
Bank of England Notice

**EMERGENCY LAWS (RE-ENACTMENTS AND REPEALS)
ACT 1964**

IRAQ

7 August 1990

This Notice draws attention in convenient form to the effect of the law contained in the Act and to the Treasury Directions given thereunder. By virtue of powers delegated by HM Treasury, this Notice gives certain permissions which are subject to the condition that they shall not apply in any case where it is so directed by or on behalf of HM Treasury.

References in this Notice to the United Kingdom should be read to include the Channel Islands and the Isle of Man.

This Notice supersedes the guidance set out in the Bank of England's Press Notice issued on 4 August 1990.

INTRODUCTION

On 4 August 1990 HM Treasury issued directions under the Emergency Laws (Re-enactments and Repeals) Act 1964 which have the effect of freezing certain Iraqi assets held in the United Kingdom.

- 2 The directions are contained in Statutory Instrument 1990 No 1616 which may be cited as The Control of Gold, Securities, Payments and Credits (Republic of Iraq) Directions 1990. Copies may be obtained from HM Stationery Office.
- 3 Article 2 of the Statutory Instrument reads as follows:- "Except with permission granted by or on behalf of the Treasury, no order given by or on behalf of the government of or any person resident in the Republic of Iraq at the time of the coming into force of these directions or at any later time while these directions are in force, shall be carried out, insofar as the order :-
 - (i) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
 - (ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities is to be held."
- 4 These directions apply to all persons (including bodies corporate) in the United Kingdom, including the Channel Islands and the Isle of Man, and to all other persons, wherever they may be, who are ordinarily resident in the United Kingdom and who are citizens of the United Kingdom and Colonies* or British protected persons.

Residents of Iraq

- 5 For the purposes of the directions, a resident of Iraq is any person, including any body corporate, normally resident in that country on 4 August 1990 or at any later time. A branch in Iraq of any business is treated as if the branch were a body corporate resident in Iraq. Orders given by branches outside Iraq of any body corporate resident in Iraq or by branches of any business whose head office is in Iraq are given on behalf of persons resident in Iraq, irrespective of the location of such branches. Persons resident or becoming resident in Iraq should not subsequently be treated as resident elsewhere without prior reference to the Bank of England.
- 6 Residential status should be determined by reference to the facts. Cases of doubt should be referred to the Bank of England.

Overseas Branches of United Kingdom companies and businesses

- 7 Branches outside the United Kingdom of companies incorporated in the United Kingdom and of businesses whose head offices are in the United Kingdom may continue to comply with orders from persons who are resident in Iraq but permissions will not normally be given to enable orders received by persons subject to the directions from persons resident in Iraq to be transferred to and executed by branches outside the United Kingdom.

Iraqi Accounts

- 8 The sterling, foreign currency and gold bullion accounts of persons resident in Iraq held in the United Kingdom with institutions authorised under the Banking Act 1987 or the Building Societies Act 1986 ("banks") should be designated and are referred to below as "Iraqi Accounts". Funds held by stockbrokers, solicitors, accountants, etc, on behalf of Iraqi residents, should be placed in a separate account.

*In this paragraph "citizens of the United Kingdom and Colonies" means a British citizen, a British Dependent Territories citizen or a British Overseas citizen or a person who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas). See the British Nationality Act 1981 Section 51 (3) (a) (ii).

Payments ordered by or on behalf of residents of Iraq

- 9 Any payment required by an order given by or on behalf of the government of Iraq or a resident of Iraq to a person subject to the directions (see paragraph 4) is prohibited except with permission. Permission will not normally be given for any such payment to any account held outside the United Kingdom. Permission is hereby given for any such payment whether in sterling or in foreign currency to be made to an "Iraqi Account". No payment or transfer may be made from one "Iraqi Account" to another "Iraqi Account" without permission, which will not normally be given.

Balances on "Iraqi Accounts"

- 10 Permission will not normally be given for any change to be made in the persons to whose credit any sum held on an "Iraqi Account" is to stand.

Payments from "Iraqi Accounts"

- 11 The Bank of England will consider applications to debit "Iraqi Accounts" for the following purposes:-

- (a) living, medical, educational and similar expenses of residents of Iraq in the United Kingdom. Payments to meet travel expenditure by residents of Iraq leaving the United Kingdom will also be considered. For all of these purposes, reasonable amounts will normally be permitted;
- (b) payments in respect of goods which have been shipped or otherwise despatched to the United Kingdom. Production of any necessary import licence and evidence of shipment or despatch will be required;
- (c) payments to reimburse United Kingdom banks who have made payments in respect of Iraqi trade under irrevocable letters of credit;
- (d) payments for charitable purposes.

- 12 For the time being, permission will not normally be given for "Iraqi Accounts" to be debited for the following purposes:-

- (a) payments to other "Iraqi Accounts";
- (b) payment of interest, or repayment of capital, on borrowings by residents of Iraq;
- (c) payments in connection with the operations of vessels and aircraft owned by, or on charter to, residents of Iraq;
- (d) payment of insurance premiums.

- 13 Permission is hereby given for the payment from "Iraqi Accounts" of -

- (a) charges to banks in the United Kingdom;
- (b) sums due to the Inland Revenue and HM Customs and Excise, provided no overdraft is thereby created on an "Iraqi Account";
- (c) distributions and payments to residents of the United Kingdom under wills and intestacies and under trusts set up before 4 August 1990.

Provision of cash to residents of Iraq in the United Kingdom

- 14 Banks and other persons in the United Kingdom may provide cash in reasonable amounts in sterling in the United Kingdom to residents of Iraq -
- (a) in exchange for foreign currency (other than Iraqi or Kuwaiti dinars) of equivalent value;
 - (b) against cheques, travellers' cheques, travellers' letters of credit, credit and debit cards and other payment instruments except for those payable in Iraqi dinars;
 - (c) through automated teller machines.

Payments by branches in the United Kingdom of companies resident in Iraq

- 15 Permission is hereby given for branches in the United Kingdom of Iraqi companies or businesses resident in Iraq to make salary and pension payments to persons living in the United Kingdom.
- 16 The Bank of England will consider applications from branches in the United Kingdom of companies or businesses resident in Iraq to make other payments of a current nature. Payments of a capital nature will not normally be permitted.

Pensions, etc, due to residents of Iraq

- 17 Any necessary permission is hereby given for the payment outside the United Kingdom of pensions due to residents of Iraq and of widows' and widowers' annuities associated with deceased husbands' and wives' employments.

Credits, loans and overdrafts

- 18 For the time being, permissions will not normally be given to enable existing or intending lenders subject to the directions (see paragraph 4 above) to comply with any order given by or on behalf of a person resident of Iraq to make any payment - without such permission no further drawings may be made under existing facilities. No new arrangements should be entered into, no bills of exchange drawn by a resident of Iraq should be accepted, and no credits, discount or acceptance facilities of any sort should be issued, confirmed or advised for account of, or in favour of, or on behalf of, a resident of Iraq.
- 19 Any necessary permission is, however, hereby given for irrevocable credits opened before 4 August 1990 in respect of transactions with Iraq to be honoured. "Iraqi Accounts" may not be debited in reimbursement except where otherwise permitted in this Notice.

Maturing bills of exchange

- 20 All necessary permissions are hereby given for maturing bills of exchange drawn by residents of Iraq and accepted before 4 August 1990 by persons subject to the directions to be paid by the acceptor on maturity. "Iraqi Accounts" may not be debited in reimbursement without permission.

Servicing of syndicated loans

- 21 Any necessary permission will be given for banks which are agents for syndicated loans and credits to the government or residents of Iraq to distribute capital repayments and interest payments to participants in the syndicates, provided that the necessary funds are received from outside the United Kingdom. Applications for such permission should be made to the Bank of England. Permission will not normally be given to use balances on "Iraqi Accounts".

Roll-overs

- 22 Persons subject to the directions who have made loans to residents of Iraq before 4 August 1990 and who wish to roll-over such loans in accordance with the terms of the loan agreement should refer to the Bank of England. Attention should be drawn to the reasons for any reduction in the interest rate or change in currency composition. Permission will not normally be given to enable the drawn down amount of the loan or credit to be increased on roll-over.

Gold

- 23 Permission is required for persons subject to the directions to do anything which involves parting with any gold coin or gold bullion wherever located or making any change in the persons to whose order any gold coin or gold bullion is to be held in compliance with an order given by or on behalf of the government or residents of Iraq. Such permission will not normally be given.

Securities

- 24 The Emergency Laws (Re-enactments and Repeals) Act 1964 as amended defines securities as including -

- (a) shares, stocks, bonds, notes (other than promissory notes), debentures, debenture stock, certificates of deposit and Treasury and other government bills;
 - a deposit receipt in respect of the deposit of securities;
- (c) a unit or a sub-unit of a unit trust;
- (d) an annuity granted under the Government Annuities Act 1929 or to which either Part I or Part II of that Act applies, and a life assurance policy or other contract entered into with an assurance company for securing the payment in the future of any capital sum or sums or of an annuity;
- (e) a warrant conferring an option to acquire a security;
- (f) a share in an oil royalty;

but excludes bills of exchange.

For the purposes of the permissions covered in this Notice "securities" includes those instruments defined as "investments" in Schedule 1 of the Financial Services Act 1986.

- 25 Permission is required for persons subject to the directions to do anything which involves parting with any securities or making any change in the persons to whose order any securities are to be held in compliance with an order given by or on behalf of residents of Iraq.
- 26 The Bank of England will consider applications from persons engaged in the discretionary management of portfolios of securities on behalf of residents of Iraq to continue to manage the portfolios in question. Permission will not normally be given to allow the release of portfolios from United Kingdom control.
- 27 Where securities are registered in the name of a person resident in Iraq, no order requiring payments of capital monies, dividends or interest to any person outside the United Kingdom may be complied with. Permission is hereby given for such payments to be made to "Iraqi Accounts". Such permission is also given where persons subject to the directions hold bearer securities for account of persons resident in Iraq.

Iraqi securities

- 28 No permissions are necessary for transfers of securities issued by residents of Iraq except when a person subject to the directions is required, by order given by or on behalf of a resident of Iraq, to part with any such security or to make any change in the persons to whose order any such security is to be held.
- 29 Applications should be made to the Bank of England for any permission needed by paying agents in the United Kingdom for Iraqi securities to make interest, dividend or redemption payments on, or to buy in, such securities.

Pre-zero transactions

- 30 Any necessary permissions are hereby given for any bargains entered into in the money, foreign exchange, commodities (other than physical oil) and securities markets, including derivatives, or any payment instructions received for immediate execution, involving Iraqi counterparties, prior to 4.30 p.m. BST (3.30 p.m. GMT) on 4 August 1990, to be completed.

Oil

- 31 Permission is hereby given for payments to be made by debit of an "Iraqi Account" for shipments of oil, provided the necessary import licence and evidence of shipment are exhibited.

Application and enquiries

- 32 Application should be made to the Bank of England in respect of any transaction which is not covered by the permissions given in this Notice.
- 33 Applications for permissions should be addressed to the Bank of England, Threadneedle Street, London, EC2R 8AH, and marked for the attention of the Iraq and Kuwait Emergency Unit (IKEU). Applications may also be made by facsimile transmission (071-601 4309).
- 34 Telephone enquiries may be made to 071-601 3250/3309/3764/3848/4768/5463.

Bank of England
7 August 1990