
STATUTORY INSTRUMENTS

1994 No. 2673

UNITED NATIONS

The Former Yugoslavia (United Nations Sanctions) Order 1994

Made - - - - *17th October 1994*
Laid before Parliament *18th October 1994*
Coming into force - - *19th October 1994*

At the Court of Saint James, the 17th day of October 1994

Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953 was pleased, by Letters Patent dated the 11th day of August 1994, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by resolutions adopted on 17th April 1993 and 23rd September 1994, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to the United Nations Protected Areas in the Republic of Croatia, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, and Serbia and Montenegro:

Now, therefore, His Royal Highness The Prince Edward and Her Royal Highness The Princess Royal, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 1 of the United Nations Act 1946(1), and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Former Yugoslavia (United Nations Sanctions) Order 1994 and shall come into force on 19th October 1994.

(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 in whole or in part the operation of the resolutions

(1) 1946 c. 45.

adopted by it on 17th April 1993 and 23rd September 1994, 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.

Interpretation

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

“the 1993 Order” means the Serbia and Montenegro (United Nations Sanctions) Order 1993(2);

“Bosnian Serb controlled areas” means those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces;

“export” includes shipment as stores;

“exportation”, in relation to any vessel, submersible vehicle or aircraft, includes the taking out of 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;

“ship” has the meaning it bears in section 742 of the Merchant Shipping Act 1894(3);

“shipment” (and cognate expressions) and “stores” have the meaning they bear in the Customs and Excise Management Act 1979(4);

“vehicle” means land transport vehicle.

Exportation of goods to Bosnian Serb controlled areas and areas of Croatia

3. Except under the authority of a licence granted by the Secretary of State under this article or the Export of Goods (Control) (Croatian and Bosnian Territories) Order 1993(5), all goods are prohibited to be exported from the United Kingdom to any destination in the Bosnian Serb controlled areas or the United Nations Protected Areas of the Republic of Croatia.

Prohibition on economic activities

4.—(1) Except under the authority of a licence granted by the Secretary of State or the Treasury under this article, no person connected with the Bosnian Serb controlled areas shall carry on any economic activities in the United Kingdom.

(2) For the purposes of this article:

(a) “economic activities” includes

(i) all activities of an economic nature including commercial, financial and industrial activities and transactions, in particular all activities of an economic nature involving the use of or dealing in, with or in connection with property or interests in property;

(ii) the exercise of rights relating to property or interests in property;

(iii) the establishment of any new body or change in management of an existing body;

(b) “person connected with the Bosnian Serb controlled areas” means any of the following persons:

(2) S.I. 1993/1188.

(3) 1894 c. 60.

(4) 1979 c. 2.

(5) S.I. 1993/1189.

- (i) any body, wherever incorporated or constituted, which is owned or controlled, directly or indirectly, by the following persons:
 - (aa) any person in, or resident in, the Bosnian Serb controlled areas; or
 - (bb) any body in the Bosnian Serb controlled areas; or
- (ii) any person or body acting on behalf of a body in the Bosnian Serb controlled areas or a body described in sub-paragraph (i);
- (c) “property” includes funds, financial, tangible and intangible assets, property rights, public and privately traded securities and debt instruments, and any other financial and economic resources.

Prohibition on the provision of services

5.—(1) Except under the authority of a licence granted by the Secretary of State under this article, no person mentioned in article 8 of this Order shall provide any services to any person or body for the purposes of any business carried on in the Bosnian Serb controlled areas.

(2) For the purposes of this article “services” shall not include (a) telecommunications services; or (b) postal services.

Assets of persons connected with Bosnian Serb controlled areas

6.—(1) Except with permission granted by or on behalf of the Treasury, no person mentioned in article 8 of this Order 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) This article applies to any action which is likely to make available to or for the benefit of any person connected with the Bosnian Serb controlled areas any funds or any other financial assets or resources, whether by their removal from the United Kingdom or otherwise, or otherwise to result in the remittance or transfer of funds or other such assets or resources to or for the benefit of any person connected with the Bosnian Serb controlled areas.

(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⁽⁶⁾;
- (b) “investments” means any asset, right or interest falling within any paragraph of Part I of Schedule 1 to the Financial Services Act 1986⁽⁷⁾ which is not a security;
- (c) “person connected with the Bosnian Serb controlled areas” means any of the following persons:
 - (i) any body in the Bosnian Serb controlled areas; or
 - (ii) any body, wherever incorporated or constituted, which is owned or controlled, directly or indirectly, by the following persons:

⁽⁶⁾ 1964 c. 60.

⁽⁷⁾ 1986 c. 60.

- (aa) any person in, or resident in, the Bosnian Serb controlled areas; or
- (bb) any body in the Bosnian Serb controlled areas; or
- (iii) any person or body acting on behalf of a body described in sub-paragraph (i) or (ii).

Exception

7. Nothing in this Order, in the Serbia and Montenegro (United Nations Sanctions) Order 1992⁽⁸⁾ or the 1993 Order⁽⁹⁾ shall prohibit any activities in connection with the United Nations Protection Force (UNPROFOR), the International Conference on the Former Yugoslavia or the European Community Monitoring Mission.

Provision relating to articles 4, 5 and 6

8.—(1) The provisions of articles 5 and 6 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) and (4) of this article, any person who contravenes the provisions of article 4 (1) or any person specified in paragraph (1) of this article who contravenes the provisions of articles 5(1) or 6(1) 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 4(1) of this Order by a person or body acting on behalf of a body in the Bosnian Serb controlled areas or a body described in article 4(2)(b)(i) 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 he was so acting.

(4) In the case of proceedings for an offence in contravention of article 5(1) 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 services in question were to be provided for the purposes of any business carried on in the Bosnian Serb controlled areas.

Customs powers to demand evidence of destination which goods reach

9. 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) (Croatian and Bosnian Territories) Order 1993⁽¹⁰⁾; 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.

⁽⁸⁾ S.I. 1992/1302.

⁽⁹⁾ S.I. 1993/1188.

⁽¹⁰⁾ S.I. 1993/1189.

Offences in connection with applications for licences, conditions attaching to licences, etc

10.—(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 the Treasury 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 or the Treasury 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

11.—(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 the Bosnian Serb controlled areas or the United Nations Protected Areas in the Republic of Croatia; 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.

Obtaining of evidence and information

12. 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

13.—(1) Any person guilty of an offence in contravention of article 5(1) or article 6(1) 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 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 in contravention of article 4(1) or under article 10(1) or (2) or article 11(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; or
- (b) on summary conviction to a fine not exceeding the statutory maximum.
- (4) Any person guilty of an offence under 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.
- (5) Any person guilty of an offence under article 11(2) of this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (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' Court Act 1980⁽¹¹⁾, a summary offence under this Order may be 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⁽¹²⁾, 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 sub-section (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⁽¹³⁾, 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) For the purposes of this article:

⁽¹¹⁾ 1980 c. 43.

⁽¹²⁾ 1975 c. 21.

⁽¹³⁾ S.I. 1981/1675 (N.I. 26).

- (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) and (9) of this article 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.

(11) 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.

(12) In England and Wales, sub-section (2) of section 24 of the Police and Criminal Evidence Act 1984⁽¹⁴⁾ 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 sub-section; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(13) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽¹⁵⁾ 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 paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(14) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland 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:

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 or the Treasury

14.—(1) The Secretary of State or the Treasury may, to such extent and subject to such restrictions and conditions as he or they may think proper, delegate or authorise the delegation of any of his or their 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 or them, and references in this Order to the Secretary of State or to the Treasury shall be construed accordingly.

(2) Any licence 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 it.

Amendment of the 1993 Order

15.—(1) Article 7(1)(a) of the 1993 Order shall be amended by the replacement of the reference to article 4(5)(a) by a reference to article 4(7)(a).

(2) Article 9(1)(a) of the 1993 Order shall be amended by the replacement of the reference to article 6(5)(a) by a reference to article 6(6)(a).

⁽¹⁴⁾ 1984 c. 60.

⁽¹⁵⁾ S.I. 1989/1341 (N.I. 12).

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N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 12

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State or the Treasury (or any person authorised by him or them for that purpose either generally or in a particular case) or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him or them (or to that authorised person) any information in his possession or control, or to produce to him or them (or that authorised person) any document in his possession or control, which he or they (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested to do so under this paragraph, 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.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request 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 of them.

2.—(1) If any justice of the peace is satisfied by information given on oath by any constable or person authorised by the Secretary of State, the Treasury or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable or any officer of Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, ship or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, ship or aircraft and may seize any document or article found on the premises or in the vehicle, ship or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid or any documents which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it:

Provided that no person shall in pursuance of any warrant issued under this paragraph be searched except by a person of the same sex.

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(3) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship, or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any document or article of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which it is relevant, until the conclusion of those proceedings.

(5) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the Sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State or the Treasury to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before or on exercising that power.

4. No information furnished or document produced (including any copy of or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except—

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a 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 the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule 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

(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 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 the Bosnian Serb controlled areas or the United Nations Protected Areas of the Republic of Croatia 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.

5. Any person who—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or

(c) otherwise wilfully obstructs any person in this exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, re-enacts the restrictions on the export of goods to the Bosnian Serb controlled areas of the Republic of Bosnia and Herzegovina or the United Nations Protected Areas of the Republic of Croatia in the Export of Goods (Control) (Croatian and Bosnian Territories Order) 1993 (S.I.1993/1189). In addition this Order imposes restrictions pursuant to a decision of the Security Council of the United Nations in resolution 942 (1994) of 23 September 1994 on the carrying on of economic activities by persons connected with the Bosnian Serb controlled areas of the Republic of Bosnia and Herzegovina and the provision of services for businesses carried on in those areas. The Order also places restrictions on certain actions making available or otherwise transferring funds or other financial assets or resources to or for the benefit of persons connected with the Bosnian Serb controlled areas of the Republic of Bosnia and Herzegovina. The Order further amends the Serbia and Montenegro (United Nations Sanctions) Order 1993 (S.I. 1993/1188) to correct two references therein.