

The Zimbabwe (Sale, Supply, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) (Sark) Ordinance, 2004

THE GENERAL PURPOSES AND FINANCE COMMITTEE in exercise of the powers conferred on Chief Pleas by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994¹, and on the Committee by section 8A of the Sark (Reform) Law, 1951² hereby orders:-

Offence of infringing EC Regulation.

1. (1) Any person who, except under the authority of a licence issued by the States of Guernsey Policy Council (“**the Council**”) under this Ordinance, directly or indirectly infringes any of the following prohibitions in the EC Regulation:

- (a) Article 2(a), prohibiting the grant, sale, supply or transfer of technical assistance related to military activities, and to the provision, manufacture, maintenance and use of arms and related material of all types, to any person, entity or body in, or for use in Zimbabwe; or
- (b) Article 2(b), prohibiting the provision of financing of financial assistance related to military activities for any sale, supply, transfer or export of arms and related material to any person, entity or body in, or for use in Zimbabwe; or
- (c) Article 2(c), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is to promote the transactions referred to in Article 2(a) or 2(b);
or

¹ Order in Council No. III of 1994.
² Ordres en Conseil Vol XV, p. 215.

- (d) Article 3(a), prohibiting the sale, supply, transfer or export of equipment which might be used for internal repression, as listed in Annex 1 to the EC Regulation, whether or not originating in the Community, knowingly and intentionally, to any person, entity or body in, or for use in Zimbabwe; or
- (e) Article 3(b), prohibiting the grant, sale, supply or transfer of technical assistance, related to the equipment listed in Annex 1 to the EC Regulation, knowing and intentionally, to any person, entity, or body in, or for use in Zimbabwe; or
- (f) Article 3(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex 1 to the EC Regulation, knowingly and intentionally, to any person, entity or body in, or for use in Zimbabwe; or
- (g) Article 3(d), prohibiting the participation, knowingly and intentionally, in activities the object of which is to promote the transactions referred to in Articles 3 (a), (b) or (c),

shall be guilty of an offence.

Licences and offences in relation to licences.

2. (1) Authorisation for the transactions set out in section 1 shall in Sark be by way of a licence in writing granted by the Council.

(2) A person who for the purposes of obtaining, or otherwise in connection with a request for, a licence under subsection (1) -

- (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; and any licence granted pursuant to the application in respect of which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

- (3) A person who contravenes any condition or requirement of a licence granted under this section is guilty of an offence unless-
 - (a) the licence had previously been modified by the Council without that person's consent;
 - (b) the alleged contravention would not have been a contravention had the licence not been so modified; and
 - (c) that person proves that the contravention took place before he had knowledge that the modification had been made.

Penalties and proceedings.

3. (1) A person guilty of an offence under section 1, section 2(2) or (3) is liable -

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

(2) Where a body corporate is guilty of an offence under this Ordinance, and the 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, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

Certain provisions of customs and excise Laws applicable.

4. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972³ shall apply to the detention of any person for an offence under section 1 as it applies to the detention of any person for an offence under the customs or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) 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.

Interpretation.

5. (1) In this Ordinance, except where the context otherwise requires -

"**Council**" means the States of Guernsey Policy Council;

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly;

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, and any other enactment for the time being in force, relating to customs or, as the case may be, excise;

"**EC Regulation**" means Council Regulation (EC) No. 314/2004 of 19th February 2004 concerning certain restrictive measures in respect of Zimbabwe⁴;

³ Ordres en Conseil Vol.XXII, p.573; and Order in Council No.XIIIof 1991.

⁴ OJ No. L55/1 24.2.2004.

“**uniform scale**” means the uniform scale of fines specified for the time being in section 1 of the Uniform Scale of Fines (Sark) Law, 1989⁵.

- (2) Any reference in this Ordinance to an enactment or Regulation is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Repeal.

6. The Zimbabwe (Export of Goods & Freezing of Funds) (Sark) Ordinance, 2002 is repealed⁶.

Citation.

7. This Ordinance may be cited as the Zimbabwe (Sale, Supply, Export, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) (Sark) Ordinance, 2004.

Commencement.

8. This Ordinance shall come into force on the 17th May, 2004.

⁵ Ordres en Conseil Vol XXXI, p.320.

⁶ Ordinance No. V of 2002.