
STATUTORY INSTRUMENTS

1993 No. 1188

The Serbia and Montenegro (United Nations Sanctions) Order 1993

Procedure for giving certificates and making orders of forfeiture

10.—(1) Before making a determination for the purposes of article 4(7), 5(5), or 6(6) the Secretary of State—

- (a) by notice in writing served on the owner of the ship or goods vehicle, or the owner or operator of the aircraft, as the case may be, shall state that he believes that the ship, goods vehicle, or aircraft has been used or operated in violation of the United Nations resolutions and shall invite that person to make representations to him in writing concerning the matter within such period of not less than 21 days beginning on the day on which the notice is given as may be specified in the notice and shall state that, if the owner or operator, as the case may be, so requests, he shall be afforded an opportunity of being heard by the Secretary of State; and
- (b) shall publish a notice in the London, Edinburgh and Belfast Gazettes inviting any person who claims to have an interest in the ship, goods vehicle or aircraft to make representations to him concerning the matter referred to in sub-paragraph (a) above, within such period of not less than 21 days beginning on the day on which the notice is published as may be specified in the notice and stating that, if the person so requests, he shall be afforded an opportunity of being heard by the Secretary of State.

(2) Before making an order of forfeiture under article 7(1), 8(1) or 9(1) the Secretary of State—

- (a) by notice in writing served on the owner of the ship goods vehicle or cargo, or the owner or operator of the aircraft, as the case may be, shall state his intention to make such an order and shall invite that person to make representations to him in writing concerning the matter within such period of not less than 21 days beginning on the day on which the notice is given as may be specified in the notice and shall state that, if the owner or operator, as the case may be, so requests, he shall be afforded an opportunity of being heard by the Secretary of State; and
- (b) shall publish a notice in the London, Edinburgh and Belfast Gazettes inviting any person who claims an interest in the ship, goods vehicle, aircraft or cargo to make representations in writing to him concerning the proposed forfeiture within such period of not less than 21 days beginning on the day on which the notice is published as may be specified in the notice and stating that, if the person so requests, he shall be afforded an opportunity of being heard by the Secretary of State.

(3) Where a person has under paragraph (1) or (2) of this article requested a hearing the procedure shall be as set out in Schedule 3 to this Order.

(4) An order of forfeiture shall come into effect on the later of—

- (a) the expiration of 21 days after it is made, or
- (b) in a case where proceedings under paragraph 5(a) of this article have been instituted, if and when those proceedings are dismissed.

- (a) (5) (a) Before the expiration of the period of 21 days referred to in paragraph (4) of this article, the owner of the ship, goods vehicle, or cargo and the owner or operator of the aircraft may institute proceedings against the Secretary of State to set aside the order of forfeiture on the grounds that the conditions for forfeiture set out in this Order have not been met.
- (b) Such proceedings shall be civil proceedings and may be instituted—
 - (i) in England or Wales and in Northern Ireland, in the High Court;
 - (ii) in Scotland, in the Court of Session;
- (6) For the purposes of this article proceedings shall be regarded as instituted—
 - (a) in England and Wales, when the writ or other originating process by which the proceedings are initiated is issued;
 - (b) in Scotland, when the writ by which the proceedings are initiated is lodged in the Court of Session.