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(2 Pages)

## **HIGH COURT QUASHES TREASURY'S ASSET FREEZING SCHEME MADE WITHOUT THE CONSENT OF PARLIAMENT**

In a High Court judgment today of the highest constitutional importance, Mr Justice Collins ordered that Government measures introduced to freeze terrorist assets were unlawful and should be struck down as they had not been authorised or sanctioned by Parliament.

The measures contained in the Terrorism (United Nations Measures) Order 2006 and the Al-Qaida and Taliban (United Nations Measures) Order 2006 were introduced directly by the Government through Orders in Council to implement United Nations Security Council Resolutions to strengthen domestic controls on the financing of terrorism and to comply with the British Government's international obligations to enforce UN Resolutions requiring such controls. They have never been scrutinised, debated or approved by Parliament.

In a judgment condemning as impermissible the Government's ousting of Parliament Mr Justice Collins said:

*"Counsel for the applicants have submitted that the means used to apply the obligations imposed by the UN Resolutions is unlawful. Parliament has been bypassed by the use of Orders in Council. But in deciding the appropriate way in which the obligation should be applied and in particular in creating the criminal offences set out in the Orders it was necessary that Parliamentary approval should be obtained. Those submissions are in my judgment entirely persuasive."*

The schemes give the Treasury far reaching powers to impose asset freezes on people they have reasonable grounds for suspecting "may be" terrorists or on those listed by the UN Security Council. The five British nationals bringing this challenge who have been designated under the Orders have had their assets frozen, are only allowed to access enough money to meet basic expenses, and are compelled to account to a civil servant for every penny they spend. They are subject to unprecedented levels of intrusion and control without end or review. They require permission for all economic activity, however modest. The complex regime governed by permissions and licences is not merely harsh but at points absurd. We have the madness of civil servants checking Tesco receipts, a child having to ask for a receipt every time it does a chore by running to the shops for a pint of milk and a neighbour possibly committing a criminal offence by lending a lawnmower.

None of the Applicants has been given proper reasons why they have been subjected to this oppressive and draconian regime by the State. None of them

have convictions for terrorism and they all deny any links to terrorism. The Orders introduce criminal offences for breaching these sanctions with a maximum penalty of 7 year imprisonment. An offence is committed not only if the designated person fails to comply with the restrictions but also if other people who have been notified of their designation give them funds or economic resources.

In a February 2006 speech Gordon Brown, then Chancellor of the Exchequer, set out his vision for new measures to be implemented for the Treasury to become “a department for security”:

*By being tough on security, with strengthened resources and powers, and tough on accountability, with safeguards for individuals and oversight through Parliament, we can make Britain safer and more secure while affirming our very British commitment to the liberties of the individual and showing we will never sacrifice the very values terrorism wishes to destroy.*

The court ruling today has shown that the Government is willing to sacrifice the fundamental rights and liberties of its citizens, including the fundamental constitutional right that only Parliament can take away basic freedoms, when they think it convenient to do so. They have dishonoured their pledge of accountability and oversight through Parliament.

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The case citation is

A,K.M, Q and G –v- Her Majesty’s Treasury  
Case nos: PTA 13,14,15,17 & 19/2007