



Terrorism (United Nations Measures) Order 2006 Al-Qaida and Taliban (United Nations Measures) Order 2006

Her Majesty's Treasury issues this Notice to advise that the Supreme Court has today delivered its judgment in the case of *HM Treasury v Ahmed and Others*. The case concerns the UK's implementation of United Nations obligations to freeze the assets of terrorists and those associated with Al-Qaida and the Taliban by way of two Orders in Council made under section 1 of the United Nations Act 1946 ('the UN Act'):

Section 1 of the UN Act authorises the Government to make an Order in Council to give effect to any decision of the UN Security Council where such provision appears to be "necessary or expedient for enabling those measures to be effectively applied".

The two Orders in Council, the subject of the judgment, are:

- the Terrorism (United Nations Measures) Order 2006 (the 'Terrorism Order'), and;
- the Al-Qaida and Taliban (United Nations Measures) Order 2006 (the "Al-Qaida Order").

The Supreme Court has decided that the powers contained in both Orders go beyond the scope of the powers that may be made under section 1 of the UN Act and has ruled that the Terrorism Order and article 3(1)(b) of the Al-Qaida Order (the provision that ensures that persons listed by the UN Sanctions Committee are automatically designated for the purposes of the Al-Qaida Order) are to be quashed. The Court will consider tomorrow whether to stay the judgment for a period. Therefore both Orders currently remain in force pending the Court's decision as to when orders will be made to quash them, and the funds and economic resources of those persons subject to the Orders remain frozen until the quashing orders are made.

Further information will be provided tomorrow once the Supreme Court has considered whether to stay the judgment.

The Government has today made a written ministerial statement regarding the judgment. The statement is attached to this Notice.

Media enquiries should be addressed to the Treasury Press Office on 020 7270 5238.

Non-media enquiries should be addressed by post to the Asset Freezing Unit, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ, or by phone 020 7270 5454, by fax 020 7451 7677 or by e-mail to AFU@hmtreasury.x.gsi.gov.uk.

H M Treasury
27/01/2010

WRITTEN MINISTERIAL STATEMENT

Terrorist asset freezing

The Exchequer Secretary to the Treasury (Sarah McCarthy-Fry): The Supreme Court has today delivered its judgment in the case of HM Treasury v Ahmed and Others. The case concerns the UK's implementation of United Nations obligations to freeze the assets of terrorists and those associated with Al-Qaida and the Taliban.

UNSCR 1267 (1999) established a UN asset freezing regime against Osama bin Laden and persons associated with Al-Qaida and the Taliban. UNSCR 1373 (2001), adopted shortly after 9/11, requires states to take a range of measures to deal with terrorism, including freezing the assets of those involved in terrorism.

The UK has implemented these obligations through Orders in Council made under section 1 of the United Nations Act 1946. Section 1 of the UN Act authorises the Government to make an Order in Council to give effect to any decision of the UN Security Council where such provision appears to be "necessary or expedient for enabling those measures to be effectively applied."

The Supreme Court has decided that the Terrorism (United Nations Measures) Order 2006 and the Al-Qaida and Taliban (United Nations Measures) Order 2006 are beyond the scope of the power provided by section 1 of the UN Act 1946 and it has quashed both Orders. The Court will consider tomorrow whether to stay the judgment for a period.

The Government made the Orders in Council in good faith based on its belief that section 1 of the United Nations Act was an appropriate legal vehicle and that it provided the most effective and timely way of implementing UN terrorist asset freezing obligations.

The Government is committed to maintaining an effective, proportionate and fair terrorist asset freezing regime that meets our United Nations obligations, protects national security by disrupting flows of terrorist finance, and safeguards human rights.

In light of the Court's decision and the ongoing significant threat from international terrorism, the Government intends to bring forward fast-track primary legislation to restore the UK's terrorist asset freezing regime. The Government also intends to bring forward affirmative procedure regulations under section 2(2) of the European Communities Act 1972 to ensure that enforcement provisions are in place to implement fully EC Regulation 881/2002 in respect of measures against Al-Qaida and the Taliban.

HM TREASURY
27 January 2010