

The Ivory Coast (Freezing of Funds) (Sark) (Amendment) Ordinance, 2011

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

Amendment of Ivory Coast (Freezing of Funds) (Sark) Ordinance, 2006.

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

(2) In section 1(2) of the Ordinance, for "Article 2 or 8" substitute "Article 2, 8 or 9a".

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

"Modification of Regulation.

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

- (a) in Article 3.1, for "the competent authorities of the Member States, as identified on the websites listed in Annex II" substitute "the States of Guernsey Policy Council ("the Policy

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

^b Orders in Council Nos. V, VII and XXVII of 2008 and No. XIV of 2010.

Council")",

- (b) in Articles 3.2, 3.3 and 4, for "the competent authorities of the Member States, as identified on the websites listed in Annex II," substitute "the Policy Council",
- (c) in Articles 3.1, 3.2 and 3.3, for "they deem" substitute "it deems",
- (d) in Articles 3a and 3b, for "the competent authorities of the Member States, as indicated on the websites listed in Annex II," substitute "the Policy Council",
- (e) in Article 3b -
 - (i) for "the competent authority concerned" substitute "the Policy Council",
 - (ii) omit the words "at least two weeks prior to the grant of the authorisation", and
 - (iii) for "the other Member States and the Commission" substitute "one of Her Majesty's Principal Secretaries of State",
- (f) in Article 4, for "contrary to public policy in

the Member State concerned" substitute "contrary to public policy in Sark",

(g) in Article 5, for "the other Member States and the Commission" substitute "one of Her Majesty's Principal Secretaries of State",

(h) in Article 7, for "the relevant competent authority" substitute "the Policy Council",

(i) in Article 8 -

(i) in paragraph 1(a), for "the competent authorities of the Member States listed in Annex II where they are resident or located, and shall transmit such information, directly or through these competent authorities, to the Commission" substitute "the Policy Council", and

(ii) in paragraph 1(b), for "the competent authorities listed in Annex II" substitute "the Policy Council",

(j) in Articles 3, 3a, 3b, 4, 5 and 10, references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council, and

(k) in Article 13 -

(i) in paragraph (a), for "the territory of the Union, including its airspace" substitute "Sark, including its airspace and the territorial waters adjacent thereto",

(ii) in paragraph (b), the reference to a Member State shall be construed as including Sark,

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

(iv) in paragraph (e), the reference to the Union shall be construed as including Sark.

(4) After section 2 of the Ordinance, insert the following section -

"Appeals against decisions of Policy Council.

2A. (1) A person aggrieved by a decision of the Policy Council made under Article 3, 3a, 3b or 4 of the EU Regulation, or a decision of the Policy Council not to exercise its powers under any of those Articles, 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. "

(5) In section 3 of the Ordinance and in the Schedule to the Ordinance, for "the Council" substitute "the Policy Council".

(6) In section 6 of the Ordinance -

(a) omit the definition of "**Council**", and

(b) after the definition of "**EC Regulation** ", insert -

"**the Policy Council**" means the States of Guernsey Policy Council, and".

Citation.

2. This Ordinance may be cited as the Ivory Coast (Freezing of Funds) (Sark) (Amendment) Ordinance, 2011.

Commencement.

3. This Ordinance shall come into force on the 31st May 2011.