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STATUTORY INSTRUMENTS

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**1994 No. 2676**

**The Former Yugoslavia (United Nations Sanctions) (Isle of Man) Order 1994**

**Citation, commencement, operation and extent**

1.—(1) This Order may be cited as the Former Yugoslavia (United Nations Sanctions) (Isle of Man) 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 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, as part of the law therein, to the Isle of Man 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—

“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 Isle of Man 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;

“officer of Customs and Excise” means an officer authorised as such under the Customs and Excise Management Act 1986 (an Act of Tynwald);

“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<sup>(1)</sup>;

“shipment”(and cognate expressions) and “stores” shall have the meaning they bear in the Customs and Excise Management Act 1986 (of Tynwald);

“the Treasury” means the Isle of Man Treasury, a department of the government of the Isle of Man;

“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 Isle of Man, be construed

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(1) 1894 c. 60.

as a reference to that provision as it has effect there 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 by the Treasury, or granted by the Treasury under the Export of Goods (Control) (Croatian and Bosnian Territories) Order 1993(2), all goods are prohibited to be exported from the Isle of Man 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 by the Treasury, no person connected with the Bosnian Serb controlled areas shall carry on any economic activities in the Isle of Man.

(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).

### **Prohibition of the provision of services**

5.—(1) Except under the authority of a licence granted under this article by the Treasury, 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 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 Isle of Man 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<sup>(3)</sup>;
- (b) “investments” means any asset, right or interest falling within any paragraph of Part I of Schedule 1 to the Financial Services Act 1986<sup>(4)</sup> 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) Order 1992<sup>(5)</sup> or the Serbia and Montenegro (United Nations Sanctions) (Isle of Man) Order 1993<sup>(6)</sup> 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 shall apply to any person within the Isle of Man 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 Isle of Man; or
- (b) is a body incorporated or constituted under the law of the Isle of Man.

(2) Subject to the provisions of paragraphs (3) and (4) below, any person specified in paragraph (1) above who contravenes the provisions of articles 5(1) or 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.

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(3) 1964 c. 60.

(4) 1986 c. 60.

(5) S.I. 1992/1302.

(6) S.I. 1993/1254.

(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 in the Bosnian Serb controlled areas.

#### **Customs powers to demand evidence of destination which goods reach**

9. Any exporter or any shipper or goods which have been exported from the Isle of Man, shall, if so required by the Treasury, furnish within such time as it may allow proof to its 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(7); 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 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 the Isle of Man 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.

(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 under an enactment relating to customs.

## **Penalties and proceedings**

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

- (a) on conviction on information to imprisonment for a term not exceeding seven 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.

(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 information 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.

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

- (a) on conviction on information 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 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 9 or article 11(2) 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 75(1) of the Summary Jurisdiction Act 1989 (an Act of Tynwald), a complaint relating to an offence under this Order may be heard if it is made at any time within three 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) For the purposes of this article—

- (a) a certificate signed by or on behalf of the prosecutor as to the date on which such evidence as is referred to in paragraph (7) 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.

(9) Proceedings against any person for an offence under this Order may be taken before the appropriate court having jurisdiction in the Isle of Man.

(10) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted except by the Treasury or by or with the consent of the Attorney General for the Isle of Man:

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 may, to such extent and subject to such restrictions and conditions as it thinks proper, delegate or authorise the delegation of any of its 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 it, and references in this Order 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.

### **Miscellaneous**

15.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of any licence or with any permission shall not have effect in relation to any such thing done anywhere than in the Isle of Man, provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) above if it is done under the authority of a licence or with permission granted, in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order), by the authority competent in that behalf under that law.

*N. H. Nicholls*  
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