**EXPLANATORY MEMORANDUM TO THE**

The Iraq (United Nations Sanctions) Order 2000 (Amendment) Regulations 2004

**2004 No. 1660**

**1.** This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Description

2.1 These Regulations, made in exercise of the power in section 2(2) of the European Communities Act 1972, amend the Iraq (United Nations Sanctions) Order 2000 (the "2000 Order"). The amendments are made to ensure that full effect is given in the United Kingdom to certain of the provisions of Council Regulation (EC) No. 1210 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96, as amended.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Due to the adoption of further Resolutions by the United Nations Security Council subsequent to United Nations Security Council Resolution ("UNSCR") 1483, and EC Regulation No. 1210/2003 which implements UNSCR 1483 at Community level, it is necessary to further amend the 2000 Order. To do this it has been necessary to make two separate pieces of secondary legislation to amend the 2000 Order that are to be introduced in parallel. The first is an Order in Council, made under section 1 of the United Nations Act 1946 which comes into force on 13th July 2004, and these Regulations, made under section 2(2) of the European Communities Act 1972. The Iraq (United Nations Sanctions) (Amendment) Order 2004 makes various amendments to the 2000 Order in order to give effect to the provisions of the subsequent United Nations Security Council Resolutions and also to improve the manner in which the sanctions operate in the United Kingdom.

## 4. Legislative Background

4.1 Council Regulation (EC) No 1210/2003, as amended, implements UNSCR 1483 at Community level and requires EC Member States to freeze all funds and economic resources of the previous Government of Iraq, and any of its public bodies or agencies, Saddam Hussein and senior officials of his regime and immediate members of their family, and entities or bodies owned or controlled directly or indirectly by such persons. The Regulation is directly applicable in the United Kingdom. Article 15(1) of Council Regulation (EC) No 1210/2003 requires that Member States determine the penalties to be imposed when this EC Regulation is infringed.

These Regulations make amendments to the 2000 Order, as amended by the Iraq (United Nations Sanctions) Order 2003 in order to implement the provisions of UNSCR 1483 at domestic level and the Iraq (United Nations Sanctions) (Amendment) Order 2004, to ensure that full effect is given in the United Kingdom to the provisions of Regulation 1210/2003.

Regulations 3(2) and (3) of the Regulations amend the personal scope of the 2000 Order. Regulation 3(5) amends article 4A of the 2000 Order to enable the Treasury to issue a direction that funds held by, for or on behalf of persons who are listed in Annex III or Annex IV to Regulation 1210/2003 (and certain persons connected with those persons) are not to be made available to any person except with the authority of a licence granted by the Treasury. Regulation 3(6) amends the scope of the exemption from the requirement to transfer funds to the Development Fund for Iraq in article 5A(3) of the 2000 Order and makes further various amendments in consequence of those changes.

Regulation 4 of the Regulations makes provision in respect of the transfer to the Development Fund for Iraq of funds which are subject to a direction of the sort referred to in article 6(1) of the Iraq (United Nations Sanctions)(Amendment) Order 2004 and, which as a consequence of the changes made to article 5A(3) of the 2000 Order by these Regulations, no longer fall within article 5A(3).

## 5. Extent

5.1 This instrument applies to all of the United Kingdom.

## 6. European Convention on Human Rights

The Financial Secretary to the Treasury, Ruth Kelly, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of The Iraq (United Nations Sanctions) Order 2000 (Amendment) Regulations 2004 are compatible with the Convention rights.

## 7. Policy background

7.1 Common Position 2003/495/CFSP (OJ L 169, 8.7.2003, p. 72) and Council Regulation (EC) No 1210/2003 (OJ L 169, 8.7.2003, p. 6), as amended by Council Regulation (EC) No 1799/2003 (OJ L 264, 15.10.2003, p. 12), Commission Regulation (EC) No 2119/2003 (OJ L 318, 3.12.2003, p. 9), Commission Regulation (EC) No 2204/2003 (OJ L 330, 18.12.2003, p. 7), Commission Regulation (EC) No 924/2004 (OJ L 163, 30.4.2004, p. 100), Commission Regulation (EC) No 979/2004 (OJ L 180, 15.5.2004, p. 9), and Commission Regulation (EC) No 1086/2004 (OJ L 207, 10.6.2004, p. 10) imposed targeted financial sanctions against the former Government of Iraq, senior Iraqi officials and their family members, and entities owned or controlled by the former government of Iraq.

The Government is keen to ensure that breaches of the restrictive measures in Regulation (EC) No 1210/2003 are punishable as criminal offences in the UK.

## 8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

## 9. Contact

Robert Pollock at Her Majesty's Treasury, Tel: 0207 2705323 or e-mail: robert.pollock@hm-treasury.gsi.gov.uk, can answer any queries regarding the instrument.