

The North Korea (Restrictive Measures) (Sark) (Amendment) Ordinance, 2013

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 Sark) Law, 1994^a and on the Committee by section 41 of the Reform (Sark) Law, 2008^b, hereby orders:-

Amendment of North Korea (Restrictive Measures) (Sark) Ordinance, 2007.

1. (1) The North Korea (Restrictive Measures) (Sark) Ordinance, 2007^c ("**the Ordinance**") is amended as follows.

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

"Infringement of EC Regulation

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

(3) For section 3(1) of the Ordinance, substitute the following subsection -

"(1) Authorisation for any of the derogations provided for under the EC Regulation shall in Sark be by way of a licence in writing

^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.

^c Folio No. 158

granted by the Policy Council in accordance with the relevant provisions of the EC Regulation in question.".

(4) After section 3 of the Ordinance insert the following section -

"Appeals against decisions of Policy Council.

3A. (1) A person aggrieved by a decision of the Policy Council made under the EC Regulation, or a decision of the Policy Council not to exercise any of its powers under the EC 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."

(5) In section 4 of the Ordinance, for "Article 10" substitute "any article".

(6) For section 8 of the Ordinance, substitute the following section -

"Modification of Regulation.

8. The EC Regulation in its application to Sark is modified as follows -

(a) Articles 1.8 and 15 shall not apply,

(b) references to the competent authorities of or in the Member States shall be construed as references to the Policy Council,

(c) 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,

(d) subject to paragraph (e), references to the

Member State or the Member State concerned shall be construed as references to the Policy Council,

- (e) references to the Member State concerned shall be construed as including Sark where such references concern the enforcement of decisions or public policy,
- (f) references to the Union shall be construed as including Sark,
- (g) references to the territory of the Union and its airspace shall be construed as including Sark, its airspace and the territorial waters adjacent thereto,
- (h) references to ports of Member States shall be construed as including any port in Sark,
- (i) references to competent customs authorities of Member States shall be construed as including the Chief Officer of Customs and Excise,
- (j) references to nationals of Member States or from the territories of Member States shall be construed as including any person in Sark or from Sark, and
- (k) references to the law of a Member State shall

be construed as including the law of Sark."

- (7) In section 9 of the Ordinance -
- (a) delete the word "and" immediately after the definition of Schedule, and
 - (b) insert the following definitions in the appropriate places -

"**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,"

"**Chief Officer of Customs and Excise**" has the meaning given by section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,"

"**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,"

"**Ordinary Court**" means the Royal Court of Guernsey sitting as an Ordinary Court and for the purposes of this Law the Royal Court is constituted by the Bailiff sitting unaccompanied by the

Jurats," and

"**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, and".

Citation.

2. This Ordinance may be cited as the North Korea (Restrictive Measures) (Sark) (Amendment) Ordinance, 2013.

Commencement.

3. This Ordinance shall come into force on the 12th April, 2013.