

1996 No. 3154

UNITED NATIONS

The United Nations Arms Embargoes (Somalia, Liberia and Rwanda) (Channel Islands) Order 1996

Made 19th December 1996

*Laid before
Parliament* 20th December
1996

Coming into force 21st December 1996

At the Court at Buckingham Palace, the 19th day of December 1996

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 certain resolutions adopted on 23rd January 1992, 19th November 1992 and 17th May 1994 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 Somalia, Liberia and Rwanda: Now, therefore, Her Majesty, in exercise of the powers conferred upon 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 and extent

1.—(1) This Order may be cited as the United Nations Arms Embargoes (Somalia, Liberia and Rwanda) (Channel Islands) Order 1996 and shall come into force on 21st December 1996.

(2) 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.—(1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

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

(a) 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, as amended;

(b) in the application of this Order to the Bailiwick of Jersey, mean 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 in charge or command of the aircraft;

"enactment" includes an enactment of the States of Guernsey or Alderney, the Chief Pleas of Sark, or the States of Jersey;

"export" includes shipment as stores and, in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey 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;

"Her Majesty's Procureur" includes Her Majesty's Comptroller;

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

"officer of police" 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; and

(c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey;

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

"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 a prohibited destination" means—

(a) the Government of any territory comprised within a prohibited destination;

(b) any other person in, or resident in, a prohibited destination;

(c) any body incorporated or constituted under the law of any part of a prohibited destination;

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

(e) any person acting on behalf of any person or body mentioned in any of sub-paragraphs (a) to (d) above;

"prohibited designation" means Somalia, Liberia or Rwanda;

"prohibited goods" means—

(a) goods of a description specified in Group 1 of Part III of Schedule 1 to the Export of Goods (Control) Order 1994^[21]; and

(b) goods which are or may be intended, wholly or in part, to be used in connection with the development, production, handling, operation, maintenance, storage, detection,

identification or dissemination of chemical, biological or nuclear weapons or the development, production, maintenance or storage of missiles capable of delivering such weapons;

"ship", "shipment" (and cognate expressions) and "stores"—

(a) 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, as amended;

(b) 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.

(2) Any reference to a provision of an Act of Parliament or a statutory instrument shall—

(a) in the application of this Order to the Bailiwick of Guernsey, in the case of a provision which has been extended to that jurisdiction, be construed as a reference to that provision as it has effect there;

(b) in the application of this Order to the Bailiwick of Jersey, in the case of a provision which has been extended to that jurisdiction, be construed as a reference to that provision as it has effect there;

and, in any other case, be construed as a reference to that provision as it has effect in the United Kingdom.

Deliveries and supplies of certain goods to a prohibited destination

3.—(1) Except under the authority of a licence granted under this article—

(a) in the case of the Bailiwick of Guernsey by Her Majesty's Procureur;

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

no person shall supply or deliver, agree to supply or deliver, or do any act likely to promote the supply or delivery of, prohibited goods—

(i) to a prohibited destination;

(ii) to, or to the order of, a person connected with a prohibited destination; or

(iii) to any destination for the purpose of delivery, directly or indirectly, to a prohibited destination, or to, or to the order of, a person connected with a prohibited destination.

(2) The provisions of this article 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, in the Bailiwick of Jersey;

(b) is a body incorporated or constituted under the law of the Bailiwick of Guernsey or, as the case may be, of the Bailiwick of Jersey.

(3) Subject to the provisions of paragraph (4) of this article, any person

specified in paragraph (2) of this article who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

- (4) In the case of proceedings for an offence in contravention of paragraph (1) of this article it shall be a defence for the accused person to prove—
- (a) that he did not know and had no reason to suppose that the goods in question were prohibited goods; or
 - (b) that he did not know and had no reason to suppose that the goods were to be delivered or supplied to a prohibited destination or to, or to the order of, a person connected with a prohibited destination.

(5) Paragraph (1) of this article shall not apply to prohibited goods delivered or supplied to a prohibited destination by or on behalf of the United Nations or the peacekeeping forces of the Economic Community of West African States.

(6) Nothing in so much of paragraph (1) of this article as relates to the agreement to supply or doing any act likely to promote the supply or delivery of prohibited goods shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by Her Majesty's Procureur or, as the case may be, by the Finance and Economics Committee under this article.

Customs powers to demand evidence of destination which goods reach

4. Any exporter or shipper of prohibited goods which have been exported from the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey shall, if so required by the relevant Chief Revenue Officer, furnish within such time as that Officer may allow proof to his satisfaction that the goods have reached either—

- (a) a destination to which they were authorised to be supplied or delivered by a licence granted under this Order; or
- (b) a destination to which their supply or delivery was not prohibited by this Order;

and, if the exporter or shipper fails to do so—

- (i) in the case of the Bailiwick of Guernsey, he shall be guilty of an offence under this Order and liable on conviction to a fine not exceeding level 5 on the uniform scale;
- (ii) in the case of the Bailiwick of Jersey, he shall be guilty of an offence under this Order and liable on conviction to a fine,

unless he proves that he did not consent to or connive at the goods reaching any destination other than a destination to which sub-paragraph (a) or (b) above applies.

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

5.—(1) If for the purpose of obtaining any licence under this Order any person—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) 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 under this Order by Her Majesty's Procureur in the case of the Bailiwick of Guernsey, or by the Finance and Economics Committee in the case of the Bailiwick of Jersey, 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 Her Majesty's Procureur or, as the case may be, the Finance and Economics Committee after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

6.—(1) Any person who is about to leave the Bailiwick of Guernsey or, as the case may be, 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 prohibited goods; and
(b) produce any prohibited goods which he has with him,
and such Officer, and any person acting under this directions, may search that person for the purpose of ascertaining whether he has with him any such goods:

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—

- (a) refuses to make a declaration;
- (b) fails to produce any goods; or
- (c) refuses to allow himself to be searched,

in accordance with any provision of this article, shall be guilty of an offence under this Order.

(3) Any person who for the purposes of any provision 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.

Carriage of certain goods destined for a prohibited destination

7.—(1) Without prejudice to the generality of article 3 of this Order, 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 for the carriage of prohibited goods—

- (a) which is, or forms part of, carriage from any place outside a prohibited destination to any place therein; or
- (b) to, or to the order of, a person connected with a prohibition destination,

except under the authority of a licence granted under article 3 of this Order or of a licence granted this article, in the case of the Bailiwick of Guernsey by Her Majesty's Procureur or, in the case of the Bailiwick of Jersey by the Finance and Economics Committee.

(2) This article applies to ships registered in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, or in the United Kingdom, to aircraft registered in the United Kingdom, and to any other ship or aircraft which 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, in the Bailiwick of Jersey; or

(b) a body incorporated or constituted under the law of the Bailiwick of Guernsey or, as the case may be, the law of the Bailiwick of Jersey.

(3) Subject to paragraph (4) below, if any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article—

(a) in the case of a ship registered in the Bailiwick of Guernsey, the Bailiwick of Jersey or the United Kingdom, 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;

(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 (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;

(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 a prohibited destination to any place therein or to, or to the order of, any person connected with a prohibited destination.

(4) In the case of proceedings for an offence in contravention of paragraph (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 prohibited goods.

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

Investigation, etc. of suspected ships, aircraft and vehicles

8.—(1) Where any authorised officer (which for the purposes of paragraphs (1) to (3) of this article means any such officer, other than a Departmental officer, as is referred to in section 284(1) of the Merchant Shipping Act 1995^[3]) has reason to suspect that any ship to which article 7 of this Order applies has been or is being or is about to be used in contravention of paragraph (1) of that article, he may—

(a) 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;

(b) 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;

(c) either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request under sub-paragraph (a) above, in the case of a ship that is reasonably suspected of being used or of being about to be used in contravention of article 7 of this Order, exercise the further powers described in paragraph (2) of this article 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.

(2) Under sub-paragraph (c) of paragraph (1) of this article, the authorised officer may either direct the master to refrain, except with the consent of an 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 Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, 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) of this paragraph;

(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.

(3) Without prejudice to the provisions of paragraph (11) of this article, where—

(a) 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

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

any authorised 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) Where—

(a) in the case of the Bailiwick of Guernsey, any States Revenue Officer or any person authorised by Her Majesty's Procureur for that purpose (either generally or in a particular case);

(b) in the case of the Bailiwick of Jersey, the Bailiff or any person authorised by the Bailiff for that purpose (either generally or in a particular case),

has reason to suspect that any aircraft to which article 7 of this Order applies has been or is being or is about to be used in contravention of paragraph (1) of that article, he may—

- (i) 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 charterer, the operator and the commander shall comply with any such request;
- (ii) 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
- (iii) if the aircraft is then in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey, either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request under sub-paragraph (a) above, 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.

(5) Without prejudice to the provisions of paragraph (11) of this article, where any of the persons mentioned in sub-paragraph (a) or (b) of paragraph (4) of this article 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 sub-paragraph (iii) of that paragraph 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.

(6) Where—

- (a) in the case of the Bailiwick of Guernsey, any States Revenue Officer or any person authorised by Her Majesty's Procureur for that purpose (either generally or in a particular case);
- (b) in the case of the Bailiwick of Jersey, the Bailiff or any person authorised by the Bailiff for that purpose (either generally or in a particular case),

has reason to suspect that any vehicle in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey has been or is being or is about to be used in contravention of paragraph (1) of article 7 of this Order, he may request the operator and driver of the vehicle or either of them—

- (i) 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 the operator and the driver shall comply with any such request; and

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

(iii) either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request under sub-paragraph (a) above, further require the operator or driver to cause the vehicle to remain in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(7) Without prejudice to the provisions of paragraph (11) of this article, where any person mentioned in sub-paragraph (a) or (b) of paragraph (6) of this article has reason to suspect that any request that a vehicle should remain in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey that has been made under sub-paragraph (iii) of that paragraph 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 vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(8) A person authorised by Her Majesty's Procureur or, as the case may be, the Bailiff, to exercise any power for the purposes of paragraph (4), (5), (6) or (7) of this article 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 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 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, under or in the service of the States of Jersey; or

- (c) on the authority of Her Majesty's Procureur in the case of the Bailiwick of Guernsey, or of the Bailiff in the case 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 Somalia, Liberia or Rwanda 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 an offence against any provision of law with respect to similar matters which is for the time being in force in the Bailiwick of Guernsey or in the Bailiwick of Jersey.

(10) Any power conferred by this article to request the furnishing of information of 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 (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) 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 who wilfully obstructs any person exercising powers conferred by or under this article (or any person acting under the authority of such a person) in the exercise of those powers.

(12) Nothing in this article shall be construed so as to prejudice any other enactment or rule 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

9. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under any enactment relating to customs or of an offence against any provision of law with respect to similar matters which is for the time being in force in the Bailiwick of Guernsey or in the Bailiwick of Jersey.

Penalties and Proceedings

10.—(1) Any person guilty of an offence under paragraph (3) of article 3 or paragraph (3) of article 7 of this Order shall be liable—

- (a) in the Bailiwick of Guernsey—

- (i) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (ii) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (b) 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 sub-paragraph (b)(ii) of paragraph (11) of article 8 of this Order or sub-paragraph (b) or (d) of paragraph 5 of the Schedule to this Order shall be liable—

- (a) in the Bailiwick of Guernsey—
 - (i) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or both;
 - (ii) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (b) 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 paragraph (1) or (2) of article 5 of this Order shall be liable—

- (a) in the Bailiwick of Guernsey—
 - (i) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or both;
 - (ii) on summary conviction to a fine not exceeding the statutory maximum;
- (b) 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 sub-paragraph (2) of article 6 of this Order shall be liable—

- (a) in the Bailiwick of Guernsey, on summary conviction to a fine not exceeding level 5 on the uniform scale;
- (b) in the Bailiwick of Jersey, on conviction to a fine.

(5) Any person guilty of an offence under any of sub-paragraphs (a), (b)(i) or (c) of paragraph (11) of article 8 of this Order or sub-paragraph (a) or (c) of paragraph 5 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 uniform scale or to both;
- (b) in the Bailiwick of Jersey, on conviction to imprisonment for a period 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 12 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 place where that person is for the time being in the Bailiwick of Guernsey or, as the case may be, the Bailiwick of Jersey.

(9) In the Bailiwick of Jersey, no proceedings for an offence under this Order 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 that offence has not been obtained.

Exercise of powers of Her Majesty's Procureur

11.—(1) In the case of the Bailiwick of Guernsey, Her Majesty's Procureur, and in the case of the Bailiwick of Jersey, the Finance and Economics Committee, may, to such extent and subject to such restrictions and conditions as they may think proper, delegate or authorise the delegation of any of their powers under this Order to any person, or class or description of persons, approved by them, and references in this Order to Her Majesty's Procureur or, as the case may be, to the Finance and Economics Committee, shall be construed accordingly.

(2) Any licence granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed, and may be varied or revoked by the authority which granted it.

Miscellaneous

12. This Order applies to or in relation to any ship aircraft or any body corporate which purports to be registered in any particular place or, as the case may be, which purports to be incorporated or constituted under the law of any particular 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.

SCHEDULE

Article 9

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or to anything contained in any other enactment or rule of law, and subject to sub-paragraph (2) below—

(a) Her Majesty's Procureur (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Bailiwick of Guernsey to furnish to him (or to that authorised person) any information in the possession or control of the person to whom the request is made, or to produce to him (or to that authorised person) any document in such person's possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order;

(b) the Bailiff may request any person in or resident in the Bailiwick of Jersey to furnish to him any information in the possession or control of the person to whom the request is made, or to produce to him any document in such person's possession or control, which 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 the foregoing sub-paragraph shall be taken to require any person who has acted, in the case of the Bailiwick of Guernsey as advocate or, in the case of the Bailiwick of Jersey, as advocate or solicitor (*écrivain*), 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 to do so 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 in either the Bailiwick of Guernsey or the Bailiwick of Jersey the Bailiff is satisfied by information given on oath—

(a) that there is reasonable ground for suspecting than 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 or an offence against any provision of law with respect to similar matters which is for the time being in force in that Bailiwick 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 ship, aircraft or vehicle 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 ship, aircraft or vehicle, he may grant a search warrant authorising any officer of police, together with any other persons named in the warrant and any other officers of police, to enter the premises specified in the information or, as the case may be, any premises upon which the ship, aircraft or vehicle 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 ship, aircraft or vehicle.

(2) A person authorised by any such warrant as aforesaid to search any premises or any ship, aircraft or vehicle may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter those premises or that ship, aircraft or vehicle and may seize any document or article found on the premises or in the ship, aircraft or vehicle or on such person which such authorised person has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid or any documents which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it:

Provided that no person shall, in pursuance of any warrant issued under this paragraph, be searched except by a person of the same sex.

(3) Where, by virtue of this paragraph, a person is empowered to enter any premises, ship, aircraft or vehicle he may use such force as is reasonably necessary for that purpose.

(4) 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 is mentioned in sub-paragraph (1)(a) of paragraph 2 of this Schedule to which they are relevant, until the conclusion of those proceedings.

(5) In the application of this paragraph to the Islands of Alderney and Sark, any reference to the Bailiff includes a reference, in the case of Alderney, to the Chairman of the Court of Alderney and, in the case of Sark, to the Seneschal.

3. A person authorised in the case of the Bailiwick of Guernsey by Her Majesty's Procureur, or in the case of the Bailiwick of Jersey by the Bailiff, 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 or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under sub-paragraph (2) of paragraph 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 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, under or in the service of the States of Jersey; or

(c) on the authority, in the case of the Bailiwick of Guernsey of Her Majesty's Procureur, or in the case of the Bailiwick of Jersey of the Bailiff, 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 Somalia, Liberia or Rwanda 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 against any provision of law with respect to similar matters which is for the time being in force in the Bailiwick of Guernsey or the Bailiwick of Jersey.

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) 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] S.I. 1994/1191.

[3] 1995 c. 21.