STATUTORY INSTRUMENTS

1978 No. 277

UNITED NATIONS

The South Africa (United Nations Arms Embargo) (Prohibited Transactions) Order 1978

Made - - - -	1*st March* 1978
Laid before Parliament	3*rd March* 1978
Coming into Operation	24*th March* 1978

At the Court at Buckingham Palace, the 1st day of March 1978

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 have, by a resolution adopted on 4th November 1977, called upon Her Majesty's Government in the United Kingdom and all other Members of the United Nations to apply certain measures to give effect to a decision of that Council in relation to the Republic of South Africa:

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 and Commencement

1. This Order may be cited as the South Africa (United Nations Arms Embargo) (Prohibited Transactions) Order 1978 and shall come into operation on 24th March 1978.

Interpretation

2. The Interpretation Act 1889(b) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of Parliament.

Prohibition of certain transactions relating to patents, registered designs and industrial information or techniques

3.—(1) No person shall enter into any licensing arrangements for the use of patents, registered designs or industrial information or techniques specially devised or formulated for the manufacture or maintenance of the goods to which this Article applies if that person intends, or has reasonable cause to believe that another person intends, by such arrangements to promote the manufacture or maintenance of any such goods in South Africa.

(a) 1946 c. 45. (b) 1889 c. 63.

(2) Any person who contravenes the foregoing provisions of this Article shall be guilty of an offence against this Order.

(3) The goods to which this Article applies are the goods specified in Group 1 of Schedule 1 to the Export of Goods (Control) Order 1970(a), as amended(b), insofar as they are specially designed for military purposes or para-military police purposes.

Obtaining of evidence and information

4. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State, 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 Secretary of State, of evidence of the commission of an offence against this Order.

Penalties and Proceedings

5.—(1) Any person guilty of an offence against 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 £1,000.

(2) When an offence under this Order which has been committed by a body corporate 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 be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members the preceding provisions of this paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Proceedings for an offence against this Order shall not be instituted except by, or with the consent of, the Secretary of State or, in England and Wales, the Director of Public Prosecutions or, in Northern Ireland, the Attorney-General.

Exercise of powers of the Secretary of State

6. The Secretary of State 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 (other than the power to give authority under the Schedule to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Secretary of State shall be construed accordingly.

N. E. Leigh,

Clerk of the Privy Council.

(a) S.I. 1970/1288. (b) The relevant instruments are: S.I. 1974/2189, 1978/271.

Article 4

SCHEDULE

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State (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 United Kingdom 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 on indictment for 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.

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

(*a*) that there is reasonable ground for suspecting that an offence against this Order 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, vessel 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, vessel or aircraft,

he may grant a search warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel 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, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft and may seize any document or article found on the premises or in the vehicle, vessel or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid or any documents which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it.

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

(4) Any documents or articles of which possession is taken under this paragraph may be retained for a period of six 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.

(5) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the sheriff.

3. A person authorised by the Secretary of State 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 or extract made of any document produced) by any 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 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 the 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

(*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 South Africa 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 against this Order.

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*) knowingly or recklessly furnishes false information or a false explanation or otherwise wilfully obstructs any person in the exercise of 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 against this Order.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order prohibits, pursuant to a decision of the Security Council of the United Nations in Resolution No. 418 of 4th November 1977, certain transactions relating to patents, registered designs and industrial information or techniques for the manufacture or maintenance of arms and certain associated goods in South Africa. It also confers powers to obtain evidence and information for the purposes of the Order.

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