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STATUTORY INSTRUMENTS

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**1993 No. 1244**

**The Iraq (United Nations) (Sequestration of Assets) Order 1993**

**Offences, Penalties and Proceedings**

**22.**—(1) Any person who fails without reasonable excuse to comply with a direction given to him under article 15(2) or article 16(2) within the period and in the manner specified therein or who fails without reasonable excuse to comply with a direction given to him under article 18(2) at the time and in the manner specified shall be guilty of an offence and 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 under paragraph 6(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 a fine or both;
- (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 who fails without reasonable excuse to notify the Treasury and the Bank or, as the case may be, the Secretary of State, of compliance with a direction under article 15(2) or 16(2) or to provide the evidence of compliance required by them or him under article 18(1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under paragraph 6(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 who without reasonable excuse deducts from an amount transferred to the escrow account in compliance with a direction given to him under article 15(2) or article 16(2) any sum which has not been certified by the Treasury or the Secretary of State under article 18(4) as being properly deductible shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Any person who without reasonable excuse closes an account described in article 19(1) pending a transfer under article 20 of the amount remitted or any part of it shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) 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.

(8) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980<sup>(1)</sup>, a summary offence 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.

(9) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975<sup>(2)</sup>, 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 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.

(10) Notwithstanding anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(3)</sup>, 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.

(11) For the purposes of this article—

- (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), (9) and (10) above 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.

(12) 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.

(13) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984<sup>(4)</sup> 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 subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(14) In Northern Ireland, paragraph (2) of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(5)</sup> 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.

(15) 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.

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(1) 1980 c. 43.  
(2) 1975 c. 21.  
(3) S.I.1981/1675 (N.I. 26).  
(4) 1984 c. 60.  
(5) S.I. 1989/1341 (N.I. 12).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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