

Part 2 Freezing Orders

Orders

4 Power to make order

(1) The Treasury may make a freezing order if the following two conditions are satisfied.

(2) The first condition is that the Treasury reasonably believe that—

(a) action to the detriment of the United Kingdom's economy (or part of it) has been or is likely to be taken by a person or persons, or

(b) action constituting a threat to the life or property of one or more nationals of the United Kingdom or residents of the United Kingdom has been or is likely to be taken by a person or persons.

(3) If one person is believed to have taken or to be likely to take the action the second condition is that the person is—

(a) the government of a country or territory outside the United Kingdom, or

(b) a resident of a country or territory outside the United Kingdom.

(4) If two or more persons are believed to have taken or to be likely to take the action the second condition is that each of them falls within paragraph (a) or (b) of subsection (3); and different persons may fall within different paragraphs.

5 Contents of order

(1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.

(2) The order must provide that these are the persons who are prohibited—

(a) all persons in the United Kingdom, and

(b) all persons elsewhere who are nationals of the United Kingdom or are bodies incorporated under the law of any part of the United Kingdom or are Scottish partnerships.

(3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available—

(a) the person or persons reasonably believed by the Treasury to have taken or to be likely to take the action referred to in section 4;

(b) any person the Treasury reasonably believe has provided or is likely to provide assistance (directly or indirectly) to that person or any of those persons.

(4) A person may be specified under subsection (3) by—

(a) being named in the order, or

(b) falling within a description of persons set out in the order.

(5) The description must be such that a reasonable person would know whether he fell within it.

(6) Funds are financial assets and economic benefits of any kind.

6 Contents: further provisions

Schedule 3 contains further provisions about the contents of freezing orders.

7 Review of order

The Treasury must keep a freezing order under review.

8 Duration of order

A freezing order ceases to have effect at the end of the period of 2 years starting with the day on which it is made.

Interpretation

9 Nationals and residents

(1) A national of the United Kingdom is an individual who is—

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 (c. 61) is a British subject, or

(c) a British protected person within the meaning of that Act.

(2) A resident of the United Kingdom is—

(a) an individual who is ordinarily resident in the United Kingdom,

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

(c) a Scottish partnership.

(3) A resident of a country or territory outside the United Kingdom is—

(a) an individual who is ordinarily resident in such a country or territory, or

(b) a body incorporated under the law of such a country or territory.

(4) For the purposes of subsection (3)(b) a branch situated in a country or territory outside the United Kingdom of—

(a) a body incorporated under the law of any part of the United Kingdom, or

(b) a Scottish partnership,

is to be treated as a body incorporated under the law of the country or territory where the branch is situated.

(5) This section applies for the purposes of this Part.

Orders: procedure etc.

10 Procedure for making freezing orders

(1) A power to make a freezing order is exercisable by statutory instrument.

(2) A freezing order—

(a) must be laid before Parliament after being made;

(b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).

(3) The relevant period is a period of 28 days starting with the day on which the order is made.

(4) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

(5) If the Treasury propose to make a freezing order in the belief that the condition in section 4(2)(b) is satisfied, they must not make the order unless they consult the Secretary of State.

11 Procedure for making certain amending orders

(1) This section applies if—

(a) a freezing order is made specifying by description (rather than by name) the person or persons to whom or for whose benefit funds are not to be made available,

(b) it is proposed to make a further order which amends the freezing order only so as to make it specify by name the person or persons (or any of the persons) to whom or for whose benefit funds are not to be made available, and

(c) the Treasury reasonably believe that the person or persons named fall within the description contained in the freezing order and the further order contains a statement of the Treasury's belief.

(2) This section also applies if—

(a) a freezing order is made specifying by name the person or persons to whom or for whose benefit funds are not to be made available,

(b) it is proposed to make a further order which amends the freezing order only so as to make it specify by name a further person or further persons to whom or for whose benefit funds are not to be made available, and

(c) the Treasury reasonably believe that the further person or persons fall within the same description as the person or persons specified in the freezing order and the further order contains a statement of the Treasury's belief.

(3) This section also applies if—

(a) a freezing order is made, and

(b) it is proposed to make a further order which amends the freezing order only so as to make it specify (whether by name or description) fewer persons to whom or for whose benefit funds are not to be made available.

(4) If this section applies, a statutory instrument containing the further order is subject to annulment in pursuance of a resolution of either House of Parliament.

12 Procedure for revoking orders

A statutory instrument containing an order revoking a freezing order (without re-enacting it) is subject to annulment in pursuance of a resolution of either House of Parliament.

13 De-hybridisation

If apart from this section an order under this Part would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

14 Orders: supplementary

(1) Where this Part confers a power to make provision, different provision may be made for different purposes.

(2) An order under this Part may include supplementary, incidental, saving or transitional provisions.

(3) Nothing in this Part affects the generality of subsection (2).

Miscellaneous

15 The Crown

(1) A freezing order binds the Crown, subject to the following provisions of this section.

(2) No contravention by the Crown of a provision of a freezing order makes the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Nothing in this section affects Her Majesty in her private capacity; and this is to be construed as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.

16 Repeals

(1) These provisions shall cease to have effect—

(a) section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964 (c. 60) (Treasury's power to prohibit action on certain orders as to gold etc);

(b) section 55 of the Finance Act 1968 (c. 44) (meaning of security in section 2 of 1964 Act).

(2) Subsection (1) does not affect a reference which—

(a) is to a provision referred to in that subsection, and

(b) is contained in a provision made under an Act.