

1990 No. 2144

UNITED NATIONS

The Iraq and Kuwait (United Nations Sanctions)
(Second Amendment) Order 1990

<i>Made</i> - - - - -	<i>31st October 1990</i>
<i>Laid before Parliament</i>	<i>31st October 1990</i>
<i>Coming into force</i>	<i>1st November 1990</i>

At the Court at Buckingham Palace, the 31st day of October 1990

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 6th August 1990, 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 the situation between Iraq and Kuwait;

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

Citation and commencement

1.—(1) This Order may be cited as the Iraq and Kuwait (United Nations Sanctions) (Second Amendment) Order 1990 and shall come into force on 1st November 1990.

(2) This Order and the Iraq and Kuwait (United Nations Sanctions) Order 1990(b) as amended by the Iraq and Kuwait (United Nations Sanctions) (Amendment) Order 1990(c) (hereinafter referred to as "the principal Order") may be cited together as the Iraq and Kuwait (United Nations Sanctions) Orders 1990.

(3) This Order shall be construed as one with the principal Order.

Amendment of Article 6 of the principal Order

2. Subparagraph (b) of article 6(8) of the principal Order shall be replaced by the following subparagraph—

“(b) A master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a land transport 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 a person referred to in sub paragraph (i) in response to such a request;”.

(a) 1946 c.45.
(b) S.I. 1990/1651.
(c) S.I. 1990/1768.

Amendment of Article 8 of the principal Order

3. Article 8 of the principal Order shall be replaced by the following Article—

“Penalties and proceedings

8.—(1) Any person guilty of an offence against this Order other than against article 6(8) or paragraph 5 of the Schedule to this Order shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding five 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 against article 6(8)(b)(ii) of this Order or paragraph 5(b) or (d) of the Schedule to 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; 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.**

(3) Any person guilty of an offence against article 6(8)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of the Schedule 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 five on the standard scale or to both.

(4) Where any body corporate is guilty of an offence against 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.

(5) In this Order references to a “body corporate” include references to a partnership in Scotland 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.

(6) Notwithstanding anything in section 127(1) of the Magistrates’ Courts Act 1980(a), an information relating to an offence against this Order which is triable by a magistrates’ court in England and Wales may be so tried if it is laid 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 Attorney General or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(7) Summary proceedings in Scotland for an offence against this Order shall not be commenced after the expiration of 3 years from the commission of the offence.

Subject to this (and notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975(b)), such proceedings may (in Scotland) 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.

(8) For the purposes of this paragraph, a certificate of the Attorney General, the Lord Advocate or the Secretary of State (as the case may be) as to the date on which such evidence as is referred to above came to his knowledge is conclusive evidence.

(9) Proceedings against any person for an offence against this Order may be taken before the appropriate court in the United Kingdom, or in any place to which this Order extends, having jurisdiction in the place where that person is for the time being.

(10) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984(c) shall apply to the offences against 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.

(a) 1980 c.43.

(b) 1975 c.21.

(c) 1984 c.60.

(11) No proceedings for an offence against this Order, other than for a summary offence, shall be instituted in England, Wales, Northern Ireland or the Isle of Man 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 or the Isle of Man—

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.”.

Amendment of Article 10 of the principal Order

4. Paragraph (2) of article 10 of the principal Order shall be deleted.

Amendment of the Schedule to the principal Order

5. The Schedule to the principal Order shall be amended as follows:—

- (a) In paragraph 1(3) the words “on indictment” shall be deleted;
- (b) In paragraph 2(1) after the words “information on oath given by” there shall be inserted the words “any constable or”, and after the words “search warrant authorising any constable” there shall be added the words “or any officer of Customs and Excise”; and

(c) Paragraph 5 shall be replaced by the following paragraph—

“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) 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 against this Order.”.

Miscellaneous

6. To the extent that this Order increases the maximum penalty for offences committed against it, this Order shall not apply in relation to any offence committed or act done before the Order comes into force.

G. I. de Deney
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the United Nations Act 1946 and further amends the Iraq and Kuwait (United Nations Sanctions) Order 1990 ("the principal Order"). The amendments to article 6(8), article 8 and the Schedule to the principal Order increase the maximum term of imprisonment for a conviction on indictment for an offence against the Order (with the exception of offences against article 6(8) and paragraph 5 of the Schedule) from two years to five years. As regards offences against article 6(8) and paragraph 5 of the Schedule, certain offences will now be triable summarily and other offences will be triable either summarily or on indictment and the maximum term of imprisonment for a conviction on indictment will be two years. The amendment to article 8 also provides for all offences against the Order to be arrestable offences within the meaning of the Police and Criminal Evidence Act 1984 and for the extension of the time limits for bringing summary proceedings. The Order also amends article 10 of the principal Order by deleting paragraph (2).

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