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STATUTORY INSTRUMENTS

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**2000 No. 3244**

**UNITED NATIONS**

**The Iraq (United Nations Sanctions)  
(Channel Islands) Order 2000**

*Made - - - - 13th December 2000*  
*Laid before Parliament 13th December 2000*  
*Coming into force - - 14th December 2000*

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations have, by a resolution adopted on 6th August 1990, 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 Iraq:

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 Iraq (United Nations Sanctions) (Channel Islands) Order 2000, and shall come into force on 14th December 2000.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling, amending or suspending the operation of the resolution adopted by it on 6th August 1990 in whole or in part, this Order shall cease to have effect or be deemed to be amended, or its operation shall be suspended, in whole or in part, 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) Articles 2 to 7 and 9 of this Order apply to any person within the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, and to any person elsewhere who—

- (a) is a British citizen, a British Dependent Territories citizen, a British overseas citizen, a British National (Overseas), a British subject or a British protected person and is ordinarily resident in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey; or
- (b) is a body corporate incorporated or constituted under the law of any part of the Bailiwick of Guernsey or, as the case may be, that of the Bailiwick of Jersey.

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(1) 1946 c. 45.

(4) This Order extends to the Channel Islands so as to the law, respectively, in the Bailiwick of Guernsey and in the Bailiwick of Jersey only.

## **Interpretation**

### **2. In this Order—**

“Attorney General”, except where the context otherwise requires, means—

- (a) in the application of this Order to the Bailiwick of Guernsey, the Attorney General or the Solicitor General for Guernsey; and
- (b) in the application to this Order to the Bailiwick of Jersey, the Attorney General of Jersey;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“funds” means financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations, securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“professional legal adviser” in the application of this Order to the Bailiwick of Jersey, means an advocate or solicitor;

“relevant enforcement authority” means—

- (a) for the purposes of article 4 in its application—
  - (i) to the Bailiwick of Guernsey, the Attorney General or the Solicitor General for Guernsey, and
  - (ii) to the Bailiwick of Jersey, the Finance and Economic Committee;
- (b) for the purposes of article 8, 9(1) or 10(1)(c), the Attorney General, and
- (c) for all other purposes, the Lieutenant Governor in relation to the Bailiwick of Guernsey and the Finance and Economics Committee in relation to the Bailiwick of Jersey;

“relevant institution” means—

- (a) in relation to the Bailiwick of Guernsey, an institution licensed by the Guernsey Financial Services Commission under the Banking Supervision (Bailiwick of Guernsey) Law, 1994; and
- (b) in relation to the Bailiwick of Jersey, an institution within the meaning of Article 1(1) of the Banking Business (Jersey) Law 1991, as amended;

“the standard scale” means—

- (a) in relation to the Bailiwick of Guernsey, the standard scale of fines specified for the time being in section 1 of the Uniform Scale of Fines (Bailiwick of Guernsey) Law 1989, as amended, and
- (b) in relation to the Bailiwick of Jersey, the standard scale of fines specified for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 as amended.

(2) Any reference to an Act of Parliament of the United Kingdom shall, in the case of a provision which has been extended to the Channel Islands or otherwise applies to the Channel Islands, be construed as a reference to that provision as it has effect there.

### **Making funds available to Iraq**

3. Any person who, except under the authority of a licence granted under article 5 by the relevant enforcement authority—

- (a) makes any funds available to the Government of the Republic of Iraq or any person who is resident in the Republic of Iraq, or
- (b) otherwise remits or removes any funds from the Bailiwick of Guernsey or the Bailiwick of Jersey, as the case may be, to a destination in the Republic of Iraq.

is guilty of an offence in the Bailiwick in question.

### **Freezing of funds on suspicion**

4.—(1) Where the relevant enforcement authority has reasonable grounds for suspecting that any funds held by any person are or may be—

- (a) funds of the Government of the Republic of Iraq, or a person who is resident in the Republic of Iraq, or
- (b) held on behalf of that Government or any such person,

it may by notice direct that those funds are not to be made available to that Government or that person, except under the authority of a licence granted under article 5.

(2) A notice given under paragraph (1) above shall specify the period for which it is to have effect, which shall be not longer than 5 working days.

(3) In paragraph (2) above, “working day” has, in relation to the Bailiwick of Jersey, the meaning given to it in the Public Holidays and Bank Holidays (Jersey) Law 1951 as amended, and in relation to the Bailiwick of Guernsey means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a public holiday in that Bailiwick.

(4) The relevant enforcement authority may by notice revoke a direction that they have granted under paragraph (1) at any time.

(5) The expiry or revocation of a direction shall not affect the application of article 3 in respect of the funds in question.

(6) A notice under paragraph (1) or (4) above shall be given in writing to the person holding the funds in question (“the recipient”) and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held (“the owner”).

(7) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(8) Any person who contravenes a direction under paragraph (1) above is guilty of an offence.

(9) A recipient who fails to comply with such a requirement as is mentioned in paragraph (6) above is guilty of an offence.

### **Licences**

5.—(1) A licence granted under this Order shall be in writing and may be—

- (a) granted either generally or to one or more particular persons;

(b) granted either absolutely or subject to compliance with such conditions as are specified in the licence;

(c) either of indefinite duration or expressed to expire on a specified date.

(2) A licence granted to one or more particular persons may be revoked or varied at any time by written notice given by the relevant enforcement authority to each of those persons.

(3) The relevant enforcement authority shall publish a general licence in such manner as it thinks fit. A general licence may be revoked or varied at any time by written notice which shall be published by the relevant enforcement authority in the same manner as the licence.

(4) Any person who, in doing or having done an act mentioned in article 3(a) or (b) or 4(1) under the authority of a licence, contravenes or fails to comply with a condition specified in the licence, is guilty of an offence, unless the condition is one imposed as a result of a variation of the licence made without his consent after he did the act.

(5) A notice under paragraph (2) may be given by post, and shall be deemed to have been given to a person if it is sent to him at his last-known address.

#### **Facilitation of offences under article 3 or 4(8)**

6. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 3 or 4(8) is guilty of an offence.

#### **Offences in connection with applications for licences**

7. Any person who, for the purposes of obtaining a licence under article 5, knowingly or recklessly makes any statement or furnishes any document or information which is false in a material particular is guilty of an offence.

#### **Failure to disclose knowledge or suspicion of sanctions offences**

8.—(1) A relevant institution is guilty of an offence if—

- (a) it knows or suspects that a person is resident in the Republic of Iraq, or has committed an offence under article 3, 4(8) or 5(4),
- (b) the person is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time, and
- (c) it does not disclose to the relevant enforcement authority the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the relevant enforcement authority—

- (a) its knowledge or suspicion that a person is resident in the Republic of Iraq, or has committed an offence under article 3, 4(8) or 5(4), or
- (b) any information or matter on which that knowledge or suspicion is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

#### **Obtaining of information**

9.—(1) The relevant enforcement authority may, by notice in writing given to any person to whom this article applies, require that person to—

- (a) furnish any information in his possession or control and specified in the notice, or

(b) produce any documents in his possession or control and specified in the notice, which the relevant enforcement authority may require for the purpose of ensuring compliance with, or detecting evasion of, this Order.

(2) Any person to whom such a requirement is given shall comply with it within such time, in such manner and at such place as may be specified in the notice.

(3) A notice under paragraph 9(1) may be given by post, and shall be deemed to have been given to a person if it is sent to him at his last-known address.

(4) Nothing in this article shall require any person who has acted as professional legal adviser for any person to produce or disclose any privileged communication or document in his possession in that capacity.

(5) The furnishing of any information or the production of any document under this article shall not be treated as a breach of any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(6) The power conferred by this article to require any person to produce documents shall include power to take copies of or extracts from any document so produced and to require that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

(7) Any person who—

- (a) without reasonable excuse, refuses or fails to comply with any requirement under paragraph (1);
- (b) intentionally furnishes false information or a false explanation in purported compliance with a requirement under paragraph (1); or
- (c) with intent to evade the provisions of this article, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

(8) Where a person is convicted of an offence under this article of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

### **Disclosure of information**

**10.—**(1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of this Order 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 possession of that document in his own right;

- (b) to any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom,
  - (ii) the Government of the Isle of Man,
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
  - (iv) the States of Jersey, or
  - (v) the Government of any territory listed in the Schedule to this Order;

- (c) on the authority of the relevant enforcement authority, to—
  - (i) any organ of the United Nations or any person in the service of the United Nations, or
  - (ii) the Government of, or any competent authority in, any other country,for the purpose of assisting the United Nations or that Government or authority in securing compliance with or detecting evasion of measures in relation to Iraq decided upon by the Security Council of the United Nations;
- (d) with a view to the initiation of, or otherwise for the purposes of, any investigation into the commission or possible commission of an offence under this Order; or
- (e) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order.

(2) Any person who, without reasonable excuse, discloses information or a document in contravention of paragraph (1) is guilty of an offence.

### **Penalties and proceedings**

**11.**—(1) Any person guilty of an offence under article 3, 4(8), 5(4) or 6 shall be liable in the Bailiwick of Guernsey—

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years, or a fine, or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both;

and in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding seven years, or to a fine, or to both.

(2) Any person guilty of an offence under article 7, 9(7)(b) or (c) or 10(2) shall be liable in the Bailiwick of Guernsey—

- (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 three months, or a fine not exceeding level 5 on the standard scale, or both;

and in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) Any person guilty of an offence under article 4(9), 8 or 9(7)(a) shall be liable in the Bailiwick of Guernsey on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, and in the Bailiwick of Jersey on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.

(4) Where a 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.

(5) Proceedings against any person for an offence under this Order, in its application to the Bailiwick of Guernsey, may be taken before the appropriate court in the Bailiwick having jurisdiction in the place where that person is for the time being.

(6) No proceedings for an offence under this Order shall be instituted except by or with the consent of the Attorney General:

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 functions**

**12.** The relevant enforcement authority may, to such extent and subject to such restrictions and conditions as it may think proper, delegate or authorise the delegation of any of its functions under this Order to any person, or class or description of person, approved by it, and references in this Order to the relevant enforcement authority shall be construed accordingly.

*A. K. Galloway*  
Clerk of the Privy Council

SCHEDULE

Article 10(1)(b)(v)

DISCLOSURE OF INFORMATION: LISTED TERRITORIES

Anguilla  
Bermuda  
British Antarctic Territory  
British Indian Ocean Territory  
British Virgin Islands  
Cayman Islands  
Falkland Islands  
Gibraltar  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena  
St Helena Dependencies  
South Georgia and the South Sandwich Islands  
Turks and Caicos Islands  
The UK Sovereign base Areas of Akrotiri and Dhekelia in the island of Cyprus

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision to give effect to a decision of the Security Council of the United Nations in Resolution 661 of 6th August 1990. It prohibits the making of funds available to the Government of the Republic of Iraq or persons resident in Iraq, and the remission or removal of funds to Iraq from the Channel Islands (article 3) without a licence. Provision is also made for the relevant enforcement authority to require certain suspected Iraqi funds to be frozen (article 4). Article 6 makes it an offence to facilitate the commission of an offence under article 3 or 4(8).

Provision is made with respect to the granting of licences (articles 5 and 7) and for the obtaining of information for the purposes of enforcement (articles 8 to 10). Article 11 provides for penalties and proceedings for offences under the Order.