

1997 No. 2592

UNITED NATIONS

The Sierra Leone (United Nations Sanctions) Order 1997

<i>Made</i>	<i>30th October 1997</i>
<i>Laid before Parliament</i>	<i>31st October 1997</i>
<i>Coming into Force</i>	<i>1st November 1997</i>

At the Court at Buckingham Palace, the 30th day of October 1997

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 has, by a resolution adopted on 8th October 1997, 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 Sierra Leone:

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 Sierra Leone (United Nations Sanctions) Order 1997 and shall come into force on 1st November 1997.

(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 8th October 1997, 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 United Kingdom.

Interpretation

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

"body corporate" includes a Scottish partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;

"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" in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the United Kingdom 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 the 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 Sierra Leone" means

(a) the Government of Sierra Leone;

(b) any other person in, or resident in, Sierra Leone;

(c) any body incorporated or constituted under the law of Sierra Leone;

(d) any body, wherever incorporated or constituted, which is controlled by any of the persons mentioned in sub-paragraphs (a) to (c) above; or

(e) any person acting on behalf of any of the persons mentioned in subparagraph (a) to (d) above;

"ship" has the meaning it bears in section 313 of the Merchant Shipping Act 1995[2];

"shipment" (and cognate expressions) and "stores" shall have the meanings they bear in the Customs and Excise Management Act 1979[3];

"vehicle" means land transport vehicle.

Supply of certain goods to Sierra Leone

3. - (1) Except under the authority of a licence granted by the Secretary of State under this article, 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 specified in Schedule 1 to this Order to or to the order of any person connected with Sierra Leone.

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

Secretary of State under this article.

Exportation of certain goods to Sierra Leone

4. Except under the authority of a licence granted by the Secretary of State under this article, the goods specified in Schedule 1 to this Order are prohibited to be exported from the United Kingdom to any destination in Sierra Leone, or to any destination for the purpose of delivery directly or indirectly, to or to the order of a person connected with Sierra Leone.

Carriage of goods destined for Sierra Leone

5. - (1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Secretary of State under this article, no ship or aircraft to which this article applies, and no vehicle within the United Kingdom, shall be used for the carriage of any goods specified in Schedule 1 to this Order if the carriage is, or forms part of, carriage from any place outside Sierra Leone, to any destination therein.

(2) This article applies to ships registered in the United Kingdom, to aircraft so registered 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; or

(b) a body incorporated or constituted under the law of the United Kingdom.

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

(a) in the case of a ship registered in the United Kingdom or any aircraft so registered, the owner and the 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, 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) of this article, 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 Sierra Leone to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to Sierra Leone was authorised by a licence granted by the Secretary of State under article 3 or article 4 of this Order.

(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.

Application of Article 3

6. - (1) The provisions of article 3 of this Order shall apply to any person within the United Kingdom 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; or

(b) is a body incorporated or constituted under the law of any part of the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order 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 to be supplied or delivered to a person connected with Sierra Leone.

Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either -

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

(ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order 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.

8. - (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 under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Secretary of State under this Order and who fails to comply with any condition attaching to that licence 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 Secretary of State after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

9. - (1) Any person who is about to leave the United Kingdom shall if he is required to do so by an officer of the Customs and Excise -

(a) declare whether or not he has with him any goods specified in Schedule 1 to this Order which are destined for Sierra Leone or for delivery, directly or indirectly, to any person connected with Sierra Leone; and

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

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

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

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence 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, aircraft and vehicles

10. - (1) Where any authorised officer, that is to say, any such officer as is referred to in section 284(1) of the Merchant Shipping Act 1995, has reason to suspect that any ship registered in the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, 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, and 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 an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) 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) of article 5 of this Order, exercise the following further powers 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 following steps:

(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 United Kingdom to cause her to remain there until the master is notified by an 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) of this paragraph; and

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

and the master shall comply with any such request or direction.

(2) Without prejudice to the provisions of paragraph (10) of this article, 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.

(3) Where any officer of Customs and Excise or any person authorised by the Secretary of State 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 paragraph (2) of article 5 of this Order has been or is being or is about to be used in contravention of paragraph (1) of that article, that authorised person or that officer 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 that authorised person or that officer 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, if the aircraft is then in the United Kingdom, any such authorised person or any such officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the United Kingdom until notified that the aircraft may depart, and the charterer, the operator and the commander shall comply with any such request.

(4) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid has reason to suspect that any request that an aircraft should remain in the United Kingdom that has been made under paragraph (3) of this article may not be complied with, or any such officer as aforesaid, that authorised person or that 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:

- (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.

(5) Where any officer of Customs and Excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any vehicle in the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, that authorised person or that officer may request the operator and 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 that authorised person or that officer 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; and any such authorised person or such officer (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the United Kingdom until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid or any such officer as aforesaid has reason to suspect that any request that a vehicle should remain in the United Kingdom that has been made under paragraph (5) of this article may not be complied with, that authorised person or that 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:

- (a) enter, or authorise entry, upon any land and upon that vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Secretary of State to exercise any power for the purposes of paragraph (3), (4), (5) or (6) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) 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 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 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

(c) on the authority of the Secretary of State, 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 Sierra Leone 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.

(9) 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.

(10) 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 (1) of this article 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 or an operator or driver of a vehicle who -

(i) 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 false documents 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 this article.

(11) Nothing in this article 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

11. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise, 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

12. - (1) Any person guilty of an offence under article 5(3) or article 6(2) of this Order shall be liable:

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person guilty of an offence under article 10(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 2 to this Order shall be liable:

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

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(3) Any person guilty of an offence under article 8(1) or (2), or article 9(3) of this Order shall be liable:

(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.

(4) Any person guilty of an offence under article 7 or article 9(2) of this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Any person guilty of an offence under article 10(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 2 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(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 127(1) of the Magistrates' Courts Act 1980[4], a summary offence under this Order may be tried by a magistrates' court in England and Wales if any information is laid 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) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975[5] summary proceedings in Scotland for an offence under this Order may be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge: and subsection (3) of that section applies for the purpose of this paragraph as it applies for the purpose of that section:

Provided that such proceedings shall not be commenced after the expiration of 3 years from the commission of the offence.

(9) Notwithstanding anything in article 19 of the Magistrates' Courts (Northern Ireland) Order 1981[6], summary proceedings for an offence under this Order in Northern Ireland may be instituted at any time within 3 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.

(10) For the purposes of this article:

(a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraph (7), (8) and (9) above came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(11) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(12) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984[7] shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment 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.

(13) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal

Evidence (Northern Ireland) Order 1989[8] shall apply to the offences under this Order that are not arrestable offences by virtue of a term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(14) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland:

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 Secretary of State

13. - (1) The Secretary of State 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 (other than the power to give authority under the Schedule to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Secretary of State 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.

N. H. Nicholls

Clerk of the Privy Council

SCHEDULE 1

Articles 3 & 4

(1) The goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994[9].

(2) The following goods:

Petroleum oils and oils obtained from bituminous minerals, crude
Petroleum oils and oils obtained from bituminous minerals, other than crude;
preparations not elsewhere specified or included, containing by weight 70 per
cent or more of petroleum oils or of oils obtained from bituminous minerals
these oils being the basic constituents of the preparations
Petroleum gases and other gaseous hydrocarbons
Petroleum jelly
Paraffin wax containing by weight less than 75 per cent of oil

"Slack wax", "scale wax"

Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bitumen minerals

Bitumen and asphalt, natural; bituminous or oil shale and tar sands, asphaltites and asphaltic rocks

Bitumen mixture based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example bituminous mastics, cut-backs)

Acyclic hydrocarbons

Cyclohexane

Benzene

Toluene

o-Xylene

m-Xylene

p-Xylene

Mixed xylene isomers

Styrene

Ethylbenzene

Cumene

Methanol (methyl alcohol)

Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations based on lubricants) and preparations containing, as basic constituents, 70 per cent or more by weight of petroleum oils, or oils obtained from bituminous minerals and not as the basic constituent

Additives for lubricating oils, containing petroleum oils, or oils obtained from bituminous materials

Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts.

SCHEDULE 2

Article 11

EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State (or any person authorised by him for that purpose either generally or in a particular case) or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order: and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

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

2. - (1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case:

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable or any officer of Customs and Excise, together with any other persons named in the warrant and any other constables, 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 maybe, 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) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

(a) inspect and search those premises or any 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 any 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 any 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) above 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) above 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) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

(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.

(7) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the sheriff; and any reference to information on oath is a reference to evidence on oath.

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

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

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such

consent may instead be given by any person who is entitled to that information or 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 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

(c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 Sierra Leone 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.

5. - (1) Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or

(c) otherwise wilfully obstructs any person in 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 under this Order.

Notes:

[1] 1946 c. 45.

[2] 1995 c. 21.

[3] 1979 c. 2.

[4] 1980 c. 43.

[5] 1975 c. 21.

[6] S.I. 1981/1675 (N.I. 26).

[7] 1984 c. 60.

[8] S.I. 1989/1341 (N.I. 12). [9] S.I. 1994/1191; relevant amending Orders are S.I. 1996/2663 and S.I. 1997/1008.back