2001 No. 1867

UNITED NATIONS

The Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001

Made - - - - -	*14th May 2001*
Coming into force - -	*15th May 2001*
To be laid before Parliament	*20th June 2001*

At the Court of Buckingham Palace, the 14th day of May 2001

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 has, by a resolution adopted on 7th March 2001, 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 Liberia:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001 and shall come into force on 15th May 2001.

(2) (a) This Order shall extend to the territories listed in Schedule 1 to this Order.

(b) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(c) Article 6 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2 to this Order.

Interpretation

2.—(1) In this Order, "Governor" means the Governor or other officer administering the government of the Territory.

(2) In article 5 and paragraphs 2(1)(a) and 4(d) of Schedule 3, references to an offence under any enactment relating to customs include references to any offence against any provision of law with respect to any of the matters regulated by this Order that is for the time being in force in any territory to which this Order extends.

(**a**) 1946 c. 45.

Importation of rough diamonds from Liberia

3.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly to the Territory any rough diamonds exported from Liberia.

(2) Subject to the provisions of paragraph (3) of this article, any person who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the diamonds in question had been exported from Liberia.

Offences in connection with applications for licences, conditions attaching to licences, etc.

4.—(1) If for the purpose of obtaining any licence under article 3(1) of this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Obtaining of evidence and information

5. The provisions of Schedule 3 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor, or evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under any enactment relating to customs.

Penalties and Proceedings

6.—(1) Any person guilty of an offence under article 3(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 £5,000 or its equivalent, or to both.

(2) Any person guilty of an offence under paragraph 5(b) or (d) of Schedule 3 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 £5,000 or its equivalent, or to both.

(3) Any person guilty of an offence under article 4(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; or

(b) on summary conviction, to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under paragraph 5(a) or (c) of Schedule 3 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

(5) 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.

(6) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

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.

Exercise of Powers of the Governor

7.—(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

Amendment

8. Article 1(4) of the Liberia (United Nations Sanctions) (Overseas Territories) Order 2001(**a**) shall be replaced by the following:

"(4) Particulars of the decisions referred to in paragraphs (2) and (3) above shall be published by the Governor in a notice in the official Gazette of the Territory."

A. K. Galloway
Clerk of the Privy Council

(**a**) S.I. 2001/946.

SCHEDULE 1

Article 1(2)(a)

Territories to which the Order extends

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena
St Helena Dependencies
South Georgia and the South Sandwich Islands
Turks and Caicos Islands
The Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus
Virgin Islands

SCHEDULE 2

Article 1(2)(c)

Application of Article 6 to the Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus

1.—(1) Any person who commits an offence under article 3(2) of this Order shall be liable:

(a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both; or

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 4(1) or (2), or paragraph 5(b) or (d) of Schedule 3 to this Order is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under paragraph (5)(a) or (c) of Schedule 3 to this Order is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Where a 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.

5. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Teritory having responsibility for criminal prosecutions:

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.

SCHEDULE 3

Article 5

Evidence and Information

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law; the Governor (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Territory to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; 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 the foregoing sub-paragraph shall be taken to 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 failing to furnish information or produce a document when requested so to do under this paragraph, 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 of them.

(5) The furnishing of any information or the production of any document shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

(a) that there are reasonable grounds for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or

(d) seize anything that is necessary to be seized in order prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds to believe that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except:

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in the 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 to 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 under or in the service of the Government of the Isle of Man, or under or in the service of the States of Guernsey or Alderney or the Chief Pleas of Sark; or as the case may be, the States of Jersey; or under or in the service of the Government of any territory to which this Order extends; or

(c) on the authority of the Secretary of State, to any organ of the United Nations, or to any person in the service of the United Nations, or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

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) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any information or produces any document which is false in a material particular, to such a person exercising his powers under this Schedule; or

(c) otherwise 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 under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It imposes restrictions, pursuant to a decision of the Security Council of the United Nations in its resolution 1343 of 7th March 2001, on the import of rough diamonds from Liberia. The Order also makes a textual amendment to the Liberia (United Nations Sanctions) (Overseas Territories) Order 2001.

STATUTORY INSTRUMENTS

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The Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001

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