

Island of  Guernsey

Ordinance of the States

II
2003

Made 29th January, 2003

The European Communities
(Implementation of Council Regulation for
Control of Exports of Dual-Use Items)
(Guernsey) Ordinance, 2003

**The European Communities (Implementation of Council
Regulation for Control of Exports of Dual-Use Items)
(Guernsey) Ordinance, 2003**

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**The European Communities (Implementation of Council
Regulation for Control of Exports of Dual-Use Items)
(Guernsey) Ordinance, 2003**

THE STATES, in pursuance of their Resolution of the 25th July, 2001^a, and in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^b and all other powers enabling them, hereby order:-

PART I

APPLICATION OF EC REGULATION, LICENSING, EXPORTS OF DUAL-
USE ITEMS AND EXCEPTIONS

Application of EC Regulation.

1. Subject to the modifications set out in the first Schedule to, and the other provisions of this Ordinance, Council Regulation (EC) No. 1334/2000 of 22 June 2000^c setting up a Community regime for the control of exports of dual-use items and technology ("**the EC Regulation**") shall have full force and effect in the Islands.

Competent authority for purposes of the EC Regulation and licences.

2. (1) The Board -

^a Article IX of Billet d'État No. XVII of 2001.

^b Order in Council No. III of 1994.

^c Official Journal L 159, 30/06/2000 p. 1, as amended by Council Regulations (EC) Nos. 2889/2000 of 22 December 2000; 458/2001 of 6 March 2001 and 2432/2001 of 20 November 2001.

(a) shall be the competent authority for the purposes of the EC Regulation in its application to the Islands under the provisions of this Ordinance; and

(b) may grant -

(i) licences; and

(ii) Community Licences.

(2) A licence granted under subsection (1)(b) or having effect as if so granted may be -

(a) either general or individual;

(b) limited so as to expire on a specified date unless renewed;

(c) subject to or without conditions, and any such condition may require or prohibit any act before or after the export of items under that licence; and

(d) varied or revoked by the Board.

(3) A licence (other than a Community Licence) granted by the Secretary of State and any renewal, variation or revocation of such a licence or its terms by the Secretary of State under the EC Regulation or the Regulations of 2000, shall have effect for the purposes of this Ordinance as if -

(a) it were a licence granted under subsection (1)(b)(i);

and

- (b) any renewal, variation or revocation of the licence or its terms were made under subsection (2).

Exports of dual-use items.

3. (1) Subject to Article 6.1, a Community Licence is the authorisation required by -

- (a) Article 3.1 for the export from the European Community of any item listed in Annex I; and
- (b) paragraphs 1, 2 and 3 of Article 4 for the export from the European Community, in the circumstances respectively described in those paragraphs, of dual-use items not listed in Annex I.

(2) A licence granted under section 2(1)(b)(i), or having effect as if so granted, shall be the authorisation required by Article 21.1 for the export to a Member State of items listed in Annex IV.

(3) Subject to the provisions of this Ordinance -

- (a) no person shall export any items specified in Schedule 2 to the Regulations of 2000 contrary to a prohibition set out in that Schedule;
- (b) no person shall make to any destination any export consisting of the transmission by fax, telephone or other electronic media of dual-use items in the form of

software or technology which are items in transit and which -

- (i) that person (or, if that person is not within the Islands, any agent of that person within the Islands concerned in the export or intended export) has been informed by a competent authority are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons,
 - (ii) that person is aware are intended, in their entirety or in part, for any of the uses referred to in subparagraph (i), or
 - (iii) that person has grounds for suspecting are or may be intended, in their entirety or in part, for any of the uses referred to in subparagraph (i), unless that person has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used;
- (c) no person shall export to any destination not in a Member State any dual-use items which that person

has grounds for suspecting are or may be intended, in their entirety or in part, for any of the uses referred to in paragraph (b)(i), unless that person has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used; and

(d) no person shall export to a destination in a Member State -

(i) any items listed in Annex I but not in Annex IV,

(ii) any items specified in Schedule 2 to the Regulations of 2000, or

(iii) any dual-use items not listed in Annex I and not specified in Schedule 2 to the Regulations of 2000 but for the export of which from the European Community an authorisation is required in accordance with Article 4.1, 4.2 or 4.3 or under Article 4.4,

if that person knows at the time of export that the final destination of those items is outside the European Community and no processing or working is to be performed on those items in any Member State to which they are to be exported.

(4) Subject to the provisions of this Ordinance, subsection (3) does not prohibit the export of any items in relation to which a licence in writing has been granted -

- (a) by the Board under section 2(1)(b)(i); or
- (b) by the Secretary of State and having effect as if granted under section 2(1)(b)(i),

provided that all conditions attaching to the licence are complied with.

(5) No person shall make any export consisting of the transmission by fax, telephone or other electronic media of dual-use items in the form of software or technology -

- (a) to any destination not in a Member State, if the export is contrary to the restriction imposed by Article 3.1;
or
- (b) to any destination in a Member State, if the export is contrary to the restriction imposed by Article 21.1.

(6) Subject to the provisions of this Ordinance -

(a) subsection (5)(a) does not prohibit the export of any items under the authority of the Community General Export Authorisation, or in relation to which -

(i) a licence in writing has been granted -

(aa) by the Board under section 2(1)(b)(i);
or

(bb) by the Secretary of State and having

effect as if granted under section 2(1)(b)(i); or

- (ii) a Community Licence has been granted by any competent authority,

provided that all conditions applying to the Community General Export Authorisation or attaching to the licence or Community Licence are complied with; and

- (b) subsection (5)(b) does not prohibit the export of any items in relation to which a licence in writing has been granted -

- (i) by the Board under section 2(1)(b)(i); or

- (ii) by the Secretary of State and having effect as if granted under section 2(1)(b)(i),

provided that all conditions attaching to the licence are complied with.

Exceptions.

- 4. (1) Nothing in this Ordinance shall prohibit the export of -
 - (a) any aircraft on a scheduled journey;
 - (b) any aircraft the immediately preceding import of which was on a scheduled journey and which is

intended for further scheduled journeys;

(c) any vessel which is departing temporarily from the Islands on trials; or

(d) any vessel proceeding on a normal commercial journey.

(2) Section 3(3)(a) and (d) do not apply in respect of items in transit.

PART II

CUSTOMS AND EXCISE POWERS, PROHIBITIONS AND OBTAINING INFORMATION

Power to detain dual-use items not listed in Annex I.

5. Any dual-use items not listed in Annex I, in relation to which a Community Licence has not been granted and which are brought to any place in the Islands for the purpose of being exported to a destination outside the European Community, not being items which only pass through the territory of the Community within the meaning of Article 3.4, may be detained by an officer of Customs and Excise as if they were liable to forfeiture if and so long as that officer has reason to believe that a competent authority (after, if necessary, having had the impending export brought to its attention) might inform the exporter as provided in paragraphs 1, 2 or 3 of Article 4.

Prohibition of export of items.

6. (1) Where -

(a) a Community Licence has been granted by a

competent authority in a Member State for the export of any items to any destination outside the European Community;

- (b) the export of any items is authorised by the Community General Export Authorisation; or
- (c) items, of which the exporter (within the meaning given by Article 2(c)) is established in a Member State, are or have been detained under section 5,

the Board may give notice to the Chief Revenue Officer that it considers that export of the items would be contrary to the essential foreign policy or security interests, or to the fulfilment of the international obligations or commitments, of the United Kingdom and the Islands.

(2) Where the Board has given notice to the Chief Revenue Officer under subsection (1), the export of the items concerned is prohibited notwithstanding -

- (a) in a case within subsection (1)(a) the grant of the Community Licence; or
- (b) in a case within subsection (1)(b) the Community General Export Authorisation.

(3) In the case of an export which includes the transmission of software or technology by fax, telephone or other electronic media, the Board shall send a copy of any notice given under subsection (1) to the exporter (or, if the exporter is not within the Islands, any agent of the exporter within the Islands

concerned in the export or intended export) at the address stated in the particulars given under section 14(1) or (2), or if no such particulars have been given -

- (a) if the exporter or agent is a body corporate, at the address of its registered or principal office in the Islands; or
- (b) in any other case, at the usual or last known address in the Islands of the exporter or agent (whether of the exporter's or agent's residence or a place where the exporter or agent carries on business).

Power to detain items listed in Annex I in relation to which a Community Licence has been granted.

7. Any items listed in Annex I in relation to which a Community Licence has been granted which are brought to any place in the Islands for the purpose of being exported to a destination outside the European Community may be detained by an officer of Customs and Excise for a period of 10 business days as if they were liable to forfeiture where there are grounds for suspecting that -

- (a) relevant information was not taken into account when the Community Licence was granted; or
- (b) circumstances have materially changed since the issue of the Community Licence,

provided that the period shall be extended to 30 business days where the Board certifies that a request for such an extension in accordance with Article 12.4 has been received from the Member State which granted the Licence.

Requirement for exporter to furnish proof of export.

8. Any exporter of items shall, if so required by the Chief Revenue Officer, furnish within such time as he may allow, proof to his satisfaction that the items exported have reached either -

- (a) a destination to which they were authorised to be exported by the Community General Export Authorisation or by a Community Licence or by a licence granted for the purposes of this Ordinance; or
- (b) a destination to which their export was not prohibited by this Ordinance,

and an exporter who fails to do so is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale, unless he proves that he did not consent to or connive at the items reaching any destination other than such a destination.

Application of the Customs and Excise Law, 1972 and other related matters.

9. (1) Section 55 of the Customs and Excise Law, 1972 shall apply to the detention of any person for an offence under this Ordinance as it applies to the detention of any person for any offence under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise Law, 1972 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.

(3) Where the Chief Revenue Officer investigates, or proposes to investigate any matter with a view to determining whether there are grounds for

believing that an offence has been committed under this Ordinance, the matter shall be treated as an assigned matter.

Information.

10. The second Schedule to this Ordinance has effect in order to facilitate the obtaining, by or on behalf of the Board or the Chief Revenue Officer, of information for the purpose of ensuring compliance with the EC Regulation.

Powers exercisable in addition to others.

11. For the avoidance of any doubt, any power under this Part is exercisable in addition to any power exercisable under any other enactment.

PART III

REQUIREMENTS FOR EXPORTERS, OFFENCES, PENALTIES AND OTHER MATTERS

Misleading applications for licences.

12. (1) For the purposes of obtaining any licence from the Board or any Community Licence from any competent authority no person shall -

- (a) make any statement or furnish any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly make any statement or furnish any document or information which is false in a material particular.

(2) Any licence or Community Licence which may have been granted, or having effect as if granted by the Board, in connection with an

application for which a false statement was made or a false document or information was furnished shall be void as from the time it was granted.

Failure to comply with licence conditions.

13. (1) This section applies to any person who -
- (a) has exported items from -
 - (i) the Islands under the authority of -
 - (aa) a licence granted by the Board, or having effect as if so granted by the Board; or
 - (bb) the Community General Export Authorisation,
 - (ii) the European Community under the authority of a Community Licence, or
 - (iii) the European Community under the authority of a Community Licence sought by or on behalf of a person in, or established in, the Islands; and
 - (b) fails to comply with any condition attaching to that licence or Community Licence or applying on use of the Community General Export Authorisation.
- (2) Subject to subsection (3), a person to whom subsection (1)

applies is guilty of an offence and liable -

- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale, or to both.
- (3) No person is guilty of an offence under subsection (2) where -
- (a) as the case may be -
 - (i) in the case of a licence, the condition in question had been, or had effect as having been, previously modified without that person's consent by the Board;
 - (ii) in the case of a Community Licence, the condition in question had been previously modified without that person's consent by the Board or other competent authority which granted that Community Licence; or
 - (iii) in the case of the Community General Export Authorisation, the condition in question had been previously modified;
 - (b) the alleged failure to comply would not have been a failure had the licence, Community Licence or

Community General Export Authorisation not been so modified; and

- (c) that person proves that the items in relation to which he has failed to comply with the condition had, at the time the condition was modified, been exported from the Islands in the case of a licence or from the European Community in the case of a Community Licence or the Community General Export Authorisation.

Registration and provision of information.

14. (1) Not later than 30 days after -

- (a) any person first makes an export from the Islands or from the European Community under the authority of any licence or Community Licence granted by the Board, or having effect as if so granted by the Board, that does not provide otherwise; or
- (b) any person established in the Islands first makes an export from the Islands under the authority of the Community General Export Authorisation,

that person shall give to the Board written notice of the following particulars -

- (i) the name of the person, and
- (ii) the address at which copies of the records referred to in section 15 may be inspected by

any person authorised by the Board or the Chief Revenue Officer under section 15.

(2) A person who has given to the Board written notice of particulars under subsection (1) shall, not later than 30 days after any change in those particulars, give to the Board written notice of the changed particulars.

(3) Not later than 30 days after the first export of any item listed in Part 2 of category 5 in Annex I but not specified in Part 1 of Schedule 3 to the Regulations of 2000 from the Islands under the authority of the Community General Export Authorisation by any person, that person shall (in addition to any notice given under subsection (1)), give to the Board in relation to that item written notice of such of the information specified in Part II of Schedule 3 to the Regulations of 2000 as is in that person's possession and such other of that information as that person can reasonably be expected to obtain within that time.

(4) A person who has given to the Board written notice of information under subsection (3) shall, not later than 30 days after any change in that information, give to the Board written notice of the changed information.

(5) Any notice to be given by a person under this section may be given by the agent of that person; and shall be sent by post or delivered to the offices of the Board at the States of Guernsey Customs and Excise, P O Box 417, White Rock, Saint Peter Port, Guernsey GY1 3WJ or such other address as the Board may from time to time by resolution determine.

Record keeping and inspection.

15. (1) Any person established in the Islands who exports any items from the European Community under the authority of a Community Licence, and any such person who exports any items from the Islands under the authority of the

Community General Export Authorisation, shall maintain records in relation to each such export that contain the following information -

- (a) a description of the items;
- (b) the quantity of the items;
- (c) the person's name and address;
- (d) the name and address of any consignee of the items;
- (e) in so far as it is known to that person, the end-use of the items and the name and address of the end-user;
and
- (f) in the case of an export under the authority of a Community Licence, any further information required by the Community Licence to be kept.

(2) The records referred to in subsection (1) shall be kept for at least 3 years from the end of the calendar year in which the export took place, and the person concerned shall permit any such records to be inspected and copied by any person authorised by the Board or the Chief Revenue Officer.

(3) Any person who has been granted a Community Licence under this Ordinance in relation to the export from the European Community of any items shall, upon request in writing by the Board or the Chief Revenue Officer, produce any documents or other records he may hold that relate to the application for that Community Licence; and any such documents or records shall be kept for at least 3 years from the end of the calendar year in which such application was made,

and that person shall permit any such documents or records to be inspected and copied by any person authorised by the Board or the Chief Revenue Officer.

(4) Any person authorised by the Board or the Chief Revenue Officer may, on producing if required to do so a duly authenticated document showing his authority, at any reasonable hour enter -

- (a) for the purpose of subsection (2), the premises of which the address has most recently been notified to the Board under section 14; or
- (b) for the purpose of subsection (3), any premises of which the address has been notified for this purpose by the exporter to a competent authority when applying for a licence.

(5) Where any documents or records referred to in subsection (2) or (3) are kept in a form which is not legible and intelligible the exporter shall at the request of the person authorised by the Board or the Chief Revenue Officer reproduce such documents or records in a legible and intelligible form.

(6) The documents and records to be kept in accordance with Article 21.5 shall be the records referred to in subsection (1)(a) to (e) and subsections (4) and (5) and the provision in subsection (2) relating to inspection and copying shall apply for the production of such documents and records to the competent authorities in accordance with Article 21.5 as they apply in respect of the records referred to in subsection (2) or in respect of entry into premises for the purpose of subsection (2).

(7) Any person who exports to a Member State any item listed in

Part 2 of category 5 in Annex I but not listed in Annex IV shall maintain records in relation to each such export that contain such of the information specified in Part II of Schedule 3 to the Regulations of 2000 as that person can reasonably be expected to obtain and such other of that information as comes into that person's possession.

(8) Records maintained under subsection (7) shall be kept for at least 3 years from the end of the calendar year in which the export took place, and the person maintaining the records shall permit them to be inspected and copied by any person authorised by the Board or the Chief Revenue Officer and subsections (4) and (5) and the provision in subsection (2) relating to inspection and copying shall apply for the production of such documents and records as they apply in respect of the records referred to in subsection (2) or in respect of entry into premises for the purpose of subsection (2).

Penalties.

16. (1) Any person who contravenes -
- (a) section 3(3);
 - (b) section 3(5)(a) with intent to evade the restriction imposed by Article 3.1;
 - (c) section 3(5)(b) with intent to evade the restriction imposed by Article 21.1; or
 - (d) a prohibition in section 6(2),

is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) shall be

liable -

- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) A person who fails to comply with section 12, 14, or 15, or Article 4.4, 9.1 or 21.5 or 21.7, is guilty of an offence and liable -

- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale, or to both.

(4) A person who contravenes section 3(5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(5) A person guilty of an offence under paragraph 2(a) of the second Schedule is liable on summary conviction to imprisonment for a term not exceeding 3 months, to a fine not exceeding level 5 on the uniform scale, or to both.

(6) A person guilty of an offence under paragraph 2(b) or (c) of the second Schedule, is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the uniform scale, or to both.

PART IV
MISCELLANEOUS

Interpretation.

17. (1) In this Ordinance, unless the context requires otherwise -

“**advocate**” means an advocate of the Royal Court of Guernsey;

“**assigned matter**” has the meaning given by section 1(1) of the Customs and Excise Law, 1972;

“**the Board**” means the States' Board of Administration;

“**business day**” has the meaning give by section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^d

“**Chief Revenue Officer**” has the meaning given by section 1(1) of the Customs and Excise Law, 1972;

^d Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; No. XIV of 1994 and No. IX of 2001.

“**Community General Export Authorisation**” means the export authorisation constituted by Article 6.1 and Annex II;

“**Community Licence**” means an authorisation granted (whether before or after commencement of this Ordinance) under the EC Regulation or Council Regulation (EC) No. 3381/94 of 19th December 1994^e by a competent authority for the export of dual-use items from the European Community;

“**competent authority**” means the Board acting on behalf of the Secretary of State or any authority empowered by a Member State to grant export authorisations for dual-use items under the EC Regulation;

“**country**” includes territory;

“**Customs and Excise Law, 1972**” means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^f;

“**customs Laws**” and “**excise Laws**” have the meanings given by section 1(1) of the Customs and Excise Law, 1972;

“**dual-use items**” has the meaning given by Article 2(a);

“**Economic Community**” has the meaning given by section 1(1) of

^e Official Journal L 367, 31/12/1994 p. 1

^f Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, p. 87 and No. XIII of 1991.

the European Communities (Bailiwick of Guernsey) Law, 1973^g;

“**EC Regulation**” has the meaning given by section 1; and any reference to a numbered Article or Annex is to the article in, or annex to, the EC Regulation so numbered;

“**export**” means export from the Islands, including -

- (a) export to a destination within the customs territory of the European Community, and
- (b) the transmission of software or technology by fax, telephone or other electronic media (except that oral transmission of technology by telephone is included only where the technology is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result as if it had been so read);

and “**exporter**” and other cognate expressions shall be construed accordingly (except that where the export is to a destination outside the customs territory of the European Community, “**exporter**” has the meaning given by Article 2(c), to the extent that that meaning applies);

“**import**” and “**export**” in relation to a vessel, submersible vehicle

^g Ordres en Conseil Vol. XXIV, p. 87; Vol. XXVII, p. 242; Vol. XXIX, pp. 127 and 419 and cf. No. I of 1996; Ordinances No. XIX of 1994; No. XVII of 1998 and No. XLVII of 2001.

or aircraft includes the taking into or out of the Islands of the vessel, submersible vehicle or aircraft notwithstanding that the vessel, submersible vehicle or aircraft is conveying goods or passengers, and whether or not it is moving under its own power;

“an instrument” means any order (including any Order of the Royal Court), regulations, rules or other subsidiary legislative instrument;

“Islands” means the Islands of Guernsey, Herm and Jethou;

“items” means both used and unused items;

“items in transit” means -

- (a) items which only pass through the territory of the Community within the meaning of Article 3.4, and
- (b) items being exported to a Member State which are not being transferred from the Islands to that Member State within the meaning of Article 21;

“Member State” means a member state of the Economic Community;

“normal commercial journey” means a journey providing transport services made in the ordinary course of business;

“officer of Customs and Excise” has the same meaning as that given to the term **“officer”** by section 1(1) of the Customs and Excise Law, 1972;

“**the Regulations of 2000**” means the Dual-Use Items (Export Control) Regulations 2000^h;

“**the Secretary of State**” means Her Majesty's Secretary of State for Trade and Industry;

“**scheduled journey**” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“**States**” means the States of Guernsey;

“**surface effect vehicle**” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift; and

“**vessel**” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel.

(2) Any reference in this Ordinance to time after an event is a reference to a period of that length of time beginning on the day after that event.

(3) Except where this Ordinance otherwise provides, expressions used in the EC Regulation which are also used in this Ordinance have the same meaning in this Ordinance as they have in the EC Regulation.

^h United Kingdom S.I. 2620/2000, amended by United Kingdom S.Is. 3304/2000; 1344/2001 and 50/2002.

(4) Unless the context otherwise requires, a reference in this Ordinance to -

- (a) an enactment;
- (b) an instrument;
- (c) a regulation (including, for the avoidance of doubt the EC Regulation) made by the Council of the European Union;
- (d) an Act of Parliament; or
- (e) subordinate legislation (including, for the avoidance of doubt the Regulations of 2002) made under any provision of an Act of Parliament,

is a reference thereto as from time to time amended, re-enacted (with or without modification) extended or applied.

(5) Unless the context otherwise requires -

- (a) a reference in this Ordinance to a numbered or lettered, section, subsection, paragraph or clause is a reference to the Part, section, subsection, paragraph or clause of this Ordinance which is so numbered or lettered; and

- (b) a reference in a provision of this Ordinance to a numbered or lettered subsection, paragraph or clause is a reference to the subsection, paragraph or clause of that provision which is so numbered or lettered.

Power of Board to make Orders.

18. (1) The Board may by Order -

- (a) make such provision, further to that comprised within this Ordinance, as may be necessary for the purpose of giving full force and effect to the EC Regulation in the Islands; and
- (b) amend the Schedule to this Ordinance.

(2) Any Order under this Ordinance -

- (a) may be amended or repealed by a subsequent Order hereunder;
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (without limitation) -
 - (i) provision as to the creation and punishment of offences in respect of contraventions of the Order;

- (ii) provision amending or modifying any provision of this Ordinance.
- (3) Any power conferred by this Ordinance to make any Order may be exercised -
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;
 - (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

Extent.

19. This Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

Citation.

20. This Ordinance may be cited as the European Communities (Implementation of Council Regulation for the Control of Exports of Dual-Use Items) (Guernsey) Ordinance, 2003.

K. H. TOUGH,
Her Majesty's Greffier.

FIRST SCHEDULE

LIST OF MODIFICATIONS TO THE APPLIED INSTRUMENT

1. Throughout the instrument, reference to “Member State”, “Member States”, “the Community”, and “territory of the Community” shall be construed as including the Islands.
2. Throughout the instrument, references to the date of entry into force shall be construed as a reference to the date on which this Ordinance comes into force.
3. Articles 15.3 and 24 of the instrument shall be omitted.
4. In this Schedule, “instrument” means the EC Regulation.

SECOND SCHEDULE

INFORMATION

1. (1) The Board or the Chief Revenue Officer (or any person authorised by it or him for that purpose either generally or in a particular case) may request any person in or resident in the Islands to furnish to it or him (or, as the case may be, to that authorised person) any information in his possession or control, or to produce to it or him (or, as the case may be, to that authorised person) any document in his possession or control, which the Board or the Chief Revenue Officer (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 its or 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 -
 - (i) who would have been empowered under this Schedule to request that it be furnished or produced, or
 - (ii) holding or acting in any office under or in the service of the Crown in respect of the Islands;
- (c) on the authority of the Board or the Chief Revenue Officer, to the Commission of the Communities or to a competent authority, 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.

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