

Island of  Guernsey

Ordinance of the States

X
2000

Made	21st August, 2000
Came into operation	21st August, 2000
Laid before the States.....	12th October, 2000

**The Burma (Export of Goods & Freezing of Funds)
Ordinance, 2000**

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THE STATES LEGISLATION COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948, as amended^b, hereby orders:-

Offence of breaching the EC Regulation.

1. A person who -

- (a) infringes the prohibition in Article 1 of the EC Regulation;
- (b) commits a breach of Article 2 of the EC Regulation;
- (c) infringes the prohibition in Article 5 of the EC Regulation (concerning the participation in related activity) so far as respects the matters referred to in Article 1; or
- (d) commits a breach of Article 5 of the EC Regulation so far as it relates to Article 2;

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, p. 164; Vol. XXXII, p. 41; No. V of 1993; No. II of 1996; Nos. III and X of 1998.

is guilty of an offence.

Information.

2. The Schedule to this Ordinance has effect in order to facilitate the obtaining, by or on behalf of the Committee, of information for the purpose of ensuring compliance with the EC Regulation.

Penalties and proceedings.

3. (1) A person guilty of an offence under section 1, or under paragraph 2(b) or (c) of the Schedule, is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(2) A person guilty of an offence under paragraph 2(a) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the 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 is

guilty of the offence and may be proceeded against and punished accordingly.

Certain provisions of customs and excise Laws applicable.

4. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended^c, shall apply to the detention of any person for an offence under section 1(a) or (c) as it applies to the detention of any person for an offence under the customs or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended, shall apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

Interpretation.

5. (1) In this Ordinance, except where the context otherwise requires,

"**Committee**" means the States of Guernsey Advisory and Finance Committee;

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended, and any other enactment for the time being in force, relating to customs or, as the case may be, excise;

"**EC Regulation**" means Council Regulation (EC) No. 1081/2000 of

^c Ordres en Conseil Vol. XXIII, p. 573; and No. XIII of 1991.

the 22nd May, 2000^d prohibiting the sale, supply and export to Burma/Myanmar of equipment which might be used for internal repression or terrorism, and freezing the funds of certain persons related to important governmental functions in that country;

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark.

(2) Any reference in this Ordinance to an enactment or Regulation is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

6. This Ordinance may be cited as the Burma (Export of Goods & Freezing of Funds) Ordinance, 2000.

Commencement.

7. This Ordinance shall come into force on the 21st August, 2000.

^d O.J. L122, 24.5.2000, p. 29.

SCHEDULE

Section 3

INFORMATION

1. (1) The Committee (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish to it (or, as the case may be, to that authorised person) any information in his possession or control, or to produce to it (or, as the case may be, to that authorised person) any document in his possession or control, which the Committee (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; and a 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 subparagraph (1) shall compel the production by an advocate or other legal adviser of a document subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(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,

is guilty of an offence.

3. 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 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 subparagraph 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;

- (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 Guernsey;
- (c) on the authority of the Committee, to the Commission of the Communities or to any of the competent authorities listed in Annex III to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Ordinance.