

1992 No. 1308

UNITED NATIONS

The Serbia and Montenegro (United Nations Sanctions) (Channel Islands) Order 1992

<i>Made</i>	<i>4th June 1992</i>
<i>Laid before Parliament</i>	<i>4th June 1992</i>
<i>Coming into force</i>	<i>5th June 1992</i>

At the Court at Buckingham Palace, the 4th day of June 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations have, by a resolution adopted on 30th May 1992, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Serbia and Montenegro;

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946<sup>[1]</sup>, 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 Serbia and Montenegro (United Nations Sanctions) (Channel Islands) Order 1992 and shall come into force on 5th June 1992.

(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 the operation of the resolution adopted by it on 30th May 1992, 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 in the Bailiwick of Jersey only.

**Interpretation**

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

"aircraft of Serbia or Montenegro" means—

- (a) any aircraft registered in Serbia or Montenegro, and
- (b) any other aircraft for the time being chartered to a person connected with Serbia or Montenegro;

"Chief Revenue Officer" and "States Revenue Officer"—

(a) shall, in the application of this Order to the Bailiwick of Guernsey, have the meanings they bear in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972, and

(b) mean, in the application of this Order to the Bailiwick of Jersey, the Agent of the Impôts (including the Deputy Agent of the Impôts and any person duly authorised by the Agent of the Impôts);

"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;

"export" includes shipment as stores;

"exportation" and "importation", in relation to any vessel, submersible vehicle or aircraft, includes the taking out of or into 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;

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

"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;

"person connected with Serbia or Montenegro" means—

- (i) the Governments of the Federal Republic of Yugoslavia, of Serbia and of Montenegro;
- (ii) any other person in, or resident in, Serbia or Montenegro;
- (iii) any body incorporated or constituted under the law of Serbia or Montenegro;
- (iv) any body, wherever incorporated or constituted, which is controlled by any of the said Governments, any other person in, or resident in, Serbia or Montenegro or any body incorporated in or constituted under the law of Serbia or Montenegro; and
- (v) any person acting on behalf of any of the above mentioned persons;

"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, and

(d) in relation to the Bailiwick of Jersey, a member of the Honorary Police or a member of the States of Jersey Police force;

"relevant authority", in relation to a licence granted under article 3, 4, 5, 6, 7, 8 or 9 below, means—

(a) in the case of the Bailiwick of Guernsey, the Lieutenant Governor, and

(b) in the case of the Bailiwick of Jersey, the Finance and Economics Committee;

"shipment" (and cognate expressions) and "stores" shall, in the application of this Order to the Bailiwick of Guernsey, have the meanings 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 meanings they bear in the Customs and Excise (General Provisions) (Jersey) Law 1972;

"vehicle" means land transport vehicle and includes a barge; and

"vessel" shall have the meaning it bears in the Export of Goods (Control) Order 1991<sup>[2]</sup>.

### **Supply of goods to Serbia and Montenegro**

**3.**—(1) Except under the authority of a licence granted under this article or article 4 below by the relevant authority, or granted under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992<sup>[3]</sup>, no person shall—

(a) supply or deliver;

(b) agree to supply or deliver; or

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

any goods to, or to the order of, a person connected with Serbia or Montenegro.

(2) Nothing in paragraph (1)(b) or (c) above shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted under this article or article 4 below or under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992.

### **Exportation of goods to Serbia and Montenegro**

**4.** Except under the authority of a licence granted under this article by the relevant authority or granted under the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992, all goods are prohibited to be exported from the Bailiwick of Guernsey or the Bailiwick of Jersey to any destination in Serbia or Montenegro or to any destination for the purpose of delivery,

directly or indirectly, to or to the order of any person connected with Serbia or Montenegro.

**Exportation of goods from Serbia and Montenegro and dealing and processing**

5.—(1) Except under the authority of a licence granted under this article by the relevant authority, all goods originating in Serbia or Montenegro are prohibited to be imported into the Bailiwick of Guernsey or the Bailiwick of Jersey.

(2) Except under the authority of a licence granted by the relevant authority under this article, no person shall do any act to promote the exportation of any goods from Serbia or Montenegro after 30th May 1992.

(3) Except under the authority of a licence granted by the relevant authority under this article in respect of any goods that have been exported from Serbia or Montenegro after 30th May 1992, no person shall, by way of trade or otherwise for gain—

- (a) acquire or dispose of—
  - (i) such goods, or
  - (ii) any property or interest in them, or
  - (iii) any right to or charge upon them; or
- (b) process them, or
- (c) do any act calculated to promote any such acquisition, disposal or processing by himself or any other person.

**Carriage of goods destined for or exported from Serbia and Montenegro**

6.—(1) Without prejudice to the generality of article 3 above, no ship or aircraft to which this article applies and no vehicle within the Bailiwick of Guernsey or the Bailiwick of Jersey shall be used, except under the authority of a licence granted under this article by the relevant authority, for the carriage of any goods if the carriage is, or forms part of, carriage from any place outside Serbia or Montenegro to any destination therein, or to any person connected with Serbia or Montenegro.

(2) Without prejudice to the generality of article 5 above, no ship or aircraft to which this article applies and no vehicle within the Bailiwick of Guernsey or the Bailiwick of Jersey shall be used, except under the authority of a licence granted under this article by the relevant authority, for the carriage of any goods if those goods are being, or have been, exported from Serbia or Montenegro after 30th May 1992.

(3) This article applies to ships registered in the Bailiwick of Guernsey or the Bailiwick of Jersey or the United Kingdom, 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 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) a body incorporated or constituted under the law of any part of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

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

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

(b) in the case of any other ship or aircraft to which this article applies—

(i) the person to whom the ship or aircraft is for the time being chartered, and

(ii) if he is such a person as is referred to in sub-paragraph (a) or (b) of paragraph (3) above, 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 under this Order, 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 Serbia or Montenegro to any destination therein or to any person connected with Serbia or Montenegro.

(5) If any ship, aircraft or vehicle is used in contravention of paragraph (2) above, then—

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

(b) in the case of any other ship or aircraft to which this article applies—

(i) the person to whom the ship or aircraft is for the time being chartered, and

(ii) if he is such a person as is referred to in sub-paragraph (a) or (b) of paragraph (3) above, 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 under this Order, unless he proves that he did not know and had no reason to suppose that the goods were being or had been exported from Serbia or Montenegro or had been exported therefrom after 30th May 1992, as the case may be.

(6) Nothing in paragraph (1) above shall apply where the supply or delivery or exportation from the Bailiwick of Guernsey or the Bailiwick of Jersey of the goods concerned to Serbia or Montenegro was authorised by a licence granted by the relevant authority under article 3 or 4 of this Order or granted under the Export of Goods (Control) (Serbia and Montenegro Sanctions)

Order 1992.

(7) Nothing in paragraph (2) above shall apply where the importation of the goods concerned into the Bailiwick of Guernsey or the Bailiwick of Jersey was authorised by a licence granted by the relevant authority under article 5 of this Order.

(8) 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.

#### **Servicing of aircraft**

7. Except under the authority of a licence granted under this article by the relevant authority, no person shall provide engineering or maintenance servicing for any aircraft of Serbia or Montenegro or for any component of such an aircraft.

#### **Insurance of aircraft**

8.—(1) This article applies to any contract of insurance, other than a contract of re-insurance, upon aircraft of Serbia or Montenegro or upon the machinery, tackle, furniture or equipment of such an aircraft.

(2) Except under the authority of a licence granted under this article by the relevant authority, no person shall—

- (a) make payment in full or partial settlement of any claim under a contract of insurance to which this article applies, unless the claim is in respect of an incident occurring before the coming into force of this Order; or
- (b) effect any new contract of insurance, or agree to any variation or extension of any existing contract of insurance, to which this article applies.

#### **Bonds and indemnities**

9.—(1) Except under the authority of a licence granted under this article by the relevant authority, no person shall—

- (a) make any payment to, or to the order of, any person connected with Serbia or Montenegro under or in respect of a bond to which this article applies; or
- (b) do any act for the purpose of obtaining payment, or make any payment, in respect of any right to indemnity in respect of any bond to which this article applies, where payment under the bond is, or would if payment were to be made by a person referred to in article 11(1) below be, unlawful by virtue of sub-paragraph (a) above.

(2) A bond to which this article applies is a bond given in respect of a contract the performance of which is unlawful, wholly or in part, by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992.

(3) In this article—

- (a) "bond" means an agreement under which a person ("the obligor") agrees that, if called upon to do so, or if a third party fails to fulfil

contractual obligations owed to another, the obligor will make payment to or to the order of the other party to the agreement; and

(b) "make any payment" means make payment by any method, including but not restricted to the grant, or any agreement to the exercise, of any right to set off, accord and satisfaction and adjustment of any account, or any similar means.

### **Assets of Serbia and Montenegro**

**10.**—(1) Except with permission granted by or on behalf of the Treasury, no person 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) Action to which this article applies is action which is likely to make available to or for the benefit of any person concerned with Serbia or Montenegro any funds or other financial or economic resources, whether by their removal from the Bailiwick of Guernsey or the Bailiwick of Jersey or the United Kingdom or otherwise, or otherwise to remit or transfer funds or other such resources to or for the benefit of any person connected with Serbia or Montenegro.

(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 or on behalf of 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>[4]</sup>; and

(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>[5]</sup> which is not a security.

### **Application of articles 3, 5, 7, 8, 9 and 10**

**11.**—(1) The provisions of articles 3, 5(2) and (3), 7, 8, 9 and 10 above 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 law of the Bailiwick of Jersey.

(2) Subject to the provisions of paragraphs (3) to (8) below, any person specified in paragraph (1) above who contravenes the provisions of article 3, 5(2) or (3), 7, 8, 9 or 10 above shall, in the Bailiwick in question, be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 above, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods were to be supplied or delivered to, or to the order of a person connected with, Serbia or Montenegro.

(4) In the case of proceedings for an offence in contravention of article 5(3) above, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were exported from Serbia or Montenegro or were exported therefrom after 30th May 1992, as the case may be.

(5) In the case of proceedings for an offence in contravention of article 7 above, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was an aircraft of Serbia or Montenegro or that the component was part of such an aircraft.

(6) In the case of proceedings for an offence in contravention of article 8 above, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was an aircraft of Serbia or Montenegro or that the machinery, tackle, furniture or equipment was part of such an aircraft.

(7) In the case of proceedings for an offence in contravention of article 9(1)(a) above, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment was made to, or to the order of, a person connected with Serbia or

Montenegro; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which was unlawful by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992; and

(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract.

(8) In the case of proceedings for an offence in contravention of article 9(1)(b) above, it shall be a defence for the accused person to prove that—

(a) he did not know and had no reason to suppose that payment under the bond was or would be to, or to the order of, a person connected with Serbia or Montenegro; or

(b)

(i) he did not know and had no reason to suppose that the bond was given in respect of a contract the performance of which

was unlawful by virtue of this Order or the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992; and  
(ii) he made all reasonable enquiries to ascertain whether the bond was given in respect of such a contract:

Provided that sub-paragraph (b) shall not apply where the accused person is a party to the contract in respect of which the bond was given.

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

**12.** Any exporter or any shipper of goods which have been exported from the Bailiwick of Guernsey or the Bailiwick of Jersey shall, if so required by the Chief Revenue Officer, furnish within such time as he may allow proof to his 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 the Export of Goods (Control) (Serbia and Montenegro Sanctions) Order 1992, 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 under this Order and liable—

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

(ii) in the Bailiwick of Jersey, on conviction to a fine,

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.**

**13.—(1)** If for the purpose of obtaining any licence or permission under this Order any person makes a 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 under this Order.

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

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 relevant authority or by or on behalf of the Treasury after the doing of the act authorised by the licence or permission.

### **Declaration as to goods: powers of search**

**14.—(1)** Any person who is about to leave the Bailiwick of Guernsey or the Bailiwick of Jersey shall, if he is required to do so by a States Revenue Officer—

- (a) declare whether or not he has with him any goods destined for Serbia or Montenegro or for delivery, directly or indirectly, to or to the order of a person connected with Serbia or Montenegro, 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 paragraph (1) above shall be guilty of an offence under this Order.

(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 under this Order.

#### **Investigation, etc. of suspected ships and aircraft**

**15.**—(1) Where any authorised officer, that is to say, any such officer other than an officer of the Board of Trade as is referred to in section 692(1) of the Merchant Shipping Act 1894<sup>[6]</sup>, has reason to suspect that any ship registered in the Bailiwick of Guernsey or the Bailiwick of Jersey or the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) or (2) of article 6 above, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, 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 the master shall comply with any such request.

(2) An authorised officer, within the meaning of paragraph (1) above, may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) or (2) of article 6 above, exercise the following further powers (either at the time of the exercise of the powers conferred by paragraph (1) above or upon consideration of any information furnished or document or cargo produced in pursuance of a request under that paragraph) with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master 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 request the master to take any one or more of the steps specified in paragraph (3) below; and the master shall comply with any such request or direction.

(3) The steps referred to in paragraph (2) above are:

- (a) 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 any authorised officer that the ship may so proceed;
- (b) if the ship is then in a port in the Bailiwick of Guernsey or the Bailiwick of Jersey or the United Kingdom to cause her to remain there until the master is notified by any authorised officer that the ship may depart;
- (c) 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 (b) above; and
- (d) to take her to any other destination that may be specified by the officer in agreement with the master.

(4) Without prejudice to the provisions of paragraph (11) below, where a master refuses or fails to comply with a request made under this article that his ship shall or shall not proceed to or from any place or where 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.

(5) Where, in the case of the Bailiwick of Guernsey, the Attorney General for Guernsey or, in the case of the Bailiwick of Jersey, the Bailiff, or any person authorised by either of them for that purpose either generally or in a particular case, has reason to suspect that any aircraft registered in the United Kingdom or any aircraft for the time being chartered to any person specified in article 6(3) above has been or is being or is about to be used in contravention of article 6(1) or (2) above, the Attorney General or, as the case may be, the Bailiff or that authorised person 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 the Attorney General or, as the case may be, the Bailiff or that authorised person 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; and the charterer, the operator and the commander shall comply with any such request.

(6) If the aircraft is in the Bailiwick of Guernsey or the Bailiwick of Jersey, the Attorney General for Guernsey or, in the case of the Bailiwick of Jersey, the Bailiff or any such authorised person as is referred to in paragraph (5) above may (either at the time of the exercise of the powers conferred by paragraph (5) above or upon consideration of any information furnished or document or cargo produced in pursuance of a request under that paragraph) further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey until notified that the aircraft may depart; and the charterer, the operator and the commander shall comply with any such request.

(7) Without prejudice to the provisions of paragraph (11) below, where, in the case of the Bailiwick of Guernsey, the Attorney General for Guernsey or, in the case of the Bailiwick of Jersey, the Bailiff, or any person authorised by either of them for that purpose either generally or in a particular case, has reason to suspect that any request that an aircraft should remain in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey that has been made under paragraph (6) above 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
- (c) use, or authorise the use of, reasonable force.

(8) A person authorised by the Attorney General for Guernsey or, in the case of the Bailiwick of Jersey, the Bailiff to exercise any power for the purposes of paragraph (5), (6) or (7) above shall, if requested to do so, produce evidence of his authority before exercising that power.

(9) No information furnished or document produced by any person in pursuance of a request made under this article 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 subparagraph 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 article 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 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 for Guernsey in respect of the Bailiwick of Guernsey or the Bailiff in respect of the Bailiwick of Jersey, 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 Serbia and Montenegro 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.

(10) Any power conferred by this article 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.

(11) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under paragraph (2) above with respect to the landing of any cargo;
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft—
  - (i) who, without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this article by any person empowered to make it, or
  - (ii) who wilfully furnishes false information or produces any false document 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 who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(12) Nothing in this article shall be construed so as to prejudice any other provision of law concerning powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

#### **Obtaining of evidence and information**

**16.** 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.

#### **Penalties and proceedings**

**17.—(1)** Any person guilty of an offence under article 6(4) or (5) or 11(2) above 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;
- (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 article 15(11)(b)(ii) above or 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 13(1) or (2) or article 14(3) above 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 article 14(2) above 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.

(5) Any person guilty of an offence under article 15(11)(a), (b)(i) or (c) above or 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.

(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, being an offence 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 for Jersey:

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**

**18.**—(1) The Lieutenant Governor of the Bailiwick of Guernsey may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Lieutenant Governor shall be construed accordingly.

(2) Any licences 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 them.

### **Miscellaneous**

**19.** This Order applies to or in relation to any ship or aircraft or any body corporate that purports to be registered in any particular place or, as the case may be, that purports to be incorporated or constituted under the law of that place as it applies to or in relation to any ship or aircraft that is so registered or any body corporate that is so incorporated or constituted.

*G. I. de Deney*

Clerk of the Privy Council

*Notes:*

[1] 1946 c. 45.

[2] S.I. 1991/2666, to which there has been an amendment not relevant to this Order.

[3] S.I. 1992/1272.

[4] 1964 c. 60.

[5] 1986 c. 60.

[6] 1894 c. 60; section 692(1) has been amended, so far as is material, by Customs and Excise Management Act 1979 (c. 2), Sch.4, para.1.