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STATUTORY INSTRUMENTS

2003 No. 1522

UNITED NATIONS

The Iraq (United Nations Sanctions) (Isle of Man) Order 2003

Made - - - -	*12th June 2003*
Laid before Parliament	*13th June 2003*
Coming into force - -	*14th June 2003*

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 22nd May 2003, 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 Iraq:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(**1**), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, operation and extent

1.—(1) This Order may be cited as the Iraq (United Nations Sanctions) (Isle of Man) Order 2003 and shall come into force on 14th June 2003.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 22nd May 2003, in whole or in part, this Order shall cease to have effect or its operation shall be suspended, in whole or in part, 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 Isle of Man, as part of its law.

(4) Articles 5, 6 and 8 shall apply to any person within the Isle of Man and to any person elsewhere who is—

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Isle of Man; or

(b) a body incorporated or constituted under the law of the Isle of Man.

(**1**) 1946 c. 45.

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Revocation

2. The Iraq (United Nations) (Sequestration of Assets) (Isle of Man) Order 1993(**2**) is hereby revoked.

Amendment

3. The Iraq (United Nations Sanctions) (Isle of Man) Order 2000(**3**) continues in effect and is amended as set out in Schedule 1 with effect from the date on which the committee referred to in paragraph 19 of resolution 1483 adopted by the Security Council of the United Nations on 22nd May 2003 identifies any person as an individual or entity falling within paragraph 23 of that resolution, which date shall be notified in the London, Edinburgh and Belfast Gazettes.

Interpretation

4. In this Order, unless the context otherwise requires—

"body corporate" includes a limited liability company constituted under the Limited Liability Companies Act 1996 (an Act of Tynwald) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company's manager and registered agent;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"custody" means custody within the meaning of the Custody Act 1995 (an Act of Tynwald);

"Development Fund for Iraq" means the Development Fund for Iraq referred to in Resolution 1483 of the Security Council of the United Nations adopted on 22nd May 2003;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Isle of Man of the ship, 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;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

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

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(**4**);

(**2**) S.I.1993/1575.
(**3**) S.I. 2000/3245.
(**4**) S.I. 1994/1191. The relevant amending Orders are S.I. 1994/2711, which amended Schedule III and entry ML4; S.I. 1996/2663, which amended Schedule 1, Part III; S.I. 1997/323, which amended Schedule 3; S.I. 1997/2758, which amended Schedule 3 and Group 3, Part I, Schedule I and entries ML8 and ML10; S.I. 1999/63, which amended Schedule 1, Part III; S.I. 1999/1777, which amended Group 3, Part I, Schedule 1 and entry ML8; S.I. 1999/335, which amended Schedule 3; S.I. 1999/3411, which

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"ship" includes every description of vessel used in navigation;

"shipment" (and cognate expressions) and "stores" shall have the meanings they bear in the Customs and Excise Management Act 1986 (an Act of Tynwald);

"the Treasury" means the Isle of Man Treasury, a department of the Government of the Isle of Man;

"vehicle" means a land transport vehicle.

RESTRICTED GOODS

Supply of restricted goods

5.—(1) Any person who, except under the authority of a licence granted by the Treasury under this article or article 6—

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Iraq shall be guilty of an offence, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Iraq.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Treasury under this article.

Exportation of restricted goods to Iraq

6. Except under the authority of a licence granted by the Treasury under this article, restricted goods are prohibited to be exported from the Isle of Man to any destination in Iraq or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Iraq.

Use of ships, aircraft and vehicles: restricted goods

7.—(1) Without prejudice to the generality of article 5, and except under the authority of a licence granted by the Treasury under this article, no ship or aircraft to which this article applies, and no vehicle within the Isle of Man, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Iraq to any destination therein.

(2) This article applies to ships registered in the Isle of Man, to aircraft registered in the United Kingdom and to any other ship or aircraft that is for the time being chartered to any person who is—

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Isle of Man; or

(b) a body incorporated or constituted under the law of the Isle of Man.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then—

(a) in the case of a ship registered in the Isle of Man or any aircraft registered in the United Kingdom, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

amended Group 3, Part I, Schedule 1; S.I. 2000/1239, which amended Schedule 1, Part III and entries PL5021, ML3, ML4, ML7, ML8, ML13, ML17, PL5033 and ML21; S.I. 2000/2264, which amended Schedule 1, Part III and entries PL5031 and PL5001; S.I. 2001/729, which amended entry ML4; and S.I. 2002/2059, which amended Schedule 1, Part III and certain definitions and entries ML4, ML8 and ML10.

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(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Iraq to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Isle of Man of the goods concerned to Iraq was authorised by a licence granted by the Treasury under article 5 or 6.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

ILLEGALLY REMOVED IRAQI CULTURAL PROPERTY

Illegally removed Iraqi cultural property

8.—(1) The importation or exportation of any item of illegally removed Iraqi cultural property is prohibited.

(2) Any person who holds or controls any item of illegally removed Iraqi cultural property must cause the transfer of that item to a constable. Any person who fails to do so shall be guilty of an offence, unless he proves that he did not know and had no reason to suppose that the item in question was illegally removed Iraqi cultural property.

(3) Any person who deals in any item of illegally removed Iraqi cultural property shall be guilty of an offence, unless he proves that he did not know and had no reason to suppose that the item in question was illegally removed Iraqi cultural property.

(4) "Illegally removed Iraqi cultural property" means Iraqi cultural property and any other item of archaeological, historical, cultural, rare scientific or religious importance illegally removed from any location in Iraq since 6th August 1990. It is immaterial whether the removal was illegal under the law of the Isle of Man or of any other country or territory.

(5) A person deals in an object if (and only if) he—

(a) acquires, disposes of, imports or exports it,

(b) agrees with another to do an act mentioned in paragraph (a), or

(c) makes arrangements under which another person does such an act or under which another person agrees with a third person to do such an act.

(6) In this article—

"acquires" means buys, hires, borrows or accepts,

"disposes of" means sells, lets on hire, lends or gives,

and in relation to agreeing or arranging to do an act, it is immaterial whether the act is agreed or arranged to take place in the Isle of Man or elsewhere.

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PRIVILEGES AND IMMUNITIES

Development Fund for Iraq

9.—(1) Except as provided for in paragraph (2), the Development Fund for Iraq, its property and assets wherever located and by whomsoever held (including any rights or obligations owed by or to the Development Fund for Iraq), shall have the like privileges and immunities as the United Nations under Part II of the United Nations and International Court of Justice (Privileges and Immunities) Order 1974(**5**).

(2) The Development Fund for Iraq shall not have immunity from suit and legal process concerning liability for damages in connection with an ecological accident, including an oil spill, which occurs after 22nd May 2003.

Petroleum, petroleum products and natural gas

10. All petroleum, petroleum products and natural gas originating in Iraq shall have immunity from suit and legal process. Such immunity shall cease once title has passed to a purchaser.

GENERAL

Customs powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of restricted 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—

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) 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 licences, conditions attaching to licences, etc.

12.—(1) If for the purpose 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.

Declaration as to goods: powers of search

13.—(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—

(**5**) S.I. 1974/1261, as amended by S.I. 2002/1828.

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(a) declare whether or not he has with him any restricted goods which are destined for Iraq or for delivery, directly or indirectly, to or to the order of any person in Iraq; and

(b) produce such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, 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.

(3) Any person who without reasonable excuse refuses to make a declaration, or 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 under this Order.

(4) 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.

Investigation, etc. of suspected ships

14.—(1) Where any authorised officer has reason to suspect that any ship to which article 7 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 7, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either—

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps—

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Isle of Man, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 17(3), where—

(a) a master refuses or fails to comply with a request made under paragraph 2(b); or

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(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) In this article "authorised officer" means an officer as is referred to in section 74(1) of the Merchant Shipping Registration Act 1991 (an Act of Tynwald).

Investigation, etc. of suspected aircraft

15.—(1) Where any authorised officer or authorised person has reason to suspect that any aircraft to which article 7 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Isle of Man, any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Isle of Man until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 17(3), where an authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

"authorised officer" means any officer of Customs and Excise;

"authorised person" means any person authorised by the Treasury for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

16.—(1) Where any authorised officer or authorised person has reason to suspect that any vehicle in the Isle of Man has been or is being or is about to be used in contravention of article 7—

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and

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(c) any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Isle of Man until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

(a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b) detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

"authorised officer" means any officer of Customs and Excise;

"authorised person" means any person authorised by the Treasury for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 14 to 16

17.—(1) No information furnished or document produced by any person in pursuance of a request made under article 14, 15 or 16 shall be disclosed except—

(a) with the consent of the person by whom the information was furnished or the document was produced:

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 to the possession of that document in his own right;

(b) to any person who would have been empowered under article 14, 15 or 16 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of—

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 2;

(c) on the authority of the Treasury, to any organ of the United Nations or to any person in the service of the United Nations or of 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 Iraq 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—

(i) in the Isle of Man, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

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(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey or any territory listed in Schedule 2.

(2) Any power conferred by article 14, 15 or 16 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence, that is to say—

(a) a master of a ship who disobeys any direction given under article 14(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 14, 15 or 16 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 14, 15 or 16.

(4) Nothing in articles 14 to 17 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

18. The provisions of Schedule 3 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;

(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 Schedule 2; 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 Schedule 2.

Investigations by the Treasury

19. 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

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(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

20.—(1) Any person guilty of an offence under article 5, 7(3), 8(2) or (3) 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 Article 17(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable—

(a) on conviction on information to custody for a term not exceeding two years or a fine or both;

(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 12(1) or (2) or article 13(4) of 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;

(b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under article 17(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3, shall be liable on summary conviction to custody 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 11 or 13(3) shall be liable on summary conviction to a fine not exceeding the statutory maximum.

(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 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.

(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) 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;

(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

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in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(9) 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 the powers of the Treasury

21.—(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 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.

A.K. Galloway
Clerk of the Privy Council

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SCHEDULE 1 Article 3(1)

AMENDMENT OF THE IRAQ (UNITED NATIONS SANCTIONS) (ISLE OF MAN) ORDER 2000

1.—(1) In article 2(1) of the Iraq (United Nations Sanctions) (Isle of Man) Order 2000(**6**)—

(a) before the definition of "body corporate", insert—

""the 2003 resolution" means resolution 1483 (2003) adopted by the Security Council of the United Nations on 22nd May 2003;";

(b) after the definition of "custody", insert—

""designated funds" means funds to which a direction under article 4(1) applies;

"designated person" means a person whose funds (including those held for him or on his behalf) are subject to a direction given by the Treasury under article 4(1);

"Development Fund for Iraq" means the Development Fund for Iraq referred to in paragraph 12 of the 2003 resolution";

(c) after the definition of "funds", insert—

""immediate family member" means a parent, son, daughter, spouse or sibling of the whole or half blood";

(d) after the definition of "relevant institution", insert—

""Sanctions Committee" means the committee referred to in paragraph 19 of the 2003 resolution;

"senior official" means any individual who, immediately before 20th March 2003 —

(a) was a member of the Iraqi Ba'ath Party of a rank equivalent to any person identified as mentioned in article 4(1)(a) by the Sanctions Committee; or

(b) was entitled to exercise powers or functions equivalent to those of a person mentioned in paragraph (a); or

(c) exercised such powers or functions for the purposes of the government of the Republic of Iraq".

(2) After article 2(2), add—

(3) For the purposes of this Order, a body ("B") is controlled by a person or government ("P") if—

(a) P, by virtue of his or its voting power in B or otherwise, is entitled to exercise determining influence over the management of B; or

(b) B carries on activities predominantly for the purposes of P, or subject to P's direction or approval.".

Making funds available to designated persons

2. For Article 3, substitute—

"**3.**—(1) Any person who, except under the authority of a licence granted by the Treasury under article 5, makes any funds available to a designated person is guilty of an offence.

(2) In proceedings for an offence under this article, it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.".

(**6**) Article 2 was amended by S.I. 2001/3469.

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Freezing funds

3. For article 4, substitute—

"**4.**—(1) Where—

(a) a person is identified by the Sanctions Committee in accordance with paragraph 19 of the 2003 resolution as an individual or entity falling within paragraph 23 of that resolution; or

(b) the Treasury has reasonable grounds for suspecting that a person is or may be—

(i) a senior official;

(ii) an immediate family member of such an individual; or

(iii) an entity, wherever incorporated or constituted, that immediately before 20th March 2003 was owned or controlled by the government of the Republic of Iraq or is owned or controlled by an individual or entity referred to in paragraph (1)(a) or (1)(b)(i) or (ii);

the Treasury may by notice direct that funds held by, for, or on behalf of that person are not to be made available to any person.

(2) A notice under paragraph (1) must specify either—

(a) the period for which the direction is to have effect; or

(b) that the direction is to have effect until it is varied or revoked by notice under paragraph (3).

(3) The Treasury may by notice vary or revoke a direction given under paragraph (1) at any time.

(4) The Treasury must publish a notice issued under paragraph (1) or (3) in the way appearing to it to be best calculated to bring it to the attention of the public.".

Licences

4. In article 5(5) for "3(a) or (b)", substitute "3(1)".

Transfer of designated funds

5.—(1) After article 5, insert—

"**Transfer of designated funds**

5A.—(1) Within 28 days of the publication of a notice under article 4(1), any person who holds funds to which the direction contained in the notice applies—

(a) must cause the transfer of those funds to the account of the Development Fund for Iraq held at the Federal Reserve Bank of New York; and

(b) notify the Treasury in writing of—

(i) the identity of the person by, for, or on whose behalf he held the funds;

(ii) the amount transferred; and

(iii) the date the transfer took place.

(2) A person who holds funds to which a notice under article 4(1) applies after the expiry of the period referred to in paragraph (1) must, as soon as possible after he becomes aware that he holds such funds—

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(a) cause the transfer of those funds to the account of the Development Fund for Iraq held at the Federal Reserve of New York; and

(b) notify the Treasury in writing of—

(i) the identity of the person by, for, or on whose behalf he held those funds;

(ii) the amount transferred; and

(iii) the date the transfer took place.

(3) Neither paragraph (1) nor (2) applies to any funds that—

(a) are required to be dealt with otherwise than in accordance with that paragraph by—

(i) an order or judgment of a court or a final and binding arbitral award made on or before the day on which the amendments to this Order made by the Iraq (United Nations Sanctions) (Isle of Man) Order 2003(**7**) came into force; or

(ii) a binding determination made on or before that date by a public authority or under an enactment; or

(b) on or before that date were subject to a lien, charge or other like interest created or imposed as a means of enforcing an order or judgment of a court, a final and binding arbitral award or a binding determination made by a public authority or under an enactment; or

(c) are authorised by a licence granted by the Treasury under article 5 to be dealt with otherwise than in accordance with that paragraph.

(4) An obligation to transfer funds under paragraph (1) or (2) applies notwithstanding any right, obligation, restriction or immunity, whether imposed or conferred by statute or otherwise, in relation to those funds.

(5) No person may be held liable in respect of any action taken for the purpose of complying with an obligation to transfer funds under paragraph (1) or (2).

(6) Funds in respect of which paragraph (1) or (2) applies are immune from any legal process (including any measure of restraint, attachment, execution or detention) requiring them to be dealt with otherwise than in accordance with this Order.

(7) Any person who fails to comply with paragraph (1) or (2) is guilty of an offence.

(8) In proceedings for an offence under this article, it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.”.

Facilitation of offences under article 3

6. In article 6, and the cross-heading before it, omit “or 4(8)”.

Failure to disclose knowledge or suspicion of sanctions offences

7.—(1) For article 8(1)(a), substitute—

“(a) it knows or suspects that a person is a designated person, or has committed an offence under article 3, 5(4) or 5A;”.

(2) In article 8(2)(a) of the Order, for “4(8)”, substitute “or 5A”.

Penalties and proceedings

8. In article 11—

(**7**) S.I. 2003/1522.

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(a) in paragraph (1), omit “, 4(8)”;

(b) in paragraph (2), before “7”, insert “5A”;

(c) in paragraph (3), omit “4(9),”.

SCHEDULE 2

Article 17

DISCLOSURE OF INFORMATION—LISTED TERRITORIES

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

SCHEDULE 3

Article 18

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Treasury or any officer of Customs and Excise may request any person in or resident in the Isle of Man to furnish any information in his possession or control, or to produce any document in his possession or control, which it or he 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 in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as an advocate for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do 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.

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(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information 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 relating to customs 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 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 constable or any officer of Customs and Excise, together with any other constables or officers of Customs and Excise named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises 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 constable or officer of Customs and Excise or other person authorised by a warrant under subparagraph (1) who has entered any premises or any vehicle, ship or aircraft, may do any or all of the following things—

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable or officer of Customs and Excise lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may—

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) 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.

(6) Any documents or articles 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 they are relevant, until the conclusion of those proceedings.

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3. A person authorised by the Treasury to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) 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 to 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—

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 2 to this Order; or

(c) on the authority of the Treasury, to any organ of the United Nations or to any person in the service of the United Nations or of 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 Iraq 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—

(i) in the Isle of Man, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, the Bailiwick of Guernsey, the Bailiwick of Jersey or any territory listed in Schedule 2.

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) furnishes any information or produces any document which to his knowledge is false in a material particular; or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the 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.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, gives effect in the Isle of Man to the decision of the Security Council of the United Nations in Resolution 1483 of 22nd May 2003.

It revokes an earlier Order which gave effect certain aspects of United Nations sanctions against Iraq. It amends the Iraq (United Nations Sanctions)(Isle of Man) Order 2000, continues the prohibition of the sale or supply of arms and related materiel to Iraq, prohibits holding or dealing in any item of illegally removed Iraqi cultural property and grants privileges and immunities to the Development Fund for Iraq and petroleum, petroleum products and natural gas originating in Iraq and proceeds and obligations arising from sales thereof.

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