

Island of



Guernsey

Ordinance of the States

XXIII
2012

Made27th January, 2012

Coming into Operation27th January, 2012

Laid before the States30th May, 2012

The Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2012

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THE STATES LEGISLATION SELECT 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^b and all other powers enabling the States in that behalf, hereby orders:-

Amendment of Iran (Restrictive Measures) (Guernsey) Ordinance, 2010.

1. (1) The Iran (Restrictive Measures) (Guernsey) Ordinance, 2010^c ("**the Ordinance**") is amended as follows.

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

"Infringement of prohibitions and requirements in EU Regulation.

2. A person who infringes, or causes or permits any infringement of, any prohibition in, or requirement of, the EU Regulation is guilty of an offence."

(3) For section 3 of the Ordinance, substitute the following section -

^a Ordres en Conseil Vol. XXXV(1), p. 65.

^b Ordres en Conseil Vol. XIII, p.288; there are amendments not material to this Ordinance.

^c Ordinance No. II of 2011

"Undertaking transactions and other activities without authorisation.

3. A person who undertakes any transaction or other activity for which authorisation is required under the EU Regulation without the authorisation of the Policy Council is guilty of an offence."

(4) In section 5 of the Ordinance, for the words "Article 3.4 or 31.1(a) of" substitute "any obligation to provide information under".

(5) For section 9 of the Ordinance, substitute the following section -

"Modification of Regulation.

9. The EU Regulation in its application to Guernsey is modified as follows -

- (a) Article 38.1 shall not apply,
- (b) in Article 1(g), the definition of "financial institution" includes a person who is a licensee for the purposes of the Insurance Business (Bailiwick of Guernsey) Law, 2002^d or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^e,
- (c) in Article 26.2, immediately after

^d Order in Council No. XXI of 2002; Ordinances Nos. XII and LI of 2008; G.S.I. No. 4 of 2008.

^e Order in Council No. XXII of 2002; Ordinance No. XIII of 2008; G.S.I. No. 2 of 2008.

"based in the Union" insert "or in the Bailiwick of Guernsey, Bailiwick of Jersey or Isle of Man",

- (d) in Article 27.2, immediately after "(EEC) No 2454/93", insert "and under or in accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 or any other enactment for the time being in force relating to customs or excise matters in Guernsey",
- (e) references to the competent authorities of or in the Member States shall be construed as references to the Policy Council,
- (f) references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (g) references to the Member State concerned shall be construed as references to the Policy Council,
- (h) references to the Union shall be

construed as including Guernsey,

- (i) references to the territory of the Union and its airspace shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,
- (j) references to ports of Member States shall be construed as including any port in Guernsey,
- (k) references to competent customs authorities of Member States shall be construed as including the Chief Officer of Customs and Excise,
- (l) references to nationals of Member States or from the territories of Member States shall be construed as including any person in Guernsey or from Guernsey, and
- (m) references to the law of a Member State shall be construed as including the law of Guernsey."

(6) After section 10 of the Ordinance, insert the following section-

"Appeals against decisions of Policy Council.

10A. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation, or a decision of the Policy Council not to exercise any of its powers under the EU Regulation, 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 Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy 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. ".

(7) In section 11 of the Ordinance, delete "and" where it appears after the definition of "Schedule" and in the appropriate places insert the following definitions -

"**advocate**" means an advocate of the Royal Court of Guernsey,"

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délegué and a Judge of the Royal Court,"

"**enactment**" includes a Law, an Ordinance and any subordinate legislation,"

"**Judge of the Royal Court**" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^f,"

"**Ordinary Court**" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Law, may be validly constituted by the Bailiff sitting alone,"

"**subordinate legislation**" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

^f Order in Council No. XXII of 2008.

and".

Citation.

2. This Ordinance may be cited as the Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2012.

Commencement.

3. This Ordinance shall come into force on the 27th January, 2012.

D. J. ROBILLIARD,
Her Majesty's Deputy Greffier.

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