
STATUTORY INSTRUMENTS

1994 No. 2675

UNITED NATIONS

**The Former Yugoslavia (United Nations
Sanctions) (Channel Islands) Order 1994**

<i>Made</i>	- - - -	<i>17th October 1994</i>
<i>Laid before Parliament</i>		<i>18th October 1994</i>
<i>Coming into force</i>	- -	<i>19th October 1994</i>

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

Present,

The Counsellors of State in Council

hereas 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) (Channel Islands) Order 1994 and shall come into force on 19th October 1994.

(1) 1946 c. 45.

(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 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 Channel Islands so as to be law, respectively, in the Bailiwick of Guernsey and the Bailiwick of Jersey only.

Interpretation

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

“the Attorney General” means, in the application of the Order to the Bailiwick of Guernsey, the Attorney General for Guernsey; and in the application of the Order to the Bailiwick of Jersey, the Attorney General for Jersey;

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

“Chief Revenue Officer” and “States Revenue Officer” have the meanings they bear in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972;

“enactment” includes an enactment of the States of Guernsey or the States of Alderney or the Chief Pleas of Sark, or the States of Jersey;

“export” includes shipment as stores;

“exportation”, in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey 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;

“police officer” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;
- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney;
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey;
- (d) in relation to the Bailiwick of Jersey, a member of the Honorary Police or a member of the States of Jersey Police Force;

“property” includes funds, financial, tangible and intangible assets, property rights and public and privately traded securities and debt instruments, and any other financial and economic resources;

“ship” has the meaning it bears in section 742 of the Merchant Shipping Act 1894(2);

“shipment”(and cognate expressions) and “stores” shall, in the application of this Order to the Bailiwick of Guernsey, have the meaning they bear in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 and, in the application of this Order to

the Bailiwick of Jersey, have the meaning they bear in the Customs and Excise (General Provisions) (Jersey) Law 1972;

“vehicle” means land transport vehicle.

(2) Any reference to a provision of an Act of Parliament or of an enactment made under an Act of Parliament shall, in the case of a provision which has been extended to the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, be construed as a reference to that provision as it has effect in the Bailiwick in question and, in the case of a provision which has not been so extended, be construed as a reference to that provision as it has effect in the United Kingdom.

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

3. Except under the authority of a licence granted under this article—

- (a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
- (b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,

or granted before the coming into force of this Order by the authority competent to do so, all goods are prohibited to be exported from any of the Channel Islands 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 under this article—

- (a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
- (b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,

no person connected with the Bosnian Serb controlled areas shall carry on any economic activities in any of the Channel Islands.

(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:
 - (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) above.

Prohibition on the provision of services

5.—(1) Except under the authority of a licence granted under this article—

- (a) in the case of the Bailiwick of Guernsey, by the Lieutenant Governor;
- (b) in the case of the Bailiwick of Jersey, by the Finance and Economics Committee,

no person mentioned in article 8 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 telecommunications services or postal services.

Assets of persons connected with Bosnian Serb controlled areas

6.—(1) Except with permission granted by the Treasury, no person mentioned in article 8 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 Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey 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 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⁽³⁾;
- (b) “investments” means any asset, right or interest falling within any paragraph of Part I of Schedule 1 to the Financial Services Act 1986⁽⁴⁾ 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:
 - (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) (Channel Islands) Order 1992⁽⁵⁾ or the Serbia and Montenegro (United Nations Sanctions) (Channel Islands) Order 1993⁽⁶⁾ 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.

⁽³⁾ 1964 c. 60.

⁽⁴⁾ 1986 c. 60.

⁽⁵⁾ S.I.1992/1308.

⁽⁶⁾ S.I. 1993/1253.

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 Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey 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 and is ordinarily resident in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey; or
- (b) is a body incorporated or constituted under the law of any part of the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey.

(2) Subject to the provisions of paragraphs (3) and (4) below, any person specified in paragraph (1) above who contravenes the provisions of article 5(1) or article 6(1), and any person who contravenes the provisions of article 4(1), shall be guilty of an offence.

(3) In the case of proceedings for an offence in contravention of article 4(1) by a person or body acting on behalf of a body in the Bosnian Serb controlled areas or any of the bodies described in article 4(2)(b)(i), 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), 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 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 any of the Channel Islands, shall, if so required by, in the case of the Bailiwick of Guernsey, the Chief Revenue Officer or, in the case of the Bailiwick of Jersey, the Agent or Deputy Agent of the Imp^{ts} or any person duly authorised by the Agent of the Imp^{ts}, furnish within such time as he may allow proof to his 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 granted before the coming into force of this Order by the authority competent to do so; or
- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licence, 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.

(2) Any person who has done any act under the authority of a licence or permission granted under this Order and who fails to comply with any condition attaching to that licence or permission shall be guilty of an offence:

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 by the Treasury or the Lieutenant Governor, or, as the case may be, the Finance and Economics Committee after the doing of the act authorised by the licence or permission.

Declaration as to goods: powers of search

11.—(1) Any person who is about to leave any of the Channel Islands shall, if he is required to do so by, in the case of the Bailiwick of Guernsey, a States Revenue Officer or, in the case of the Bailiwick of Jersey, an officer of the Impôts—

(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.

(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.

Obtaining of evidence and information

12. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining 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 or of an offence against any provision of law with respect to similar matters that is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

Penalties and proceedings

13.—(1) Any person guilty of an offence under article 8(2) by contravening article 5(1) or 6(1) shall be liable, in the Bailiwick of Guernsey—

(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,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding seven years or to a fine 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, in the Bailiwick of Guernsey—

(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 imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(3) Any person guilty of an offence under article 8(2) by contravening article 4(1) or under article 10(1) or (2) or article 11(3) shall be liable, in the Bailiwick of Guernsey—

(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,

and, in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(4) Any person guilty of an offence under paragraph 5(a) or (c) of the Schedule to this Order shall be liable—

- (a) in the Bailiwick of Guernsey, 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; and
- (b) in the Bailiwick of Jersey, on conviction to imprisonment for a term not exceeding six months or to a fine or to both.

(5) Any person guilty of an offence under article 9 or article 11(2) shall be liable—

- (a) in the Bailiwick of Guernsey, on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) in the Bailiwick of Jersey, on conviction to a fine.

(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) Summary proceedings in the Bailiwick of Guernsey, and any proceedings in the Bailiwick of Jersey, for an offence under this Order alleged to have been committed outside the Bailiwick in question may be commenced at any time not later than twelve months from the date on which the person charged first enters that Bailiwick after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Bailiwick of Guernsey or the Bailiwick of Jersey having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order, in its application to the Bailiwick of Jersey, shall be instituted except by, or with the consent of, the Attorney General:

Provided that this paragraph shall not prevent 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

14.—(1) The Treasury, the Lieutenant Governor, the Attorney General or the Finance and Economics Committee may to such extent and subject to such restrictions and conditions as they, he or it may think proper, delegate or authorise the delegation of any of their, his or its powers under this Order to any person, or class or description of persons, approved by them, him or it, and references in this Order to the Treasury, the Lieutenant Governor, the Attorney General or the Finance and Economics Committee 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.

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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 Attorney General (or any person authorised by him for that purpose either generally or in a particular case), or in the case of the Bailiwick of Guernsey the Chief Revenue Officer or in the case of the Bailiwick of Jersey the Agent of the Impôts, may request any person in or resident in the Bailiwick in question to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or that authorised person) any document in his possession or control, which he (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 such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) above shall be taken to require any person who has acted as advocate 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, in either Bailiwick, the Bailiff is satisfied by information given on oath—

- (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 or an offence under any provision of law with respect to similar matters that is for the time being in force in the Bailiwick in question 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 police officer, together with any other persons named in the warrant and any other police officer, to enter the premises specified in the information or, as the case may be, any premises at or 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 such a search warrant may search any 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 he 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.

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

(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 the Islands of Alderney and Sark, any reference to the Bailiff includes a reference, in the case of Alderney, to the Chairman of the Court of Alderney and, in the case of Sark, to the Seneschal.

3. Before or on exercising any power conferred by this Schedule, a person authorised by the Attorney General or by the Chief Revenue Officer or the Agent of the Imp^{ts}, as the case may be, to exercise that power shall, if requested to do so, produce evidence of his authority.

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 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 under or in the service of the States of Guernsey or the States of Alderney or the Chief Pleas of Sark or, as the case may be, the States of Jersey; or

(c) on the authority of the Attorney General, 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 or for an offence under any provision of law with respect to similar matters that is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946 and applying only to the Bailiwick of Guernsey and the Bailiwick of Jersey, imposes restrictions pursuant to a decision of the Security Council of the United Nations, in resolution 820 (1993) of 17th April 1993, 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. It also imposes restrictions pursuant to a further Security Council decision, in resolution 942 (1994) of 23rd 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.