

Draft
Ordinance
entitled
The Federal Republic of Yugoslavia (Freezing of Funds and
Prohibition on Investment) (No. 2) (Sark) Ordinance, 1999

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994(a), hereby order:-

Offence of breaching the EC Regulation

1. Any person who commits a breach of Article 3,4 or 5 (1) of the EC Regulation is guilty of an offence.

Authorisations

2. If, in connection with a request pursuant to Article 8 (2) of the EC Regulation, any person -

(a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular

he is guilty of an offence.

Information

3. 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 securing compliance with the EC Regulation.

(a) Order in Council No. III of 1994.

Penalties and proceedings

4. (1) A person guilty of an offence under section 1 or 2, or under paragraph 2(b) or (c) of the Schedule to this Ordinance is liable

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months, or 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 to this Ordinance is liable on summary conviction to imprisonment for a term not exceeding three months, or 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 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, that person as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

Interpretation

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

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

"the EC Regulation" means Council Regulation (EC) No 1294/1999 of 15 June 1999 concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia (FRY) and repealing Regulations (EC) No. 1295/98 and (EC) No. 1607/98
(b)

Repeal

6. The Yugoslavia and Serbia (Freezing of Funds and Prohibition on Investment) (Sark) Ordinance, 1999 is repealed.

Citation

7. This Ordinance may be cited as the Federal Republic of Yugoslavia (Freezing of Funds and Prohibition on Investment) (No. 2) (Sark) Ordinance, 1999.

Commencement

8. This Ordinance shall come into force on 7th October 1999.

(b) O.J. L153, 19.6 1999, p.63.

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 the Island of Sark to furnish to it (or that authorised person) any information in his possession or control, or to produce to it (or that authorised person) any document in his possession or control, which the Committee (or that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; 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) The Committee shall from time to time inform the Chairman of the General Purposes and Advisory Committee as to the operation of this Ordinance in Sark.

(3) The power conferred by subparagraph (1) includes, in particular, a power to request the furnishing or production of any evidence which is required to be kept by virtue of Article 7 (4) of the EC Regulation.

(4) Nothing in sub-paragraph (1) shall require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(5) 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.

(6) 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; or
- (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 the Bailiwick of Guernsey; or
- (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.