

**International Criminal Tribunal for the Former Yugoslavia
(Freezing of Funds and Economic Resources of Indictees)
(Sark) Ordinance, 2005**

THE GENERAL PURPOSES AND FINANCE COMMITTEE, in exercise of the powers conferred on the Chief Pleas by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by section 8A of the Sark (Reform) Law, 1951^b, hereby orders:-

Breaches of the EC Regulation.

1. Any person who commits a breach of Article 2(3) of the EC Regulation is guilty of an offence.

Requests for authorisations etc.

2. Any person who, in connection with a request for an authorisation pursuant to Articles 3 or 4 of the EC Regulation -

- (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,

is guilty of an offence.

Information.

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XV, p.215.

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

Penalties and proceedings.

4. (1) Any person guilty of an offence under section 1 or 2 or 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 both,

(b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the Sark Uniform Scale, or both,

(2) Any person guilty of an offence under paragraph 2(a) or 3(2) 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 both.

(3) Where any 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 is liable to be proceeded against and punished accordingly.

Interpretation.

5. In this Ordinance-

"the Council" means the States of Guernsey Policy Council,

"the EC Regulation" means Council Regulation (EC) No. 1763/2004 of 11th October 2004 concerning the imposition of certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia,^c and

"the Sark uniform scale" means the uniform scale of fines specified for the time being in section 1 of the Uniform Scale of Fines (Sark) Law, 1989^d.

Competent authority.

6. For the purposes of the Regulation the competent authority is the Council.

Citation and commencement.

7. This Ordinance may be cited as the International Criminal Tribunal for the Former Yugoslavia (Freezing of Funds and Economic Resources of Indictées) (Sark) Ordinance, 2005 and shall come into force on 1st January, 2005.

^c OJL 315/14. 14.10.2004

^d Ordres en Conseil No. XXX1, p. 306.

SCHEDULE

Section 3

1. (1) The Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Sark to furnish or produce to it (or, as the case may be, to that authorised person) any information or document in his possession or control which the Council (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) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege, but an advocate or other legal adviser may be required to give the name and address of any client.

(4) 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.

(5) 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. A 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 a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, 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. (1) 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 Sark,
- (c) on the authority of the Council, to the European Commission or to any of the competent authorities listed in Annex II to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.