

2004 No. 1660

UNITED NATIONS

**The Iraq (United Nations Sanctions) Order 2000 (Amendment)
Regulations 2004**

<i>Made</i>	- - - -	<i>29th June 2004</i>
<i>Laid before Parliament</i>		<i>30th June 2004</i>
<i>Coming into force</i>		<i>21st July 2004</i>

Whereas the Treasury are a government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to (i) measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States and (ii) measures relating to the movement of capital and to payments, between Member States and between Member States and countries which are not Member States;

Now, therefore, the Treasury, in exercise of the powers conferred upon them by that section, hereby make the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Iraq (United Nations Sanctions) Order 2000 (Amendment) Regulations 2004 and come into force on 21st July 2004.

2. In these Regulations—

“the 2000 Order” means the Iraq (United Nations Sanctions) Order 2000(c);

“the 2004 Order” means the Iraq (United Nations Sanctions)(Amendment) Order 2004(d); and

“Development Fund for Iraq” has the same meaning as in article 2(1) of the 2000 Order.

Amendment of the Iraq (United Nations Sanctions) Order 2000

3.—(1) The 2000 Order is amended as follows.

(2) In article 1(3)—

(a) in sub-paragraph (a), omit “or” in the last place it appears; and

(b) after sub-paragraph (b), insert—

“; or

(c) is on board any aircraft or ship registered in the United Kingdom.”.

(3) After article 1(3), insert—

(a) S.I.1994/757.

(b) 1972 c. 68.

(c) S.I. 2000/3241, amended by S.I. 2003/1519 article 3 and Schedule 1 and S.I. 2004/1498.

(d) S.I. 2004/1498.

- “(4) In paragraph (3)—
- (a) “person within the United Kingdom” includes—
 - (i) any person who is carrying on any business in the United Kingdom; and
 - (ii) any person who is, whether on board an aircraft or otherwise, in the airspace above any part of the United Kingdom; and
 - (b) “ship” has the same meaning as in section 313 of the Merchant Shipping Act 1995(a).”
- (4) In article 2(1), after the definition of “body corporate”, insert—
- ““Council Regulation” means Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96(b), as last amended by Commission Regulation (EC) No 1086/2004(c);”.
- (5) In article 4A(d)—
- (a) at the end of paragraph (1)(b) insert—
 - “;or
 - (c) a person listed in Annex III to the Council Regulation;”;
 - (b) after paragraph (2)(a), insert—
 - “(aa) a person listed in Annex IV to the Council Regulation;”;
 - (c) in paragraph (2)(c) after “(a)”, insert “, (aa)”;
 - (d) in paragraph (2)(d) after “(a),”, insert “(aa),”; and
 - (e) in paragraph (2)(e) after “(a),”, insert “(aa),”.
- (6) In article 5A(e)—
- (a) for paragraph (3)(a)(i) substitute—
 - “(i) an order or judgment of a court or a final and binding arbitral award made before 22nd May 2003; or”;
 - (b) in paragraph (3)(a)(ii) for “made on or before that date”, substitute “made before 22nd May 2003”;
 - (c) in paragraph (3)(b) for “on or before that date”, substitute “before 22nd May 2003”; and
 - (d) after paragraph (3), insert—
 - “(3A) Where, as a result of the amendments made to this Order by the Iraq (United Nations Sanctions) Order 2000 (Amendment) Regulations 2004, relevant funds no longer fall within paragraph (3), the person holding those funds must, no later than 11 August 2004—
 - (a) cause the transfer of those funds to the account of the Development Fund for Iraq held at the Federal Reserve Bank of New York; and
 - (b) notify the Treasury in writing of—
 - (i) the identity of the person by, for on behalf of whom the funds were held;
 - (ii) the amount transferred; and
 - (iii) the date that the transfer took place.
 - (3B) In paragraph (3A), “relevant funds” means funds which were held by, for or on behalf of a listed person or a designated person and which had not been transferred to the

(a) 1995 c. 21.

(b) O.J. No. L 169, 8.7.2003, p 6.

(c) O.J. No. 207, 10.6.2004, p 10.

(d) Article 4A was inserted by S.I. 2004/1498, article 5.

(e) Article 5A was inserted by S.I. 2003/1519, article 3 and paragraph 5 of Schedule 1 and was amended by S.I. 2004/1498, article 5(10).

account of the Development Fund for Iraq before 14th July 2004 on the ground that they were within paragraph (3).”.

Transfer of funds to the Development Fund for Iraq

4.—(1) Where, as a result of the amendments made to the 2000 Order by these Regulations, relevant funds no longer fall within article 5A(3) of that Order, the person holding those funds must, no later than 11 August 2004—

- (a) cause the transfer of those funds to the account of the Development Fund for Iraq held at the Federal Reserve Bank of New York; and
- (b) notify the Treasury in writing of—
 - (i) the identity of the person by, for or on behalf of whom the funds were held;
 - (ii) the amount transferred; and
 - (iii) the date the transfer took place.

(2) In paragraph (1), “relevant funds” means funds which are subject to a direction of the sort referred to in article 6(1) of the 2004 Order and which had not been transferred to the account of the Development Fund for Iraq before 14th July 2004 on the ground that they were within paragraph 5A(3) of the 2000 Order.

(3) An obligation to transfer funds under paragraph (1) applies notwithstanding any right, obligation, restriction or immunity, whether imposed or conferred by statute or otherwise.

(4) No person may be held liable in respect of any action taken for the purpose of complying with an obligation to transfer funds under paragraph (1).

(5) Funds in respect of which paragraph (1) applies are immune from any legal process (including any measure of restraint, attachment, execution or detention) requiring them to be dealt with otherwise than in accordance with these Regulations.

(6) Any person who fails to comply with paragraph (1) is guilty of an offence and 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 three months, or a fine not exceeding the statutory maximum, or both.

(7) In proceedings for an offence under this regulation, it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

John Heppell
Derek Twigg

29th June 2004

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made in exercise of the power in section 2(2) of the European Communities Act 1972, amend the Iraq (United Nations Sanctions) Order 2000 (the “2000 Order”) which gave effect to certain aspects of the sanctions imposed against Iraq by United Nations Security Council Resolution 1483(2003) of 22nd May 2003. The amendments are made to ensure that full effect is

given in the United Kingdom to the provisions of Council Regulation (EC) No. 1210 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 (the “2003 Regulation”), which implemented Resolution 1483 (2003) at Community level.

Regulations 3(2) and (3) amend the personal scope of the 2000 Order so that it applies to persons who are onboard aircraft or ships that are registered in the United Kingdom, as well all persons in the airspace above any part of the United Kingdom and persons carrying on any business in the United Kingdom.

Regulation 3(5) amends article 4A of the 2000 Order in order to enable the Treasury to issue a direction under that article in respect of persons they have reasonable grounds for suspecting are or may be listed in either Annex III or Annex IV to the 2003 Regulation, as well as certain persons that they have reasonable grounds for suspecting are or may be connected with persons who are listed in Annex IV to the Council Regulation.

Regulation 3(6) amends article 5A(3) of the 2000 Order to adjust the scope of the exemption from the requirement to transfer funds to the account of the Development Fund for Iraq and makes various amendments in consequence of the changes that have been made to article 5A(3).

Regulation 4 makes provision requiring the transfer to the Development Fund for Iraq of funds that are subject to a direction of the sort referred to in article 6(1) of the Iraq (United Nations Sanctions)(Amendment) Order 2004 and which, as a consequence of the amendments that have been made to the 2000 Order by these Regulations, no longer fall within article 5A(3) of the 2000 Order.

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