
STATUTORY INSTRUMENTS

1999 No. 3133

The Afghanistan (United Nations Sanctions) Order 1999

Penalties and Proceedings

- 8.—**(1) Any person guilty of an offence against article 3(2) 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; 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; or
 - (c) on conviction in the Bailiwick of Jersey to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (d) on conviction on information in the Isle of Man to custody within the meaning of the Custody Act 1995 (an Act of Tynwald) for a term not exceeding two years or to a fine or both.
- (2) Any person guilty of an offence under article 5(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.
- (3) Any person guilty of an offence under article 6(1) or (2) 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 paragraph 3(a) 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 5 on the standard scale or to both.
- (5) Any person guilty of an offence under paragraph 3(b) or (c) of the Schedule 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.
- (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⁽¹⁾, an offence under paragraph 3(a) of the Schedule to 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 136 of the Criminal Procedure (Scotland) Act 1995⁽²⁾ proceedings in Scotland for an offence under paragraph 3(a) of the Schedule to 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 three years from the commission of the offence.

(9) Notwithstanding anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981⁽³⁾, proceedings in Northern Ireland for an offence under paragraph 3(a) of the Schedule this Order may be instituted 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.

(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 paragraphs (6), (7) and (8) 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⁽⁴⁾ 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 Scotland, where a constable reasonably believes that a person has committed or is committing an offence under this Order he may arrest that person without a warrant.

(14) In Northern Ireland, paragraph (2) of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁵⁾ 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.

(15) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales, Northern Ireland, the Isle of Man or the Bailiwick of Jersey, 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 or the Bailiwick of Jersey:

Provided that this paragraph shall not prevent the arrest, or the issue of execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail

(1) 1980 c. 43.
(2) 1995 c. 46.
(3) S.I.1981/1675 (N.I. 26).
(4) 1984 c. 60.
(5) S.I. 1989/1341 (N.I. 12).

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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.