

Statutory Instrument 1998 No. 1643

The Federal Republic of Yugoslavia and Serbia (Freezing of Funds) Regulations 1998

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STATUTORY INSTRUMENTS

1998 No. 1643

CRIMINAL LAW, ENGLAND AND WALES CRIMINAL LAW,

NORTHERN IRELAND CRIMINAL LAW, SCOTLAND

The Federal Republic of Yugoslavia and Serbia (Freezing of Funds) Regulations 1998

<i>Made</i>	<i>7th July 1998</i>
<i>Laid before Parliament</i>	<i>7th July 1998</i>
<i>Coming into force</i>	<i>8th July 1998</i>

Whereas the Treasury are a government department designated [1] for the purposes of section 2(2) of the European Communities Act 1972 [2] in relation to measures relating to the movement of capital and to payments, between Member States and between Member States and countries which are not Member States;

Now, therefore, the Treasury, in exercise of the powers conferred on them by that section, hereby make the following Regulations:

Citation, commencement and interpretation

1. - (1) These Regulations may be cited as the Federal Republic of Yugoslavia and Serbia (Freezing of Funds) Regulations 1998, and shall come into force on 8th July 1998.

(2) In these Regulations, "the EC Regulation" means Council Regulation (EC) No. 1295/98 of 22 June 1998 concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia[3].

Offences of breaching Article 2(2) or 4(1) of the EC Regulation

2. Any person who commits a breach of Article 2(2) or Article 4(1) of the EC Regulation shall be guilty of an offence.

Information

3. In accordance with Article 4(2) and (3) of the EC Regulation, the Schedule to these Regulations shall have effect in order to facilitate the obtaining, by or on behalf of the Treasury, of information for the purpose of ensuring compliance with the EC Regulation.

Penalties and proceedings

4. - (1) Any person guilty of an offence under regulation 2 above or under paragraph 2(b) or (c) of the Schedule to these Regulations shall be liable -

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

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

(2) Any person guilty of an offence under paragraph 2(a) of the Schedule to these Regulations shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

(3) Where any body corporate is guilty of an offence under these Regulations, 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, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

(5) No proceedings for an offence under these Regulations, other than 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.

Bob Ainsworth

Jim Dowd

Two of the Lords Commissioners of Her Majesty's Treasury

7th July 1998

SCHEDULE

Regulation 3

INFORMATION

1. - (1) The Treasury (or any person authorised by them for that purpose either generally or in a particular case) may request any person in or resident in the United Kingdom to furnish to them (or that authorised person) any information in his possession or control, or to produce to them (or that authorised person) any document in his possession or control, which they (or that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; 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 sub-paragraph (1) shall 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 an offence under this Schedule of failing to furnish any information or produce any document, 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 such document.

2. 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;

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

(c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence.

3. 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 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 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 Treasury, to the Commission of the Communities or to any of the competent authorities listed in Annex I to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation;

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that breaches of certain provisions of Council Regulation (EC) No. 1295/98 of 22 June 1998, concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia ("the EC Regulations"), are to constitute criminal offences. The provisions in question are:

- Article 2(1), which provides that (subject to certain exemptions set out in Article 3 of the EC Regulations) no funds are to be made available, directly or indirectly, to or for the benefit of the government of the Federal Republic of Yugoslavia or the government of Serbia; and
- Article 4(1), which prohibits the knowing and intentional participation in activities the object or effect of which is to circumvent the provisions of Article 2.

These Regulations also make provision for information to be requested by or on behalf of the Treasury for the purposes of ensuring compliance with the EC Regulation, in accordance with Article 4(2) and (3) of that Regulation. Failure to provide such information, the provision of false information or the suppression of information is made a criminal offence.

Provision is also made with respect to penalties and proceedings for offences under the Regulations.

Notes:

[1] S.I. 1994/757.[back](#)

[2] 1972 c.68.[back](#)

[3] O.J. L178, 23.6.1998, p. 33.[back](#)

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