

## **The Belarus (Freezing of Funds) (Sark) (Amendment) Ordinance, 2011**

**THE GENERAL PURPOSES AND ADVISORY COMMITTEE**, in exercise of the powers conferred on the Chief Pleas by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>a</sup> and on the Committee by section 41 of the Reform (Sark) Law, 2008<sup>b</sup>, hereby orders:

### **Amendment of Belarus (Freezing of Funds) (Sark) Ordinance, 2006.**

1. (1) The Belarus (Freezing of Funds) (Sark) Ordinance, 2006 ("**the Ordinance**") is amended as follows.

(2) For section 1(1) of the Ordinance, substitute -

"(1) Council Regulation (EC) No. 765/2006 of the 18<sup>th</sup> May, 2006<sup>c</sup> concerning restrictive measures in respect of Belarus ("**the EC Regulation**") is applicable in Sark in all respects as if Sark were a Member State."

(3) In section 1(2) of the Ordinance, for "Article 2 or 5" substitute "Article 1a, 1b, 2 or 5".

(4) For section 2 of the Ordinance, substitute the following section -

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<sup>a</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

<sup>b</sup> Order in Council Nos. V, VI and XXVII of 2008 and No. XIV of 2010.

<sup>c</sup> OJ L134. 20.5.06. p. 1.

**"Modification of Regulation.**

2. The EC Regulation in its application to Sark is modified as follows -

- (a) Articles 1.5, 9(a) and 9(b) shall not apply,
- (b) in Article 1(a)3, for "the competent authorities in the Member States as listed in Annex II" substitute "the States of Guernsey Policy Council ("the Policy Council")",
- (c) in Article 1(b)2, for "the competent authority of a Member State, as identified on the websites listed in Annex II," substitute "the Policy Council",
- (d) in Articles 1a and 1b, references to the Union shall be construed as including Sark,
- (e) in Article 3 -
  - (i) for "the competent authorities in the Member States, as indicated in the websites listed in Annex II," each time it occurs substitute "the Policy Council",
  - (ii) for "the Member State concerned" substitute "the Policy Council",

- (iii) for "the other Member States and the Commission" each time it occurs substitute "one of Her Majesty's Principal Secretaries of State", and
    - (iv) delete "at least two weeks before the authorisation",
  - (f) in Article 5.1.(a) -
    - (i) for "the competent authorities indicated in the websites listed in Annex II, in the country where they are resident or located," substitute "the Policy Council", and
    - (ii) delete ", and directly or indirectly supply such information to the Commission",
  - (g) in Article 5.1.(b), for "the competent authorities indicated in the websites listed in Annex II," substitute "the Policy Council",
  - (h) in Articles 3, 7 and 9, references to the obligation of a Member State to inform or notify shall be construed as references to the

obligation of the Council, and

(i) in Article 10 -

(i) for "the territory of the Community, including its airspace" substitute "Sark, including its airspace and the territorial waters adjacent thereto",

(ii) for "the jurisdiction of a Member State" substitute "the jurisdiction of Sark",

(iii) the reference to the law of a Member State shall be construed as including the law of Sark, and

(iv) the reference to the Community shall be construed as including Sark."

(5) After section 3 of the Ordinance insert the following section –

**"Appeals against decisions of Council.**

**3A.** (1) A person aggrieved by a decision of the Council made under Article 3 of the EU Regulation, or a decision of the Council not to exercise its powers under that Article, may appeal to the Ordinary Court against that decision on the grounds that -

(a) the decision was ultra vires or there was some other error of law,

- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Court may-

- (a) set the decision of the Council aside and, if the Court considers it appropriate to do so, remit the matter to the Council with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

(6) In section 6 of the Ordinance, after the definition of “**EC Regulation**”, insert –

“**Ordinary Court**” means the Royal Court of Guernsey sitting as an Ordinary Court, and”.

**Citation.**

3. This Ordinance may be cited as the Belarus (Freezing of Funds) (Sark) (Amendment) Ordinance, 2011.

**Commencement.**

4. This Ordinance shall come into force on the 28<sup>th</sup> June, 2011.