
Bank of England Notice

**EMERGENCY LAWS (RE-ENACTMENTS AND REPEALS)
ACT 1964**

KUWAIT

7 August 1990

This Notice draws attention in convenient form to the effect of the law contained in the Act and to the Treasury directions given thereunder. The purpose of these directions is to prevent the misappropriation of Kuwaiti assets in the United Kingdom. By virtue of powers delegated by HM Treasury, this Notice gives certain permissions which are subject to the condition that they shall not apply in any case where it is so directed by or on behalf of HM Treasury.

References in this Notice to the United Kingdom should be read to include the Channel Islands and the Isle of Man.

This Notice supersedes the guidance set out in the Bank of England's Press Notices issued on 3 August 1990.

INTRODUCTION

- 1 On 2 August 1990 HM Treasury issued directions under the Emergency Laws (Re-enactments and Repeals) Act 1964 which have the effect of freezing certain Kuwaiti assets.
- 2 The directions are contained in Statutory Instrument 1990 No 1591 which may be cited as The Control of Gold, Securities, Payments and Credits (Kuwait) Directions 1990. Copies may be obtained from HM Stationery Office.
- 3 Article 2 of the Statutory Instrument reads as follows:- "Except with permission granted by or on behalf of the Treasury, no order given by or on behalf of the government of or any person resident in Kuwait at the time of the coming into force of these directions or at any later time while these directions are in force, shall be carried out, insofar as the order:-
 - (i) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
 - (ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities is to be held."
- 4 These directions apply to all persons (including bodies corporate) in the United Kingdom, including the Channel Islands and the Isle of Man, and to all other persons, wherever they may be, who are ordinarily resident in the United Kingdom and who are citizens of the United Kingdom and Colonies* or British protected persons.

Residents of Kuwait

- 5 For the purposes of the directions, a resident of Kuwait is any person, including any body corporate, normally resident in that country on 2 August 1990 or at any later time. A branch in Kuwait of any business is treated as if the branch were a body corporate resident in Kuwait. Orders given by branches outside Kuwait of any body corporate resident in Kuwait or by branches of any business whose head office is in Kuwait are given on behalf of persons resident in Kuwait, irrespective of the location of such branches. Persons resident or becoming resident in Kuwait should not subsequently be treated as resident elsewhere without prior reference to the Bank of England.
- 6 Bodies incorporated in the United Kingdom whose day-to-day control and management are established in the United Kingdom are to be treated for the purposes of this Notice as resident in the United Kingdom unless a controlling interest is held by the government of Kuwait.
- 7 Residential status should be determined by reference to the facts. Among bodies to be regarded as residents of Kuwait are Kuwait Investment Office, Kuwait Petroleum Corporation and branches in the United Kingdom of the National Bank of Kuwait. Branches in the United Kingdom of the United Bank of Kuwait are to be regarded as residents of the United Kingdom. Cases of doubt should be referred to the Bank of England.

**In this paragraph "citizens of the United Kingdom and Colonies" means a British citizen, a British Dependent Territories citizen or a British Overseas citizen or a person who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas). See the British Nationality Act 1981 Section 51 (3) (a) (ii).*

Overseas Branches of United Kingdom companies and businesses

- 8 Branches outside the United Kingdom of companies incorporated in the United Kingdom and of businesses whose head offices are in the United Kingdom may continue to comply with orders from persons who are resident in Kuwait but permissions will not normally be given to enable orders received by persons subject to the directions from persons resident in Kuwait to be transferred to and executed by branches outside the United Kingdom.

Kuwaiti Accounts

- 9 The sterling, foreign currency and gold bullion accounts of persons resident in Kuwait held in the United Kingdom with institutions authorised under the Banking Act 1987 or the Building Societies Act 1986 ("banks") should be designated and are referred to below as "Kuwaiti Accounts". Funds held by solicitors, accountants, stockbrokers etc. on behalf of Kuwaiti residents should be placed in a separate account.

Payments ordered by or on behalf of residents of Kuwait

- 10 Any payment required by an order given by or on behalf of the government of Kuwait or a resident of Kuwait to a person subject to the directions (see paragraph 4) is prohibited except with permission. Permission is hereby given for any such payment whether in sterling or in foreign currency to be made to a "Kuwaiti Account". Permission will not normally be given for any such payment to any account held outside the United Kingdom.

Balances on "Kuwaiti Accounts"

- 11 Permission will not normally be given for any change to be made in the persons to whose credit any sum held on a "Kuwaiti Account" is to stand.

Payments from "Kuwaiti Accounts"

- 12 Permission is hereby given to debit the accounts of residents of Kuwait (see paragraph 5) for the following purposes:-
- (a) living, medical, educational and similar expenses of residents of Kuwait in the United Kingdom;
 - (b) payments in respect of goods which have been shipped or otherwise despatched to the United Kingdom against evidence of shipment or despatch and production of any necessary import licence;
 - (c) payments to reimburse United Kingdom banks who have made payments in respect of Kuwaiti trade under irrevocable letters of credit;
 - (d) payments to other "Kuwaiti Accounts" in the United Kingdom;
 - (e) payment of interest, or repayment of capital, on borrowings from United Kingdom residents by residents of Kuwait;
 - (f) payments to United Kingdom residents in connection with the operations of vessels and aircraft owned by, or on charter to, residents of Kuwait;
 - (g) payment to United Kingdom residents of insurance premiums;
 - (h) payment of charges to banks in the United Kingdom;
 - (i) payment of sums due to the Inland Revenue and HM Customs and Excise;

- (j) distributions and payments to residents of the United Kingdom under wills and intestacies and under trusts set up before 2 August 1990.

13 The Bank of England will consider applications to debit "Kuwaiti Accounts" for the following purposes:-

- (a) payments to meet travel expenditure by residents of Kuwait leaving the United Kingdom;
- (b) payments for charitable purposes;
- (c) payments of the types described in paragraphs 12 (e), (f), (g) and (j) to residents outside the United Kingdom.

Provision of cash to residents of Kuwait in the United Kingdom

14 Banks and other persons in the United Kingdom may provide cash in reasonable amounts in sterling in the United Kingdom to residents of Kuwait -

- (a) in exchange for foreign currency of equivalent value;
- (b) against cheques, travellers' cheques, travellers' letters of credit, credit and debit cards and other payment instruments;
- (c) through automated teller machines.

Payments by branches in the United Kingdom of companies resident in Kuwait

15 Permission is hereby given for branches in the United Kingdom of companies or businesses resident in Kuwait to make salary and pension payments to persons living in the United Kingdom.

16 The Bank of England will consider applications from branches in the United Kingdom of companies or businesses resident in Kuwait to make other payments.

Pensions etc due to residents of Kuwait

17 Any necessary permission is hereby given for the payment outside the United Kingdom of pensions due to residents of Kuwait and of widows' and widowers' annuities associated with deceased husbands' and wives' employments.

Credits, loans and overdrafts

18 Any necessary permissions are hereby given for credits or loans to, and overdrafts on, "Kuwaiti Accounts". Except where covered by the terms of paragraph 12 (e) above, permission will be required for payments by debit of a "Kuwaiti Account" to service such loans.

19 Any necessary permission will be given on application for banks which are agents for syndicated loans and credits to the government or residents of Kuwait to distribute capital repayments and interest payments to participants in the syndicates, provided that the necessary funds are received from outside the United Kingdom.

Maturing bills of exchange

20 All necessary permissions are hereby given for maturing bills of exchange drawn by residents of Kuwait and accepted by persons subject to the directions to be paid by the acceptor on maturity and for "Kuwaiti Accounts" to be debited in reimbursement.

Gold

- 21 Permission is required for persons subject to the directions to do anything which involves parting with any gold coin or gold bullion wherever located or making any change in the persons to whose order any gold coin or gold bullion is to be held in compliance with an order given by or on behalf of the government or residents of Kuwait.

Securities

- 22 The Emergency Laws (Re-enactments and Repeals) Act 1964 as amended defines securities as including :-
- (a) shares, stocks, bonds, notes (other than promissory notes), debentures, debenture stock, certificates of deposit and Treasury and other government bills;
 - (b) a deposit receipt in respect of the deposit of securities;
 - (c) a unit or a sub-unit of a unit trust;
 - (d) an annuity granted under the Government Annuities Act 1929, or to which either Part I or Part II of that Act applies, and a life assurance policy or other contract entered into with an assurance company for securing the payment in the future of any capital sum or sums, or of an annuity;
 - (e) a warrant conferring an option to acquire a security;
 - (f) a share in an oil royalty;

but excludes bills of exchange.

For the purposes of the permissions covered in this Notice "securities" includes those instruments defined as "investments" in Schedule 1 of the Financial Services Act 1986.

- 23 Permission is required for persons subject to the directions to do anything which involves parting with any securities or making any change in the persons to whose order any securities are to be held in compliance with an order given by or on behalf of residents of Kuwait.
- 24 The Bank of England will consider applications from persons engaged in the discretionary management of portfolios of securities on behalf of residents of Kuwait to continue to manage the portfolios in question. Permission will not normally be given to allow the release of portfolios from United Kingdom control.
- 25 Where securities are registered in the name of a person resident in Kuwait, no order requiring payments of capital monies, dividends or interest to any person outside the United Kingdom may be complied with without permission, which is hereby given provided payment is to a "Kuwaiti Account". Such permission is also given where persons subject to the directions hold bearer securities for account of persons resident in Kuwait. All other cases should be referred to the Bank of England.

Kuwaiti securities

- 26 No permissions are necessary for transfers of securities issued by residents of Kuwait except when a person subject to the directions is required, by order given by or on behalf of a resident of Kuwait, to part with any such security or to make any change in the persons to whose order any such security is to be held.

- 27 Application should be made to the Bank of England for any permission needed by paying agents in the United Kingdom for Kuwaiti securities to make interest, dividend or redemption payments on, or to buy in, such securities.

Pre-zero transactions

- 28 Any necessary permissions are hereby given for any bargains entered into in the money, foreign exchange, commodities (other than physical oil) and securities markets, including derivatives, or any payment instructions received for immediate execution, involving Kuwaiti counterparties, prior to 3.00pm BST (2.00pm GMT) on 2 August 1990, to be completed.

Oil

- 29 Permission is hereby given for payments to be made by debit of a "Kuwaiti Account" for shipments of oil, provided the necessary import licence and evidence of shipment are exhibited.

Applications and Enquiries

- 30 Application should be made to the Bank of England in respect of any transaction which is not covered by the permissions given in this Notice.
- 31 Applications for permissions should be addressed to the Bank of England, Threadneedle Street, London, EC2R 8AH, and marked for the attention of the Iraq and Kuwait Emergency Unit (IKEU). Applications may also be made by facsimile transmission (071-601 4309).
- 32 Telephone enquiries may be made to 071-601 3250/3309/3764/3848/4768/5463

Bank of England
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