
STATUTORY INSTRUMENTS

1992 No. 1304

The Serbia and Montenegro (United Nations Prohibition of Flights) Order 1992

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Serbia and Montenegro (United Nations Prohibition of Flights) Order 1992 and shall come into force on 5 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 30 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, the Channel Islands and the Isle of Man.

Interpretation

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

“airport operator” means the person for the time being having the management of an airport or, in relation to a particular airport, the management of that airport;

“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;

“operator”, in relation to an aircraft, means the person for the time being having the management of the aircraft.

Prohibition of Flights

3.—(1) Except with the permission of the Secretary of State granted under this article, no aircraft, wherever registered, shall take off from, land in or fly over the territory of the United Kingdom or any other place to which this Order extends, if its destination is, or if it has taken off from Serbia or Montenegro.

(2) If any aircraft is used in contravention of the provisions of this article, then the operator and the commander of the aircraft shall be guilty of an offence against this Order.

Powers of airport operator

4.—(1) For the purpose of enforcing the prohibitions contained in article 3 of this Order, it shall be the duty of an airport operator to take all such steps as may be necessary to secure that any aircraft at his airport

- (a) whose commander or operator has indicated an intention to fly the aircraft to a destination in Serbia or Montenegro or which the airport operator otherwise has reason to suspect will be flown to such a destination; or
- (b) which the airport operator knows or has reason to suspect has, since 30th May 1992, taken off from Serbia or Montenegro,

is prevented from taking off unless permission to do so has been granted under article 3 of this Order.

- (2) Without prejudice to the generality of paragraph (1) of this article, such steps may include:
 - (a) the refusal of any refuelling service for the aircraft;
 - (b) the placing of obstacles in the path of a parked aircraft to prevent it from leaving its parked position; and
 - (c) requiring the commander or operator of the aircraft to move it, or to secure that it is moved, to another part of the airport.

(3) Any person who, without reasonable excuse, obstructs an airport operator, his servants or agents acting in accordance with the provisions of this article, or refuses or fails within a reasonable time to comply with a request by any such persons made in accordance with paragraph 2(c) of this article, shall be guilty of an offence under this Order.

Penalties and proceedings

5.—(1) Any person guilty of an offence under this Order shall be liable—

- (a) on conviction on indictment (or in the Isle of Man on information) 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; or
- (c) on conviction in the Bailiwick of Jersey to imprisonment for a term not exceeding two years or to a fine or to both.

(2) 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.

- (a) (3) (a) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975⁽¹⁾ summary proceedings in Scotland for an offence against 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.

- (b) A certificate signed by the Lord Advocate or on his behalf and stating the date on which such evidence came to his knowledge shall be conclusive evidence of that fact; and a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(4) 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.

(1) 1975 c. 21.

(5) No proceedings for an offence against this Order shall be instituted in England, Wales, Northern Ireland, the Isle of Man or the Bailiwick of Jersey, 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 or the Bailiwick of Jersey:

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

6.—(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 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 permissions 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.

G. I. de Deney
Clerk of the Privy Council