

## Statutory Instrument 1992 No. 1302

### **The Serbia and Montenegro (United Nations Sanctions) Order 1992**

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#### STATUTORY INSTRUMENTS

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### **1992 No. 1302**

#### **UNITED NATIONS**

### The Serbia and Montenegro (United Nations Sanctions) Order 1992

*Made* 4th June 1992

*Laid before Parliament* 4th June 1992

*Coming into force* 5th June 1992

At the Court at Buckingham Palace, the 4th day of June 1992

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 have, by a resolution adopted on 30th May 1992, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Serbia and Montenegro:

Now therefore Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946<sup>[1]</sup>, 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 Serbia and Montenegro (United Nations Sanctions) Order 1992 and shall come into force on 5th June 1992.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 30th May 1992, this Order shall cease to have effect or its operation shall be suspended, 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 and the Isle of Man.

### **Interpretation**

2.—(1) This Order shall have effect as if the Isle of Man were a part of the United Kingdom, and, unless the contrary intention appears, references to the United Kingdom shall be construed accordingly.

(2) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"aircraft of Serbia or Montenegro" means

- (a) any aircraft registered in Serbia or Montenegro; and
- (b) any other aircraft for the time being chartered to a person connected with Serbia or Montenegro;

"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;

"enactment" includes an Act of Tynwald and any provision contained in such an Act;

"export" includes shipment as stores;

"exportation" and "importation", in relation to any vessel,

submersible vehicle or aircraft, includes the taking out of or into the United Kingdom of the vessel, 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;

"indictment", in respect of the Isle of Man, includes information;

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

"person connected with Serbia or Montenegro" means

- (i) the Governments of the Federal Republic of Yugoslavia, of Serbia and of Montenegro;
- (ii) any other person in, or resident in, Serbia or Montenegro;
- (iii) any body incorporated or constituted under the law of Serbia or Montenegro;
- (iv) any body, wherever incorporated or constituted, which is controlled by any of the said Governments, any other person in, or resident in, Serbia or Montenegro, or any body incorporated in or constituted under the law of Serbia or Montenegro; and
- (v) any person acting on behalf of any of the above mentioned persons;

"shipment" (and cognate expressions) and "stores" shall have the meanings they bear in the Customs and Excise Management Act 1979<sup>[2]</sup>;

"vehicle" means land transport vehicle and includes a barge;

"vessel" shall have the meaning it bears in the Export of Goods (Control) Order 1991<sup>[3]</sup>.

### **Supply of goods to Serbia and Montenegro**

3.—(1) Except under the authority of a licence granted by the Secretary of State under this article, article 4 of this Order or under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992<sup>[4]</sup>, no person shall:

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of, any goods to or to the order of a person connected with Serbia or Montenegro.

(2) Nothing in paragraph (1)(b) or (c) of this article 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, article 4 of this Order or under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992.

#### **Exportation of goods to Serbia and Montenegro**

4. Except under the authority of a licence granted by the Secretary of State under this article or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992, all goods are prohibited to be exported from the United Kingdom to any destination in Serbia or Montenegro or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person connected with Serbia or Montenegro.

#### **Exportation of goods from Serbia and Montenegro and dealing and processing**

5.—(1) Except under the authority of a licence granted by the Secretary of State under this article or under the Import of Goods (Control) Order 1954<sup>[5]</sup>, all goods originating in Serbia or Montenegro are prohibited to be imported into the United Kingdom.

(2) Except under the authority of a licence granted by the Secretary of State under this article, no person shall do any act calculated to promote the exportation of any goods from Serbia or Montenegro.

(3) Except under the authority of a licence granted by the Secretary of State under this article, in respect of any goods that have been exported from Serbia or Montenegro after 30th May 1992, no person shall, by way of trade or otherwise for gain:

- (a) acquire or dispose of such goods or of any property or interest in them or any right to or charge upon them;
- (b) process them; or
- (c) do any act calculated to promote any such acquisition, disposal or processing by himself or any other person.

(4) Nothing in paragraph (2) or (3) of this article shall apply where the importation of the goods into the United Kingdom is or was authorised by a licence granted by the Secretary of State under this article or under the Import of Goods (Control) Order 1954.

#### **Carriage of goods destined for or exported from Serbia and Montenegro**

6.—(1) Without prejudice to the generality of article 3 of this Order, 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 any goods if the carriage is, or forms part of, carriage from any place outside Serbia or Montenegro to any destination therein, or to any person connected with Serbia or Montenegro.

(2) Without prejudice to the generality of article 5 of this Order, 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 any

goods if those goods are being or have been exported from Serbia or Montenegro after 30th May 1992.

(3) 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 Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person; or

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

(4) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, 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 the sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this article, 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 Serbia or Montenegro to any destination therein or to any person connected with Serbia or Montenegro.

(5) If any ship, aircraft or vehicle is used in contravention of paragraph (2) of this article, then—

(a) in the case of a ship registered in the United Kingdom or any aircraft so registered, the owner and 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 sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this article, 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 goods were being or had been exported from Serbia or Montenegro or had been exported therefrom after 30 May 1992, as the case may be.

(6) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to Serbia or Montenegro was authorised by a licence granted by the Secretary of State under article 3 or article 4 of this Order or under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992.

(7) Nothing in paragraph (2) of this article shall apply where importation of the goods concerned into the United Kingdom was

authorised by a licence granted by the Secretary of State under article 5 of this Order or under the Import of Goods (Control) Order 1954.

(8) 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.

#### **Servicing of aircraft**

7. Except under the authority of a licence granted by the Secretary of State under this article, no person shall provide engineering or maintenance servicing for any aircraft of Serbia or Montenegro or for any component of such an aircraft.

#### **Insurance of aircraft**

8.—(1) This article applies to any contract of insurance, other than a contract of re-insurance, upon aircraft of Serbia or Montenegro or upon the machinery, tackle, furniture or equipment of such an aircraft.

(2) Except under the authority of a licence granted by the Secretary of State under this article:

(a) no person shall make payment in full or partial settlement of any claim under a contract of insurance to which this article applies, unless the claim is in respect of an incident occurring before the Coming into force of this Order;

(b) no person shall effect any new contract of insurance, or agree to any variation or extension of any existing contract of insurance, to which this article applies.

#### **Bonds and Indemnities**

9.—(1) Except under the authority of a licence granted by the Secretary of State under this article:

(a) no person shall make any payment to or to the order of any person connected with Serbia or Montenegro under or in respect of a bond to which this article applies;

(b) no person shall do any act for the purpose of obtaining payment, or make any payment, in respect of any right to indemnity in respect of any bond to which this article applies, where payment under the bond is, or would if payment were to be made by a person referred to in Article 11(1) of this Order be, unlawful by virtue of sub-paragraph (a) of this paragraph.

(2) A bond to which this article applies is a bond given in respect of a contract the performance of which is unlawful, wholly or in part, by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992.

(3) In this article:

(a) "bond" means an agreement under which a person ("the obligor") agrees that, if called upon to do so, or if a third party fails to fulfil contractual obligations owed to another, the obligor will make payment to or to the order of the other party to the agreement; and

(b) "make any payment" means make payment by any method, including but not restricted to the grant, or any agreement to the

exercise, of any right to set off, accord and satisfaction and adjustment of any account, or any similar means.

### **Assets of Serbia and Montenegro**

**10.**—(1) Except with permission granted by or on behalf of the Treasury, no person shall—

(a) make any payment or part with any gold, securities or investments; or

(b) make any change in the persons to whose credit any sum is to stand or to whose order any gold, securities or investments are to be held,

where any such action is action to which this article applies.

(2) Action to which this article applies is action which is likely to make available to or for the benefit of any person connected with Serbia or Montenegro any funds or other financial or economic resources, whether by their removal from the United Kingdom or otherwise, or otherwise to remit or transfer funds or other such resources to or for the benefit of any person connected with Serbia or Montenegro.

(3) Any permission granted by or on behalf of the Treasury under this article may be granted either absolutely or subject to conditions and may be varied or revoked at any time by, or on behalf of the Treasury.

(4) In this article:

(a) "gold", "payment" and "securities" shall have the meanings they bear in section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964<sup>[6]</sup>; and

(b) "investments" means any asset, right, or interest falling within any paragraph of Part I of Schedule 1 to the Financial Services Act 1986<sup>[7]</sup> which is not a security.

### **Application of Articles 3, 5, 7, 8, 9 and 10**

**11.**—(1) The provisions of articles 3, 5(2) and (3), 7, 8, 9 and 10 of this Order shall apply to any person within the United Kingdom and to any person elsewhere who:

(a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person; or

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

(2) Subject to the provisions of paragraphs (3) to (8) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of articles 3, 5(2) or (3), 7, 8, 9 or 10 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to or to the order of a person connected with Serbia or Montenegro.

(4) In the case of proceedings for an offence in contravention of

article 5(3) of this Order, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were exported from Serbia or Montenegro or were exported therefrom after 30th May 1992, as the case may be.

(5) In the case of proceedings for an offence in contravention of article 7 of this Order, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was an aircraft of Serbia or Montenegro or that the component was part of such an aircraft.

(6) In the case of proceedings for an offence in contravention of article 8 of this Order, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was an aircraft of Serbia or Montenegro or that the machinery, tackle, furniture or equipment was part of such an aircraft.

(7) In the case of proceedings for an offence in contravention of article 9(1)(a) of this Order, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment was made to or to the order of a person connected with Serbia or Montenegro; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which was unlawful by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992; and

(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract.

(8) In the case of proceedings for an offence in contravention of article 9(1)(b) of this Order, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment under the bond was or would be to or to the order of a person connected with Serbia or Montenegro; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which was unlawful by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992; and

(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract.

Provided that sub-paragraph (b) shall not apply where the accused person is a party to the contract in respect of which the bond was given.

### **Customs powers to demand evidence of destination which goods reach**

**12.** Any exporter or any shipper of 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—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order or under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992; or
- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be liable to a customs penalty not exceeding level 5 on the standard scale 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.**

**13.**—(1) If for the purposes of obtaining any licence or permission 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 or with permission granted by or on behalf of the Treasury under this Order and who fails to comply with any condition attaching to that licence or permission 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,

- (i) by the Secretary of State after the doing of the act authorised by the licence, or
- (ii) by or on behalf of the Treasury after the doing of the act with permission granted by or on behalf of the Treasury.

**Declaration as to goods: powers of search**

**14.**—(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 goods destined for Serbia or Montenegro or for delivery, directly or indirectly, to or to the order of a person connected with Serbia or Montenegro; and
  - (b) produce any such goods as aforesaid which he has with him,
- and such officer, and any person acting under his directions, 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, 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 and aircraft**

**15.**—(1) Where any authorised officer, that is to say, any such officer as is referred to in section 692(1) of the Merchant Shipping Act 1894<sup>[8]</sup>, has reason to suspect that any ship registered in the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of article 6 of this Order, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, 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 an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) or paragraph (2) of article 6 of this Order, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master 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 request the master to take any one or more of the following steps:

(a) 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 any authorised officer that the ship may so proceed;

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

(c) 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 (b) of this paragraph; and

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

and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of paragraph (8) of this article, where a master refuses or fails to comply with a request made under this article that his ship shall or shall not proceed to or from any place or where 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.

(3) Where any officer of Customs and Excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any aircraft registered in

the United Kingdom or any aircraft for the time being chartered to any person specified in paragraph (3) of article 6 of this Order has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of that article, that authorised person or that officer 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 their or his inspection such documents so relating and such cargo as they or he may specify, and that authorised person or that officer 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, if the aircraft is then in the United Kingdom, any such authorised person or any such officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the United Kingdom until notified that the aircraft may depart, and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of paragraph (8) of this article, where any person authorised as aforesaid or any such officer as aforesaid has reason to suspect that any request that an aircraft should remain in the United Kingdom that has been made under paragraph (3) of this article may not be complied with that authorised person or that 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:

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(5) A person authorised by the Secretary of State to exercise any power for the purposes of paragraph (3) or paragraph (4) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(6) No information furnished or document produced by any person in pursuance of a request made under this article 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; or
- (b) to any person who would have been empowered under this article to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of the Isle of Man; or
- (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 Serbia and Montenegro 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 for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

(7) Any power conferred by this article 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.

(8) 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 paragraph (1) of this article with respect to the landing of any cargo;

(b) a master of a ship or a charterer or an operator or a commander of an aircraft who,—

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

(ii) who wilfully furnishes false information or produces false documents 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 who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(9) Nothing in 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 or aircraft.

### **Obtaining of evidence and information**

**16.** The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State, the Commissioners of Customs and Excise or the Treasury, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Secretary of State, the Commissioners of Customs and Excise or the Treasury, of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

### **Penalties and Proceedings**

**17.—(1)** Any person guilty of an offence under article 6(4) or (5) or article 11(2) of this Order 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 15(8)(b)(ii) of this Order or paragraph 5(b) or (d) of the Schedule to this Order shall be liable;—

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

(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.

(3) Any person guilty of an offence under article 13(1) or (2), or article 14(3) of this Order 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 the statutory maximum.

(4) Any person guilty of an offence under article 14(2) of this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Any person guilty of an offence under article 15(8)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of the Schedule to this Order 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.

(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) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980<sup>[9]</sup>, an indictable offence which is triable summarily under this Order, or a summary offence thereunder, may be so tried by a magistrates' court in England and Wales, if an information is laid at any time within 3 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.

(8) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975<sup>[10]</sup>, 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 applies for the purpose of this paragraph as it applies for the purpose of that section: Provided that such

proceedings shall not be commenced after the expiration of 3 years from the commission of the offence.

(9) Notwithstanding anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>[11]</sup>, summary proceedings for an offence under this Order in Northern Ireland may be instituted at any time within 3 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) Notwithstanding anything in section 75(1) of the Summary Jurisdiction Act 1989 (an Act of Tynwald), a complaint relating to an offence under this Order which is triable by a court of summary jurisdiction in the Isle of Man may be heard if it is made at any time within 3 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 come to his knowledge.

(11) 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) (9) and (10) above 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.

(12) 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.

(13) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984<sup>[12]</sup> 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.

(14) In Northern Ireland, paragraph (2) of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>[13]</sup> shall apply to the offences under this Order that are not arrestable offences by virtue of a 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, Northern Ireland or in the Isle of Man 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 or the Isle of Man:

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 Secretary of State**

**18.**—(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 (other than the power to give authority under the Schedule to this Order 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 Secretary of State shall be construed accordingly.

(2) Any licences granted under this Order 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.** This Order applies to or in relation to any ship or aircraft or any body corporate that purports to be registered in any particular place or, as the case may be, that purports to be incorporated or constituted under the law of any particular place as it applies to or in relation to any ship or aircraft that is so registered or any body corporate that is so incorporated or constituted.

*G. I. de Deney*

Clerk to the Privy Council

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#### *Notes:*

[1] 1946 c. 45. [back](#)

[2] 1979 c. 2. [back](#)

[3] S.I. [1991/2666](#), to which there have been amendments not relevant to this Order. [back](#)

[4] S.I. [1992/1272](#) [back](#)

[5] S.I. 1954/23, as amended by S.I. 1954/627, 1975/2117 and 1978/806. [back](#)

[6] 1964 c. 60. [back](#)

[7] 1986 c. 60. [back](#)

[8] 1894 c. 60. [back](#)

[9] 1980 c. 43. [back](#)

[10] 1975 c. 21. [back](#)

[11] S.I. 1981/1675 (N.I. 26). [back](#)

[12] 1984 c. 60. [back](#)

[13] S.I. [1989/1341](#) (N.I. 12). [back](#)

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