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STATUTORY INSTRUMENTS

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**1990 No. 2144**

**The Iraq and Kuwait (United Nations Sanctions)(Second Amendment) Order 1990**

**Amendment of Article 8 of the principal Order**

3. Article 8 of the principal Order shall be replaced by the following Article—

**“Penalties and proceedings**

8.—(1) Any person guilty of an offence against this Order other than against article 6(8) or paragraph 5 of the Schedule to this Order shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding five 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 against article 6(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 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.

(3) Any person guilty of an offence against article 6(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 five on the standard scale or to both.

(4) Where any body corporate is guilty of an offence against 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) In this Order references to a “body corporate” include references to a partnership in Scotland 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.

(6) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980(1), an information relating to an offence against this Order which is triable by a magistrates' court in England and Wales may be so tried if it 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 Attorney General or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(7) Summary proceedings in Scotland for an offence against this Order shall not be commenced after the expiration of 3 years from the commission of the offence. Subject to this (and notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975<sup>(2)</sup>), such proceedings may (in Scotland) 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.

(8) For the purposes of this paragraph, a certificate of the Attorney General, the Lord Advocate or the Secretary of State (as the case may be) as to the date on which such evidence as is referred to above came to his knowledge is conclusive evidence.

(9) Proceedings against any person for an offence against this Order may be taken before the appropriate court in the United Kingdom, or in any place to which this Order extends, having jurisdiction in the place where that person is for the time being.

(10) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984<sup>(3)</sup> shall apply to the offences against 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.

(11) No proceedings for an offence against this Order, other than for a summary offence, shall be instituted in England, Wales, Northern Ireland or 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.”.

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(2) 1975 c. 21.  
(3) 1984 c. 60.