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STATUTORY INSTRUMENTS

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**2005 No. 1469**

**The Democratic Republic of the Congo (United Nations Sanctions) (Isle of Man) Order 2005**

GENERAL

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

7.—(1) If for the purposes of obtaining any licence 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 granted by the Treasury under this Order and who fails to comply with any conditions attaching to that licence 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.

**Obtaining of evidence and information**

8. The provisions of part 2 of the Schedule to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Treasury —

- (a) of evidence and information for the purpose of securing compliance with or detecting evasion of —
  - (i) this Order in the Isle of Man; or
  - (ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey or any territory listed in part 1 of the Schedule to this Order; and
- (b) of evidence of the commission of —
  - (i) in the Isle of Man, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
  - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey or any territory listed in part 1 of the Schedule to this Order.

**Investigations by the Treasury**

9. Where the Treasury investigates or proposes to investigate any matter with a view to determining —

- (a) whether there are grounds for believing that an offence under this Order has been committed, or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter within the meaning of section 184 (1) of the Customs and Excise Management Act 1986 (an Act of Tynwald).

### **Penalties and Proceedings**

- 10.**—(1) Any person guilty of an offence under article 3, 4(9), or 5 shall be liable—
- (a) on conviction on information to custody for a term not exceeding seven years or to a fine or to both; or
  - (b) on summary conviction to custody 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 part 2 of the Schedule to this Order shall be liable—
- (a) on conviction on information to custody for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to custody 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 7(1) or (2) shall be liable—
- (a) on conviction on information to custody 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 article 4(10) or 6(1) or paragraph 5(a) or (c) of part 2 of the Schedule to this Order shall be liable on summary conviction to custody for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (5) 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.
- (6) 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 which is triable by a court of summary jurisdiction 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.
- (7) 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 (6) above came to his knowledge shall be conclusive evidence of that fact;
  - (b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved; and
  - (c) section 27(2) of the Police Powers and Procedure Act 1998 (an Act of Tynwald) shall apply to offences under this Order which are not arrestable offences by virtue of the term of custody 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.
- (8) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted except with the consent of the Attorney General for the Isle of Man:

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 Treasury**

**11.**—(1) The Treasury may, to such extent and subject to such restrictions and conditions as it may think proper, delegate or authorise the delegation of any of its powers under this Order (other than the power to give authority under part 2 of 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 licences granted under this Order shall be in writing and 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 them.