels addressed to an addressee in the United Kingdom and any country for the time being notified by the Postmaster.

(2) The insurance charge shall be £3 with a maximum insured value of £300.

Customs Declarations: Overseas Parcels

14. Parcels addressed to a destination outside South Georgia and the South Sandwich Islands shall have securely affixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the Postmaster) which shall have been fully and properly completed by the sender.

Inland Small Packets

15. — (1) Inland small packets shall be marked with the words “small packet” in the top left-hand corner of the obverse of the packet.

(2) Where an inland small packet is not marked as required by subparagraph (1) or exceeds 1 kg in weight it shall if it does not exceed 2kg in weight attract postage at the rate applicable to letters and otherwise shall be treated as a parcel and be charged for and transmitted accordingly.

Weight Limitation

16. No item shall be accepted for transmission —

- (a) as an overseas airmail letter or as an overseas small packet if it exceeds 2 kg in weight;
- (b) as an overseas airmail parcel if it exceeds 2kg in weight;
- (c) as an overseas surface mail letter, printed paper or small packet if it exceeds 2 kg in weight;
- (d) as an overseas surface mail parcel if it exceeds 30 kg in weight;
- (e) as an inland letter, printed paper or small packet, if it exceeds 2 kg weight; or
- (f) as an inland parcel if it exceeds 10 kg in weight.

Postage Rates etc

17. The First, Second and Third Schedules shall have effect so as to set rates of postage for the various matters referred to therein.

Revocation

18. The Post Office Order 1981 and all Orders amending that Order are revoked.

FIRST SCHEDULE Airmail Rates to all Countries

AIRMAIL RATES

Letters	First 20gm	45p
	each additional 10gm	25p
Small Packets & Printed Papers	First 60gm	95p
	each additional 10gm	15p
Printed Papers (Registered with Post Office)	First 60gm	92p
	each additional 10gm	15p
Postcard		40p
Aerogramme		40p
“ (illustrated)		52p

SECOND SCHEDULE Surface Mail Rates

SURFACE RATES

Postcards		26p
LETTERS	First 20gm	36p
	up to 100gm	81p
	each additional 50gm	35p
Small packets & Printed Papers	First 100gm	70p

	each additional 50 gm	25p
Parcels to United Kingdom	First kg	£8
	each additional kg	£4
	Maximum weight 30 kg	

*(Rates to other countries, as
notified from time to time)*

THIRD SCHEDULE Inland Rates

INLAND RATES

Letters	First 20gm	22p
	each additional 50gm	15p
Small Packets & Printed Papers	First 70gm	19p
	each additional 50gm	7p
Postcard		16p

Literature for the blind shall not attract postage.

Made this 18th day of June 2002

D A Lamont
Commissioner

EXPLANATORY NOTE

This Order consolidates, with amendments, the Post Office Order 1981, as amended. It does not amend the effect of the law, except as to a number of postal rates and the definitions of "Newspaper", "Printed Paper" and one of the prohibitions in relation to Small Packets.



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 1

4th July 2003

The following are published in this Gazette -

Customs (Fees) (Amendment) Regulations 2003, (S. R. & O. No. 1 of 2003);

Fisheries (Transshipment and Export) (Amendment) Regulations 2003, (S. R. & O. No. 2 of 2003);

Harbours (Fees) (Amendment) Regulations 2003, (S. R. & O. No. 3 of 2003);

Visitors (Landing Fees) (Amendment) Regulations 2003, (S. R. & O. No. 4 of 2003).

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CUSTOMS

Customs (Fees)(Amendment) Regulations 2003

S. R. & O. No. 1 of 2003

Made: 27 June 2003
Published: 4 July 2003
Coming into force: on publication

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations —

Citation and commencement

1. These Regulations may be cited as the Customs (Fees)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

Amendment of the Customs (Fees) Regulations 1992

2.—(1) Regulation 3 of the Customs (Fees) Regulations 1992(b) is amended by deleting the symbols and figures “£44”, “£22”, “£66” and “£33” wherever they appear in regulation 3 and replacing them as follows —

“£44” to be replaced by “£50”;
“£22” to be replaced by “£25”;
“£66” to be replaced by “£80”; and
“£33” to be replaced by “£40”.

(2) Regulation 4 is amended by deleting the symbol and figures “£20” and replacing them with “£35” and by deleting the symbol and figures “£10” and replacing them with “£15”.

(3) Regulation 4 is further amended by inserting the following after the word “paid” appears in the last line of that regulation —

“except that a fee of £5 only shall be paid in respect of any yacht which is not under commercial charter with passengers carried for reward.”

(a) Cap 16 Laws of the Falkland Islands 1950 Edition in its application under Cap 1(DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1992 as amended by SR&O No 4 of 1998

Made this 27th day of June 2003

R T Jarvis
Acting Commissioner

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations make revised provision for the charging of customs fees for customs services provided in respect of South Georgia and the South Sandwich Islands.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

FISHERIES

Fisheries (Transshipment and Export)(Amendment) Regulations 2003

S. R. & O. No. 2 of 2003

Made: 27 June 2003

Published: 4 July 2003

Coming into force: on publication

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations —

Citation and commencement

1. These Regulations may be cited as the Fisheries (Transshipment and Export)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

Amendment of the Fisheries (Transshipment and Export) Regulations 1990

2. The Fisheries (Transshipment and Export) Regulations 1990(b) are amended by deleting the symbol and figures “£1,100” appearing in the Schedule and replacing them with “£1,300”.

Made this 27th day of June 2003

R T Jarvis
Acting Commissioner

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations revise the fee payable for a licence to tranship fish within the waters of South Georgia and the South Sandwich Islands.

(a) Cap 27 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1990 as amended by SR&O No 5 of 1998

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

HARBOURS

Harbours (Fees)(Amendment) Regulations 2003

S. R. & O. No. 3 of 2003

Made: 27 June 2003

Published: 4 July 2003

Coming into force: on publication

IN EXERCISE of my powers under section 3 of the Harbours Ordinance^(a), and of all other powers enabling me in that behalf, I make the following Regulations —

Citation and commencement

1. These Regulations may be cited as the Harbours (Fees)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

Amendment of the Harbours (Fees) Regulations 1994

2. The Harbours (Fees) Regulations 1994^(b) are amended as follows —

(a) regulation 2 is amended by deleting the symbol and figures “£30” and replacing them with “£35”.

(b) the Schedule to the Regulations is amended by replacing it with the following —

(a) Cap 30 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) S.R.&O. No 1 of 1994 as amended by S.R.&O. No 1 of 1995 and No 3 of 1998

“SCHEDULE

(regulation 3(1))

Yachts (irrespective of tonnage) — £50.00

The following fees are payable in relation to the net tonnage of the vessel concerned —

Vessels (other than yachts) —	Fee —
Under 30 tonnes	£60.00
30 tonnes and under 50 tonnes	£210
50 tonnes and under 800 tonnes	£290.00
800 tonnes and under 1000 tonnes	£370.00
1000 tonnes and under 1500 tonnes	£430.00
1500 tonnes and under 2000 tonnes	£520.00
2000 tonnes and under 5000 tonnes	£630.00
5000 tonnes and under 7000 tonnes	£780.00
7000 tonnes and under 10000 tonnes	£1,160.00
10000 tonnes and under 15000 tonnes	£1,420.00
15000 tonnes and under 20000 tonnes	£1,670.00
Vessels over 20000 tonnes	£1,750.00”

Made this 27th day of June 2003

R T Jarvis
Acting Commissioner

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations set revised harbour dues for South Georgia and the South Sandwich Islands.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

VISITORS

Visitors (Landing Fees)(Amendment) Regulations 2003

S. R. & O. No. 4 of 2003

Made: 27 June 2003

Published: 4 July 2003

Coming into force: on publication

IN EXERCISE of my powers under section 6 of the Visitors Ordinance 1992(a), and of all other powers enabling me in that behalf, I make the following Regulations —

Citation and commencement

1. These Regulations may be cited as the Visitor (Landing Fees) (Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

Amendment of passenger landing fee

2. Regulation 2 of the Visitors (Landing Fee) Regulations 1998(b) is amended by deleting the figures “50” and replacing them with “55”.

Made this 27th day of June 2003

R T Jarvis
Acting Commissioner

(a) No 2 of 1992

(b) SR&O No 2 of 1998



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 1

28th September 2004

The following are published in this Gazette -

Notices 1, 2, 3 and 4;

**Fisheries (Conservation and Management) (Amendment) Ordinance 2004,
(No. 1 of 2004).**

NOTICES

No. 1

14th July 2003

APPOINTMENT OF ASSISTANT COMMISSIONER SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS

Notice is hereby given that the Commissioner has appointed the following person to be Assistant Commissioner for South Georgia and the South Sandwich Islands with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

No. 2

14th July 2003

APPOINTMENT OF DIRECTOR OF FISHERIES SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS

Notice is hereby given that the Commissioner has appointed the following person to be Director of Fisheries for South Georgia and the South Sandwich Islands with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

No. 3

14th July 2003

APPOINTMENT OF MEMBER OF THE SOUTH GEORGIA MUSEUM TRUST

Notice is hereby given that the Commissioner has appointed the following person to be Trustee with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

No. 4

21st September 2004

APPOINTMENT OF MEMBERS OF THE SOUTH GEORGIA MUSEUM TRUST

Notice is hereby given that the Acting Commissioner has appointed the following persons to be Trustees for a period of three years with effect from 1st September 2004 -

Jane Diana Mary Keith Cameron
Janet Lynda Cheek
John Smith
Paul Lee Sweeting

Dated this 21st day of September 2004.

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HARRIET HALL,
Acting Commissioner.

Fisheries (Conservation and Management)(Amendment) Ordinance 2004

(No: 1 of 2004)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of Fisheries (Conservation and Management) Ordinance 2000

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HARRIET HALL,
Acting Commissioner.

**FISHERIES (CONSERVATION AND MANAGEMENT)
(AMENDMENT) ORDINANCE 2004**

(No: 1 of 2004)

(assented to: 18 August 2004)

(commencement: on publication)

(published: 28 September 2004)

AN ORDINANCE

To amend the Fisheries (Conservation and Management) Ordinance 2000

ENACTED by the Acting Commissioner in exercise of her powers under section 9 of the South Georgia and the South Sandwich Islands Order 1985(a) as follows —

Short title

1. This Ordinance may be cited as the Fisheries (Conservation and Management)(Amendment) Ordinance 2004 and comes into force upon publication in the *Gazette*.

Amendment of Fisheries (Conservation and Management) Ordinance 2000

2. The Fisheries (Conservation and Management) Ordinance 2000(b) is amended by inserting the following cross-heading and section after section 12 —

(a) 1985/449

(b) No 2 of 2000

“Interception of communications

Interception of communications

12A.—(1) Subject to this section, the Commissioner may by writing signed by him authorise any person by such conduct as may be described in the authority —

(a) to intercept in the course of its transmission any communication from any vessel in the Maritime Zone;

(b) to disclose to him or such person or other persons as he may identify in the authority the position of the vessel at the time of any transmission intercepted or such information derived from such interception as may assist in locating the vessel.

(2) An authority under subsection (1) shall not authorise the disclosure of the contents of any transmission except in so far as may be necessary for the purpose of the disclosure mentioned in paragraph (b) of that subsection.

(3) An authority under subsection (1) may only be given for the purpose of locating the position of any vessel or vessels.”

Made this 18th day of August 2004

H Hall
Acting Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**
PUBLISHED BY AUTHORITY

No. 1

14th February 2005

The following are published in this Supplement -

- The Liberia (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 347);**
The Liberia (United Nations Sanctions) Order 2004, (2004 No. 348);
The Sudan (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 349);
The Burma (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 1979);
The Sudan (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004, (2004 No. 1980);
The Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2004, (2004 No. 1983);
The International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 3039);
The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004, (2004 No. 3040);
The Burma (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004, (2004 No. 3333).

STATUTORY INSTRUMENTS

2004 No. 347

OVERSEAS TERRITORIES

The Liberia (Restrictive Measures) (Overseas Territories) Order 2004

<i>Made</i>	<i>11th February 2004</i>
<i>Laid before Parliament</i>	<i>12th February 2004</i>
<i>Coming into force</i>	<i>13th February 2004</i>

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833[1], the British Settlements Acts 1887 and 1945[2], and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

Citation, commencement, extent and application

1. - (1) This Order may be cited as the Liberia (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 13th February 2004.

(2)

(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 17 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(3) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who is -

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

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

Interpretation

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say -

"assistance" means any form of assistance including technical assistance, services, financing and financial assistance;

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

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"Governor" means the Governor or other officer administering the Government of the Territory;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003[3] made under the Export Control Act 2002[4];

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

"shipment" includes loading into an aircraft;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

"vehicle" means a land transport vehicle.

RESTRICTED GOODS, ASSISTANCE AND TRAINING, IMPORTS

Supply of restricted goods

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Liberia shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Liberia.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of restricted goods to Liberia

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Liberia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Liberia.

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

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) above and of an offence under article 3(1) above, he shall not be guilty of the offence under paragraph (3) above.

Provision of assistance, advice or training related to restricted goods

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Liberia any:

(a) assistance;

(b) advice; or

(c) training,

related to military activities or to the provision, manufacture, maintenance or use of restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Liberia.

Importation of rough diamonds from Liberia

6. - (1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly into the Territory any rough diamonds exported from Liberia.

(2) Subject to the provisions of paragraph (3) of this article, any person who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the diamonds in question had been exported from Liberia.

Importation of round logs and timber products from Liberia

7. - (1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly into the Territory any round logs or timber products exported from Liberia.

(2) Subject to the provisions of paragraph (3), any person who contravenes the provisions of paragraph (1) shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the round logs or timber products in question had been exported from Liberia.

Use of ships, aircraft and vehicles: restricted goods

8. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Liberia to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

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

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

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Liberia to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Liberia was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

GENERAL

Customs powers to demand evidence of destination which goods reach

9. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

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

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

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

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

Declaration as to goods: powers of search

11. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

(a) declare whether or not he has with him any restricted goods which are destined for Liberia or for delivery, directly or indirectly, to or to the order of any person in Liberia; and

(b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships

12. - (1) Where any authorised officer has reason to suspect that any ship to which article 8 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 8, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 15(3), where -

(a) a master refuses or fails to comply with a request made under paragraph 2(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected aircraft

13. - (1) Where any authorised person has reason to suspect that any aircraft to which article 8 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 15(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

14. - (1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 8 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;

(c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 15(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b) detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 12 to 14

15. - (1) No information furnished or document produced by any person in pursuance of a request made under article 12, 13 or 14 shall be disclosed except -

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

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

(b) to any person who would have been empowered under article 12, 13 or 14 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 12, 13 or 14 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say -

(a) a master of a ship who disobeys any direction given under article 12(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 12, 13 or 14 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 12, 13 or 14.

(4) Nothing in articles 12 to 15 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

16. The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

Penalties and proceedings

17. - (1) Any person guilty of an offence under article 3(1), 4(3), 5, 6(2), 7(2) or 8(3) shall be liable -

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 15(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable -

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 10(1) or (2) or article 11(4) shall be liable -

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

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 15(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 9 or 11(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

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

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

Exercise of powers of the Governor

18. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

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

Miscellaneous

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

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

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 1(2)(a)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

SCHEDULE 2

Article 1(2)(b)

APPLICATION OF ARTICLE 17 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1. - (1) Any person who commits an offence under article 3(1), 4(3), 5, 6(2), 7(2) or 8(3), or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction -

(a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 10(1) or (2), 11(4), or 15(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 15(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 9 or 11(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

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

the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

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

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

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

SCHEDULE 3

Article 16

EVIDENCE AND INFORMATION

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

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

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

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

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

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

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to each of the territories specified in Schedule 1. It gives effect to Resolution 1521, adopted by the Security Council of the United Nations on 22nd December 2003, which prohibits the delivery or supply of arms and related matériel, the provision of assistance, advice and training related to the provision, manufacture, maintenance or use of arms and related

matériel, and bans the import of diamonds and round logs or timber products from Liberia, and to a Common Position adopted by the Council of the European Union on 10th February 2004 which adopted the measures in Resolution 1521 and applied additional related measures to Liberia.

It replaces The Liberia (United Nations Sanctions) (Overseas Territories) Order 2001 (S.I. 2001/946), and The Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001 (S.I. 2001/1867 as amended by S.I. 2003/1876), which ceased to have effect by virtue of the cancellation of the relevant parts of United Nations Security Council resolution 1343 of 7th March 2001 and resolution 1478 of 6th May 2003.

Notes:

[1] 1833 c. 85.

[2] 1887 c. 54 and 1945 c. 7.

[3] S.I. 2003/2764.

[4] 2002 c. 28.

STATUTORY INSTRUMENTS

2004 No. 348

UNITED NATIONS

The Liberia (United Nations Sanctions) Order 2004

<i>Made</i>	<i>11th February 2004</i>
<i>Laid before Parliament</i>	<i>12th February 2004</i>
<i>Coming into force</i>	<i>13th February 2004</i>

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 22nd December 2003 called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Liberia:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946[1], is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, operation and extent

1. - (1) This Order may be cited as the Liberia (United Nations Sanctions) Order 2004 and shall come into force on 13th February 2004.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 22nd December 2003, in whole or in part, this Order shall cease to have effect or its operation shall be suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the United Kingdom.

(4) Articles 3 and 4 shall apply to any person within the United Kingdom and to any person elsewhere who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person; or

(b) a body incorporated or constituted under the law of any part of the United Kingdom.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meaning hereby respectively assigned to them, that is to say -

"body corporate" includes a Scottish partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;

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

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the United Kingdom of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003[2];

"ship" has the meaning it bears in section 313 of the Merchant Shipping Act 1995[3];

"shipment" (and cognate expressions) and "stores" shall have the meanings they bear in the Customs and Excise Management Act 1979[4];

"vehicle" means a land transport vehicle.

RESTRICTED GOODS

Supply of restricted goods

3. - (1) Any person who, except under the authority of a licence granted by the Secretary of State under this article or article 4 -

- (a) supplies or delivers:
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Liberia shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Liberia.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Secretary of State under this article.

Exportation of restricted goods to Liberia

4. Except under the authority of a licence granted by the Secretary of State under this article, restricted goods are prohibited to be exported from the United Kingdom to any destination in Liberia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Liberia.

Use of ships, aircraft and vehicles: restricted goods

5. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Secretary of State under this article, no ship or aircraft to which this article applies, and no vehicle within the United Kingdom, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Liberia to any destination therein.

(2) This article applies to ships registered in the United Kingdom, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person; or
- (b) a body incorporated or constituted under the law of any part of the United Kingdom.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

- (a) in the case of a ship registered in the United Kingdom or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Liberia to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to Liberia was authorised by a licence granted by the Secretary of State under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

GENERAL

Customs powers to demand evidence of destination which goods reach

6. Any exporter or any shipper of restricted goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either -

(a) a destination to which they are authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with application for licences, conditions attaching to licences, etc

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

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

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

Declaration as to goods: powers of search

8. - (1) Any person who is about to leave the United Kingdom shall, if he is required to do so by an officer of Customs and Excise -

(a) declare whether or not he has with him any restricted goods which are destined for Liberia or for delivery, directly or indirectly, to or to the order of any person in Liberia; and

(b) produce such goods as aforesaid which he has with him.

Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships

9. - (1) Where any authorised officer has reason to suspect that any ship to which article 5 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 5, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps:

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the United Kingdom, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in subparagraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 12(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) In this article "authorised officer" means an officer as is referred to in section 284(1) of the Merchant Shipping Act 1995.

Investigation, etc. of suspected aircraft

10. - (1) Where any authorised officer or authorised person has reason to suspect that any aircraft to which article 5 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the United Kingdom, any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the United Kingdom until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 12(3), where an authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised officer" means any officer of the Customs and Excise;

"authorised person" means any person authorised by the Secretary of State for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

11. - (1) Where any authorised officer or authorised person has reason to suspect that any vehicle in the United Kingdom has been or is being or is about to be used in contravention of article 5 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and

(c) any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the United Kingdom until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 12(3), where any authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised officer" means any officer of the Customs and Excise;

"authorised person" means any person authorised by the Secretary of State for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 9 to 11

12. - (1) No information furnished or document produced by any person in pursuance of a request made under article 9,10 or 11 shall be disclosed except -

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

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

- (b) to any person who would have been empowered under article 9,10 or 11 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of:

- (i) the Crown in respect of the Government of the United Kingdom;
- (ii) the Government of the Isle of Man;
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
- (iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 1;

(c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the United Kingdom, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matter that is in force in any of the Channel Islands, the Isle of Man or any territory listed in Schedule 1 to this Order.

(2) Any power conferred by article 9, 10 or 11 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say

(a) a master of a ship who disobeys any direction given under article 9(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who:

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 9, 10 or 11 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 9, 10 or 11.

(4) Nothing in articles 9 to 12 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

13. The provisions of Schedule 2 shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the United Kingdom; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in any of the Channel Islands or the Isle of Man or any territory listed in Schedule 1; and

(b) of evidence of the commission of -

(i) in the United Kingdom, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of any of the Channel Islands or the Isle of Man or any territory listed in Schedule 1.

Investigations by the Commissioners of Customs and Excise

14. Where the Commissioners of Customs and Excise investigate or propose to investigate any matter with a view to determining -

(a) whether there are grounds for believing that an offence under this Order has been committed; or

(b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter within the meaning of section 1(1) of the Customs and Excise Management Act 1979.

Penalties and proceedings

15. - (1) Any person guilty of an offence under article 3 or 5(3) shall be liable -

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person guilty of an offence under article 12(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 2 shall be liable -

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

on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

Any person guilty of an offence under article 7(1) or (2) or article 8(3) shall be liable -

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

on summary conviction to a fine not exceeding the statutory maximum.

Any person guilty of an offence under article 12(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 2, shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

Any person guilty of an offence under article 6 or 8(2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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

Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980[5], a summary offence under this Order may be tried by a magistrates' court in England and Wales if information is laid at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to start the proceedings comes to his knowledge.

Notwithstanding anything in section 136 of the Criminal Procedure (Scotland) Act 1995[6], summary proceedings in Scotland for an offence under this Order may be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge; and subsection (3) of that section shall apply for the purpose of this paragraph as it applies for the purpose of that section:

and that such proceedings shall not be commenced after the expiration of three years from the commission of the offence.

Notwithstanding anything in article 19 of the Magistrates' Courts (Northern Ireland) Order 1981[7], summary proceedings in Northern Ireland for an offence under this Order may be commenced at any time within three years after the commission of the offence and within 12

months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(10) For the purposes of this article -

(a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraphs (7), (8) and (9) came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

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

(12) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984[8] shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(13) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under this Order, he may arrest that person without a warrant.

(14) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989[9] shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(15) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland:

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

Exercise of the powers of the Secretary of State

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

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

A.K Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 12

DISCLOSURE OF INFORMATION - LISTED TERRITORIES

Anguilla

 Bermuda

British Antarctic Territory

British Indian Ocean Territory


Cayman Islands

Falkland Islands

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

 St Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Area of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

SCHEDULE 2

Article 13

EVIDENCE AND INFORMATION

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

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

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

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable or any officer of the Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the

vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable or officer of the Customs and Excise lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may -

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to a sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except:

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

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

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 1 to this Order;

(c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the United Kingdom, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs;

(ii) for any offence under any law making provision with respect to such matters that is in force in any of the Channel Islands, the Isle of Man or any territory listed in Schedule 1.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular; or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, implements the prohibition of the sale or supply of arms and related materiel to Liberia pursuant to decisions of the Security Council of the United Nations in resolution 1521 of 22nd December 2003. It replaces The Liberia (United Nations Sanctions) Order 2001 (S.I. 2001/947) which ceased to have effect by virtue of the cancellation of the relevant parts of United Nations Security Council resolution 1343 of 7th March 2001.

Notes:

[1] 1946 c. 45.

[2] S.I. 2003/2764.

[3] 1995 c. 21.

[4] 1979 c. 2.

[5] 1980 c. 43.

[6] 1995 c. 46.

[7] S.I. 1981/1675 (N.I.26).

[8] 1984 c. 60.

[9] S.I. 1989/1341 (N.I. 12).

STATUTORY INSTRUMENTS

2004 No. 349

OVERSEAS TERRITORIES

The Sudan (Restrictive Measures) (Overseas Territories) Order 2004

<i>Made</i>	<i>11th February 2004</i>
<i>Laid before Parliament</i>	<i>12th February 2004</i>
<i>Coming into force</i>	<i>13th February 2004</i>

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833[1], the British Settlements Acts 1887 and 1945[2], and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, it is hereby ordered, as follows: -

Citation, commencement, extent and application

1. - (1) This Order may be cited as the Sudan (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 13th February 2004.

(2)

(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 15 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(3) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who is -

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

the law of the Territory.

ve the meanings hereby respectively assigned to

including technical assistance, services, financing

ns the member of the flight crew designated as
ereof, or, failing such a person, the person who is
he aircraft;

n any form, and in relation to information
ferences to its production include references to
le form;

sible vehicle or aircraft, includes the taking out
cle or aircraft notwithstanding that it is
or not it is moving under its own power; and
dingly;

icer administering the Government of the

erson (other than a pilot) for the time being in

e, means the person for the time being having

er of a ship is not the operator, means the
red;

in Part I of Schedule 1 to the Export of Goods,
hical Assistance (Control) Order 2003[3] made
s (Defence) Act 1939[4];

ed in navigation;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

"vehicle" means a land transport vehicle.

RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING

Supply of restricted goods

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

- (a) supplies or delivers;
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Sudan shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Sudan.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of restricted goods to Sudan

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Sudan or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Sudan.

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

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) and of an offence under article 3(1), he shall not be guilty of the offence under paragraph (3).

Provision of assistance, advice or training related to military activities

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person in Sudan any:

(a) assistance;

(b) advice; or

(c) training,

related to military activities shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person in Sudan.

Use of ships, aircraft and vehicles: restricted goods

6. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Sudan to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

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

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

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Sudan to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Sudan was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

GENERAL

Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

- (a) a destination to which they were authorised to be exported by a licence granted under this Order; or
- (b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

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

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

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

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

Declaration as to goods: powers of search

9. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

- (a) declare whether or not he has with him any restricted goods which are destined for Sudan or for delivery, directly or indirectly, to or to the order of any person in Sudan; and
- (b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships

10. - (1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 13(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or a particular case.

Investigation, etc. of suspected aircraft

11. - (1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Territory, any authorised person may (either there and then upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the

er or any of them to cause the aircraft and any of its cargo to
l notified that the aircraft and its cargo may depart.

provisions of article 13(3), where an authorised person has reason
has been made under paragraph (1)(c) may not be complied with,
ar to him to be necessary to secure compliance with that request
generality of the foregoing, may for that purpose -

, upon any land and upon that aircraft;

detention of, that aircraft and any of its cargo; and

of, reasonable force.

ny power conferred by this article, an authorised person shall, if
dence of his authority.

any person authorised by the Governor for the purpose of this
a particular case.

d vehicles

sed person has reason to suspect that any vehicle in the Territory
to be used in contravention of article 6 -

accompanied and assisted by persons under his authority) enter
d, for that purpose, may use or authorise the use of reasonable

ator and the driver of the vehicle or either of them to furnish such
vehicle and any goods contained in it and produce for his
so relating and such goods as he may specify; and

ay (either there and then or upon consideration of any
cument or goods produced in pursuance of a request made under
request the operator or the driver to cause the vehicle and any
ain in the Territory until notified that the vehicle may depart.

provisions of article 13(3), where any authorised person has
est that has been made under paragraph (1)(c) may not be
h steps as appear to him to be necessary to secure compliance
rejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 10 to 12

13. - (1) No information furnished or document produced by any person in pursuance of a request made under article 10, 11 or 12 shall be disclosed except -

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

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

(b) to any person who would have been empowered under article 10, 11 or 12 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any person in the service of the Government of any other country for the purpose of assisting that Government in securing compliance with or detecting evasion of measures in relation to Sudan decided upon by the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 10, 11 or 12 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say

(a) a master of a ship who disobeys any direction given under article 10(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 10, 11 or 12 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 10, 11 or 12.

(4) Nothing in articles 10 to 13 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

14. The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

Penalties and proceedings

15. - (1) Any person guilty of an offence under article 3, 4, 5 or 6(3) shall be liable -

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 13(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable -

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(1) or (2) or article 9(4) shall be liable -

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

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 7 or 9(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any

neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

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

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

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

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

Exercise of powers of the Governor

16. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

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

Miscellaneous

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

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

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 1(2)(a)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

SCHEDULE 2

Article 1(2)(b)

APPLICATION OF ARTICLE 15 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1. - (1) Any person who commits an offence under article 3, 4, 5 or 6(3), or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction -

(a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 8(1) or (2), 9(4), or 13(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 7 or 9(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

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

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

SCHEDULE 3

Article 14

EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion

of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as couns or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

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

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

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

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this

sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any person in the service of the Government of any other country for the purpose of assisting that Government in securing compliance with or detecting evasion of measures in relation to Sudan decided upon by the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it;

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to each of the territories specified in Schedule 1. It gives effect to a Common Position adopted by the Council of the European Union on 9th January 2004 which prohibits (a) the delivery or supply of arms and related matériel to Sudan, from Member States' territories, by their nationals, or using their flagged vessels and aircraft; (b) the provision of technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related matériel to any person, entity or body in, or for use in, Sudan; and (c) the provision of financing or financial assistance related to military activities to any person, entity or body, in or for use in, Sudan.

Notes:

[1] 1833 c. 85.

[2] 1887 c. 54 and 1945 c. 7.

[3] S.I. 2003/2764.

[4] 1939 c. 69.

2004 No. 1979

OVERSEAS TERRITORIES

**The Burma (Restrictive Measures) (Overseas Territories) Order
2004**

Made - - - - 27th July 2004

Laid before Parliament 28th July 2004

Coming into force - - 29th July 2004

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833⁽¹⁾, the British Settlements Acts 1887 and 1945⁽²⁾, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

INTRODUCTORY

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Burma (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 29th July 2004.

- (a) This Order shall extend to the territories listed in Schedule 1.
- (b) Article 19 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.
- (c) In the application of this Order to any of the said territories the expression “the Territory” in this Order means that territory.

(2) Articles 3,4,5,7,8 and 9 shall apply to any person within the Territory and to any person elsewhere who is:

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

⁽¹⁾ 1833 c. 85.

⁽²⁾ 1887 c. 54 and 1945 c. 7.

Interpretation

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

“assistance” means any form of assistance including technical assistance, services, financing and financial assistance;

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

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

“export” includes shipment as stores;

“exportation” in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“funds, financial assets or economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;

“Governor” means the Governor or other officer administering the Government of the Territory;

“listed person” means any member of the Government of Burma, or any natural or legal person, entity or body associated with them, as is listed in the Annex (as modified from time to time) to Council Common Position 2004/423/CFSP, adopted by the Council of the European Union on 26 April 2004;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

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

“owner”, in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“relevant institution” means –

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business; and
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003⁽³⁾ made under the Export Control Act 2002⁽⁴⁾ and equipment that might be used for internal repression as listed in Schedule 3;

“ship” includes every description of vessel used in navigation;

“shipment” includes loading into an aircraft;

(3) S.I. 2003/2764.

(4) 2002 c. 28.

“stores” means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

“Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings;

“vehicle” means land transport vehicle.

(2) For the purpose of the definition of “relevant institution” in paragraph (1) –

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000⁽⁵⁾; and

(b) a person is not regarded as accepting deposits by way of business if –

(i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) For the purpose of identifying a “listed person” referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such listed persons to be published in the Gazette of the Territory as necessary from time to time.

RESTRICTED GOODS, ASSISTANCE AND TRAINING

Supply of restricted goods

3. Any person who, except under the authority of a licence granted by the Governor under this article or article 4,

(a) supplies or delivers,

(b) agrees to supply or deliver, or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person or place in Burma shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person or place in Burma.

Exportation of restricted goods to Burma

4.—(1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Burma or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Burma.

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

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) and of an offence under article 3, he shall not be guilty of the offence under paragraph (3).

⁽⁵⁾ 2000 c. 8.

Provision of assistance, advice or training

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Burma any assistance, advice or training related to military activities or to the provision, manufacture, maintenance or use of any restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Burma.

Use of ships, aircraft and vehicles: restricted goods

6.—(1) Without prejudice to the generality of article 3, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Burma to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is –

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then –

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Burma to any destination therein.

(4) Nothing in paragraph (1) shall apply when the supply or delivery or exportation from the Territory of the goods concerned to Burma was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES

Making funds, financial assets or economic resources available to any listed person

7. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds, financial assets or economic resources available to or for the benefit of any listed person shall be guilty of an offence under this Order.

Freezing of funds, financial assets or economic resources

8.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds, financial assets or economic resources are held is or may be a listed person, the Governor may by notice direct that those funds, financial assets or economic resources are not to be made available to any person, except under the authority of a licence granted by the Governor under article 7.

(2) A direction given under paragraph (1) shall specify either –

- (a) the period for which it is to have effect; or
 - (b) that the direction is to have effect until it is revoked by notice under paragraph (3).
- (3) The Governor may by notice revoke a direction given under paragraph (1) at any time.
- (4) The expiry or revocation of a direction shall not affect the application of article 7 in respect of the funds, financial assets or economic resources in question.
- (5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds, financial assets or economic resources in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds, financial assets or economic resources they are, or on whose behalf they are held ("the owner").
- (6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.
- (7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds, financial assets or economic resources are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.
- (8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds, financial assets or economic resources are held), not later than seven days before the date fixed for the hearing of the application.
- (9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.
- (10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

Facilitation of activities prohibited under article 7 or 8(9)

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence under this Order.

Failure to disclose knowledge or suspicion of measures

10.—(1) A relevant institution is guilty of offence if:

- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time:
 - (i) is a listed person; or
 - (ii) has committed an offence under article 7, 8(9) or 12(2); and
- (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the Governor:

- (a) its knowledge or suspicion that a person is a listed person or a person who has committed an offence under article 7, 8(9) or 12(2), or
- (b) any information or other matter on which that knowledge or suspicion is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

GENERAL

Customs powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by an officer authorised for the purpose by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached a destination to which their exportation was not prohibited by this Order, and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

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

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

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

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

Declaration as to goods: power of search

13.—(1) Any person who is about to leave the Territory shall, if he is required to do so by any authorised person:

- (a) declare whether or not he has with him any restricted goods which are destined for a person or place in Burma or for delivery, directly or indirectly, to or to the order of any person in Burma; and
- (b) produce any such goods as aforesaid which he has with him.

(2) Any authorised person, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

(5) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(6) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected ships

14.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article:

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

- (b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
 - (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is either:
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or
 - (b) to request the master of the ship to take any one or more of the following steps:
 - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
 - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
 - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and
 - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 17(3), where:
- (a) a master refuses or fails to comply with a request made under paragraph (2) (b), or
 - (b) an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means:

- (a) any commissioned naval or military officer;
- (b) any British consular officer;
- (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected aircraft

15.—(1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article:

- (a) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and

- (c) if the aircraft is then in the Territory any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose:

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

16.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6:

- (a) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose:

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 14 to 16

17.—(1) No information furnished or document produced by any person in pursuance of a request made under article 14, 15 or 16 shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by

any person who is entitled to that information or the possession of that document in his own right;

- (b) to any person who would have been empowered under article 14, 15 or 16 to request that it be furnished or produced to any person holding or acting in any office under or in the service of:
 - (i) the Crown in respect of the Government of the United Kingdom;
 - (ii) the Government of the Isle of Man;
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
 - (iv) the States of Jersey; or
 - (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings:
 - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 14, 15 or 16 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under article 14(2)(a);
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who:
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 14, 15 or 16 by any person empowered to make it, or
 - (ii) furnishes any document or information which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of his powers under article 14, 15 or 16.

(4) Nothing in articles 14 to 17 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

18. The provisions of Schedule 4 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor:

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
 - (i) this Order in the Territory; or
 - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and
- (b) of evidence of the commission of –

- (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
- (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

Penalties and Proceedings

19.—(1) Any person guilty of an offence under article 3, 4(3), 5, 6(3), 7, 8(9) or 9 shall be liable:

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

(2) Any person guilty of an offence under article 17(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 4 shall be liable –

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

(3) Any person guilty of an offence under article 12(1) or (2) or article 13(4) shall be liable:

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

(4) Any person guilty of an offence under article 8(10), 10, 17(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 4 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 11 or 13(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

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

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

Exercise of powers of the Governor

20.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any

person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

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

Miscellaneous

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

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

27th July 2004

A. K. Galloway
Clerk to the Privy Council

SCHEDULE 1

Article 1(2)(a)

TERRITORIES TO WHICH THIS ORDER EXTENDS

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

SCHEDULE 2

Article 1(2)(b)

APPLICATION OF ARTICLE 19 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1.—(1) Any person who commits an offence under article 3, 4, 5, 6(3), 7, 8(9) or 9, or paragraph 5(b) or (d) of Schedule 4, shall be liable on conviction:

(a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 12(1) or (2), 13(3), or 17(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 17(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 4, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 8(10) or 10 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or to both.

5. Any person who commits an offence under article 11 or 13(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

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

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

SCHEDULE 3

Article 2(1)

EQUIPMENT THAT MIGHT BE USED FOR INTERNAL REPRESSION

10. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

11. Specially designed fingerprint equipment.

12. Power controlled searchlights.

13. Construction equipment provided with ballistic protection.

14. Hunting knives.

15. Specially designed production equipment to make shotguns.

16. Ammunition hand-loading equipment.

17. Communications intercept devices.
18. Solid-state optical detectors.
19. Image-intensifier tubes.
20. Telescopic weapon sights.
21. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; except:
 - (a) signal pistols;
 - (b) air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
22. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
23. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
24. Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.
25. All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
26. Water cannon and specially designed or modified components therefor.
27. Vehicles equipped with a water cannon.
28. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
29. Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
30. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings; except:
 - handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.
31. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.
32. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
33. Electronic equipment capable of detecting concealed explosives and specially designed components therefor; except:
 - TV or X-ray inspection equipment.
34. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.
35. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except:

- those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflators, electric-surge arresters or fire sprinkler actuators).

36. Equipment and devices designed for explosive ordnance disposal; except:

- (a) bomb blankets;
- (b) containers designed for folding objects known to be, or suspected of being improvised explosive devices.

37. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

38. Software specially designed and technology required for all listed items.

39. Linear cutting explosive charges.

40. Explosives and related substances as follows:

- amatol,
- nitrocellulose (containing more than 12,5 % nitrogen),
- nitroglycol,
- pentaerythritol tetranitrate (PETN),
- picryl chloride,
- tinitorphenylmethylnitramine (tetryl),
- 2,4,6-trinitrotoluene (TNT)

41. Software specially designed and technology required for all listed items.

SCHEDULE 4

Article 18

EVIDENCE AND INFORMATION

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

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

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

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

43.—(1) If any judge, justice of the peace or magistrate is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs, has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or
- (b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may –

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

44. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

45. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except –

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

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

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of –
 - (i) the Crown in respect of the Government of the United Kingdom,
 - (ii) the Government of the Isle of Man,
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the States of Jersey, or
 - (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings –
 - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs, or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

46. Any person who –

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to each of the British overseas territories listed in Schedule 1. It imposes restrictive measures in respect of Burma and the continuing serious violations of human rights in that country and the failure of its military authorities to enter into substantive discussions with the democratic movement concerning a process leading to national reconciliation, respect for human rights and democracy. These measures include the prohibition of the delivery or supply of arms and related material and equipment that might be used for internal repression to Burma, and the prohibition of making available funds, financial assets or economic resources to listed persons and the freezing of their funds, financial assets or economic resources. It gives effect to measures adopted by the European Union in Council Common Position 2004/423/CFSP.

2004 No. 1980

OVERSEAS TERRITORIES

The Sudan (Restrictive Measures) (Overseas Territories)
(Amendment) Order 2004

<i>Made</i>	- - - -	<i>27th July 2004</i>
<i>Laid before Parliament</i>		<i>28th July 2004</i>
<i>Coming into force</i>	- -	<i>29th July 2004</i>

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Sudan (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 29th July 2004.

(2) In this Order “the Order” means the Sudan (Restrictive Measures) (Overseas Territories) Order 2004(c).

Amendment of the Order

2. In Article 2 the definition of “restricted goods” shall be replaced by the following definition:

““restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(d) made under the Export Control Act 2002(e).”

3. Article 5 of the Order shall be amended by:

- (a) replacing the words “person in Sudan” wherever that term appears, with the words “person, entity or body in, or for use in, Sudan”; and

(a) 1833 c. 85.

(b) 1887 c. 54 and 1945 c. 7.

(c) SI 2004/349

(d) SI 2003/2764

(e) 2002 c.28.

- (b) inserting after the term “military activities” the words “or to the provision, manufacture, maintenance or use of restricted goods”.

A K Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sudan (Restrictive Measures) (Overseas Territories) Order 2004 to give effect more precisely to the Common Position adopted by the Council of the European Union on 9th January 2004. The amendment makes it clear that it is prohibited to provide assistance, advice or training related to the provision, manufacture, maintenance and use of arms and related matériel and that the prohibition also applies where advice, assistance or training is provided to any person, entity or body in, or for use in, Sudan. The opportunity has also been taken to amend the reference in the definition of restricted goods to correctly refer to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 being made under the Export Control Act 2002.

2004 No. 1983

UNITED NATIONS

The Iraq (United Nations Sanctions) (Overseas Territories)
(Amendment) Order 2004

<i>Made</i> - - - -	<i>27th July 2004</i>
<i>Laid before Parliament</i>	<i>28th July 2004</i>
<i>Coming into force</i> - -	<i>29th July 2004</i>

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 29th July 2004.

(2) In this Order, “the principal Order” means the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003(b).

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

Amendment of article 4 of principal Order

2. In article 4 of the principal Order, the definition of “restricted goods” shall be replaced by the following definition:

““restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(c) made under the Export Control Act 2002(d);”

(a) 1946 c. 45.

(b) S.I. 2003/1516.

(c) S.I. 2003/2764.

(d) 2002 c. 28.

New article 10a of principal Order

3. After article 10 of the principal Order, there shall be added a new article 10a as follows:

“Exception

10a. The privileges and immunities provided in articles 9 and 10 shall not apply with respect to any legal proceedings, nor to any resulting final judgement, arising out of a contractual obligation entered into by Iraq after 30th June 2004.”

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, amends the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003 to give effect to resolution 1546 adopted by the Security Council of the United Nations on 8th June 2004, and to update the definition of “restricted goods”.

2004 No. 3039

OVERSEAS TERRITORIES

The International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004

Made - - - - - 17th November 2004

Laid before Parliament 18th November 2004

Coming into force - - - 19th November 2004

At the Court at Buckingham Palace, the 17th day of November 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

INTRODUCTORY

Citation, commencement, extent and application

1.—(1) This Order may be cited as the International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 19th November 2004.

- (a) This Order shall extend to the territories listed in Schedule 1.
- (b) Article 9 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.
- (c) In the application of this Order to any of the said territories the expression “the Territory” in this Order means that territory.

(2) Articles 3, 4 and 5 shall apply to any person within the Territory and to any person elsewhere who is:

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(a) 1833 c. 85.

(b) 1887 c. 54 and 1945 c. 7.

Interpretation

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

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

“funds, financial assets or economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;

“Governor” means the Governor or other officer administering the Government of the Territory;

“ICTY” means the International Criminal Tribunal for the former Yugoslavia established by UN Security Council resolutions 808 (1993) and 827 (1993);

“listed person” means any person indicted by the ICTY and listed in the Annex (as modified from time to time) to Council Common Position 2004/694/CFSP, adopted by the Council of the European Union on 11 October 2004;

“relevant institution” means –

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business; and
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“ship” includes every description of vessel used in navigation;

“Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings;

“vehicle” means land transport vehicle.

(2) For the purpose of the definition of “relevant institution” in paragraph (1) –

- (a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(a); and
- (b) a person is not regarded as accepting deposits by way of business if –
 - (i) he does not hold himself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) For the purpose of identifying a “listed person” referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such listed persons to be published in the Gazette of the Territory as necessary from time to time.

(a) 2000 c. 8.

FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES

Making funds, financial assets or economic resources available to any listed person

3. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds, financial assets or economic resources available to or for the benefit of any listed person shall be guilty of an offence under this Order.

Freezing of funds, financial assets or economic resources

4.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds, financial assets or economic resources are held is or may be a listed person, the Governor may by notice direct that those funds, financial assets or economic resources are not to be made available to any person, except under the authority of a licence granted by the Governor under article 3.

(2) A direction given under paragraph (1) shall specify either –

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 3 in respect of the funds, financial assets or economic resources in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds, financial assets or economic resources in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds, financial assets or economic resources they are, or on whose behalf they are held (“the owner”).

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds, financial assets or economic resources are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds, financial assets or economic resources are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

Facilitation of activities prohibited under article 3 or 4(9)

5. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 3 or 4(9) is guilty of an offence under this Order.

Failure to disclose knowledge or suspicion of measures

6.—(1) A relevant institution is guilty of an offence if:

- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time:
 - (i) is a listed person; or
 - (ii) has committed an offence under article 3, 4(9) or 7(2); and
 - (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.
- (2) Where a relevant institution discloses to the Governor:
- (a) its knowledge or suspicion that a person is a listed person or a person who has committed an offence under article 3, 4(9) or 7(2), or
 - (b) any information or other matter on which that knowledge or suspicion is based,
- the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

GENERAL

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

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

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

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

Obtaining of evidence and information

8. The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor:

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
 - (i) this Order in the Territory; or
 - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and
- (b) of evidence of the commission of –
 - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
 - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

Penalties and Proceedings

9.—(1) Any person guilty of an offence under article 3, 4(9) or 5 shall be liable:

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

- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (2) Any person guilty of an offence under paragraph 5(b) or (d) of Schedule 3 shall be liable –
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (3) Any person guilty of an offence under article 7(1) or (2) shall be liable:
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.
- (4) Any person guilty of an offence under article 4(10), 6 or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.
- (5) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (6) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.
- (7) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.
- (8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

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

Exercise of powers of the Governor

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

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

Miscellaneous

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

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law

substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 1(1)(a)

TERRITORIES TO WHICH THIS ORDER EXTENDS

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

SCHEDULE 2

Article 1(1)(b)

APPLICATION OF ARTICLE 9 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1.—(1) Any person who commits an offence under article 3, 4(9) or 5, or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction:

- (a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
- (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 7(1) or (2) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 4(10) or 6 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or to both.

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

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

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

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

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

SCHEDULE 3

Article 8

EVIDENCE AND INFORMATION

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

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

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

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any judge, justice of the peace or magistrate is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs, has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or

- (b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may –

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except –

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: provided that a person who has obtained information or is in the possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of –
 - (i) the Crown in respect of the Government of the United Kingdom,

- (ii) the Government of the Isle of Man,
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
- (iv) the States of Jersey, or
- (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings –
 - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs, or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who –

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to each of the British overseas territories listed in Schedule 1. It imposes restrictive measures in respect of certain persons indicted by the International Criminal Tribunal for the former Yugoslavia who remain at large. These measures prohibit making available funds, financial assets or economic resources to listed persons and the freezing of their funds, financial assets or economic resources. It gives effect to measures adopted by the European Union in Council Common Position 2004/694/CFSP.

STATUTORY INSTRUMENTS

2004 No.3040

CHILDREN AND YOUNG PERSONS

The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004

Made 17th November 2004

At the Court at Buckingham Palace, the 17th day of November 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 2 and 13 of the Child Abduction and Custody Act 1985[1], is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004.
2. The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2003[2] is revoked.
3. In the Child Abduction and Custody (Parties to Conventions) Order 1986[3], for Schedules 1 and 2 there shall be substituted Schedules 1 and 2 set out in the Schedule to this Order.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 3

Schedules 1 and 2 substituted in the Child Abduction and Custody (Parties to Conventions) Order 1986

" SCHEDULE 1

Article 2

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION,
THE HAGUE, 25TH OCTOBER 1980

<i>Contracting States to the Convention</i>	<i>Territories specified in Declarations under Article 39 or 40 of the Convention</i>	<i>Date of Coming into Force of Convention as between the United Kingdom and the State or Territory</i>
Argentina	-	1st June 1991
Australia	Australian States and mainland Territories	1st January 1987
Austria	-	1st October 1988
The Bahamas	-	1st January 1994
Belarus	-	1st September 2003
Belgium	-	1st May 1999
Belize	-	1st October 1989
Bosnia and Herzegovina	-	7th April 1992
Brazil	-	1st March 2005
Burkina Faso	-	1st August 1992
Canada	Ontario	1st August 1986
	New Brunswick	1st August 1986
	British Columbia	1st August 1986
	Manitoba	1st August 1986
	Nova Scotia	1st August 1986
	Newfoundland	1st August 1986
	Prince Edward Island	1st August 1986
	Quebec	1st August 1986
	Yukon Territory	1st August 1986
	Saskatchewan	1st November 1986
	Alberta	1st February 1987
	Northwest Territories	1st April 1988
Chile	-	1st May 1994
China	Hong Kong Special Administrative Region	1st September 1997
	Macau Special Administrative Region	1st March 1999
Colombia	-	1st March 1996
Croatia	-	1st December 1991
Cyprus	-	1st February 1995
Czech Republic	-	1st March 1998
Denmark	-	1st July 1991
Ecuador	-	1st April 1992
Estonia	-	1st September 2003
Fiji	-	1st September 2003

Finland	-	1st August 1994
France	-	1st August 1986
Georgia	-	1st October 1997
Germany	-	1st December 1990
Greece	-	1st June 1993
Honduras	-	1st March 1994
Hungary	-	1st September 1986
Iceland	-	1st November 1996
Ireland	-	1st October 1991
Israel	-	1st December 1991
Italy	-	1st May 1995
Latvia	-	1st September 2003
Lithuania	-	1st March 2005
Luxembourg	-	1st January 1987
Macedonia	-	1st December 1991
Malta	-	1st March 2002
Mauritius	-	1st June 1993
Mexico	-	1st September 1991
Monaco	-	1st February 1993
Netherlands	-	1st September 1990
New Zealand	-	1st August 1991
Norway	-	1st April 1989
Panama	-	1st May 1994
Peru	-	1st September 2003
Poland	-	1st November 1992
Portugal	-	1st August 1986
Romania	-	1st February 1993
St Kitts and Nevis	-	1st August 1994
Serbia and Montenegro	-	27th April 1992
Slovakia	-	1st February 2001
Slovenia	-	1st June 1994
South Africa	-	1st October 1997
Spain	-	1st September 1987
Sweden	-	1st June 1989
Switzerland	-	1st August 1986
Turkey	-	1st August 2001
Turkmenistan	-	1st March 1998
United States of America	-	1st July 1988
Uruguay	-	1st September 2003
Uzbekistan	-	1st September 2003
Venezuela	-	1st January 1997
Zimbabwe	-	1st July 1995"

"SCHEDULE 2

Article 3

EUROPEAN CONVENTION ON RECOGNITION AND ENFORCEMENT OF DECISIONS
CONCERNING CUSTODY OF CHILDREN AND ON THE RESTORATION OF CUSTODY
OF CHILDREN, LUXEMBOURG, 20th MAY 1980

<i>Contracting States to the Convention</i>	<i>Territories specified in Declarations under Article 24 or 25 of the Convention</i>	<i>Date of Coming into Force of Convention as between the United Kingdom and the State or Territory</i>
Austria	-	1st August 1986
Belgium	-	1st August 1986
Cyprus	-	1st October 1986
Czech Republic	-	1st July 2000
Denmark	-	1st August 1991
Finland	-	1st August 1994
France	-	1st August 1986
Germany	-	1st February 1991
Greece	-	1st July 1993
Iceland	-	1st November 1996
Ireland	-	1st October 1991
Italy	-	1st June 1995
Latvia	-	1st August 2002
Liechtenstein	-	1st August 1997
Lithuania	-	1st March 2005
Luxembourg	-	1st August 1986
Malta	-	1st February 2000
Netherlands	-	1st September 1990
Norway	-	1st May 1989
Poland	-	1st March 1996
Portugal	-	1st August 1986
Spain	-	1st August 1986
Sweden	-	1st July 1989
Switzerland	-	1st August 1986
Turkey	-	1st June 2000"

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Child Abduction and Custody (Parties to Convention) Order 1986 to add Brazil and Lithuania to the list of Contracting States to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on 25th October 1980 (Cm. 33); and to add

Lithuania to the list of Contracting States to the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, signed at Luxembourg on 20th May 1980 (Cm.191).

Notes:

[1] 1985 c.60.

[2] S.I. 2003/1518.

[3] S.I. 1986/1159.

2004 No. 3333

OVERSEAS TERRITORIES

**The Burma (Restrictive Measures) (Overseas Territories)
(Amendment) Order 2004**

<i>Made</i>	- - - -	<i>16th December 2004</i>
<i>Laid before Parliament</i>		<i>10th January 2005</i>
<i>Coming into force</i>	- -	<i>11th January 2005</i>

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Burma (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 11th January 2005.

(2) In this Order, “the principal Order” means the Burma (Restrictive Measures) (Overseas Territories) Order 2004(c).

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

Amendments to principal Order

2.—(1) Article 1(2) of the principal Order is amended by replacing “Articles 3, 4, 5, 7, 8 and 9” in the first line with “Articles 3, 4, 5, 7, 8, 8a and 9”.

(2) Article 2(1) of the principal Order is amended by:

(a) inserting, in the appropriate place in alphabetical order, the following definitions:

(a) 1833 c. 85.

(b) 1887 c. 54 and 1945 c.7.

(c) S.I. 2004/1979.

“the European Community” means the customs territory of the European Community as defined in article 3(3) of Council Regulation (EEC) No 2913/92 of 12th November 1992(a);

“Gazette” means the official gazette of a Territory or any other form in which official information is normally made available in that Territory;

“listed Burmese state-owned enterprise” means any enterprise as is listed in Annex IV (as modified from time to time) to “the Regulation”;

“the Regulation” means Council Regulation (EC) No. 798/2004 of 26 April 2004(b) concerning certain restrictive measures in respect of Burma, as amended from time to time.

(3) Article 2(4) of the principal Order is amended by inserting after the words “For the purposes of identifying”, the words “a “listed Burmese state-owned enterprise” or” and by inserting after the words “the names and other particulars of such”, the words “listed Burmese state-owned enterprises and”.

(4) After article 2(4) of the principal Order, this following new subsection is inserted:

“(5) Except where this Order provides otherwise, expressions used in the Regulation which are also used in this Order have the same meaning in this Order as they have in the Regulation.”.

(5) After article 2 of the principal Order, the following new article is inserted:

“European Community matters

2a. The Governor shall make available to persons in the Territory, in such manner as he may think fit the text of the Regulation, together with the text of any amending Council Regulations, whether those Regulations were made before or after the coming into force of this Order.”.

(6) The heading above article 7 of the principal Order is amended by replacing “OR ECONOMIC RESOURCES” with “, ECONOMIC RESOURCES OR INVESTMENT”.

(7) After article 8 of the principal Order, the following new article is inserted:

“Prohibition on investment in Burmese state-owned enterprises

8a.—(1) Subject to the provisions of this Order, Article 8a of the Regulation shall have effect in the Territory, as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory, so as to prohibit:

- (a) the granting of any financial loan or credit to the listed Burmese state-owned enterprises, or the acquisition of bonds, certificates of deposit, warrants or debentures issued by those enterprises; and
- (b) the acquisition or extension of a participation in the listed Burmese state-owned enterprises, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature.

(2) Any person who commits a breach of any prohibition in paragraph (1) is guilty of an offence.

(3) Paragraph (1) shall be without prejudice to the execution of trade contracts for the supply of goods or services on usual commercial payment conditions and the usual supplementary agreements in connection with the execution of these contracts such as export credit insurances, as provided by Article 8a(3) of the Regulation.

(a) OJ No L 302, 19.10.92, p1 as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No L 236, 23.9.2003, p33).

(b) OJ No L 125, 28.4.2004, p. 4, as amended by Council Regulation (EC) No 1853/2004 of 25 October 2004 (OJ No L 323, 26.10.2004, p.11) and as amended from time to time.

(4) The provisions of paragraph 1(a) shall be without prejudice to the execution of an obligation arising from contracts or agreements concluded before 25 October 2004, as provided by Article 8a(4) of the Regulation.

(5) The prohibition in paragraph 1(b) shall not prevent the extension of a participation in a listed Burmese state-owned enterprise, if such extension is compulsory under an agreement concluded with the listed Burmese state-owned enterprise concerned before 25 October 2004, provided that the Governor, the United Kingdom Treasury and the European Commission shall be informed prior to any such transaction.”.

(8) The heading above article 9 of the principal Order is amended by replacing “article 7 or 8(9)” with “article 7, 8a or 8(9)”.

(9) Article 9 of the principal Order is amended by replacing “article 7 or 8(9)” with “article 7, 8a(2) or 8(9)”.

(10) The first line of article 10 of the principal Order is amended by inserting “an” immediately before “offence”.

(11) Article 10(1)(a)(i) of the principal Order is amended by inserting “or a listed Burmese state-owned enterprise” immediately after “listed person”.

(12) Article 10(1)(a)(ii) of the principal Order is amended by replacing “article 7, 8(9) or 12(2)” with “article 7, 8a(2), 8(9) or 12(2)”.

(13) Article 10(2)(a) of the principal Order is amended by inserting in the first line the words “or a listed Burmese state-owned enterprise” after “a listed person” and by replacing “article 7, 8(9) or 12(2)” with “article 7, 8a(2), 8(9) or 12(2)”.

(14) Article 19(1) of the principal Order is amended by inserting “8a(2),” after “7,”.

(15) Sub-paragraph 1(1) of Schedule 2 to the principal Order is amended by inserting “8a(2),” after “7,” in the second line.

(16) The paragraphs in Schedule 3 to the principal Order are renumbered so as to commence at the number “1” rather than “10”.

(17) The paragraphs in Schedule 4 to the principal Order are renumbered so as to commence at the number “1” rather than “42”.

(18) Sub-paragraph 1(3) (as so renumbered) of Schedule 4 to the principal Order is replaced with the following:

“(3) Where a person is convicted of an offence under paragraph 5 of this Schedule of failing to furnish or produce a document when requested so to do, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or provide the document.”.

(19) Paragraph 4 (as so renumbered) of Schedule 4 to the principal Order is amended by replacing the words “any copy of an extract” in the second line with the words “any copy or extract”.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Burma (Restrictive Measures) (Overseas Territories) Order (SI 2004/1979) (the principal Order) to give effect to further restrictive measures in respect of Burma agreed by the European Union in Common Position 2004/740/CFSP (25 October 2004). Council Regulation (EC) No. 798/2004 of 26 April 2004 (the Regulation), as amended by Council Regulation (EC) No 1853/2004 of 25 October 2004, implements these measures in EU Member States and this Order extends them to the British overseas territories listed in Schedule 1 to the principal Order. The measures consist of a ban, with certain exemptions, on new investment in listed Burmese state-owned enterprises.

This Order also makes minor amendments to the principal Order to correct various errors.

Printed by the Government Printer, Printing Office, Stanley, Falkland Islands.
Price: Twelve Pounds and Fifty Pence.

© Crown Copyright 2005



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 2

13th May 2005

The following are published in this Gazette -

Appointment of Acting Attorney General;

Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004, (SI 2004/3101), Commencement in South Georgia and the South Sandwich Islands;

Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004, (2004 No. 3101);

Trade in Goods, (Control) (Overseas Territories) Order 2004, (SI 2004/3102), Commencement in South Georgia and the South Sandwich Islands;

Trade in Goods (Control) (Overseas Territories) Order 2004, (2004 No. 3102);

Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004 (SI 2004/3103), Commencement in South Georgia and the South Sandwich Islands;

Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004, (2004 No. 3103).

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

APPOINTMENT OF ACTING ATTORNEY GENERAL

IN EXERCISE of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling I **HOWARD JOHN STREDDER PEARCE** Commander of the Royal Victorian Order Commissioner for South Georgia and the South Sandwich Islands **HEREBY** appoint **MELANIE LOUISE BEST CHILTON** to discharge the functions and duties of the post of Attorney General of South Georgia and the South Sandwich Islands during the absence from the Falkland Islands of the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** from 19 March 2005 until his return.

Given under my hand and the Public Seal at Stanley on the 24th day of March 2005

H. J. S. Pearce C.V.O.,
Commissioner

**Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)
(Overseas Territories) Order 2004 (SI 2004/3101)**

Commencement in South Georgia and the South Sandwich Islands

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 23 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to article 6 of this Order I notify that copies of Schedules 1, 2 and 3, and Part 1 of Schedule 4, to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ("the 2003 Order") (SI 2003/2764 as amended by SI 2004/1050, SI 2004/2561 and SI 2004/2741) are available on request from the Attorney General's Chambers, Cable Cottage, Thatcher Drive, Stanley, Falkland Islands. Alternatively, they may be downloaded free of charge from the HMSO internet website at www.hmso.gov.uk.

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation internet website at www.dti.gov.uk/export.control/publications.htm. All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Pursuant to article 7 of this Order the documents therein stated may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Interested persons are advised that all EC Regulations in force, and all amendments to them are published on the internet on the Eur-Lex website at www.europa.eu.int/eur-lex/en/search/search_lif.html and may be downloaded free of charge from that site.

Dated this third day of May 2005

H. Hall,
Acting Commissioner

2004 No. 3101

OVERSEAS TERRITORIES

**Export of Goods, Transfer of Technology and Provision of
Technical Assistance (Control) (Overseas Territories) Order
2004**

Made - - - -

16th December 2004

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

Citation

1. This Order may be cited as the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004.

Extent and interpretation

2.—(1) This Order shall extend to the territories listed in Schedule 1.

(2) In the application of this Order to any of the said territories —

- (a) “the Territory” means that territory;
- (b) any reference to “the Governor” means the Governor or other officer administering the Government of that territory; and
- (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to the sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 4.

Extension of Order to territories

3. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) (the “UK Order”), as modified in Schedule 2, extends to the territories listed in Schedule 1.

Guidance about the exercise of functions under this Order

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings

5. Schedule 4 shall have effect for the application of articles 16, 17, 18 and 19 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

Duty to make available Schedules

6. The Governor shall make available to persons in the Territory, in such manner as he may think fit, the provisions of Schedules 1, 2 and 3, and Part 1 of Schedule 4, to the UK Order as from time to time in force in the law of the United Kingdom.

European Community matters

7.—(1) The Governor shall make available to persons in the Territory, in such manner as he may think fit —

- (a) the text of Council Regulation (EC) No. 1334/2000 of 22nd June 2000(b), together with the text of any amending Council Regulations, whether those Regulations were made before or after the coming into force of this Order in the Territory;
- (b) a list of those countries which are for the time being Member States of the European Community; and
- (c) a list of the competent authorities empowered by each member state to authorise exports under Council Regulation (EC) No. 1334/2000 of 22nd June 2000.

(2) A certificate given by or on behalf of the Governor in pursuance of sub-paragraph (1)(a), (b) or (c), or as to whether a place is within or outside the European Community, shall be conclusive evidence of the matters stated therein for the purposes of this Order, and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Exercise of powers of the Governor

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

A.K. Galloway
Clerk of the Privy Council

(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(b) OJ No L 159, 30.06.2000, p1.

SCHEDULE 1

Article 2(1)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla
Bermuda
Cayman Islands
Falklands Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

SCHEDULE 2

Article 3

PROVISIONS OF THE EXPORT OF GOODS, TRANSFER OF TECHNOLOGY AND PROVISION OF TECHNICAL ASSISTANCE (CONTROL) ORDER 2003 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

Commencement

1. This Order shall be extended to each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

Interpretation

2.—(1) In this Order the following expressions have the meanings given to them below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning —

“the Act” means the Export Control Act 2002(a);

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“competent authority” means in respect of any territory to which this Order applies, the Governor, in respect of the United Kingdom, the Secretary of State, and, in respect of any other Member State, any authority empowered by that Member State to grant “exportation” or “transfer” authorisation under “the Regulation”;

“country” includes territory;

(a) 2002 c. 28.

“customs authorities” means the authorities which, under the law of the territory, have responsibility for the control of imports and exports;

“dual-use” in relation to “goods” or “technology”, means “goods” or “technology” which can be used for both civil and military purposes, and includes any “goods” or “technology” which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices;

“the European Community” means the customs territory of the European Community as defined in article 3(3) of Council Regulation (EEC) No 2913/92 of 12th November 1992(a);

“exportation” includes “shipment” as “stores” and, unless the context otherwise requires, means exportation from the Territory to any destination outside the Territory, except “export” in relation to the exportation from the Territory of “dual-use” “goods”, “software” and “technology” which has the same meaning that it would have in article 2(b) of “the Regulation” if the Territory were a Member State of the European Community;

“exporter” and other cognate expressions shall be construed accordingly;

“goods” means tangible goods, both used and unused and includes any goods on which “software” or “technology” is recorded;

“goods in transit” means any “goods” imported into the Territory (which for this purpose shall be treated as a Member State of the European Community) for “transit or transshipment”;

“importation” and “exportation” in relation to a “vessel”, “vehicle”, submersible vehicle or “aircraft” include the taking into or out of the Territory of the “vessel”, “vehicle”, submersible vehicle or “aircraft”, notwithstanding that the “vessel”, “vehicle”, submersible vehicle or “aircraft” is conveying “goods” or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“normal commercial journey” means a journey providing transport services in the ordinary course of business;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

“the Regulation” means Council Regulation (EC) No. 1334/2000 of 22nd June 2000(b) as amended from time to time (whether the amendments were made before or after the coming into force of this Order in the Territory);

“any relevant use” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in the laws of the Territory relating to customs and excise;

(a) OJ No L 302, 19.10.92, p1 as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No L 236, 23.9.2003, p33).

(b) OJ No L159, 30.06.2000, p1.

“software” means one or more “programmes” or “microprogrammes” fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion “vehicle” (whether side wall or skirted) and any “vehicle” using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, “use”, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“transfer”, in relation to any “software” or “technology”, means the “transfer by any electronic means” or “transfer by non-electronic means” (or any combination of electronic and non-electronic means) from a person or place within the Territory;

“transferor” and other cognate expressions shall be construed accordingly (except that where the transfer is to a destination outside “the European Community”, “transferor” has the same meaning as “exporter” in the definition in article 2(c) of “the Regulation” to the extent that that definition applies);

“transfer by any electronic means”, in relation to any “software” or “technology”, means a transmission of “software” or “technology” by facsimile, telephone or other electronic media (except that oral transmission of “technology” by telephone is included only where the “technology” is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result as if it had been so read);

“transfer by any non-electronic means”, in relation to any “software” or “technology”, means a disclosure of “software” or “technology” by any means (or combination of means), including oral communication, other than as the “exportation” of “goods” or the “transfer by any electronic means”;

“transit or transshipment” means transit through the Territory or transshipment with a view to re-exportation of the “goods” in question or transshipment of those “goods” for use as “stores”;

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory; and for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a person who under the British Nationality Act 1981(a) is a British subject or a British protected person within the meaning of that Act;

“vehicle” includes a railway carriage; and

“vessel” includes any ship, “surface effect vehicle”, vessel of small waterplane area or hydrofoil and the hull or part of the hull of a vessel.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

(3) Except where this Order otherwise provides, expressions used in the Regulation which are also used in this Order have the same meaning in this Order as they have in the Regulation.

(a) 1981 c.61.

PART I

CONTROL ON THE EXPORT OF GOODS

Export of military and certain other goods

3.—(1) Subject to the provisions of this Order, goods of a description specified in Schedule 1 to the UK Order are prohibited to be exported to any destination.

(2) Sub-paragraph (1) does not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

(3) Subject to the provisions of this Order, or any contrary provisions in a licence, a licence granted by the Governor in relation to any goods specified in Schedule 1 to the UK Order shall also authorise the exportation or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods to the same destination as the goods.

Export of dual-use goods and end-use control

4.—(1) Subject to the provisions of this Order, goods of a description specified in Schedule 2 to the UK Order are prohibited to be exported to the destinations specified in that Schedule as being prohibited destinations in relation to those goods.

(2) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the exportation of dual-use goods to any destination outside the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(3) Subject to the provisions of this Order —

- (a) goods specified in Annex I but not in Annex IV to the Regulation;
- (b) goods of a description specified in Schedule 2 to the UK Order; or
- (c) goods not specified in Annex I to the Regulation or Schedule 2 to the UK Order but for the exportation of which from the Territory or the European Community an authorisation is, or in accordance with sub-paragraph (2) would be, required pursuant to:
 - (i) article 4(1) of the Regulation; or
 - (ii) article 4(2), (3) or (4) of the Regulation,

are prohibited to be exported to any destination in any Member State where the exporter knows at the time of exportation that the final destination of such goods is outside the Territory or the European Community and no processing or working is to be performed on those goods in any Member State to which they are to be exported.

(4) Subject to the provisions of this Order, dual-use goods not listed in Annex I to the Regulation, which the exporter has grounds for suspecting are or may be intended, in their entirety or in part, for any relevant use, are prohibited to be exported to any destination outside the Territory or the European Community, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

(5) Subject to the provisions of this Order, goods of a description specified in Annex I to the Regulation, which are goods in transit, are prohibited to be exported to any destination.

(6) Subject to the provisions of this Order, sub-paragraphs (1), (2), (3), (4) and (5) do not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

End-use control and goods in transit

5.—(1) Subject to the provisions of this Order, goods which are goods in transit are prohibited to be exported to any destination where —

- (a) the exporter (or, if the exporter is not within the Territory, any agent of the exporter within the Territory concerned in the exportation or intended exportation) has been informed by a competent authority that such goods are or may be intended, in their entirety or in part, for any relevant use; or
 - (b) the exporter is aware that such goods are intended, in their entirety or in part, for any relevant use; or
 - (c) the exporter has grounds for suspecting that such goods are or may be intended, in their entirety or in part, for any relevant use, unless the exporter has made all reasonable enquires as to their proposed use and is satisfied that they will not be so used.
- (2) Subject to the provisions of this Order, sub-paragraph (1) does not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

PART II

CONTROLS ON THE TRANSFER OF TECHNOLOGY

Electronic transfer of controlled military and certain other technology

6.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place outside the Territory any software or technology of a description specified in Schedule 1 to the UK Order.

(2) Subject to the provisions of this Order, sub-paragraph (1) does not prohibit the transfer of any software or technology of a description specified in Schedule 1 to the UK Order in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

Electronic transfer of controlled dual-use technology and software and end-use controls

7.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology of a description specified in Schedule 2 to the UK Order, where the transfer is to a person or place in any destination specified in that Schedule as being a prohibited destination in relation to that software or technology.

(2) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the transfer by electronic means of any dual-use technology or software to a person or place outside the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(3) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place in any Member State any dual-use software or technology that is either —

- (a) specified in Annex I but not in Annex IV to the Regulation;
- (b) specified in Schedule 2 to the UK Order; or
- (c) not specified in Annex I to the Regulation or Schedule 2 to the UK Order but for the transfer of which from the Territory or the European Community an authorisation is, or in accordance with sub-paragraph (2) would be, required pursuant to —
 - (i) article 4(1) of the Regulation; or
 - (ii) article 4(2), (3) or (4) of the Regulation,

if he knows at the time of the transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(4) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology not listed in Annex I to the Regulation to a person or place not within the Territory or the European Community where he has grounds for suspecting that such software or technology is or may be intended, in its entirety or in part, for any relevant use, unless he has made all reasonable enquiries as to its proposed use and is satisfied that it will not be so used.

(5) Subject to the provisions of this Order, sub-paragraphs (1), (2), (3) and (4) do not prohibit the transfer of any dual-use software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

Electronic transfer of all software and technology and end-use controls

8.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any software or technology to a person or place within the Territory, where —

- (a) he has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(2) Subject to the provisions of this Order and where sub-paragraph (3) applies, no United Kingdom person shall transfer by any electronic means any software or technology from any place not within the Territory or the European Community to —

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or in any Member State to which it is to be transferred.

(3) This sub-paragraph applies where —

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(4) Subject to the provisions of this Order, no United Kingdom person shall transfer by any electronic means any software or technology from any place not within the Territory or the European Community to a person or place within the Territory or the European Community where —

- (a) he has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(5) For the purposes of sub-paragraphs (1) and (4) a person has reason to believe that software or technology may be used otherwise than within the Territory or the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Governor or the Secretary of State that it may be or is intended to be so used.

(6) Nothing in sub-paragraph (1), (2) or (4) shall be taken to prohibit the transfer of any software or technology in the public domain.

(7) Sub-paragraphs (1), (2) and (4) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

Non-electronic transfer of all software and technology and end-use controls

9.—(1) Subject to the provisions of this Order, and where sub-paragraph (2) applies, no person ('the person concerned') shall transfer by any non-electronic means any software or technology to —

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or any Member State to which it is to be transferred.

(2) This sub-paragraph applies where —

- (a) the person concerned has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the person concerned is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(3) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the transfer by any non-electronic means of dual-use software and technology to any person or place not within the territory or the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(4) Subject to the provisions of this Order, no person shall transfer by any non-electronic means any software or technology to a person or place within the Territory where —

- (a) he has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(5) Subject to the provisions of this Order and where sub-paragraph (6) applies, no United Kingdom person shall transfer by any non-electronic means any software or technology from any place not within the Territory or the European Community to —

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or the Member State to which it is to be transferred.

(6) This sub-paragraph applies where —

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(7) For the purposes of sub-paragraph (4) a person has reason to believe that software or technology may be used otherwise than within the Territory or the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Governor or the Secretary of State that it may be or is intended to be so used.

(8) Nothing in sub-paragraph (1), (3), (4) or (5) shall be taken to prohibit the transfer of any software or technology in the public domain.

(9) Sub-paragraphs (1), (3), (4) and (5) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

PART III

CONTROL ON THE PROVISIONS OF TECHNICAL ASSISTANCE

End-use control on technical assistance

10.—(1) Subject to sub-paragraphs (3) and (4), no person shall directly or indirectly provide to a person or place not within the Territory or the European Community any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which —

- (a) he has been informed by the Governor is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware is intended, in its entirety or in part, for any relevant use.

(2) Subject to sub-paragraphs (3) and (4), no United Kingdom person shall directly or indirectly provide from a place not within the Territory or the European Community to any person or place not within the Territory or the European Community any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which —

- (a) he has been informed by the Governor is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware is intended, in its entirety or in part, for any relevant use.

(3) For the purposes of sub-paragraphs (1) and (2) —

- (a) a person directly provides technical assistance if in particular he provides technical assistance or agrees to do so; and
- (b) a person indirectly provides technical assistance if in particular he makes arrangements under which another person provides technical assistance or agrees to do so.

(4) Sub-paragraphs (1) and (2) do not prohibit the provision of any technical assistance in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

PART IV

EXCEPTIONS TO THE CONTROLS IN PARTS I, II AND III

Aircraft, vessels, firearms and ammunition and goods transit

11.—(1) Nothing in paragraph 4 shall be taken to prohibit the exportation of any aircraft the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys.

(2) Nothing in paragraph 3 shall be taken to prohibit the exportation of any aircraft which is being exported (except to Iran or a country or destination specified in Schedule 3 to the UK Order) after temporary importation into the Territory provided there has been no change of ownership or

registration since such importation and that no goods of a description specified in Schedule 1 to the UK Order have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in paragraph 4 shall be taken to prohibit the exportation of any aircraft on a scheduled journey.

(4) Nothing in paragraph 3 or 4 shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the Territory on trials.

(5) Nothing in paragraph 3 or 4 shall be taken to prohibit the exportation of any vessel which is departing temporarily from the Territory on trials.

(6) Nothing in paragraph 3 shall be taken to prohibit the exportation of any vessel registered or constructed outside the Territory which is being exported (except to Iran or a country or destination specified in Schedule 3 to the UK Order) after temporary importation into the Territory provided that no goods of a description specified in Schedule 1 to the UK Order have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(7) Nothing in paragraph 4 shall be taken to prohibit the exportation of any vessel proceeding on a normal commercial journey.

(8) [omitted]

(9) Nothing in paragraph 3 shall be taken to prohibit the exportation of any firearm authorised to be possessed or, as the case may be, purchased or acquired by a valid certificate, licence or other authority under the law of the Territory, related ammunition and sight using non-electronic image enhancement for use therewith —

(a) to any destination in a Member State by the holder of a certificate, licence or other authority in respect of that firearm granted under the law of the Territory, or

(b) to any other destination other than to Iran or a country or destination specified in Schedule 3 to the UK Order,

provided that the firearm, related ammunition and sight using non-electronic image enhancement form part of the personal effects of the holder of the authority and, in a case to which sub-paragraph (b) applies, the authority is produced by the holder, or his duly authorised agent, with the firearm and ammunition to the customs authorities at the place of exportation.

(10) Subject to paragraph 5 and sub-paragraph (11) below, nothing in paragraph 3, 4(1), 4(2), 4(3)(a), (b), (c)(ii) or (5) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in sub-paragraph (12) below are met.

(11) Sub-paragraph (10) does not apply to —

(a) anti-personnel landmines;

(b) any goods falling within paragraph c. or g. of entry PL5001 in Part I of Schedule 1 to the UK Order;

(c) components specially designed for goods falling within sub-paragraph (a);

(d) equipment, software or technology falling within entry ML18, ML21 or ML22 in Part 1 of Schedule 1 to the UK Order specifically related to goods falling within sub-paragraph (a) or (b);

(e) any goods being exported to Iran or North Korea; or

(f) any goods of a description specified in Schedule 1 to the UK Order being exported to any country or destination specified in Schedule 3 to the UK Order.

(12) The conditions are that —

(a) the goods remain on board a vessel or aircraft for the entire period that they remain in the Territory or are goods on a through bill of lading or through air waybill and in any event are exported within 30 days of their importation;

(b) the destination of those goods following exportation from the Territory has been determined in the country from which they were originally exported prior to their original

exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the Territory, or the goods are being returned to that country; and

- (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying therein at the time of exportation of those goods.

PART V

LICENCES

Licences

12.—(1) The Governor may grant licences.

(2) [omitted]

(3) [omitted]

(4) Any licence granted or issued by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(5) Any licence granted under this Order may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving notice to that effect on the holder of the licence.

Registration with the Governor

13.—(1) Not later than 30 days after any person first does any act under the authority of —

- (a) any general licence granted by the Governor that does not provide otherwise,
- (b) any individual licence granted under paragraph 4 or 5 by the Governor that does not provide otherwise,

the person in question shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 14(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 14(4).

(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

Record keeping and inspection

14.—(1) Any person acting under the authority of any general licence granted under this Order shall keep detailed registers or records.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified —

- (a) a description of the goods that have been exported or the software or technology that has been transferred;
- (b) the date of the exportation or transfer;
- (c) the quantity of the goods;
- (d) the name and address of the person referred to in sub-paragraph (1);
- (e) the name and address of any consignee of the goods;

- (f) in so far as it is known to the person referred to in sub-paragraph (1) the name and address of the end-user of the goods, software or technology; and
- (g) any further information required to be kept by the competent authority who has authorised the exportation or transfer.

(3) [omitted]

(4) The register or records referred to in sub-paragraph (1) shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place, and the person referred to in sub-paragraph (1) shall permit any such registers or records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) [omitted]

(6) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises of the address which has most recently been notified to the Governor under paragraph 13.

(7) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the exporter or transferor shall, at the request of the person authorised by the Governor or the customs authorities, reproduce such registers or records in a legible form.

(8) [omitted]

(9) Any person who exports or transfers to any Member State any goods, software or technology listed in Part 2 of category 5 in Annex I to the Regulation but not listed in Annex IV to the Regulation shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Part II of Schedule 4 to the UK Order as he can reasonably be expected to obtain and such other of that information as comes into his possession. These registers or records shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place, and he shall permit any such registers or records to be inspected and copied by any person authorised by the Governor or the customs authorities. Sub-paragraphs (6) and (7), and the provision in sub-paragraph (4) relating to inspection and copying, shall apply to the production of such documents or records as they apply in respect of registers or records referred to in sub-paragraph (4) or (as the case may be) in respect of entry into premises for the purpose of sub-paragraph (4).

Licence refusals etc. and appeals

15.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, he shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has a licence application refused under this Order or who has a licence suspended or revoked under paragraph 12 shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

PART VI

GENERAL

Offences and penalties

16.—(1) Any person who contravenes a prohibition or restriction in —

- (a) paragraph 6, 7(1), 7(3)(a), 7(3)(b) or 7(3)(c)(ii); or
- (b) article 3(1), 4(2) or 4(3) of the Regulation,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5000 or the equivalent.

(2) Any person who contravenes a prohibition or restriction in —

- (a) paragraph 4(3)(c)(i), 4(4) or 5;
- (b) paragraph 7(3)(c)(i), 7(4), 8(2), 8(4), 9(1), 10(1) or 10(2);
- (c) paragraph 8(1) or 9(4); or
- (d) article 4(1) of the Regulation,

shall be guilty of an offence and may be arrested.

(3) A person guilty of an offence under sub-paragraph (2) shall be liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount or to imprisonment for a term not exceeding two years, or to both.

(4) Any person knowingly concerned in the exportation of any good or the transfer of software or technology, or in the attempted exportation of any good or the attempted transfer of software or technology, with intent to evade any prohibition or restriction in —

- (a) paragraph 6, 7(1), 7(3), 7(4), 8(2), 8(4), 9(1) or 9(5);
- (b) paragraph 8(1) or 9(4); or
- (c) article 3(1), 4(1), 4(2) or 4(3) of the Regulation,

shall be guilty of an offence.

(5) Any person knowingly concerned in the provision, or attempted provision, of technical assistance related to the supply, delivery, manufacture, maintenance or use of anything, with intent to evade any prohibition or restriction in paragraph 10, shall be guilty of an offence.

(6) A person guilty of an offence under sub-paragraph (4) or (5) shall be liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

(7) Any person who fails to comply with the requirement in article 4(4) of the Regulation shall be guilty of an offence and liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent;
- (b) on conviction on indictment, to a fine of any amount or to imprisonment for a term not exceeding two years, or to both.

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

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

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

(11) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

Misleading applications for licences

17.—(1) Where for the purpose of obtaining any licence under this Order any person either —

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both,

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

Failure to comply with licence conditions

18.—(1) Subject to the provisions of sub-paragraph (3), any person who —

- (a) has done any act under the authority of a licence granted by the Governor under this Order; and
- (b) fails to comply with any conditions attaching to that licence,

shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both.

(3) No person shall be guilty of an offence under sub-paragraph (1) where —

- (a) the condition in question had been previously modified by the Governor;
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the condition with which he failed to comply was modified after the doing of the act authorised by the licence.

Customs powers to require evidence of destination

19.—(1) Any person who exports or ships any goods subject to controls by the Act shall, if so required by the customs authorities, provide within such time as they may determine evidence of

the destination to which the goods were delivered and, if he fails to do so, he shall be guilty of an offence.

(2) Any person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding £5000 or the equivalent.

Customs powers

20. Goods which are brought to any place in the Territory for the purpose of being exported may be detained by the customs authorities as if they were liable to forfeiture, if and so long as they have reason to believe that the Governor (after, if necessary, having had the impending exportation brought to his attention) might inform the exporter as provided in article 4(1), (2) or (3) of the Regulation or paragraph 5.

Application of customs and excise laws

21.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of the provisions of this Order described in sub-paragraph (3).

(2) [omitted]

(3) The provisions referred to in sub-paragraph (1) are paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 17, 18 and 19 but excluding paragraphs 8(1) and 9(4). Paragraph 14 shall be enforced only insofar as the obligation relates to the powers of the customs authorities.

(4) The provisions of the laws of the Territory relating to customs and excise relating to proceedings for offences, mitigation of penalties, proof and other matters apply in relation to offences and penalties created by this Order and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under those laws.

(5) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (3) shall not be offences for which, under any provision of the laws of the Territory, proceedings may only be instituted by those authorities.

(6) In any case where a person would, apart from this sub-paragraph, be guilty of —

- (a) an offence under the provisions of the laws of the Territory relating to the import or export of goods; and
- (b) a corresponding offence under this Order,

he shall not be guilty of the offence mentioned in sub-paragraph (a) of this sub-paragraph.

(7) Sub-paragraph (6) does not apply in respect of prohibitions or restrictions on the exportation of firearms falling within any description of weapons subject under the law of the Territory to a general prohibition on their possession, purchase, acquisition, manufacture, sale or transfer without the permission of the Governor.

Use and disclosure of information

22.—(1) This paragraph applies to information which is held by —

- (a) the Governor, or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order on the exportation of goods, the transfer of technology or participation in the provision of services connected with the development, production or use of goods or technology.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;

- (b) giving effect to any European Community or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

Service of notices

23. Any notice to be given to the Governor by a person under this Order may be given by an agent of his, and shall be sent by post or delivered to the Governor at an address specified in the official gazette of the Territory.

Repeals and revocations

24. [omitted]

Transitional arrangements

25.—(1) Licences issued by the Governor of a territory to which this Order applies before the date of the coming into force of this Order in that Territory ("the relevant date") permitting anything to be done or omitted to be done for which, apart from this paragraph, a licence under this Order would be required on or after the relevant date shall continue to have effect for the period for which they were issued, and any such licence shall be deemed to have been issued under this Order.

(2) The provisions of the law of the Territory in force before the relevant date shall continue to apply in relation to any export for which such a licence was required before that date which has occurred before that date and to any export which takes place on or after the relevant date in respect of which such a licence has been issued before that date.

SCHEDULE 3

Article 4

SECTION 9 OF EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

"9.—(1) This section applies to licensing powers and other functions conferred on any person by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other

functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In application of this section to any of the said territories the expression "the Territory" means that territory and "the Governor" means the Governor or other person administering the Government of that territory."

SCHEDULE 4

Article 5

APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS

1. Any person who commits an offence under paragraph 16(1) or 19(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

2. Any person who commits an offence under paragraph 16(2) of Schedule 2 shall be liable on conviction—

(1) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both;

(2) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

3. Any person who commits an offence under paragraph 16(4) or (5) of Schedule 2 shall be liable on conviction—

(1) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding ten years, or to a fine of any amount, or to both;

(2) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under paragraph 16(7), 17(1) or 18(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

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

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the territory having jurisdiction where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the territory except by or with the consent of the principal public officer of the territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Export Control Act 2002, extends with modifications the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764 amended by S.I. 2004/1050, 2004/2561 and 2004/2741) (the UK Order) to the territories listed in Schedule 1. The Order establishes a new framework for the control of strategic goods, software and technology. This Order brings together controls on the export or transfer of military and dual-use goods, software and technology, controls on goods, software and technology related to weapons of mass destruction (WMD) and the provision of WMD-related technical assistance. The controls in this Order apply to persons in the territories listed in Schedule 1 and in respect of certain provisions, to United Kingdom persons ordinarily resident in those territories anywhere in the world.

This Order gives effect in the territories to Council Regulation (EC) No. 1334/2000 of 22 June 2000 (O.J. No. L 159, 30.06.2000 p.1.) setting up a regime for the control of exports of dual-use items and technology (the Regulation), as if the territories were part of the European Community. Military and para-military goods, software and technology whose export or transfer is controlled are specified in Schedule 1 to the UK Order. Dual-use goods, software and technology, the export or transfer of which are controlled, in addition to those set out in the Annexes to the Regulation, are specified in Schedule 2 to the UK Order.

This Order imposes WMD end-use controls on "any relevant use" in connection with WMD. A relevant use is any use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

The Order also introduces controls on:

(a) the transfer by electronic means of listed military technology in Schedule 1 to the UK Order. Electronic transfer includes transfers by fax, e-mail or telephone;

(b) the transfer by any means of technology intended for use in connection with WMD or a related missile programme. This supplements the end-use controls on the physical export of goods, software and technology and the electronic transfer of technology contained in the Regulation. This control will apply to anyone in the territories or any United Kingdom person ordinarily resident in a territory wherever located who communicates technology which the provider knows, or has been informed by a competent authority, is or might be intended for use outside the European Community and the territories in connection with WMD or missiles capable of delivering WMD; and

(c) the provision of technical assistance in relation to WMD. This control will apply to anyone in the territories or any United Kingdom person ordinarily resident in a territory wherever located who provides or facilitates the provision of technical assistance outside the territories where he knows, or is informed by a competent authority, that it is or may be intended for use in connection with WMD or missiles capable of delivering WMD. This control, together with the WMD transfer controls, implements the European Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses (2000/401/CFSP).

The UK Order, as extended to the territories, is divided into six parts:

Part I deals with controls on the export of military goods, dual-use goods and goods in transit with a WMD end-use;

Part II deals with controls on the electronic transfer of military and dual-use technology and the transfer of technology with a WMD end-use by both electronic and non-electronic means;

Part III deals with controls on the provision of WMD technical assistance;

Part IV sets out exceptions to the controls in Parts I, II and III;

Part V provides for the granting of licences, record keeping and appeals. Paragraph 15 sets out the procedure for appealing against any decision of the Governor to refuse, suspend or revoke any licence issued under the Order. Appeals must be made within 28 days of the date of the written notification recording the Governor's decision; and

Part VI sets out the penalties and means of enforcement for breach of the controls in the Regulation and Parts I, II and III. In paragraph 16 the maximum penalty for the intentional breach of controls on exports, transfer of technology and technical assistance is set at ten years, the maximum penalty permitted under section 7(1) of the Export Control Act 2002.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 provides for offences, enforcement and penalties for breach of the controls in Schedule 2 in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

Trade in Goods (Control) (Overseas Territories) Order 2004 (SI 2004/3102)

Commencement in South Georgia and the South Sandwich Islands

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 14 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation website at www.dti.gov.uk/export.control/publications.htm. All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Dated this third day of May 2005

H. Hall,
Acting Commissioner

2004 No. 3102

OVERSEAS TERRITORIES

Trade in Goods (Control) (Overseas Territories) Order 2004

Made - - - - *16th December 2004*

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

Citation

1. This Order may be cited as the Trade in Goods (Control) (Overseas Territories) Order 2004.

Extent and interpretation

- 2.—(1) This Order shall extend to the territories listed in Schedule 1.
- (2) In the application of this Order to any of the said territories —
 - (a) the expression “the Territory” means that territory;
 - (b) any reference to “the Governor” means the Governor or other officer administering the Government of that territory; and
 - (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.
- (3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 5.

Extension of Order to territories

3. The Trade in Goods (Control) Order 2003(b) (the “UK Order”), as modified in Schedule 2, extends to the territories listed in Schedule 1.

(a) 2002 c.28.

(b) S.I. 2003/2765.

Guidance about the exercise of functions under this Order

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

Modification of Schedule 4 (Restricted Goods)

5.—(1) Where any modification is made to the Schedule to the UK Order, whether before or after the coming into force of this Order in the Territory, the Governor shall, by order published in the official gazette of the Territory, make the like modification to Schedule 4.

(2) An order under paragraph (1) may make transitional provisions in connection with any modification made by the order.

Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings

6. Schedule 5 shall have effect for the application of articles 9, 10 and 11 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

Exercise of powers of the Governor

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

A. K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 2(1)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

Bermuda

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia

Turks and Caicos Islands

Virgin Islands

**PROVISIONS OF THE TRADE IN GOODS (CONTROL) ORDER
2003 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED
IN SCHEDULE 1**

Commencement and application

1.—(1) This Order shall be extended to each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

(2) Paragraphs 3(1) and 4 apply to any person within a Territory and paragraph 3(2) applies to any person elsewhere who is a United Kingdom person.

Interpretation

2.—(1) In this Order: —

“to acquire” in relation to “controlled goods”, means to buy, hire, borrow or to accept them as a gift, and cognate expressions shall be construed accordingly;

“the Act” means the Export Control Act 2002(a);

“controlled goods” means goods used and unused, for the time being listed in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b) as extended to the Territory by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)(Overseas Territories) Order 2004(c), the transfer, acquisition or disposal of which are prohibited by this Order, but does not include goods which are “restricted goods”. For the avoidance of doubt, “controlled goods” does not include software and technology;

“country” includes territory;

“customs authorities” means the authorities which, under the law of the Territory, have responsibility for the control of imports and exports;

“to dispose of” in relation to “controlled goods”, means to sell, let on hire, lend or to give them as a gift, and cognate expressions shall be construed accordingly;

“goods in transit” means any controlled goods imported into the Territory for transit or transshipment;

“restricted goods” means goods, both used and unused, specified in Schedule 4 which would otherwise be “controlled goods”, the supply and delivery of which are prohibited by this Order;

“a third country” means any country that is not the Territory;

“transfer” means to move “controlled goods” over which one has rights of disposal from one third country to another third country;

“the UK Order” means the Trade in Goods (Control) Order 2003(d); and

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory, and, for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National

(a) 2002 c. 28.

(b) S.I. 2003/2764, as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(c) S.I. 2004/3101.

(d) S.I. 2003/2765.

(Overseas), a person who under the British Nationality Act 1981(a) is a British subject, or a British protected person within the meaning of that Act.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

Supply and delivery of restricted goods

3.—(1) Subject to the provisions of this Order, no person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any restricted goods, where that person knows or has reason to believe that his action or actions will, or may, result in the removal of those goods from one third country to another third country.

(2) Subject to the provisions of this Order, no United Kingdom person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any restricted goods, where that person knows or has reason to believe that his action or actions will, or may, result in the removal of those goods from one third country to another third country.

(3) Sub-paragraph (1) applies to any act, or any part of any act, done in the Territory.

(4) Sub-paragraph (2) applies to any act, or any part of any act, done outside the Territory.

(5) Sub-paragraphs (1) and (2) do not apply to any restricted goods that are present in the Territory unless they are goods in transit.

(6) For the purpose of sub-paragraphs (1) and (2), restricted goods that are goods in transit shall be considered to be located in a third country.

(7) Nothing in sub-paragraph (1) or (2) shall be taken to prohibit any activities authorised by a licence in writing granted under this Order or under any other order made under the Act, provided that all the conditions attaching to the licence are complied with.

(8) Nothing in sub-paragraph (1)(b) or (c) or (2)(b) or (c) shall apply where the supply or delivery of the restricted goods to the person or place concerned is authorised by a licence in writing granted under this Order or under any other order made under the Act.

Transfer, acquisition or disposal of controlled goods

4.—(1) Subject to the provisions of this Order, no person shall —

- (a) arrange the transfer of controlled goods from one third country to another third country; or
- (b) acquire or dispose, or agree to acquire or dispose, of any controlled goods, where that person knows or has reason to believe that such an acquisition or disposal will or may result in the removal of those goods from one third country to another third country.

(2) Subject to the provisions of this Order, no person shall —

- (a) arrange or negotiate; or
- (b) agree to arrange or negotiate,

(a) 1981 c. 61.

a contract for the acquisition or disposal of any controlled goods, where that person knows or has reason to believe that such a contract will or may result in the removal of those goods from one third country to another third country.

(3) Subject to the provisions of this Order, no person shall in return for a fee, commission or other consideration —

- (a) do any act; or
- (b) agree to do any act,

calculated to promote the arrangement or negotiation of a contract for the acquisition or disposal of controlled goods, where that person knows or has reason to believe that such a contract will or may result in the removal of those goods from one third country to another third country.

(4) Sub-paragraphs (1), (2) and (3) apply to any act, or any part of any act, done in the Territory.

(5) Sub-paragraphs (1), (2) and (3) shall not apply to any person whose sole involvement in relation to the transfer, acquisition or disposal of any controlled goods is to provide or agree to provide —

- (a) transportation services,
- (b) financing or financial services,
- (c) insurance or reinsurance services, or
- (d) general advertising or promotion services.

(6) Sub-paragraphs (1), (2) and (3) do not apply to controlled goods that are present in the Territory unless they are goods in transit.

(7) For the purposes of sub-paragraphs (1), (2) and (3), controlled goods that are goods in transit shall be considered to be located in a third country.

(8) Nothing in sub-paragraph (1), (2) or (3) shall be taken to prohibit any activities authorised by a licence in writing granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

LICENCES

Granting and revocation of licences etc

5.—(1) The Governor may grant licences authorising any act that would otherwise be prohibited under this Order.

(2) Any licence granted by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(3) Any licence granted under this Order shall be in writing and may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving a notice to that effect on the holder of the licence.

Registration with the Governor

6.—(1) Not later than 30 days after any person first does any act under the authority of any general licence granted by the Governor that does not provide otherwise, that person shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 7(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 7(4).

(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

Record keeping and inspection

7.—(1) Any person who does any act under the authority of any general licence under this Order shall keep registers or records in accordance with this paragraph.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information to be identified —

- (a) a description of the restricted or controlled goods that have been supplied, delivered, transferred, acquired or disposed of, or for which arrangements or negotiations for their acquisition or disposal have been made or entered into;
- (b) the date or the period of time over which the relevant activities relating to the supply, delivery, transfer, acquisition or disposal of the restricted or controlled goods were carried out;
- (c) the quantity of the restricted or controlled goods;
- (d) the name and address of the end-user of the restricted or controlled goods;
- (e) the name and address of the supplier of the restricted or controlled goods; and
- (f) any further information required to be kept by the Governor.

(3) The registers or records referred to in sub-paragraph (1) shall be kept for at least 4 years from the end of the calendar year in which the authorised act took place.

(4) The person referred to in sub-paragraph (1) shall permit any such records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises, the address of which has been most recently notified to the Governor under paragraph 6.

(6) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the person required under sub-paragraph (1) to maintain such records shall at the request of the person authorised by the Governor or the customs authorities, as the case may be, reproduce such registers or records in a legible form.

Licence refusals etc. and appeals

8.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, that person shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has had a licence application refused under paragraph 5 or who has had a licence suspended or revoked under that paragraph shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

GENERAL

Offences and penalties

9.—(1) Any person who contravenes a prohibition in paragraph 3 or 4 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or the equivalent.

(2) Any person knowingly concerned in the supply, delivery, transfer, acquisition or disposal of any restricted or controlled goods with intent to evade any prohibition or restriction in paragraph 3(1) or 4 shall be guilty of an offence.

(3) Any person knowingly concerned in the supply or delivery of any restricted goods with intent to evade any prohibition or restriction in paragraph 3(2) shall be guilty of an offence.

(4) A person guilty of an offence under sub-paragraph (2) or (3) shall be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

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

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

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

(8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

Misleading applications for licences etc.

10.—(1) Where for the purpose of obtaining a licence under this Order any person either —

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

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

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

Failure to comply with licence conditions

11.—(1) Subject to sub-paragraph (3), any person who —

- (a) has done any act under the authority of a licence granted by the Governor under this Order, and
- (b) fails to comply with —
 - (i) any conditions attaching to that licence;
 - (ii) any obligation under paragraph 6; or
 - (iii) any obligation under paragraph 7,

shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

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

(3) No person shall be guilty of an offence under sub-paragraph (1) where —

- (a) the licence condition in question had been previously modified by the Governor; and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the condition with which he failed to comply was modified by the Governor after the doing of the act authorised by the licence.

Application of customs and excise law

12.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of paragraphs 3, 4, 10 and 11 and any obligation arising under paragraph 7 insofar as the obligation relates to the powers of the customs authorities.

(2) The provisions of the law of the Territory relating to proceedings for offences, mitigation of penalties, proof and other matters in respect of the control of imports and exports apply in relation to offences and penalties under this Order, and proceedings for such offences, as they apply in relation to offences and penalties and proceedings for offences under those provisions.

(3) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (1) shall not be offences in respect of which, under any law of the Territory relating to the control of imports and exports, proceedings may be taken only by, or by order of, the customs authorities.

Use and disclosure of information

13.—(1) This paragraph applies to information which is held by —

- (a) the Governor; or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order, on activities which facilitate or are otherwise connected with the supply or delivery of restricted goods or the transfer, acquisition or disposal of controlled goods.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the United Kingdom;

- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph, "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

Service of notices

14. Any notice to be given by any person under this Order may be given by an agent of that person and shall be sent by post or delivered to the Governor at an address specified in the official gazette of the Territory.

SCHEDULE 3

Article 4

SECTION 9 OF THE EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

"9.—(1) This section applies to licensing powers and other functions conferred on any person by the Trade in Goods (Control) (Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In the application of this section to any of the said territories, "the Territory" means that territory and "the Governor" means the Governor or other officer administering the Government of that territory."

SCHEDULE 4

Article 5

RESTRICTED GOODS

The following are restricted goods for the purposes of this Order:

Certain Security and Para-Military Police Equipment

1. Any good falling within paragraph c. or g. of PL5001 in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) as extended to the Territory by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(b).

Certain Missiles

2. Missiles capable of a range of 300km or more, and specially designed components therefor.

SCHEDULE 5

Article 6

APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS

1. Any person who commits an offence under paragraph 9(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or the equivalent.

2. Any person who commits an offence under paragraph 9(2) or (3) of Schedule 2 shall be liable on conviction –

(1) if tried on information before the Senior Judge's Court, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both;

(2) if tried before the Judge's Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both.

3. Any person who commits an offence under paragraph 10(1) or 11(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount.

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

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

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

7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(b) S.I. 2004/3101.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Export Control Act 2002 (2002 c. 28) (the Act), extends with modifications the Trade in Goods (Control) Order 2003 (S.I. 2003/2765) (the UK Order) to the territories listed in Schedule 1. It controls the trade between one overseas country and another of military and para-military goods and specified missiles for the time being listed in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764, as amended by S.I. 2004/1050, 2004/2561 and 2004/2741) as extended to those overseas territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 (S.I. 2004/3101). In this Order these goods are referred to as “controlled goods”. Further controls are imposed on “restricted goods” as listed in Schedule 4. The controls in this Order do not apply to software or technology or to activities connected to trade in controlled goods that are situated in a territory (with the exception of goods in transit via the territory).

In relation to restricted goods, paragraph 3 of Schedule 2 prohibits any person within a territory, or a United Kingdom person (as defined in the Order) elsewhere, from supplying or delivering, or doing any act calculated to promote the supply or delivery of, restricted goods without a licence from the Governor (or a licence granted under any other order made under the Act).

In relation to controlled goods, paragraph 4 of Schedule 2 prohibits any person in a territory from transferring, acquiring or disposing, or arranging or negotiating a contract for the acquisition or disposal, of controlled goods without a licence from the Governor (or a licence granted under any other order made under the Act). In addition, the provisions on controlled goods prohibit any person in a territory in return for a fee, commission or other consideration from doing any act or agreeing to do any act, without a licence, which would promote the arrangement or negotiation of a contract for the acquisition or disposal of controlled goods where that person knows or has reason to believe that the goods will be moved from one third country to another third country.

Schedule 2 exempts persons whose sole involvement in the movement of controlled goods from one overseas country to another is to provide transport, finance, insurance or general advertising or promotion services.

The remaining paragraphs in Schedule 2 do the following:

Paragraphs 5-7 provide for the issuing of licences by the Governor, registration, record keeping and inspection and licence refusals and appeals;

Paragraphs 8-12 provide for offences, enforcement and penalties for the breach of the controls;

Paragraph 13 sets out the purposes for which information obtained by the Governor, or the customs authorities, can be disclosed; and

Paragraph 14 states the address where notices to be given by any person under this Order are to be sent.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 to this Order sets out the goods which are restricted under this Order and article 5 provides for the Governor to make modifications to Schedule 4 in the event of modifications to the Schedule to the UK Order.

Schedule 5 provides for offences, enforcement and penalties for the breach of the controls in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

**Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004
(SI 2004/3103)**

Commencement in South Georgia and the South Sandwich Islands

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 13 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order, I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation website at www.dti.gov.uk/export.control/publications.htm. All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Dated this third day of May 2005

H. Hall,
Acting Commissioner

2004 No. 3103

OVERSEAS TERRITORIES

Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004

Made - - - - 16th December 2004

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

Citation

1. This Order may be cited as the Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004.

Extent and interpretation

2.—(1) This Order shall extend to the territories listed in Schedule 1.

(2) In the application of this Order to any of the said territories —

- (a) the expression “the Territory” means that territory;
- (b) any reference to “the Governor” means the Governor or other officer administering the Government of that Territory; and
- (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 5.

Extension of Order to territories

3. The Trade in Controlled Goods (Embargoed Destinations) Order 2004(b) (the “UK Order”), as modified in Schedule 2, extends to the territories listed in Schedule 1.

(a) 2002 c. 28.

(b) S.I. 2004/318 as amended by S.I. 2004/1049 and 2004/2741.

Guidance about the exercise of functions under this Order

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

Modification of Schedule 4 (Embargoed Destinations)

5.—(1) Where any modification is made to the Schedule to the UK Order, whether before or after the coming into force of this Order in the territory, the Governor shall, by order published in the official gazette of the Territory, make the like modification to Schedule 4.

(2) An order under paragraph (1) may make transitional provisions in connection with any modification made by such order.

Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings

6. Schedule 5 shall have effect for the application of articles 8, 9 and 10 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

Exercise of powers of the Governor

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

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 2(1)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla
Bermuda
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

**PROVISIONS OF THE TRADE IN CONTROLLED GOODS
(EMBARGOED DESTINATIONS) ORDER 2004 AS EXTENDED TO
THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1**

Commencement

1. This Order shall come into force in each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

Interpretation

2.—(1) In this Order: —

“the Act” means the Export Control Act 2002(a);

“controlled goods” means goods used and unused, specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b) as extended to certain territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c), the supply and delivery of which are prohibited by this Order. For the avoidance of doubt “controlled goods” does not include software and technology;

“country” includes territory;

“customs authorities” means the authorities which, under the law of the Territory, have responsibility for the control of imports and exports;

“embargoed destination” means a country listed in Schedule 4;

“goods in transit” means any controlled goods imported into the Territory for transit or transshipment; and

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory, and, for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a person who under the British Nationality Act 1981(d) is a British subject or a British protected person within the meaning of that Act.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

CONTROLS ON TRADE IN CONTROLLED GOODS

Supply and delivery of controlled goods

3.—(1) Subject to the provisions of this Order, no person shall directly or indirectly —

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act calculated to promote the supply or delivery of,

any controlled goods to any person or place in an embargoed destination.

(a) 2002 c. 28.

(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(c) S.I. 2004/3101.

(d) 1981 c. 61.

(2) Subject to the provisions of this Order, no United Kingdom person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any controlled goods to any person or place in an embargoed destination.

(3) Sub-paragraph (1) applies to any act, or any part of any act, done in the Territory.

(4) Sub-paragraph (2) applies to any act, or any part of any act, done outside the Territory.

(5) Sub-paragraphs (1) and (2) do not apply to any controlled goods that are present in the Territory unless they are goods in transit.

(6) For the purposes of sub-paragraphs (1) and (2), controlled goods that are goods in transit shall be considered to be located in a place outside the Territory.

(7) Nothing in sub-paragraph (1) or (2) shall be taken to prohibit any activities authorised by a licence granted by the Governor under this Order or any other order made under the Act, provided that all the conditions attaching to the licence are complied with.

(8) Nothing in sub-paragraph (1)(b) or (c) or (2)(b) or (c) shall apply where the supply or delivery of the controlled goods to the person or place concerned is authorised by a licence granted by the Governor under this Order or any other order made under the Act.

LICENCES

Granting and revocation of licences etc.

4.—(1) The Governor may grant licences authorising any act that would otherwise be prohibited under this Order.

(2) Any licence granted by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(3) Any licence granted under this Order shall be in writing and may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving a notice to that effect on the holder of the licence.

Registration with the Governor

5.—(1) Not later than 30 days after any person first does any act under the authority of any general licence granted by the Governor that does not provide otherwise, that person shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 6(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 6(4).

(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

Record keeping and inspection

6.—(1) Any person who does any act under the authority of any general licence under this Order shall keep registers or records in accordance with this paragraph.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information to be identified —

- (a) a description of the controlled goods that have been supplied or delivered, or for which arrangements for their supply or delivery have been made;
- (b) the date or the period of time over which the goods were supplied or delivered or activities relating to the supply or delivery of controlled goods were carried out;
- (c) the quantity of the controlled goods;
- (d) the name and address of the end-user of the controlled goods;
- (e) the name and address of the supplier of the controlled goods; and
- (f) any further information required to be kept by the Governor.

(3) The registers or records referred to in sub-paragraph (1) shall be kept for at least 4 years from the end of the calendar year in which the authorised act took place.

(4) The person referred to in sub-paragraph (1) shall permit any such records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises, the address of which has been most recently notified to the Governor under paragraph 5.

(6) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the person required under sub-paragraph (1) to maintain such records shall at the request of the person authorised by the Governor or the customs authorities, as the case may be, reproduce such registers or records in a legible form.

Licence refusals etc. and appeals

7.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, that person shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has had a licence application refused under paragraph 4 or who has had a licence suspended or revoked under that paragraph shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

GENERAL

Offences and penalties

8.—(1) Any person who contravenes a prohibition or restriction in paragraph 3 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or the equivalent.

(2) Any person who knowingly contravenes any prohibition or restriction in paragraph 3 shall be guilty of an offence and may be arrested.

(3) A person guilty of an offence under sub-paragraph (2) shall be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

(4) No person shall be guilty of an offence under sub-paragraph (1) if he is able to show that he did not know, and had no reason to suppose, that the goods were destined for an embargoed destination.

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

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

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

(8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

Misleading applications for licences etc.

9.—(1) Where for the purpose of obtaining a licence under this Order any person either —

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular;

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

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

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

Failure to comply with licence conditions

10.—(1) Subject to sub-paragraph (3), any person who —

- (a) has done any act under the authority of a licence granted by the Governor under this Order, and
- (b) fails to comply with —
 - (i) any conditions attaching to that licence;
 - (ii) any obligation under paragraph 5; or

- (iii) any obligation under paragraph 6,
- shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) shall be liable —
- (a) on summary conviction to a fine of not exceeding £5,000 or the equivalent; or
 - (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or both.
- (3) No person shall be guilty of an offence under sub-paragraph (1) where —
- (a) the licence condition in question had been previously modified by the Governor; and
 - (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
 - (c) the condition with which he failed to comply was modified by the Governor after the doing of the act authorised by the licence.

Application of customs and excise laws

11.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of paragraphs 3, 9 and 10(1)(b)(i), or any obligation arising under paragraph 6 insofar as the obligation relates to the powers of the customs authorities.

(2) The provisions of the law of the Territory relating to proceedings for offences, mitigation of penalties, proof and other matters in respect of the import and export of goods apply in relation to offences and penalties under this Order, and proceedings for such offences, as they apply in relation to offences and penalties and proceedings for offences under those provisions.

(3) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (1) shall not be offences in respect of which under any law of the Territory relating to customs and excise proceedings may be taken only by, or by order of, the customs authorities.

Use and disclosure of information

12.—(1) This paragraph applies to information which is held by —

- (a) the Governor, or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order on activities which facilitate or are otherwise connected with the supply or delivery of controlled goods.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph “information” is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

Service of Notices

13. Any notice to be given by any person under this Order may be given by an agent of that person and shall be sent by post or delivered to the Governor at an address to be specified in the official gazette of the Territory.

SCHEDULE 3

Article 4

SECTION 9 OF THE EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

“9.—(1) This section applies to licensing powers and other functions conferred on any person by the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In the application of this section to any of the said territories, “the Territory” means that territory and “the Governor” means the Governor or other officer administering the Government of that territory.”.

SCHEDULE 4

Article 5

EMBARGOED DESTINATIONS

Armenia

Azerbaijan

Bosnia and Herzegovina

Burma (Myanmar)

Democratic Republic of the Congo

Iran

Ivory Coast (Côte d'Ivoire)

Sudan

SCHEDULE 5

Article 6

APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS

1. Any person who commits an offence under paragraph 8(1) of Schedule 2 shall be guilty of a misdemeanour and liable on conviction to a fine not exceeding £5,000 or the equivalent.

2. Any person who commits an offence under paragraph 8(2) of Schedule 2 shall be liable on conviction —

(1) if tried on information before the Senior Judge's Court, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both;

(2) if tried before the Judge's Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both.

3. Any person who commits an offence under paragraph 9(1) or 10(1) of Schedule 2 shall be guilty of a misdemeanour and liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

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

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

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

7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Export Control Act 2002 (the Act), extends with modifications the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (S.I. 2004/318 as amended by S.I. 2004/1049 and 2004/2741) (the UK Order) to the territories listed in Schedule 1. It prohibits trade in certain goods between any overseas country and the embargoed destinations listed in Schedule 4. In this Order, these goods are referred to as "controlled goods", and are found in part 1 of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764, as amended by S.I. 2004/1049, 2004/2561 and 2004/2741) as extended to the overseas territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 (SI

2004/3101). The controls in this Order do not apply to software and technology or to activities connected to trade in controlled goods that are situated in a territory to which it applies (with the exception of goods in transit via the territory).

In relation to controlled goods, paragraph 3 of Schedule 2 prohibits any person within a listed territory, or a United Kingdom person (as defined in the Order) elsewhere, from supplying or delivering, agreeing to supply or deliver, or doing any act calculated to promote the supply or delivery of, controlled goods to any embargoed destination listed in Schedule 4, without a licence from the Governor (or a licence granted under any other order made under the Act).

The remaining paragraphs in Schedule 2 do the following:

Paragraphs 4-7 provide for the issuing and revocation of licences granted by the Governor, registration, record keeping and inspection and licence refusals and appeals;

Paragraphs 8-11 provide for offences, enforcement and penalties for the breach of the controls;

Paragraph 12 sets out the purposes for which information obtained by the Governor or customs authorities of a territory can be disclosed; and

Paragraph 13 states the address where notices are to be sent.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 sets out the embargoed destinations under this Order, and article 5 provides for the Governor to make modifications to Schedule 4 in the event of modifications to the Schedule to the UK Order.

Schedule 5 provides for offences, enforcement and penalties for the breach of the controls in Schedule 2 in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

44

Printed by the Government Printer, Printing Office, Stanley, Falkland Islands.
Price: Seven Pounds and Sixty Pence.

© Crown Copyright 2005



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 3

13th May 2005

The following are published in this Gazette -

**The Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005,
(2005 No. 242);**

The Chemical Weapons (Overseas Territories) Order 2005, (2005 No. 854);

STATUTORY INSTRUMENTS

2005 No. 242

OVERSEAS TERRITORIES

The Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005

<i>Made</i>	<i>9th February 2005</i>
<i>Laid before Parliament</i>	<i>10th February 2005</i>
<i>Coming into force</i>	<i>11th February 2005</i>

At the Court at Buckingham Palace, the 9th day of February 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

Citation, commencement, extent and application

1. - (1) This Order may be cited as the Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005 and shall come into force on 11th February 2005.

(2) This Order shall extend to the territories listed in Schedule 1.

(3) Article 19 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(4) In the application of this Order to any of the said territories, the expression "the Territory" in this Order means that territory, and references to the official gazette of a Territory include a reference to any form in which official information is normally made available in that Territory.

(5) Articles 3, 4, 5, 7, 8 and 9 shall apply to any person within the Territory and any person elsewhere who is -

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

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

(a) 1833 c.85.

(b) 1887 c.54 and 1945 c.7.

2. - (1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say -

"aircraft" means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

"assistance" means any form of assistance including technical assistance, services, financing and financial assistance;

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

"designated person" means an individual, designated by the Committee established pursuant to paragraph 14 of resolution 1572 (2004) adopted by the Security Council of the United Nations on 15 November 2004, as constituting a threat to the peace and national reconciliation process in Côte d'Ivoire for the purposes of that resolution;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes "shipment" as "stores";

"exportation" in relation to any "ship", submersible vehicle or "aircraft", includes the taking out of the Territory of the "ship", submersible vehicle or "aircraft" notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

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

"Governor" means the Governor or other officer administering the Government of the Territory;

"Ivory Coast" means the Republic of Côte d'Ivoire;

"master", in relation to a "ship", includes any person (other than a pilot) for the time being in charge of the "ship";

"operator", in relation to an "aircraft" or "vehicle", means the person for the time being having the management of the "aircraft" or "vehicle";

"owner", in relation to a "ship", where the owner is not the "operator", means the "operator" and any person to whom it is chartered;

"relevant institution" means -

(a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;

(b) any person who may lawfully accept deposits in or from within the Territory by way of business; and

(c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) made under the Export Control Act 2002(b), as extended to the territories listed in Schedule 1 thereto by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c), and equipment that might be used for internal repression as listed in Schedule 3;

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

"shipment" includes loading into an "aircraft";

"stores" means goods for use in a "ship" or "aircraft" and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a "ship" or "aircraft" as merchandise for sale by retail to persons carried therein; and

"vehicle" means a land transport vehicle.

(2) For the purpose of the definition of "relevant institution" in paragraph (1) -

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(d); and

(b) a person is not regarded as accepting deposits by way of business if -

(i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(c) In determining for the purposes of sub-paragraph (b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(3) For the purposes of identifying "designated persons" referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such designated persons to be published in the official gazette of the Territory as necessary from time to time.

RESTRICTED GOODS, ASSISTANCE AND TRAINING

Supply of restricted goods

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Ivory Coast shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Ivory Coast.

(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(b) 2002 c.28.

(c) S.I. 2004/3101.

(d) 2002 c.8.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of restricted goods to Ivory Coast

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Ivory Coast or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Ivory Coast.

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

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) above and of an offence under article 3(1), he shall not be guilty of the offence under paragraph (3) above.

Provision of assistance, advice or training related to military activities and provision, manufacture, maintenance or use of restricted goods

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Ivory Coast any assistance, advice or training related to military activities or to the provision, manufacture, maintenance or use of restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Ivory Coast.

Use of ships, aircraft and vehicles: restricted goods

6. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under article 3 or 4, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Ivory Coast to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

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

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

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Ivory Coast to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Ivory Coast was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

MAKING FUNDS AVAILABLE AND FREEZING OF FUNDS

Making funds available to designated persons

7. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds available to or for the benefit of any designated person or any person acting on behalf of a designated person shall be guilty of an offence under this Order.

Freezing of funds

8. - (1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be a designated person or a person acting on behalf of a designated person, the Governor may by notice direct that those funds are not to be made available to that person except under the authority of a licence granted by the Governor under article 7.

(2) A direction given under paragraph (1) shall specify either -

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 7 in respect of the funds in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held ("the owner").

(6) A recipient shall be treated as complying with the requirement under paragraph (5) if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside, and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with a requirement under paragraph (5) is guilty of an offence under this Order.

Facilitation of activities prohibited under article 7 or 8(9)

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence under this Order.

Failure to disclose knowledge or suspicion of measures

10. - (1) A relevant institution is guilty of an offence if -

(a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time -

(i) is a designated person; or

(ii) has committed an offence under article 7, 8(9), 9 or 17(2); and

(b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the Governor -

(a) its knowledge or suspicion that a person is a designated person, a person acting on behalf of a designated person, or a person who has committed an offence under article 7, 8(9), 9 or 17(2), or

(b) any information or other matter on which that knowledge or suspicion is based, the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

CUSTOMS POWERS AND INVESTIGATIONS

Customs powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Declaration as to goods: powers of search

12. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

(a) declare whether or not he has with him any restricted goods which are destined for Ivory Coast or for delivery, directly or indirectly, to or to the order of any person in Ivory Coast; and

(b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships

13. - (1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 16(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any authorised officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected aircraft

14. - (1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
- (c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 16(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

15. - (1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 6 -

- (a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 16(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b) detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 13 to 15

16. - (1) No information furnished or document produced by any person in pursuance of a request made under article 13, 14 or 15 shall be disclosed except -

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

(b) to any person who would have been empowered under article 13, 14 or 15 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the State of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Ivory Coast decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 13, 14 or 15 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say -

(a) a master of a ship who disobeys any direction given under article 13(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 13, 14 or 15 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 13, 14 or 15.

(4) Nothing in articles 13 to 15 or this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

GENERAL

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

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

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

(3) No person shall be guilty of an offence under paragraph (2) where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, after the doing of the act authorised by the licence.

Obtaining of evidence and information

18. Schedule 4 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of the matters regulated by this Order, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

Penalties and proceedings

19. - (1) Any person guilty of an offence under article 3(1), 4(3), 5, 6(3), 7, 8(9), 9 or 11 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine of any amount or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 16(3)(b)(ii) or paragraph 5(b) or 5(d) of Schedule 4 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(10), 10(1), 12(4), 17(1) or 17(2) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both;

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 16(3)(a), 16(3)(b)(i), 16(3)(c), or paragraph 5(a) or 5(c) of Schedule 4 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 12(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions; but this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of powers of the Governor

20. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 4 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by at any time by written notice given by the Governor to each recipient of the licence.

(3) A notice under paragraph (2) may be given by post, and shall be deemed to have been given to a person if it is

sent to him at his last known address.

(4) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

Miscellaneous

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

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

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 1(2)

TERRITORIES TO WHICH THE ORDER EXTENDS

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

SCHEDULE 2

Article 1(3)

APPLICATION OF ARTICLE 19 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

1. Any person who commits an offence under article 3(1), 4(3), 5, 6(3), 7, 8(9), 9 or 11 shall be liable on conviction -

(a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine of any amount, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under 16(3)(b)(ii), or paragraph 5(b) or 5(d) of Schedule 4, shall be liable on conviction -

(a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

3. Any person who commits an offence under article 8(10), 10(1), 12(4), 17(1) or 17(2) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

4. Any person who commits an offence under article 16(3)(a), 16(3)(b)(i) or 16(3)(c), or paragraph 5(a) or 5(c) of Schedule 4, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

5. Any person who commits an offence under article 12(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

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

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

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

9. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

SCHEDULE 3

Article 2(1)

EQUIPMENT THAT MIGHT BE USED FOR INTERNAL REPRESSION

1. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

2. Specially designed fingerprint equipment.

3. Power controlled searchlights.

4. Construction equipment provided with ballistic protection.

5. Hunting knives.
6. Specially designed production equipment to make shotguns.
7. Ammunition hand-loading equipment.
8. Communications intercept devices.
9. Solid-state optical detectors.
10. Image-intensifier tubes.
11. Telescopic weapon sights.
12. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; except:
 - (1) signal pistols;
 - (2) air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
13. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
14. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
15. Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.
16. All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
17. Water cannon and specially designed or modified components therefor.
18. Vehicles equipped with a water cannon.
19. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
20. Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
21. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings; except:
 - (1) handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.
22. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.
23. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shocks batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
24. Electronic equipment capable of detecting concealed explosives and specially designed components therefor;

except:

(1) TV or X-ray inspection equipment.

25. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.

26. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except:

(1) those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflators, electric-surge arresters or fire sprinkler actuators).

27. Equipment and devices designed for explosive ordnance disposal; except:

(1) bomb blankets;

(2) containers designed for folding objects known to be, or suspected of being improvised explosive devices.

28. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

29. Software specially designed and technology required for all listed items.

30. Linear cutting explosive charges.

31. Explosives and related substances as follows:

(1) amatol,

(2) nitrocellulose (containing more than 12,5 % nitrogen),

(3) nitroglycol,

(4) pentaerythritol tetranitrate (PETN),

(5) picryl chloride,

(6) tinitorphenylmethylnitramine (tetryl),

(7) 2,4,6-trinitrotoluene (TNT)

32. Software specially designed and technology required for all listed items.

SCHEDULE 4

Article 18

EVIDENCE AND INFORMATION

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

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted under paragraph 5(a) of this Schedule of failing to furnish information or produce a document when requested so to do, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

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

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph;

but no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized, provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Ivory Coast decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE
(This note is not part of the Order)

This Order applies to each of the territories specified in Schedule 1. This instrument gives effect to certain measures in resolution 1572 adopted by the Security Council of the United Nations on 15 November 2004, as implemented in the EU. UNSCR 1572 (2004) amongst other things imposes an arms embargo, with certain exemptions, on Ivory Coast with immediate effect; and provided for an assets freeze and travel ban against certain persons to come into effect on 15 December 2004. The targeted persons will be those designated by the Sanctions Committee as constituting a threat to the peace and national reconciliation process in Ivory Coast. These measures are implemented in the EU by Common Position CSFP/852/2004 adopted on 13 December 2004, which extends the arms embargo to equipment which might be used for internal repression and bans financial assistance related to military activities subject to the embargo. Aspects of the sanctions falling within Community competence will be implemented in two EC Regulations.

STATUTORY INSTRUMENTS

2005 No. 854

CHEMICAL WEAPONS

The Chemical Weapons (Overseas Territories) Order 2005

<i>Made</i>	<i>22nd March 2005</i>
<i>Coming into force</i>	<i>22nd April 2005</i>

At the Court at Buckingham Palace, the 22nd day of March 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 39(3) of the Chemical Weapons Act 1996(a) and section 57 of the Anti-terrorism, Crime and Security Act 2001(b), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows -

Citation and commencement

1. This Order may be cited as the Chemical Weapons (Overseas Territories) Order 2005 and shall come into force on 22nd April 2005.

Extent and construction

2. - (1) The provisions of the Chemical Weapons Act 1996, excepted, adapted and modified as in Schedule 1 to this Order, shall extend to the territories listed in Schedule 3 to this Order.

(2) The provisions of the Chemical Weapons Act 1996, as so excepted, adapted and modified, shall -

(a) in their application to the British Antarctic Territory and the British Indian Ocean Territory, be subject to the further exceptions, adaptations and modifications set out in Schedule 4 to this Order;

(b) in their application to Pitcairn, Henderson, Ducie and Oeno Islands, be subject to the further adaptations and modifications set out in Schedule 5 to this Order;

(c) in their application to Bermuda, be subject to the further adaptations and modifications set out in Schedule 6 to this Order;

(d) in their application to the Turks and Caicos Islands, be subject to the further adaptations and modifications set out in Schedule 7 to this Order;

(e) in their application to the Sovereign Base Areas of Akrotiri and Dhekelia, be subject to the further exceptions, adaptations and modifications set out in Schedule 8 to this Order.

(a) 1996 c.6.

(b) 2001 c.24.

3. - (1) Sections 50 to 56 of the Anti-terrorism, Crime and Security Act 2001, excepted and modified as in Schedule 2 to this Order, shall extend to the territories listed in Schedule 3 to this Order.

(2) Sections 50 to 56 of the Anti-terrorism, Crime and Security Act 2001, as so excepted and modified, shall -

(a) in their application to the British Antarctic Territory and the British Indian Ocean Territory, be subject to the further modification set out in Schedule 4A to this Order;

(b) in their application to Pitcairn, Henderson, Ducie and Oeno Islands, be subject to the further modification set out in Schedule 5A to this Order;

(c) in their application to the Sovereign Base Areas of Akrotiri and Dhekelia, be subject to the further modification set out in Schedule 8A to this Order.

Interpretation

4. - (1) Except as otherwise provided, in the application of each Act to any of the territories to which it is extended, the expression "the Territory" means that territory.

(2) In each Act, "Governor" means the Governor or other officer administering the government of the Territory.

(3) In each Act, "justice of the peace" means a justice of the peace or a magistrate.

(4) In each Act, "Attorney General" means the Attorney General of the Territory or, in his absence, any other person for the time being discharging his functions.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 2

PROVISIONS OF THE CHEMICAL WEAPONS ACT 1996 AS EXCEPTED, ADAPTED AND MODIFIED AND EXTENDED TO THE TERRITORIES LISTED IN SCHEDULE 3

Introduction

General interpretation

1. - (1) Chemical weapons are -

(a) toxic chemicals and their precursors;

(b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them;

(c) equipment designed for use in connection with munitions and devices falling within paragraph (b).

(2) Subsection (1) is subject to sections 2(2) and (3), 10(1) and 11(2) (by virtue of which an object is not a chemical weapon if the use or intended use is only for permitted purposes).

(3) Permitted purposes are -

- (a) peaceful purposes;
- (b) purposes related to protection against toxic chemicals;
- (c) legitimate military purposes;
- (d) purposes of enforcing the law.

(4) Legitimate military purposes are all military purposes except those which depend on the use of the toxic properties of chemicals as a method of warfare in circumstances where the main object is to cause death, permanent harm or temporary incapacity to humans or animals.

(5) A toxic chemical is a chemical which through its chemical action on life processes can cause death, permanent harm or temporary incapacity to humans or animals; and the origin, method of production and place of production are immaterial.

(6) A precursor is a chemical reactant which takes part at any stage in the production (by whatever method) of a toxic chemical.

(7) References to an object include references to a substance.

(8) The Convention is the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13 to 15 January 1993(a).

(9) This section applies for the purposes of this Act.

Chemical Weapons

Use etc of chemical weapons

2. - (1) No person shall -

- (a) use a chemical weapon;
- (b) develop or produce a chemical weapon;
- (c) have a chemical weapon in his possession;
- (d) participate in the transfer of a chemical weapon;
- (e) engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon.

(2) For the purposes of subsection (1)(a) an object is not a chemical weapon if the person uses the object for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) For the purposes of subsection (1)(b), (c), (d) or (e) an object is not a chemical weapon if the person does the act there mentioned with the intention that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(a) Miscellaneous No.21 (1993) Cm.2331.

- (4) For the purposes of subsection (1)(d) a person participates in the transfer of an object if -
- (a) he acquires or disposes of the object or enters into a contract to acquire or dispose of it, or
 - (b) he makes arrangements under which another person acquires or disposes of the object or another person enters into a contract to acquire or dispose of it.
- (5) For the purposes of subsection (4) -
- (a) to acquire an object is to buy it, hire it, borrow it or accept it as a gift;
 - (b) to dispose of an object is to sell it, let it on hire, lend it or give it.
- (6) In proceedings for an offence under subsection (1)(a), (c) or (d) relating to an object it is a defence for the accused to prove -
- (a) that he neither knew nor suspected nor had reason to suspect that the object was a chemical weapon, or
 - (b) that he knew or suspected it to be a chemical weapon and as soon as reasonably practicable after he first so knew or suspected he took all reasonable steps to inform the Governor or a police officer of his knowledge or suspicion.
- (7) Nothing in subsection (6) prejudices any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.
- (8) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

Application of section 2

3. - (1) Section 2 applies to acts done in the Territory or elsewhere.
- (2) So far as it applies to acts done outside the Territory, section 2 applies to United Kingdom nationals, and bodies incorporated under the law of the Territory.
- (3) For the purposes of this section a United Kingdom national is an individual who is -
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981(a) is a British subject, or
 - (c) a British protected person within the meaning of that Act.
- (4) Proceedings for an offence committed under section 2 outside the Territory may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the Territory.

Suspicious objects

4. - (1) If -
- (a) the Governor has grounds to suspect that an object is a chemical weapon, and

(a) 1981 c.61.

(b) at least one person falls within subsection (2),

the Governor may serve on any person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

(a) any person who appears to the Governor to have the object in his possession, and

(b) any person not falling within paragraph (a) and who appears to the Governor to have an interest which the Governor believes is materially affected by the notice.

(3) A notice falling within this subsection is a notice which -

(a) describes the object and states its location;

(b) states that the Governor suspects that the object is a chemical weapon and gives the reasons for his suspicion;

(c) states that he is considering whether to secure its destruction under sections 5 to 7;

(d) states that any person may make representations that the object is not a chemical weapon;

(e) states that a person on whom the notice is served and who has the object in his possession must not relinquish possession before a date specified in the notice.

Power to remove or immobilise objects

5. - (1) If the Governor has reasonable cause to believe that -

(a) an object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection, and

(b) the object is a chemical weapon,

the Governor may authorise a person to enter the premises and to search them.

(2) If a justice of the peace is satisfied on information on oath that there is reasonable cause to believe that an object is on premises (of whatever nature) and that it is a chemical weapon, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(3) A person who acts under an authorisation given under subsection (1) or (2) may take with him such other persons and such equipment as appear to him to be necessary.

(4) If a person enters premises under an authorisation given under subsection (1) or (2) and the object is found there he may make the object safe and -

(a) he may seize and remove it if it is reasonably practicable to do so, or

(b) he may in any other case affix a warning to the object or to something in a conspicuous position

near the object, stating that the object is not to be moved or interfered with before a date specified in the warning.

(5) For the purposes of subsection (4) an object is made safe if, without being destroyed, it is prevented from being an immediate danger (as where a fuse is neutralised or the object is smothered in foam).

(6) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (1) or the warrant so provides, in the presence of a police officer.

(7) This section applies whether or not any copy of a notice has been served under section 4.

Power to destroy removed objects

6. - (1) This section applies if an object is removed from premises under section 5, and for the purposes of this section -

(a) the first six-month period is the period of six months beginning with the day after the removal;

(b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed he may authorise a person to destroy it; but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period -

(a) any person appears to the Governor to have had the object in his possession immediately before its removal, or

(b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which -

(a) describes the object and states its location;

(b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;

(c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;

(d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must -

(a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and

(b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If an object is removed from premises under section 5 and destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the removal and destruction; and a responsible person is any person who had possession of the object immediately before its removal.

(7) If -

- (a) an object is removed from premises under section 5,
- (b) at the end of the second six-month period the Governor has not authorised the destruction of the object, and
- (c) a person had possession of the object immediately before its removal,

the Governor must return the object to the person mentioned in paragraph (c) or, if there is more than one, to such of them as the Governor thinks appropriate.

Power to enter premises and destroy objects

7. - (1) This section applies if a warning has been affixed under section 5, and for the purposes of this section -

- (a) the first six-month period is the period of six months beginning with the day after the warning was affixed;
- (b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed it may be destroyed as provided by subsections (6) to (9); but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period -

- (a) any person appears to the Governor to have had the object in his possession immediately before the warning was affixed, or
- (b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which -

- (a) describes the object and states its location;
- (b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;
- (c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;
- (d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must –

(a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and

(b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If -

(a) at any time in the second six-month period the Governor decides that the object should be destroyed, and

(b) the object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection,

the Governor may authorise a person to enter the premises and to destroy the object if it is found there.

(7) If (whatever the nature of the premises concerned) a justice of the peace is satisfied on information on oath that a warning has been affixed under section 5, and that the Governor has decided at any time in the second six-month period that the object should be destroyed, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to destroy the object if it is found there.

(8) A person who acts under an authorisation given under subsection (6) or (7) may take with him such other persons and such equipment as appear to him to be necessary.

(9) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (6) or the warrant so provides, in the presence of a police officer.

(10) Where an object is destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the destruction; and a responsible person is any person who had possession of the object immediately before the warning was affixed under section 5.

Compensation for destruction

8. - (1) This section applies if a person claims that -

(a) an object has been destroyed under section 6 or 7,

(b) he had an interest which was materially affected by the destruction and he sustained loss as a result, and

(c) no copy of a notice was served on him under the section concerned (whether or not one was served on any other person).

(2) If the person concerned makes an application under this section to the supreme court of the Territory, and the court finds that his claim is justified, the court may order the Governor to pay to the applicant such amount (if any) by way of compensation as the court considers just.

(3) If the court believes that the object would have been destroyed even if a copy of a notice had been

served on the applicant under the section concerned the court must not order compensation to be paid under this section.

Offences relating to destruction etc

9. - (1) If -

- (a) a copy of a notice is served on a person under section 4,
- (b) the notice relates to an object in his possession at the time the copy is served,
- (c) he relinquishes possession before the date specified under section 4(3)(e), and
- (d) he has no reasonable excuse for so relinquishing possession, he is guilty of an offence.

(2) If a person wilfully obstructs a person in -

- (a) entering or searching premises under an authorisation given under section 5(1) or (2) or 7(6) or (7),
- (b) making an object safe, seizing or removing an object, or affixing a warning, under section 5(4),
- (c) destroying an object under an authorisation given under section 6(2) or 7(6) or (7), or
- (d) attempting to do anything mentioned in paragraphs (a) to (c),

the person so obstructing is guilty of an offence.

(3) If -

- (a) a warning is affixed under section 5(4),
- (b) a person interferes with the warning, or moves or interferes with the object before the date specified in the warning, and
- (c) he has no reasonable excuse for doing so,

he is guilty of an offence.

(4) A person guilty of an offence under any of the preceding provisions of this section is liable -

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a copy of a notice served under section 4, 6 or 7 is guilty of an offence and liable -

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

Destruction etc: supplementary

10. - (1) If an object is in the possession of a person who intends that it will be used only for permitted purposes, it is not a chemical weapon for the purposes of sections 4(1) and (3) and 5(1) and (2); and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(2) For the purposes of sections 4 to 9 -

(a) to the extent that an object consists of a toxic chemical or precursor, it is destroyed if it is permanently prevented from being used other than for permitted purposes;

(b) to the extent that an object consists of a munition or other device designed to cause death or harm through toxic chemicals released by it, it is destroyed if it is permanently prevented from doing so;

(c) to the extent that an object consists of equipment designed for use in connection with a munition or other device, it is destroyed if it is permanently prevented from being so used.

(3) In sections 5 to 9 "premises" includes land (including buildings), moveable structures, vehicles, vessels, aircraft and hovercraft.

(4) Nothing in sections 4 to 7 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

Premises for producing chemical weapons etc

Premises or equipment for producing chemical weapons

11. - (1) No person shall -

(a) construct premises he intends to be used to produce chemical weapons;

(b) alter premises in circumstances where he intends that they will be used to produce chemical weapons;

(c) install or construct equipment he intends to be used to produce chemical weapons;

(d) alter equipment in circumstances where he intends that it will be used to produce chemical weapons;

(e) permit the construction on land he occupies of premises he intends to be used to produce chemical weapons;

(f) permit premises on land he occupies to be altered in circumstances where he intends that they will be used to produce chemical weapons;

(g) permit the installation or construction on land he occupies of equipment he intends to be used to produce chemical weapons;

(h) permit equipment on land he occupies to be altered in circumstances where he intends that it will be used to produce chemical weapons.

(2) For the purposes of subsection (1) an object is not a chemical weapon if the person intends that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended

the types and quantities of objects shall be taken into account.

(3) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

Suspicious equipment or buildings

12. - (1) If -

(a) the Governor has grounds to suspect that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

the Governor may serve on any person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

(a) any person who appears to the Governor to occupy the land on which the equipment or building is situated,

(b) if the Governor's suspicion relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Governor to have an interest which the Governor believes is materially affected by the notice.

(3) A notice falling within this subsection is a notice which -

(a) describes the equipment or building and states its location;

(b) states that the Governor suspects that the equipment or building is a chemical weapons production facility and gives the reasons for his suspicion;

(c) states that he is considering whether to require the equipment or building to be destroyed or altered;

(d) states that any person may make representations that the equipment or building is not a chemical weapons production facility.

(4) If the notice relates to equipment it must state that a person on whom the notice is served and who has the equipment in his possession must not relinquish possession of or alter or use, the equipment before a date specified in the notice.

Notice requiring destruction or alteration

13. - (1) If -

(a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

the Governor may serve on each person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

- (a) any person who appears to the Governor to occupy the land on which the equipment or building situated,
- (b) if the Governor's belief relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and
- (c) any person not falling within paragraph (a) or (b) and who appears to the Governor to have an interest which the Governor believes would be materially affected by the destruction or alteration of the equipment or building.

(3) A notice falling within this subsection is a notice which -

- (a) describes the equipment or building and states its location;
- (b) states that the Governor believes the equipment or building is a chemical weapons production facility;
- (c) requires the equipment or building to be destroyed or altered (as the case may be) in a manner, and before a date, specified in the notice.

(4) If a notice under this section requires any equipment or building to be altered, a further notice under this section may -

- (a) revoke the first notice, and
- (b) require the equipment or building to be destroyed;

and the preceding provisions of this section shall apply to the further notice accordingly.

(5) This section applies whether or not any copy of a notice has been served under section 12.

Power where notice not complied with

14. - (1) For the purposes of this section the qualifying condition is that -

- (a) a notice has been prepared under section 13,
- (b) the provisions of section 13(1) to (3) have been complied with in relation to the notice,
- (c) the notice has not been revoked, and
- (d) any requirement set out in the notice has not been complied with.

(2) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.

(3) If a person is authorised by a warrant to take remedial action under this section he may -

- (a) enter the land on which the equipment or building is situated, if necessary by force;
 - (b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the notice;
 - (c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).
- (4) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.
- (5) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is -
- (a) in the case of equipment, any person in possession of the equipment at the time the land is entered;
 - (b) in the case of a building, any person occupying the land at the time it is entered.

Position where no notice can be served

15. - (1) For the purposes of this section the qualifying condition is that -

- (a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility,
 - (b) in the period of six months beginning with the day after he formed his belief it has not been possible to serve a copy of a notice under section 13 because of the circumstances mentioned in subsection (2), and
 - (c) the Governor has drawn up proposals for the destruction or alteration of the equipment or building in a manner specified in the proposals.
- (2) The circumstances are that -
- (a) no person appeared to the Governor to occupy the land on which the equipment or building is situated,
 - (b) if the Governor's belief relates to equipment, no person appeared to the Governor to have the equipment in his possession, and
 - (c) no person appeared to the Governor to have an interest which the Governor believed would be materially affected by the destruction or alteration of the equipment or building.
- (3) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.
- (4) If a person is authorised by a warrant to take remedial action under this section he may -
- (a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the proposals drawn up by the Governor;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

(5) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

(6) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is -

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

Compensation for destruction or alteration

16. - (1) This section applies if a person claims that -

(a) any equipment or building has been destroyed or altered in compliance with a notice falling within section 13(3) or has been destroyed or altered under section 14,

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result, and

(c) no copy of a notice was served on him under section 13.

(2) This section also applies if a person claims that -

(a) any equipment or building has been destroyed or altered under section 15, and

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result.

(3) If the person concerned makes an application under this section to the supreme court of the Territory, and the court finds that his claim is justified, the court may order the Governor to pay to the applicant such amount (if any) by way of compensation as the court considers just.

(4) If the court believes that the equipment or building would have been destroyed or altered even if a copy of a notice had been served on the applicant under section 13 the court must not order compensation to be paid under this section.

Offences relating to destruction etc

17. - (1) If -

(a) a copy of a notice is served on a person under section 12,

(b) the notice relates to equipment in his possession at the time the copy is served,

(c) he relinquishes possession of, or alters or uses, the equipment before the date specified under

section 12(4), and

(d) he has no reasonable excuse for doing so,

he is guilty of an offence.

(2) If -

(a) a copy of a notice is served on a person under section 13,

(b) the notice relates to equipment in his possession at the time the copy is served or to a building situated on land he occupies at that time,

(c) any requirement set out in the notice is not fulfilled, and

(d) he has no reasonable excuse for the requirement not being fulfilled,

he is guilty of an offence.

(3) If a person wilfully obstructs -

(a) a person exercising, or attempting to exercise, the powers mentioned in section 14(3)(a) or (b) or 15(4)(a) or (b), or

(b) any other person taken with him as mentioned in section 14(3)(c) or 15(4)(c) and helping him, or attempting to help him, to exercise those powers,

the person so obstructing is guilty of an offence.

(4) A person guilty of an offence under any of the preceding provisions of this section is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a notice served under section 12 is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

Destruction etc: supplementary

18. - (1) In sections 12 to 15 "chemical weapons production facility" has the meaning given by the definition of that expression in the Convention, and for this purpose -

(a) expressions used in the definition in the Convention shall be construed in accordance with the Convention, and

(b) section 1 shall be ignored.

(2) For the purposes of sections 12 to 16 "destroyed" and "destruction", in relation to a building, mean demolished and demolition.

(3) Nothing in sections 12 to 15 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

Chemicals for permitted purposes

Restriction on use etc

19. - (1) Subject to section 20 (which relates to licences) no person shall -

(a) use a Schedule 1 toxic chemical or precursor for a permitted purpose, or

(b) produce or have in his possession a Schedule 1 toxic chemical or precursor with the intention that it will be used for a permitted purpose.

(2) A Schedule 1 toxic chemical or precursor is a toxic chemical or precursor listed in Schedule 1 to the annex on chemicals to the Convention; and for ease of reference that Schedule is set out in the Schedule to this Act.

(3) A person contravening this section is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

Licences

20. - (1) Section 19 does not apply to anything done in accordance with the terms of a licence granted by the Governor and having effect at the time it is done.

(2) The Governor may -

(a) grant a licence in such circumstances and on such terms as he thinks fit;

(b) vary or revoke a licence by serving a notice to that effect on the person to whom the licence was granted.

(3) A variation or revocation shall take effect at such reasonable time as is specified in the notice served under subsection (2)(b).

(4) The Governor may by order make provision with respect to appealing against a refusal to grant, renew or vary a licence or against a variation or revocation of a licence.

(5) [omitted]

(6) A person who knowingly makes a false or misleading statement for the purpose of obtaining a licence or renewal or variation of a licence, or of opposing a variation or revocation of a licence, is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

Information and records

Information for purposes of Act

21. - (1) If the Governor has grounds to suspect that a person is committing or has committed an offence under this Act the Governor may by notice served on the person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as -

(a) the Governor has reasonable cause to believe will help to establish whether the person is committing or has committed such an offence, and

(b) is specified in the notice.

(2) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(3) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

Information and records for the purposes of Convention

22. - (1) The Governor may by notice served on any person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as -

(a) the Governor has reasonable cause to believe is or will be needed in connection with anything to be done for the purposes of the Convention, and

(b) is specified in the notice;

and the information required by a notice may relate to a state of affairs subsisting before the coming into force of this Act or of the Convention.

(2) The Governor may by notice served on any person require him to keep such records as -

(a) the Governor has reasonable cause to believe will facilitate the giving of information the person may at any time be required to give under subsection (1), and

(b) are specified in the notice.

(3) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) or (2) is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(4) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

Identifying persons who have information

23. - (1) The Governor may make regulations requiring persons of any description specified in the regulations to inform him that they are of such a description.

(2) Any such description must be so framed that persons within it are persons on whom the Governor is likely to want to serve a notice under section 22.

(3) If regulations are made under this section the Governor shall arrange for a statement of the fact that they have been made to be published in such manner as is likely to bring them to the attention of persons affected by them.

(4) A person who without reasonable excuse fails to comply with a requirement imposed by the regulations is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a requirement imposed by the regulations is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

(6) [omitted]

Inspections under Convention

Inspections: interpretation

24. For the purposes of sections 25 to 28 -

(a) the verification annex is the annex on implementation and verification to the Convention;

(b) a routine inspection is an inspection conducted pursuant to Parts II to IX of that annex;

(c) a challenge inspection is an inspection conducted pursuant to Parts II and X of that annex;

(d) an assistance inspection is an inspection conducted pursuant to Parts II and XI of that annex;

(e) "in-country escort", "inspector", "inspection team" and "observer" have the meanings given by Part I of that annex.

Rights of entry etc for purposes of inspections

25. - (1) If it is proposed to conduct a routine inspection, a challenge inspection or an assistance inspection in the Territory, the Governor may issue an authorisation under this section in respect of that inspection.

(2) An authorisation under this section shall -

- (a) contain a description of the area (the specified area) in which the inspection is to be conducted,
- (b) specify the type of inspection concerned,
- (c) state the names of the members of the inspection team by whom the inspection is to be carried out, and
- (d) in the case of a challenge inspection, state the name of any observer who may accompany the team.

(3) Such an authorisation shall have the effect of authorising the inspection team -

- (a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are conferred on them by the verification annex, and
- (b) to do such other things within that area in connection with the inspection as they are entitled to do by virtue of the verification annex (including things concerning the maintenance, replacement or adjustment of any instrument or other object).

(4) Such an authorisation shall in addition have the effect of -

- (a) authorising an in-country escort to accompany the inspection team in accordance with the provisions of the verification annex, and
- (b) authorising any police officer to give such assistance as the in-country escort may request for the purpose of facilitating the conduct of the inspection in accordance with the verification annex;

and the name of the person in charge of the in-country escort shall be stated in the authorisation.

(5) An authorisation under this section in the case of a challenge inspection shall in addition have the effect of authorising the observer to exercise within the specified area such rights of access and entry as are conferred on him by the verification annex.

(6) Any police officer giving assistance in accordance with subsection (4)(b) may use such reasonable force as he considers necessary for the purpose mentioned in that provision.

(7) The occupier of any premises -

- (a) in relation to which it is proposed to exercise a right of entry in reliance on an authorisation under this section, or
- (b) on which an inspection is being carried out in reliance on such an authorisation,

person acting on behalf of the occupier of any such premises, shall be entitled to require a copy of the authorisation to be shown to him by a member of the in-country escort.

The validity of any authorisation purporting to be issued under this section in respect of any inspection shall not be called in question in any court of law at any time before the conclusion of that inspection.

Accordingly, where an authorisation purports to be issued under this section in respect of any inspection, no proceedings (of whatever nature) shall be brought at any time before the conclusion of the inspection if they would, if successful, have the effect of preventing, delaying or otherwise affecting the carrying out of the inspection.

(10) If in any proceedings any question arises whether a person at any time was or was not, in relation to any routine, challenge or assistance inspection, a member of the inspection team or a member of the in-country escort or the observer, a certificate issued by or under the authority of the Governor stating any fact relating to that question shall be conclusive evidence of that fact.

(11) If an authorisation is issued under this section the Governor may issue an amendment varying the specified area, and -

(a) from the time when the amendment is expressed to take effect this section shall apply as if the specified area were the area as varied;

(b) subsection (8) shall apply to the amendment as it applies to the authorisation;

(c) the Governor may issue further amendments varying the specified area and in such a case paragraphs (a) and (b) shall apply.

Offences in connection with inspections

6. - (1) If an authorisation has been issued under section 25 in respect of any inspection, a person is guilty of an offence if he -

(a) refuses without reasonable excuse to comply with any request made by a police officer or a member of the in-country escort for the purpose of facilitating the conduct of that inspection in accordance with the verification annex,

(b) interferes without reasonable excuse with any container, instrument or other object installed in the course of that inspection in accordance with the verification annex, or

(c) wilfully obstructs any member of the inspection team or of the in-country escort, or the observer, in the conduct of that inspection in accordance with the verification annex.

(2) Subsection (1)(b) applies to interference which occurs at any time while the container, instrument or other object is retained in accordance with the verification annex.

(3) A person guilty of an offence under this section is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

Privileges and immunities in connection with inspections

27. - (1) Members of inspection teams and observers shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents in accordance with the following provisions of the 1961 Articles, namely -

- (a) Article 29,
- (b) paragraphs 1 and 2 of Article 30,
- (c) paragraphs 1, 2 and 3 of Article 31, and
- (d) Article 34.

(2) Such persons shall, in addition, enjoy the same privileges as are enjoyed by diplomatic agents in accordance with paragraph 1(b) of Article 36 of the 1961 Articles, except in relation to articles the importing or exporting of which is prohibited by law or controlled by the enactments relating to quarantine.

(3) Samples and approved equipment carried by members of an inspection team shall be inviolable and exempt from customs duties.

(4) The privileges and immunities accorded to members of inspection teams and observers by virtue of this section shall be enjoyed by them at any time when they are in the Territory -

(a) in connection with the carrying out there of a routine inspection, a challenge inspection or an assistance inspection, or

(b) while in transit to or from the territory of another party to the Convention in connection with the carrying out of such an inspection there.

(5) If -

(a) immunity from jurisdiction of a member of an inspection team is waived in accordance with the verification annex, and

(b) a notice made by the Governor and informing the member of the waiver is delivered to him in person,

then, from the time the notice is so delivered, this section shall not have effect to confer that immunity on the member.

(6) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Governor stating any fact relating to that question shall be conclusive evidence of that fact.

(7) In this section -

"the 1961 Articles" means the Articles which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 (Articles of Vienna Convention on Diplomatic Relations of 1961 having force of law in United Kingdom)(a);

(a) 1964 c.81.

"approved equipment" and "samples" shall be construed in accordance with the verification annex;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978)(a).

Reimbursement of expenditure

28. The Governor may reimburse any person in respect of expenditure incurred in connection with a routine inspection, a challenge inspection or an assistance inspection.

Offences: miscellaneous

Power to search and obtain evidence

29. - (1) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence under this Act is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) A person who enters the premises under the authority of the warrant may -

(a) take with him such other persons and such equipment as appear to him to be necessary;

(b) inspect any document found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act;

(c) take copies of, or seize and remove, any such document;

(d) inspect, seize and remove any device or equipment found on the premises which he has reasonable cause to believe may be required as such evidence;

(e) inspect, sample, seize and remove any substance found on the premises which he has reasonable cause to believe may be required as such evidence;

(f) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any document, device, equipment or substance;

but no woman or girl shall be searched except by a woman.

(3) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

Forfeiture in case of conviction

30. - (1) The court by or before which a person is convicted of an offence under this Act may order that anything shown to the court's satisfaction to relate to the offence shall be forfeited, and either destroyed or otherwise dealt with in such manner as the court may order.

(2) In particular, the court may order the thing to be dealt with as the Governor may see fit; and in such a case the Governor may direct that it be destroyed or otherwise dealt with.

(3) Where -

(a) 1978 c.30.

(a) the court proposes to order anything to be forfeited under this section, and

(b) a person claiming to have an interest in it applies to be heard by the court,

the court must not order it to be forfeited unless he has been given an opportunity to show cause why the order should not be made.

30A. [omitted]

Offences: other provisions

31. - (1) Proceedings for an offence under section 2 or 11 shall not be instituted except by or with the consent of the Attorney General.

(2) Proceedings for an offence under any provision of this Act other than section 2 or 11 shall not be instituted except by or with the consent of the Governor.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) [omitted]

Other miscellaneous provisions

Disclosure of information

32. - (1) This section applies to information if -

(a) it was obtained under, or in connection with anything done under, this Act or the Convention, and

(b) it relates to a particular business or other activity carried on by any person.

(2) So long as the business or activity continues to be carried on the information shall not be disclosed except -

(a) with the consent of the person for the time being carrying on the business or activity,

(b) in connection with anything done for the purposes of the Convention,

(c) in connection with anything done for the purposes of this Act,

(d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings,

(e) in connection with the enforcement of any restriction on imports or exports,

in an emergency involving danger to the public,

or ensuring the security of the Territory, or

the International Court of Justice for the purpose of enabling that Court to deal with any dispute under the Convention.

A person who discloses information in contravention of this section is guilty of an offence and

on conviction, to a fine not exceeding £5,000 or its equivalent;

on indictment, to imprisonment for a term not exceeding two years or to a fine or to

if a person proposes to disclose information to which this section applies in circumstances which would by virtue of paragraphs (b) to (h) of subsection (2) not contravene this section, the disclosure of that information notwithstanding any obligation not to disclose it that would otherwise

A copy of any provision of this Act, or a copy of a notice under any such provision, may be

delivered to him in person,

or by post to him at his usual or last-known residence or place of business in the

in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its principal office or sending it by post to the secretary or clerk of that body corporate

Notwithstanding the foregoing provisions of this section, this Act binds the Crown.

A declaration made by the Crown of a provision made by or under this Act shall make the Crown liable to the jurisdiction of the supreme court of the Territory may, on the application of a person appearing to have a sufficient interest, declare unlawful any act or omission of the Crown which constitutes such a

Notwithstanding subsection (2), the provisions made by or under this Act apply to persons in the Territory as they apply to other persons.

(4) Nothing in this section affects Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity)(a) were contained in this Act.

38. [omitted]

Citation

39. - (1) [omitted]

(2) [omitted]

(3) [omitted]

(4) This Act shall be cited as the Chemical Weapons Act 1996.

SCHEDULE TO THE ACT

Section 19

SCHEDULED TOXIC CHEMICALS AND PRECURSORS

(CAS registry number)

A. TOXIC CHEMICALS:

- | | | |
|-----|---|--|
| (1) | O-Alkyl (less than or equal to C ₁₀ , incl. cycloalkyl) alkyl
(Me, Et, n-Pr or i-Pr)-phosphonofluoridates
eg. Sarin: O-Isopropyl methylphosphonofluoridate (107-44-8)
Soman: O-Pinacolyl methylphosphonofluoridate (96-64-0) | |
| (2) | O-Alkyl (less than or equal to C ₁₀ , incl. cycloalkyl)
N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates
eg. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate (77-81-6) | |
| (3) | O-Alkyl (H or less than or equal to C ₁₀ , incl. cycloalkyl)
S-2 dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts
eg. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (50782-69-9) | |
| (4) | Sulfur mustards:
2-Chloroethylchloromethylsulfide (2625-76-5)
Mustard gas: Bis (2-chloroethyl) sulfide (505-60-2)
Bis (2-chloroethylthio) methane (63869-13-6)
Sesquimustard: 1,2-Bis (2-chloroethylthio) ethane (3563-36-8)
1,3-Bis (2-chloroethylthio)-n-propane (63905-10-2)
1,4-Bis (2-chloroethylthio)-n-butane (142868-93-7)
1,5-Bis (2-chloroethylthio)-n-pentane (142868-94-8)
Bis (2-chloroethylthiomethyl) ether (63918-90-1)
O-Mustard: Bis (2-chloroethylthioethyl) ether (63918-89-8) | |
| (5) | Lewisites:
Lewisite 1: 2-Chlorovinylchloroarsine (541-25-3)
Lewisite 2: Bis (2-chlorovinyl) chloroarsine (40334-69-8)
Lewisite 3: Tris (2-chlorovinyl) arsine (40334-70-1) | |

(a) 1947 c.44.

- | | | |
|-----|--------------------------------------|--------------|
| (6) | Nitrogen mustards: | |
| | HN1: Bis (2-chloroethyl) ethylamine | (538-07-8) |
| | HN2: Bis (2-chloroethyl) methylamine | (51-75-2) |
| | HN3: Tris (2-chloroethyl) amine | (555-77-1) |
| (7) | Saxitoxin | (35523-89-8) |
| (8) | Ricin | (9009-86-3) |

B. PRECURSORS

- | | | |
|------|---|--------------|
| (9) | Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
eg DF: Methylphosphonyldifluoride | (676-99-3) |
| (10) | O-Alkyl (H or less than or equal to C ₁₀ , incl. cycloalkyl)
O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me,
Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts
eg QL: O-Ethyl O-2 diisopropylaminoethyl methylphosphonite | (57856-11-8) |
| (11) | Chlorosarin: O-Isopropyl methylphosphonochloridate | (1445-76-7) |
| (12) | Chlorosoman: O-Pinacolyl methylphosphonochloridate | (7040-57-5) |

Notes:

1. This Schedule sets out Schedule 1 to the annex on chemicals to the Convention as corrected.
2. In this Schedule the reference to the CAS registry is to the chemical abstract service registry.
3. This Schedule must be read subject to the following proposition, which is based on a note in the Convention: where reference is made to groups of dialkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses must be taken to be listed in the Schedule.

SCHEDULE 2

Article

SECTIONS 50 TO 56 OF THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001, AS
EXCEPTED AND MODIFIED AND EXTENDED TO THE TERRITORIES LISTED IN SCHEDULE

Assisting or inducing weapons-related acts overseas

Assisting or inducing certain weapons-related acts overseas

50. - (1) A person who aids, abets, counsels or procures, or incites, a person who is not a United Kingdom person to do a relevant act outside the United Kingdom is guilty of an offence.

(2) For this purpose a relevant act is an act that, if done by a United Kingdom person, would contravene section 2 of the Chemical Weapons Act 1996 (offences relating to chemical weapons).

(3) [omitted]

(4) A person accused of an offence under this section in relation to a relevant act which would contravene section 2 of the Chemical Weapons Act 1996 may raise any defence which would be open to a person accused of the corresponding offence ancillary to an offence under that provision.

(5) A person accused of an offence under this section is liable on conviction on indictment to imprisonment for life.

(6) This section applies to acts done outside the Territory, but only if they are done by a United Kingdom person.

(7) Nothing in this section prejudices any criminal liability existing apart from this section.

Supplemental provisions relating to Section 50

Extraterritorial application

51. - (1) Proceedings for an offence committed under section 50 outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any part of the Territory.

(2) [omitted]

Powers of entry

52. - (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under section 50 is to be found on any premises, he may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) The powers of a person who enters the premises under the authority of the warrant include power -

(a) to take with him such other persons and such equipment as appear to him to be necessary;

(b) to inspect, seize and retain any substance, equipment or document found on the premises;

(c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form -

(i) in which he can read and copy it; or

(ii) from which it can readily be produced in a form in which he can read and copy it;

(d) to copy any document which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under section 50.

(3) A police officer who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may -

(a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and

(b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under section 50.

(4) No police officer shall search a person of the opposite sex.

(5) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

(6) A person who -

(a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or

(b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a police officer for the purpose of facilitating the exercise of such a power,

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent; and

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

(8) In this section "authorised officer" means an officer acting under the authority of the Governor.

53. [omitted]

Offences

54. - (1) A person who knowingly or recklessly makes a false or misleading statement for the purpose of obtaining (or opposing the variation or withdrawal of) authorisation for the purposes of section 50 is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

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

(3) Where an offence under section 50 or subsection (1) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Consent to prosecutions

55. Proceedings for an offence under section 50 shall not be instituted except by or with the consent of the Attorney General.

Interpretation

56. - (1) In the foregoing provisions "United Kingdom person" means a United Kingdom national or

body incorporated under the law of the Territory.

(2) For this purpose a United Kingdom national is an individual who is -

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981(a) is a British subject; or

(c) a British protected person within the meaning of that Act.

SCHEDULE 3

Articles 2 and 3

TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

Turks and Caicos Islands

Virgin Islands

Sovereign Base Areas of Akrotiri and Dhekelia

(a) 1981 c.61.

SCHEDULE 4

Article 2

FURTHER EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE BRITISH ANTARCTIC TERRITORY AND THE BRITISH INDIAN OCEAN TERRITORY

1. The following provisions shall not extend to the British Antarctic Territory and the British Indian Ocean Territory:

section 5(6)
section 7(9)
section 9(4)(a)
section 9(5)(a)
section 14(4)
section 15(5)
section 17(4)(a)
section 17(5)(a)
section 19(3)(a)
section 20(5)(a)
section 21(2)(a)
section 21(3)(a)
section 22(3)(a)
section 22(4)(a)
section 23(4)(a)
section 23(5)(a)
section 25(4)(b)
section 25(6)
section 26(3)(a)
section 29(3)
section 32(4)(a)

2. In the application of sections 2(6)(b) and 26(1)(a) in the British Antarctic Territory and the British Indian Ocean Territory, the references therein to "a police officer" shall be omitted.

3. In the application of the following provisions in the British Antarctic Territory and the British Indian Ocean territory, the references therein to "conviction on indictment" shall be replaced by references to "conviction by the supreme court of the Territory":

section 2(8)
section 9(4)(b)
section 9(5)(b)
section 11(3)
section 17(4)(b)
section 17(5)(b)
section 19(3)(b)
section 20(6)(b)
section 21(2)(b)
section 21(3)(b)
section 22(3)(b)
section 22(4)(b)
section 23(4)(b)

section 23(5)(b)
section 26(3)(b)
section 32(4)(b)

4. In the application of section 31(1) in the British Antarctic Territory and the British Indian Ocean Territory, the reference therein to "the Attorney General" shall be replaced by a reference to "the Principal Legal Adviser of the Territory".

SCHEDULE 4A

Article 3

FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN RESPECT OF THE BRITISH ANTARCTIC TERRITORY AND THE BRITISH INDIAN OCEAN TERRITORY

In the application of section 50(5) in the British Antarctic Territory and the British Indian Ocean Territory, the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the supreme court of the Territory".

SCHEDULE 5

Article 2

FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF PITCAIRN, HENDERSON, DUCIE AND OENO ISLANDS

1. In the application of the following sections in Pitcairn, Henderson, Ducie and Oeno Islands, the references therein to "summary conviction" shall be replaced by references to "conviction by the subordinate court of the Territory", and references to "conviction on indictment" shall be replaced by references to "conviction by the supreme court of the Territory":

section 2(8)
section 9(4)
section 9(5)
section 11(3)
section 17(4)
section 17(5)
section 19(3)
section 20(6)
section 21(2)
section 21(3)
section 22(3)
section 22(4)
section 23(4)
section 23(5)
section 26(3)
section 32(4)

2. In the application of section 31(1) in Pitcairn, Henderson, Ducie and Oeno Islands, the reference therein to "the Attorney General" shall be replaced by a reference to "the Legal Adviser".

3. In the application of the following sections in Pitcairn, Henderson, Ducie and Oeno Islands, the references therein to "a fine" shall be replaced by references to "a fine not exceeding £10,000 or its equivalent":

section 9(4)(b)
section 9(5)(b)
section 17(4)(b)
section 17(5)(b)
section 19(3)(b)
section 20(6)(b)
section 21(2)(b)
section 21(3)(b)
section 22(3)(b)
section 22(4)(b)
section 23(4)(b)
section 23(5)(b)
section 26(3)(b)
section 32(4)(b)

SCHEDULE 5A

Article 3

FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN RESPECT OF PITCAIRN, HENDERSON, DUCIE AND OENO ISLANDS

In the application of section 50(5) in Pitcairn, Henderson, Ducie and Oeno Islands, the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the supreme court of the Territory".

SCHEDULE 6

Article 2

FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF BERMUDA

In the application of the following sections in Bermuda, the references therein to "a fine not exceeding £5,000 or its equivalent" shall be replaced by references to "a fine not exceeding \$8,500":

section 9(4)(a)
section 9(5)(a)
section 17(4)(a)
section 17(5)(a)
section 19(3)(a)
section 20(6)(a)
section 21(2)(a)
section 21(3)(a)
section 22(3)(a)

section 22(4)(a)
section 23(4)(a)
section 23(5)(a)
section 26(3)(a)
section 32(4)(a)

SCHEDULE 7

Article 2

FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE TURKS AND CAICOS ISLANDS

1. In the application of the following sections in the Turks and Caicos Islands, the references therein to "a fine not exceeding £5,000 or its equivalent" shall be replaced by references to "a fine not exceeding \$8,500":

section 9(4)(a)
section 9(5)(a)
section 17(4)(a)
section 17(5)(a)
section 19(3)(a)
section 20(6)(a)
section 21(2)(a)
section 21(3)(a)
section 22(3)(a)
section 22(4)(a)
section 23(4)(a)
section 23(5)(a)
section 26(3)(a)
section 32(4)(a)

2. In the application of the following sections in the Turks and Caicos Islands, the references therein to "a fine" shall be replaced by references to "a fine not exceeding \$50,000":

section 9(4)(b)
section 9(5)(b)
section 17(4)(b)
section 17(5)(b)
section 19(3)(b)
section 20(6)(b)
section 21(2)(b)
section 21(3)(b)
section 22(3)(b)
section 22(4)(b)
section 23(4)(b)
section 23(5)(b)
section 26(3)(b)
section 32(4)(b)

SCHEDULE 8

Article 2

FURTHER EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

1. The following sections shall not extend to the Sovereign Base Areas of Akrotiri and Dhekelia:

section 9(4)(a)
section 9(5)(a)
section 17(4)(a)
section 17(5)(a)
section 19(3)(a)
section 20(5)(a)
section 21(2)(a)
section 21(3)(a)
section 22(3)(a)
section 22(4)(a)
section 23(4)(a)
section 23(5)(a)
section 26(3)(a)
section 32(4)(a)

2. In the application of the following sections in the Sovereign Base Areas of Akrotiri and Dhekelia the references therein to "conviction on indictment" shall be replaced by references to "conviction by the Judge's Court":

section 2(8)
section 9(4)(b)
section 9(5)(b)
section 11(3)
section 17(4)(b)
section 17(5)(b)
section 19(3)(b)
section 20(6)(b)
section 21(2)(b)
section 21(3)(b)
section 22(3)(b)
section 22(4)(b)
section 23(4)(b)
section 23(5)(b)
section 26(3)(b)
section 32(4)(b)

3. In the applications of sections 5(2), 7(7) and 29(1) in the Sovereign Base Areas of Akrotiri and Dhekelia, the references therein to "a justice of the peace" shall be replaced by references to "a judge".

SCHEDULE 8A

Article 3

FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN
RESPECT OF THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

In the application of section 50(5) in the Sovereign Base Areas of Akrotiri and Dhekelia the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the Judge's Court".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Chemical Weapons Act 1996 and the Anti-terrorism, Crime and Security Act 2001, extends provisions of the two Acts, with exceptions, adaptations and modifications, to the territories listed in Schedule 3.



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 4

16th September 2005

The following are published in this Gazette -

Visitors (Amendment) Ordinance 2005, (No. 1 of 2005);

Visitors Ordinance 1992, Notification of Passenger Landing Fees.

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HOWARD JOHN STREDDER PEARCE C.V.O.,
Commissioner.

Visitors (Amendment) Ordinance 2005

(No: 1 of 2005)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of Visitors Ordinance 1992
3. Repeal of Visitors (Landing Fees) Regulations 1998

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HOWARD JOHN STREDDER PEARCE C.V.O.,
Commissioner.

VISITORS (AMENDMENT) ORDINANCE 2005

(No: 1 of 2005)

(assented to: 6 September 2005)
(published: 16 September 2005)
(commencement: on publication)

AN ORDINANCE

To provide for passenger landing fees to be prescribed by the Commissioner.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows —

Short title

1. This Ordinance may be cited as the Visitors (Amendment) Ordinance 2005 and shall come into force upon publication in the Gazette.

Amendment of Visitors Ordinance 1992

2. Section 3 of the Visitors Ordinance 1992(a) is replaced by the following section —

“Passenger landing fees

3.—(1) There shall be paid in respect of every visitor to South Georgia a passenger landing fee in such sum as may be prescribed by notice signed by the Commissioner and published in the Gazette.

(a) No 2 of 1992

(2) Payment of landing fees in the equivalent to the relevant sum in another currency approved for the purpose shall be accepted.

(3) For the purposes of this section, the currencies of the United Kingdom and of the Falkland Islands shall always be approved currencies but any other currency may be revocably approved in a notice signed by the Commissioner and published in the Gazette.”

Repeal of Visitors (Landing Fees) Regulations

3. The Visitors (Landing Fees) Regulations 1998**(b)** are hereby repealed.

Made this sixth day of September 2005

H J S Pearce C.V.O.,
Commissioner

(b) SR&O No 2 of 1998

VISITORS ORDINANCE 1992

Notification of Passenger Landing Fees

In accordance with the section 3 of the Visitors Ordinance 1992 I hereby give notice that the Passenger Landing Fee shall be increased to £75 per person with effect from 1 October 2005 and shall be further increased to £100 with effect from 1 October 2006.

Dated this ninth day of September 2005

H J S Pearce C.V.O.,
Commissioner



**THE
SOUTH GEORGIA
AND THE
SOUTH SANDWICH ISLANDS GAZETTE**
PUBLISHED BY AUTHORITY

No. 5

15th December 2005

The following are published in this Gazette -

Interpretation and General Clauses (Amendment) Ordinance 2005, (No: 2 of 2005);

Post Office (Amendment) Order 2005, (S. R. & O. No: 1 of 2005);

The Air Navigation (Overseas Territories) (Amendment) Order 2005, (2005 No. 2763).

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HOWARD JOHN STREDDER PEARCE C.V.O.,
Commissioner.

Interpretation and General Clauses (Amendment) Ordinance 2005

(No: 2 of 2005)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of principal Ordinance

ELIZABETH II



**The Territories of South Georgia
and the South Sandwich Islands**

HOWARD JOHN STREDDER PEARCE C.V.O.,
Commissioner.

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ORDINANCE 2005

(No: 2 of 2005)

(assented to: 1 December 2005)
(commencement: on publication)
(published: 15 December 2005)

AN ORDINANCE

To amend the Interpretation and General Clauses Ordinance 1977.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

Short title and commencement

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 2005 and shall come into force upon publication.

Interpretation

2. In this Ordinance “the principal Ordinance” means the Interpretation and General Clauses Ordinance 1977.

Amendment of the principal Ordinance

3. The principal Ordinance is amended by replacing section 12 with the following new section 12 —

“Publication and commencement of Laws

12.—(1) If so expressed therein, a law may have effect retrospective from the date of its publication in the Gazette, but —

(a) no act or omission which did not constitute an offence at the time it was done or made shall retrospectively become an offence; and

(b) no law shall render any offence committed before that law came into operation punishable more severely than it would have been if that law had not been made.

(2) For the sake of avoidance of doubt, it is declared that this section applies to subsidiary legislation as well as to Ordinances.”

Assented to in Her Majesty’s name and on Her Majesty’s
behalf this first day of December 2005

H. J. S. PEARCE C.V.O.,
Commissioner.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

POST OFFICE

Post Office (Amendment) Order 2005

S. R. & O. No: 1 of 2005

Made: 1 December 2005

Published: 15 December 2005

Commencing: as provided in article 1

IN EXERCISE of my powers under sections 3 and 4 of the Post Office Ordinance(a), I make the following Order —

Citation and commencement

1.—(1) This Order may be cited as the Post Office (Amendment) Order 2005.

(2) Article 2(1) of this Order shall be deemed to have come into effect on 1 November 2004.

(3) Article 2(2) of this Order shall come into effect on publication in the *Gazette*.

Amendment of the Post Office Order 2002

2.—(1) The Post Office Order 2002 is amended by replacing the First, Second and Third Schedules with those appearing in the Schedule to this Order.

(2) The Post Office Order 2002 is further amended by replacing the numbers “42” with the numbers “45” where they appear after the word “Postcard” in the Second Schedule to that Order.

(a) of the Falkland Islands in its application to South Georgia and the South Sandwich Islands

(b) SR&O 1 of 2002

SCHEDULE

“FIRST SCHEDULE

Airmail Rates to all Countries

AIRMAIL RATES

Letters	First 20gm each additional 10gm	50p 25p
Small Packets & Printed Papers	First 70gm each additional 10gm	£1.00 14p
Printed Papers (Registered with Post Office)	First 70gm each additional 10gm	97p 14p
Postcard		42p
Aerogramme		40p
“ (illustrated)		52p
Christmas Card		45p

SECOND SCHEDULE

Surface Mail Rates

SURFACE RATES

Postcards		26p
Letters	First 20gm up to 100gm each additional 50gm	36p 81p 35p
Small Packets & Printed Papers	First 100gm each additional 50 gm	70p 25p
Christmas Card		32p
Parcels to United Kingdom	First kg each additional kg Maximum weight 30 kg	£8 £4

(Rates to other countries, as notified from time to time)

THIRD SCHEDULE

Inland Rates

INLAND RATES

Letters	First 20gm	24p
	each additional 50gm	15p
Small Packets & Printed Papers	First 70gm	20p
	each additional 50gm	7p
Postcard		16p
Christmas Card		18p

Literature for the blind shall not attract postage.

Made this first day of December 2005

H. J. S. Pearce C.V.O.,
Commissioner

EXPLANATORY NOTE

This Order amends the Post Office Order 2002 in relation to postal rates.

2005 No. 2763

CIVIL AVIATION

**The Air Navigation (Overseas Territories) (Amendment) Order
2005**

Made - - - - *12th October 2005*

Laid before Parliament *24th October 2005*

Coming into force - - *14th November 2005*

At the Court at Buckingham Palace, the 12th day of October 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by Sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949(a), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b), as amended by the Civil Aviation Act 1982 (Overseas Territories) Order 2001(c), of the powers conferred on Her by Section 61 of the Civil Aviation Act 1982(d), as extended to certain territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001 and all other powers enabling her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and Commencement

1. This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2005 and shall come into force on 14th November 2005.

Amendment of the Air Navigation (Overseas Territories) Order 2001

2. The Air Navigation (Overseas Territories) Order 2001(e) shall be amended as follows.
3. After article 8 there shall be inserted:

“Type Acceptance Certificate

8A.—(1) A certificate of airworthiness for an aircraft registered in the Territory shall not be issued in accordance with article 9 of this Order unless there is in force a Type Acceptance Certificate issued by the Governor for the aircraft type.

(a) 1949 c. 67.

(b) S.I. 1969/592.

(c) S.I. 2001/1452.

(d) 1982 c. 16.

(e) S.I. 2001/2128, amended by S.I. 2003/433 and S.I. 2004/2038.

(2) Any person who intends to operate an aircraft to be registered in the Territory of a type for which a Type Acceptance Certificate has not been issued shall apply to the Governor for the issue of a Type Acceptance Certificate for that aircraft in accordance with this article and the requirements of the Governor.

(3) A Type Acceptance Certificate with respect to an aircraft, engine or propeller means a document issued by the Governor on the basis of a Type Certificate issued by a Contracting State acceptable to the Governor.

(4) For the purposes of this article a "Type Certificate" means a document issued by a Contracting State to define the design of an aircraft type and to certify that this design meets the appropriate airworthiness requirements of that State."

4. For article 9(4) there shall be substituted:

"(4) The flight manual or equivalent document shall specify the operational limitations within which the aircraft shall be operated for the purposes of the requirements referred to in article 36(1) of this Order."

5. In article 12(1) after the words "is in force" there shall be inserted "or would be in force if it had not ceased to be in force by virtue of sub-paragraphs (b) and (c) of article 9(7)".

6. In article 13(8) for "drink or a drug to such an extent as to impair his capacity to exercise such privileges" there shall be substituted "alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly to exercise such privileges or so as to create a risk to the licence holder or any other person".

7. After article 13 there shall be inserted:

"Approval of maintenance organisations

13A.—(1) No person intending to engage in any stage of the maintenance of aircraft, aircraft components or aircraft materials, or the manufacture of components for the purpose of maintenance, or in associated training activities shall do so without first obtaining from the Governor a certificate of approval in respect of those activities.

(2) The Governor shall issue an approval to an organisation which complies with his requirements.

(3) A certificate of approval shall be in such form, be subject to such conditions and limitations and contain such particulars as may be determined by the Governor.

(4) Subject to the provisions of this article and article 81 of this Order, a certificate of approval shall remain in force for such period as may be specified therein, and may be renewed from time to time by the Governor for such further period as he thinks fit.

(5) For the purposes of this order "Maintenance" means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection."

8. In article 16(2)(b) for "the particulars specified at sub-paragraph (xvii) of Part A of Schedule 10 to this Order" there shall be substituted "such particulars of any permission granted to the operator under this article as may be necessary to enable the commander of the aircraft to determine whether he can comply with article 43(b)(ii) of this Order".

9.—(1) For article 20(2) there shall be substituted:

"(2)(a) An aircraft registered in the Territory shall carry a flight crew adequate in number and description to ensure the safety of the aircraft.

(b)(i) In the case of an aircraft in respect of which there is a flight manual, the flight crew shall be of at least a number and description specified in the flight manual.

(ii) In the case of an aircraft in respect of which there is not a flight manual, the flight crew shall be of at least a number and description specified by the Governor in the Certificate of Airworthiness or Permit to Fly."

(2) For article 20(7)(a) there shall be substituted:

“(a) This paragraph applies to any flight for the purpose of public transport by an aircraft registered in the Territory which has a maximum approved seating configuration of more than 19.”

10. For article 22(1)(a) there shall be substituted:

“(a) Subject to sub-paragraph (d), the Governor shall grant licences, subject to such conditions as he thinks fit, of any of the classes specified in Part A of Schedule 8 to this Order authorising the holder to act as a member of the flight crew of an aircraft registered in the Territory upon his being satisfied that the applicant complies with his requirements.”

11. For article 40 there shall be substituted:

“40.—(1) This article shall apply to any aircraft that is not a public transport aircraft.

(2) An aircraft to which this article applies shall not:

- (a) conduct a Category II, Category IIIA or Category IIIB approach and landing; or
- (b) take off when the relevant runway visual range is less than 150 metres;

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(3) In the case of an aircraft registered in the Territory, an approval referred to in paragraph (2) shall be issued by the Governor.

(4) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies, when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure, shall not descend from a height of 1000 ft or more above the aerodrome to a height less than 1000 ft above the aerodrome if the relevant runway visual range for that runway is at the time less than the specified minimum for landing.

(5) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not:

- (a) continue an approach to landing at such a runway by flying below the relevant specified decision height;
- (b) descend below the relevant specified minimum descent height;

unless in either case from such height the specified visual reference for landing is established and is maintained.

(6) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing, the commander of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(7) A flight to be conducted in accordance with the Instrument Flight Rules to an aerodrome when no alternate aerodrome is available shall not be commenced unless:

- (a) a designated standard instrument approach procedure is available for the aerodrome of intended landing; and
- (b) available current meteorological information indicates that visual meteorological conditions will exist at the aerodrome of intended landing from two hours before to two hours after the estimated time of arrival.

(8) A flight shall not be continued towards the aerodrome of intended landing unless the latest available information indicates that conditions at that aerodrome, or at least one alternate aerodrome, will, at the estimated time of arrival, be at or above the specified aerodrome operating minima.

(9) In this article “specified” in relation to aerodrome operating minima means such particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating aerodrome operating minima.

(10) In this article “Category II, Category IIIA and Category IIIB approach and landing” have the same meaning as in article 39(8).”

12. After article 41(1)(c) there shall be inserted:

“(d) An operator shall not permit a helicopter rotor to be turned under power for the purpose of making a flight unless there is a person at the controls qualified to act as pilot-in-command of the helicopter in accordance with the provisions of article 21 of this Order.”

13.—(1) After article 45 there shall be inserted:

“Non-public transport flights – additional duties of commander

45A.—(1) This article shall apply to an aircraft flying for any purpose other than public transport.

(2) In relation to every flight to which this article shall apply the commander of the aircraft shall ensure that breathing oxygen is available to crew members and passengers in sufficient quantities for all flights at such altitudes where lack of oxygen might result in impairment of the faculties of crew members or harmfully affect passengers and made available for use by such crew members and passengers in accordance with paragraphs (2)(e) and (f) of article 45 of this Order.”

(2) In Schedule 4 Paragraph 4 (Table) sub-paragraphs (2)(a) and (15)(a), in the column headed “Circumstances of flight”, there shall be added “(iv) when flying at a height of 10 000 ft or more above mean sea level” and adjacent thereto, in the column headed “Scale of equipment required”, there shall be added “L1 or L2”.

14. For articles 50 and 51 there shall be substituted:

“Area navigation and required navigation performance capabilities – aircraft registered in the Territory

50.—(1) Subject to paragraph (4) an aircraft registered in the Territory shall not fly in designated required navigation performance airspace unless it is equipped with area navigation systems which enable the aircraft to maintain the navigation performance capability specified in respect of that airspace.

(2) Subject to paragraph (4) while the aircraft is flying in the said airspace the equipment required by paragraph (1) shall be operated in accordance with procedures approved by the Governor.

(3) The equipment required by paragraph (1) shall be approved by the Governor and installed and maintained in a manner approved by the Governor.

(4) An aircraft need not comply with the requirements of paragraphs (1) and (2) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

(5) An approval granted by the Governor for the purposes of this article shall be in writing and subject to such conditions as the Governor thinks fit.

Area navigation and required navigation performance capabilities – aircraft not registered in the Territory

51.—(1) An aircraft registered elsewhere than in the Territory shall not fly in designated required navigation performance airspace in the Territory unless it is equipped with area navigation systems so as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying within designated required navigation performance airspace.

(2) Subject to paragraph (3) the said navigation equipment shall be capable of being operated so as to enable the aircraft to maintain the navigation performance capability notified in respect of the airspace in which the aircraft is flying, and it is so operated.

(3) An aircraft need not comply with the requirements of paragraph (2) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.”

15. For article 54(1) there shall be substituted:

“54.—(1) An aircraft in flight shall not tow a glider unless there is a certificate of airworthiness issued or rendered valid in respect of the towing aircraft under the law of the country in which the aircraft is registered and that certificate of airworthiness or the flight manual for the aircraft includes an express provision that it may be used for that purpose.”

16. For article 55(1) there shall be substituted:

“55.—(1) Subject to the provisions of this article, an aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article, unless there is a certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered and that certificate of airworthiness or the flight manual for the aircraft includes an express provision that it may be used for that purpose.”

17. In article 65(2) for “drink or drug to such an extent as to impair his capacity so to act” there shall be substituted “alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly so to act or so as to create a risk to that person or any other person”.

18. For article 67 there shall be substituted:

“67.—(1) Every person in an aircraft shall obey all lawful commands which the commander or a member of the crew of that aircraft may give for the purpose of securing the safety of the aircraft and of the persons or property carried therein, or the safety, efficiency or regularity of air navigation.

(2) No person may operate on any aircraft any cellphone, computer or other electronic device that is designed to transmit or capable of transmitting electromagnetic energy otherwise than in accordance with the permission of the commander of that aircraft.

(3) Paragraph (2) of this article shall not apply to—

- (a) hearing aids; or
- (b) heart pacemakers; or
- (c) portable voice recorders; or
- (d) electric shavers; or
- (e) electronic watches; and
- (f) any other portable electronic device if the operator or commander of the aircraft has determined that the said portable electronic device to be used will not cause interference with any aircraft system or equipment of the aircraft on which it is used.”

19. After article 105 there shall be inserted:

“Instrument Approach Procedures

105A.—(1) No person may establish or use an instrument approach procedure at an aerodrome in the Territory otherwise than under and in accordance with an approval granted by the Governor to the aerodrome licence holder or to the person having the management and control of a government aerodrome.

(2) An approval shall be granted pursuant to paragraph (1) upon the Governor being satisfied:

- (a) as to the intended purpose of the procedure; and
- (b) that the person applying for approval is competent to operate the procedure and that any equipment associated with such procedure is fit for its intended purpose.

(3) An approval pursuant to paragraph (1) shall be granted on such conditions as the Governor shall think fit and he shall cause such procedure to be notified as a procedure available for the landing of aircraft at an aerodrome within the Territory.

(4) No person may use an instrument approach procedure otherwise than in accordance with the published conditions for such use.

(5) For the purposes of this article an “instrument approach procedure” means a series of pre-determined manoeuvres by reference to flight instruments with specified protection from obstacles from the initial approach fix or, where applicable, from the beginning of a defined arrival route, to a point from which a landing can be completed and thereafter if a landing is not completed, to a position at which holding or en-route obstacle clearance criteria apply.

(6) Nothing in paragraph (1) shall apply to any aerodrome in the Territory that is in the occupation of Her Majesty’s naval, military or air force or of any visiting force.”

20. In article 118(2) for “and any authorised person” there shall be substituted “or any authorised person”.

21. In article 130(1):

(1) After the definition of “Declared distances” there shall be inserted:

““Designated required navigation performance airspace” means airspace that has been notified, prescribed or otherwise designated by the competent authority for the airspace as requiring specified navigation performance capabilities to be met by aircraft flying within it;”

(2) After the definition of “Flight level” there shall be inserted:

““Flight manual” means a manual, associated with the certificate of airworthiness, containing limitations within which the aircraft may be considered airworthy, and instructions and information necessary to the flight crew for the safe operation of the aircraft;”

(3) After the definition of “Logbook” there shall be inserted:

““Maintenance” means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;”

(4) After the definition of “Replacement” there shall be inserted:

““Requirements” means requirements published by the Governor pursuant to the provisions of article 135 of this Order;”

(5) After the definition of “Special VFR flight” there shall be inserted:

““Standard instrument approach procedure” means an instrument approach procedure designed in accordance with International Civil Aviation Organisation Procedures for Air Navigation Services (PANS-OPS);”

22. After article 137 there shall be inserted:

“Arrangements for giving effect to the Convention

138.—(1) The Governor shall within the Territory publish such requirements or make such arrangements as are necessary, requisite or expedient for carrying out the Chicago Convention and any Annex thereto relating to international standards and recommended practices and any amendment to the Convention or to any such Annex or generally for regulating and securing the safety of international air navigation.

(2) Pursuant to the provisions of paragraph (1) the Governor shall in particular:

- (a) Provide or secure the provision of a meteorological service to meet the needs of international air navigation and with due regard to regional air navigation agreements and shall designate the appropriate authority to provide or arrange for the provision of such meteorological service;
- (b) Ensure the availability in the Territory of aeronautical charts;
- (c) Arrange for the establishment and provision of search and rescue services within the Territory, and in such portions of the high seas that are the responsibility of the Territory pursuant to regional air navigation agreements;
- (d) Provide an aeronautical information service or agree with one or more other Contracting States for the provision of a joint service, or delegate the authority for the provision of the service to a non-governmental agency.

(3) The Governor shall arrange for the details of the services and arrangements provided in accordance with paragraph (2) to be included in the Aeronautical Information Publication relating to the Territory.”

23. In Schedule 4, paragraph 4 (Table), sub-paragraphs (11)(a) and (11)(b), in the column headed “Circumstances of flight” for “the purpose of public transport” there shall be substituted “purposes other than public transport”.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Air Navigation (Overseas Territories) Order 2001 (referred to below as “the Order”). The following changes are made:

(1) **Type certification.** The adoption of this article enables a Governor to accept onto a Territory register an aircraft that has a Type Certificate issued by a Contracting State in accordance with the Chicago Convention Annex 8 Part II Chapter 1 and to facilitate the issue by the Governor of a Certificate of Airworthiness in accordance with Annex 8 Part II Chapter 3 and the provisions of article 9(1)(a) of the Order (article 3).

(2) **Certification of airworthiness.** This amendment paves the way for the elimination of the various categories of certificate of airworthiness as detailed in Schedule 3 Part B. This is in order to enable an aircraft to be certified according to what it is rather than what it does on the basis of the operating and performance limitations prescribed in the approved flight manual and in conformity with its Type Certificate (article 4).

(3) **Certificate of release to service.** This amendment clarifies an area of uncertainty regarding the reinstatement of a certificate of airworthiness and the associated issue of a certificate of release of an aircraft to service upon completion of maintenance, inspection, repair or other similar activity (article 5).

(4) **Licensing of maintenance engineers.** The amendment expands the scope of restrictions on performing functions whilst under the influence of drink or drugs and brings the provisions more closely into alignment with the requirements of the Chicago Convention Annex 1 Chapter 1 paragraph 1.2.7 (article 6).

(5) **Approval of maintenance organisations.** This article has been added to provide a basis for the grant by the Governor of an approval to a maintenance organisation to undertake maintenance on Territory registered aircraft (article 7).

(6) **Equipment of aircraft.** This amendment facilitates the longer-term objective of removing as many as possible of the schedules to the Order and their replacement by the Requirements specified by the Governor under article 135 of the Order (article 8).

(7) **Flight crew.** The amendments reflect the fact that the number of flight crew will not normally in the future be specified in the Certificate of Airworthiness (article 9).

(8) **Flight crew licences.** The objective of this amendment is to relocate some of the flight crew licensing provisions from Schedules 8 and 10 of the Order to the Requirements published by the Governor under article 135 (article 10).

(9) **Aerodrome operating minima.** This article establishes aerodrome operating minima applicable to non-public transport flights (article 11).

(10) **Commander of an aircraft.** Addition of a new sub-paragraph to article 41(1) to meet the requirements of the Chicago Convention Annex 6 Part III Section III Chapter 2 paragraph 2.17 (article 12).

(11) **Commander’s additional duties.** Requirements applied to international general aviation, in the same way as for public transport flights in article 45, to comply with the Chicago Convention Annex 6 Part II paragraph 4.10 and Annex 6 Part III paragraph 2.10. Consequential amendment to Schedule 4, Paragraph 4 (Table) (article 13).

(12) **Navigation performance capability.** This amendment reflects current international practice in relation to area navigation, required navigation performance and operational approval (article 14).

(13) **Towing of gliders.** This amendment reflects the changes made in respect of certificates of airworthiness and the performance characteristics of aircraft (article 15).

(14) **Towing, picking up and raising of persons and articles.** This amendment reflects the changes made in respect of certificates of airworthiness and the performance characteristics of aircraft (article 16).

(15) **Drunkenness of aircrew.** This amendment expands the scope of restrictions on performing functions whilst under the influence of drink or drugs and brings the provisions more closely into alignment with the requirements of the Chicago Convention Annex 1 Chapter 1 paragraph 1.2.7 (article 17).

(16) **Commander and crew authority.** These amendments impose an obligation to comply with the instructions of a crew member as well as the commander and add specific obligations to comply with instructions concerning mobile phones and similar equipment and to reinforce the authority of the commander in this respect (article 18).

(17) **Approval of instrument approach procedures.** The Order is presently silent with regard to the requirement for approval for the establishment and use of an instrument approach procedure at a Territory aerodrome. The article is designed to require that such a procedure shall be approved before it may be established or used (article 19).

(18) **Power to prevent aircraft flying.** The amendment removes any doubt as to the Governor's power to appoint more than one authorised person and for any such authorised person to inspect an aircraft without the necessity for the presence of the Governor (article 20).

(19) **Interpretation.** Additional definitions inserted as required by other amendments (article 21).

(20) **Arrangements for giving effect to the Convention.** This article empowers and enables Governors to ensure that arrangements are put in place to secure compliance with certain Annexes to the Chicago Convention dealing with meteorology, aeronautical charts, search and rescue and aeronautical information services that are not currently covered in the order (article 22).

(21) **Aircraft equipment.** This amendment achieves compliance with the Chicago Convention Annex 6 Part II paragraph 6.9.7 with regard to the requirement for Terrain Awareness Warning System Class A or B on aircraft used for international general aviation (article 23).

Annexes to the Chicago Convention can be purchased from:

ICAO Document Sales Unit,

999 University Street,

Montreal,

Quebec HC 5H7,

Canada,

Tel: +1 (514) 954-8022; Fax: +1 (514) 954-6769

E-mail: sales@ico.int.



THE SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

No. 1

13 June 2007

The following are published in this Gazette –

Appointments;

Notices 1 - 3;

**Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006
(S.R.&O. No 1 of 2006);**

Commemorative Coins (2000-2006) Order 2007 (S.R.&O. No 1 of 2007);

Commemorative Coins (2007 Issues) Order 2007 (S.R.&O. No 2 of 2007).

Appointments

Melanie Louise Best Chilton, Acting Attorney General, 19.06.06.

Andrew Thomas Barker, Magistrate, 01.10.06.

Melanie Louise Best Chilton, Attorney General, 01.11.06.

Rosalind Catriona Cheek, Acting Attorney General, 09.01.07 – 31.01.07.

Robert Mark Titterington, Attorney General, 26.02.07.

NOTICES

No. 1

26 January 2007

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at www.opsi.gov.uk :-

2005 No 3183 - The Overseas Territories (Zimbabwe) (Restrictive Measures) (Amendment) Order 2005;

2006 No 310 – The Uzbekistan (Restrictive Measures) (Overseas Territories) Order 2006;

2006 No 311 - The Lebanon and Syria (United Nations Measures) (Overseas Territories) Order 2006;

2006 No 610 – The Ivory Coast (Restrictive Measures) (Overseas Territories) (Amendment) Order 2006; and

2006 No 3327 – The North Korea (United Nations Measures) (Overseas Territories) Order 2006.

Dated 26 January 2007

B. I. STEEN,
for Attorney General.

No. 2

25 April 2007

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at www.opsi.gov.uk :-

2007 No 282 - The Iran (United Nations Measures) (Overseas Territories) Order 2007;

2007 No 283 – The Lebanon (United Nations Sanctions) (Overseas Territories) Order 2007; and

2007 No 284 - The Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2007.

Dated 25 April 2007

B. I. STEEN,
for Attorney General.

No. 3

8 June 2007

INCOME TAX ORDINANCE 1939 section 90

Notification of income tax assessments

Notice is hereby given that income tax assessments for the 2006 year of assessment (2005 income) are to be reviewed. Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided in each case that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess. Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayers who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 8 June 2007

A. E. HUCKLE,
Commissioner.

—

SUBSIDIARY LEGISLATION

TRADE

Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006

S. R. & O. No: 1 of 2006

Made: 24 March 2006

Published: 13 June 2007

Coming into force: in accordance with article 1

IN EXERCISE of my powers under article 5 of the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004^a, and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006 and shall be deemed to have come into force on 6th March 2006.

Amendment

2. Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order is modified by deleting the words “Bosnia and Herzegovina” in Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004.

Made this 24th day of March 2006

H. J. S. Pearce C.V.O.,
Commissioner

EXPLANATORY NOTE

(not forming part of the above Order)

Bosnia and Herzegovina have by the Export Control (Bosnia and Herzegovina Order 2006 (SI 2006/300) with effect from 6th March 2006 been removed from Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (SI 2004/318). That being so, the Commissioner is required by article 5 of the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004 (SI 2004/3103) to remove Bosnia and Herzegovina from Schedule 4 to that Order. The effect of doing that is that the embargo on the export of arms to Bosnia and Herzegovina is lifted.

^a SI 2004/3103

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CURRENCY

Commemorative Coins (2000-2006) Order 2007

(S.R.& O. No 1 of 2007)

Made: 24 May 2007

Published: 13 June 2007

Coming into force: on publication

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000^a and of all other powers enabling me, I make the following Order —

Citation

1. This Order may be cited as the Commemorative Coins (2000-2006) Order 2007.

Authorisation

- 2.—(1) This article has effect in relation to the coins —

(a) the design of the reverse of which is described in Part 1 of the Schedule, and

(b) the design of the obverse of which in each case consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS” and the year of minting of the coin.

(2) Subject to paragraph (3), the minting in accordance with the specification and in the quantity mentioned in Part 2 of the Schedule of the Gold Proof, Silver Proof and Cupro Nickel coins referred to in paragraph (1) is hereby authorised with effect in relation to each such coin from the first date on which that coin was minted.

(3) Every coin described in paragraph (1) must comply with such of the specifications contained in Part 2 of the Schedule as relate to it.

^a No 3 of 2000

THE SCHEDULE

Part 1

Description of design of reverse of coins

1. Year of minting 2000

(a) Queen Mother Centenary

Design depicts the Coat of Arms of Her Majesty Queen Elizabeth the Queen Mother garlanded by Marguerites. The wording “100th Birthday of Queen Elizabeth the Queen Mother” appears in the surround and the denomination of the coin appears at the foot.

(b) Antoine de la Roche

Design has wording “Antoine de la Roche” in surround and an image of Antoine de la Roche looking from his vessel towards the Island in the centre of the design. A map of South Georgia appears to the side. The wording “DISCOVERY 1675” and the denomination of the coin appears at the foot.

(c) Captain Cook Anniversary

The design has wording “225th ANNIVERSARY OF POSSESSION BY CAPT. COOK” in the surround flanked by a decorative laurel border. An interpretation of the Flaxman cameo appears in the centre of the design and the denomination of the coin appears at the foot of the design

2. Year of minting 2001

(a) Sir Joseph Banks

The design has the wording “SIR JOSEPH BANKS” in the surround. An illustration of “The Endeavour” and a cameo portrait of Sir Joseph Banks appear in the centre of the design and the denomination of the coin appears at the foot of the design.

(b) Sir Ernest Shackleton

The design has the wording “SIR ERNEST HENRY SHACKLETON” in the surround. A portrait of Sir Ernest appears in the foreground of the design with an image of his grave and memorial cross in the background. The denomination of the coin appears at the foot of the design.

3. Year of minting 2002

(a) Golden Jubilee of Her Majesty Queen Elizabeth II (first issue)

Design depicts a portrait of Her Majesty Queen Elizabeth II taken from The Coronation Medal which was minted to commemorate her Coronation. The official Golden Jubilee logo is also shown. The wording “GOLDEN JUBILEE OF QUEEN ELIZABETH II 1952-2002” appears in the surround. The denomination of the coin appears at the foot of the design.

(b) Golden Jubilee of Her Majesty Queen Elizabeth II (second issue)

Design depicts Her Majesty Queen Elizabeth II on horseback in the grounds of Balmoral Castle which can itself be seen in the background. The official Golden Jubilee logo is also shown. The

wording “GOLDEN JUBILEE OF QUEEN ELIZABETH II 1952-2002” appears in the surround and the denomination of the coin appears at the foot of the design.

(c) Fifth Anniversary of the death of Diana, Princess of Wales

Design depicts a portrait of Diana Princess of Wales. The wording “DIANA, PRINCESS OF WALES – THE WORK CONTINUES” appears in the surround with two roses and the denomination of the coin appears at the foot of the design.

4. Year of minting 2003

(a) H.R.H. Prince William of Wales 21st Birthday

The wording “H.R.H. PRINCE WILLIAM OF WALES 21st BIRTHDAY” appears in the surround. The design depicts the Coat of Arms of Prince William. The denomination of the coin appears at the foot of the design.

(b) The 275th Anniversary of Captain Cook

The wording “THE 275th ANNIVERSARY OF CAPTAIN JAMES COOK” appears in the surround. The design consists of a map of Antarctica to the left, an image of the “Resolution” in the centre and a portrait of Captain Cook on the right. The wording “ANTARCTICA” appears in a scroll at the top of the design and the denomination appears at the foot of the design.

5. Year of minting 2004

(a) Centenary of Grytviken

The design has the wording “1904 CENTENARY OF GRYTVIKEN 2004” in the surround. The vessel “Louise” appears in the foreground and a general view of Grytviken appears in the background. A cameo of Captain Carl Anton Larsen appears at top left of the design above the mountains. The denomination of the coin appears at the foot of the design.

(b) Sir Ernest Shackleton

The design has the wording “SIR ERNEST SHACKLETON 1874-1922” in the surround. A portrait of Sir Ernest Shackleton appears on the left of the design and in the centre of the design appears an image of the vessel “Endurance” stuck in the ice. In the foreground is an impression of the crew pulling one of the lifeboats over pack ice surmounting the wording “TRANS-ANTARCTIC EXPEDITION 1914”. The denomination appears at the foot.

6. Year of minting 2005

Wedding of His Royal Highness the Prince of Wales and Mrs Parker Bowles

The design consists of the Coat of Arms of The Prince of Wales and the wording “APRIL 8th 2005”. The wording “WEDDING OF H.R.H. THE PRINCE OF WALES AND MRS PARKER BOWLES” appears in the surround. The denomination appears at the foot of the design.

7. Year of minting 2006

(a) Eightieth birthday of Her Majesty Queen Elizabeth II

(i) First design

The design shows Her Majesty in the robes of the Order of the Garter. The wording “80 YEARS” appears to the left and the denomination of the coin appears at the foot of the design.

(ii) Second design

The design shows Her Royal Highness Princess Elizabeth and Her Royal Highness Princess Margaret with their parents on the balcony at Buckingham Palace following the Coronation of His Majesty King George VI. The wording “80 YEARS” appears at the top of the design and the denomination of the coin appears at the foot of the design

(iii) Third design

The design shows Her Majesty on horseback at the Trooping of the Colour. The wording “80 YEARS” appear to the left of that and the denomination of the coin appears at the foot of the design.

(iv) Fourth design

The design shows Her Royal Highness Princess Elizabeth and His Royal Highness Prince Philip, Duke of Edinburgh, on their wedding day. The wording “80 YEARS” appears at the top of the design and the denomination of the coin appears at the foot of the design.

(b) Wildlife Series

(i) First design

The design an Elephant Seal and pup. The wording “ELEPHANT SEAL” appears at the top of the design and the denomination of the coin appears at the foot of the design.

(ii) Second design

The design shows a Humpback Whale and calf. The wording “HUMPBACK WHALE” appears at the top of the design and the denomination of the coin appears at the foot of the design.

(iii) Third design

The design of the reverse shows a Rockhopper Penguin and chick. The wording “ROCKHOPPER PENGUIN” appears at the top of the design and the denomination appears at the foot of the design.

(iv) Fourth design

The design of the reverse shows a Grey-headed Albatross and chick. The wording “GREY-HEADED ALBATROSS” appears at the top of the design and the denomination of the coin appears at the foot of the design.

(c) Henrik Ibsen

The design depicts a portrait of Henrik Ibsen. Wording ‘1828 - HENRIK IBSEN - 1906’ appears in the surround and the denomination £2 appears at the foot of the design.

Specification authorised quantity and authorised mint of coins

Type	Gold proof	Gold proof	Silver proof (see footnote 1)	Silver proof	Cupro nickel
Denomination	£20	£4	£10	£2	£2
Weight (grams)	6.22	1.24	155.51	28.28	28.28
Diameter (millimetres)	22.0	13.92	65.0	38.60	38.60
Fineness	0.999	0.999	999	92.5	75% Cu 25% Ni
Quality	Proof	Proof	Proof	Proof	Uncirculated
Shape	Round	Round	Round	Round	Round
Edge	Milled	Milled	Milled	Milled	Milled
Quantity	2,000	5,000 (except as mentioned in footnote 3)	2,000	10,000 (except as mentioned in footnote 2)	Unlimited
Authorised mint	Pobjoy Mint Ltd				
Remedy	Variations to be allowed to extent permitted by Pobjoy Mint Ltd				

Footnotes:

1. The minting of £10 silver proof coins is only authorised in respect of the Captain Cook issue (2003).
2. In the case of the 80th Birthday of Her Majesty the Queen issue (2006) the quantity authorised to be minted of the £2 Silver Proof coin is 25,000.
3. In the case of the Henrik Ibsen issue (2006) the quantity authorised to be minted of the £4 Gold Proof coin is 7,500.

Made this 24th day of May 2007

A. E. HUCKLE,
Commissioner

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CURRENCY

Commemorative Coins (2007 Issues) Order 2007

(S.R. & O No 2 of 2007)

Made: 24 May 2007

Published: 13 June 2007

Coming into force: on publication

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000^a and of all other powers enabling me in that behalf I make the following Order —

Citation

1. This Order may be cited as the Commemorative Coins (2007 Issues) Order.

Authorisation

- 2.—(1) This article has effect in relation to the coins —

(a) the design of the reverse of which is described in Part 1 of the Schedule, and

(b) the design of the obverse of which in each case consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS” and the year “2007”.

(2) Subject to paragraph (3), the minting in accordance with the specification and in the quantity mentioned in Part 2 of the Schedule of the Gold Proof, Silver Proof and Cupro Nickel coins referred to in paragraph (1) is hereby authorised.

(3) Every coin described in paragraph (1) must comply with such of the specifications contained in Part 2 of the Schedule as relate to it.

^a No 3 of 2000

THE SCHEDULE

Part 1

Design of reverse of coins

1. Great Britons issue

(a) First design

Design depicts an image of Her Majesty Queen Elizabeth the Second framed by symbolic flowers. The wording “QUEEN ELIZABETH II-1926” appears in surround of coin and the denomination of the coin in the words “TWO POUNDS” appears at the foot of the design.

(b) Second design

Design depicts an image of Captain Cook framed by the names of the vessels he commanded: Endeavour, Resolution, Adventure, Discovery. The wording “1728 —JAMES COOK — 1779” appears in the surround of the coin, with Emperor Penguins to the left and Endeavour to the right. A map of South Georgia appears below and the denomination of the coin in the words “TWO POUNDS” appears at the foot of the design.

(c) Third design

Design depicts an image of Sir Ernest Shackleton framed by snowflakes with Endurance to the left. The wording “1874 — ERNEST SHACKLETON —1922” appears in the surround of the coin with Antarctica below and the denomination of the coin in the words “TWO POUNDS” appears at the foot of the design.

2. 25th Anniversary of Liberation issue

Design shows a Royal Marine raising the White Ensign at Grytviken. In the background is HMS Plymouth with a Wasp helicopter above her stern and a Wessex helicopter above her bows and the denomination of the coin in the words “TWO POUNDS” at the foot of the design.

3. International Polar Year issue

(a) First design

Design shows Sir Ernest Shackleton with huskies. The James Caird is in the background and the IPY logo is above. The wording “2007—INTERNATIONAL POLAR YEAR—” appears in the surround of the coin and the denomination of the coin in the words “TWO POUNDS” appears at the foot of the design.

(b) Second design

Design depicts an image of Shackleton’s crew in an ice flow in late 1915 with the Aurora Australis in the background. The IPY logo appears at the top of the design and the wording “TRANS—ANTARCTICA EXPEDITION AURORA AUSTRALIS” appears in the surround of the coin. The denomination of the coin in the words “TWO POUNDS” appears at the foot of the design.

4. King Penguin

Design of the outer ring of the coin depicts King Penguins and their young with the wording 'PENGUINS OF THE ANTARCTIC'. The central image is engraved in Crystal with an outline design of a King Penguin Chick. The denomination appears at the foot of the coin.

Part 2

Specification authorised quantity and authorised mint of coins

Type	Gold proof	Gold proof	Silver proof with crystal	Silver proof	Cupro nickel
Denomination	£20	£4	£2	£2	£2
Weight (grams)	6.22	1.24	23.45	28.28	28.28
Diameter (millimetres)	22.0	13.92	38.60	38.60	38.60
Fineness	0.999	0.999	925	925	75% Cu 25% Ni
Quality	Proof	Proof	Proof	Proof	Uncirculated
Shape	Round	Round	Round	Round	Round
Edge	Milled	Milled	Milled	Milled	Milled
Quantity	2,000	5,000	5,000	10,000	Unlimited

Authorised mint Pobjoy Mint Limited

Remedy Variations to be allowed to extent permitted by Pobjoy Mint Ltd

Made this 24th day of May 2007

A. E. HUCKLE,
Commissioner

Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands.
Price: Four pound and five pence.

© **Crown Copyright 2007**



THE SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

No. 2

30 November 2007

The following are published in this Gazette –

Appointments; and

Notice 4.

Appointments

Rosalind Catriona Cheek, Acting Attorney General,
14.07.07.

David Francis William Pickup, Attorney General,
31.08.07.

Mairi Macleod, Magistrate, 10.12.07.

NOTICES

No. 4

19 October 2007

**INCOME TAX ORDINANCE 1939
section 90****Notification of income tax assessments**

Notice is hereby given that income tax assessments for the 2007 year of assessment (2006 income) are to be reviewed. Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided in each case that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess. Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayers who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 19 October 2007

A. E. HUCKLE,
Commissioner.



THE SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

No. 1

10 December 2009

The following are published in this Gazette –

Appointments; and

Notices 1 – 2.

Appointments

Keith Padgett, Financial Secretary, 17.07.08.

Emma Louise Jones, Registrar, 24.02.09.

Martin Anthony Collins, Director of Fisheries, 08.05.09.

John Christopher Rowland, Registrar General, 18.08.09.

NOTICES

No. 1

1 April 2008

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at www.opsi.gov.uk:-

2007 No 3468 – The Air Navigation (Overseas Territories) Order 2007 - Correction.

Dated 1 April 2008

B. I. STEEN,
for Attorney General.

No. 2

21 October 2009

INCOME TAX ORDINANCE 1939 section 90

Notification of income tax assessments

Income tax assessments for the following years of assessment are to be reviewed:-

2007 (2006 income)

2008 (2007 income)

2009 (2008 income)

Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess.

Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayer who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 21 October 2009

P. L. MARTINEZ,
Acting Commissioner.