

ORDINANCE OF THE CHIEF PLEAS OF SARK

ENTITLED

The Federal Republic of Yugoslavia (Freezing of Funds and Prohibition on Investment) (No. 2) (Sark) Ordinance, 1999 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from the Greffier, La Chasse Marette, Sark, GY10 1SF.

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* Sark Ordinance No. 114; as amended by the Sark General Purposes and Advisory Committee (Transfer of Functions) Ordinance, 2001 (Sark Ordinance No. 125); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Sark General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009 (Sark Ordinance No. 179); the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) Ordinance, 2015 (Sark Ordinance No. II of 2015); the Sark Policy and Performance Committee and Sark Finance and Resources Committee (Transfer of Functions) Ordinance, 2018 (Sark Ordinance No. XIII of 2018). See also the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance has been repealed by the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 (G.S.I. No. 162 of 2020).

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ARRANGEMENT OF SECTIONS

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REPEALED

(Approved by Chief Pleas on 6th October, 1999.)

The Federal Republic of Yugoslavia (Freezing of Funds and Prohibition on Investment) (No. 2) (Sark) Ordinance, 1999

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a, hereby order: –

Offence of breaching the EC Regulation.

1. Any person who commits a breach of Article 3, 4 or 5(1) of the EC Regulation is guilty of an offence.

Authorisations.

2. If, in connection with a request pursuant to Article 8(2) of the EC Regulation, any person –

- (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

he is guilty of an offence.

^a Order in Council No. III of 1994.

Information.

3. The Schedule to this Ordinance has effect in order to facilitate the obtaining, by or on behalf of [the Department], of information for the purpose of securing compliance with the EC Regulation.

NOTE

In section 3, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), with effect from 6th May, 2004.

Penalties and proceedings.

4. (1) A person guilty of an offence under section 1 or 2, or under 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 to both,
- (b) 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 to both.

(2) A person guilty of an offence under paragraph 2(a) 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 to both.

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

Interpretation.

5. In this Ordinance, except where the context otherwise requires –

"[the Department]" means the States of Guernsey [Policy Council],

"the EC Regulation" means Council Regulation (EC) No 1294/1999 of 15 June 1999 concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia (FRY) and repealing Regulations (EC) No. 1295/98 and (EC) No. 1607/98^b.

NOTES

In section 5, the words in square brackets in the definition of the expression "the Department" were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), with effect from 6th May, 2004.

The functions, rights and liabilities of the Advisory and Finance Committee and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy Council and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, the Policy Council has since been replaced by the Policy & Resources Committee; and the functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

^b O.J. L153, 19.6 1999, p. 63.

Repeal.

6. The Yugoslavia and Serbia (Freezing of Funds and Prohibition on Investment) (Sark) Ordinance, 1999 is repealed.

Citation.

7. This Ordinance may be cited as the Federal Republic of Yugoslavia (Freezing of Funds and Prohibition on Investment) (No. 2) (Sark) Ordinance, 1999.

Commencement.

8. This Ordinance shall come into force on 7th October, 1999.

REPEALED

SCHEDULE
INFORMATION

Section 3

1. (1) [The Department] (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in the Island of Sark to furnish to it (or that authorised person) any information in his possession or control, or to produce to it (or that authorised person) any document in his possession or control, which [the Department] (or that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; and any 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) [The Department] shall from time to time inform the Chairman of the [Sark Policy and Finance Committee] as to the operation of this Ordinance in Sark.

(3) The power conferred by subparagraph (1) includes, in particular, a power to request the furnishing or production of any evidence which is required to be kept by virtue of Article 7 (4) of the EC Regulation.

(4) Nothing in sub-paragraph (1) shall require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(5) 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.

(6) 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. Any 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 any request made under this Schedule,
- (b) intentionally furnishes false information or a false explanation 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. 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 sub-paragraph 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, or

- (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 the Bailiwick of Guernsey, or
- (c) on the authority of [the Department], to the Commission of the Communities or to any of the competent authorities listed in Annex III to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation, or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Ordinance.

NOTES

In the Schedule,

the words "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), with effect from 6th May, 2004;

the words in the second pair of square brackets in paragraph 1(2) were substituted by the Sark Policy and Performance Committee and Sark Finance and Resources Committee (Transfer of Functions) Ordinance, 2018, section 3, with effect from 10th October, 2018.¹

The functions, rights and liabilities of the Sark Policy and Performance Committee and of its Chairman arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Sark Policy and Finance

*Committee and its Chairman by the Sark Policy and Performance Committee and Sark Finance and Resources Committee (Transfer of Functions) Ordinance, 2018, section 1, with effect from 10th October, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.*²

¹ These words were previously substituted by the Sark General Purposes and Advisory Committee (Transfer of Functions) Ordinance, 2001, section 3, with effect from 3rd October, 2001; the Sark General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009, section 3(a), Schedule 1, with effect from 1st November, 2009; the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) Ordinance, 2015, section 2, Schedule, with effect from 21st January, 2015.

² The functions, rights and liabilities of the Sark Policy and Performance Committee and its Chairman arising under or by virtue of this Ordinance were previously transferred to and vested in them from, respectively, the Sark General Purposes and Advisory Committee and its Chairman by the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) Ordinance, 2015, section 1, Schedule, with effect from 21st January, 2015, subject to the savings and transitional provisions in section 3 of the 2015 Ordinance; the functions, rights and liabilities of the Sark General Purposes and Advisory Committee and its Chairman arising under or by virtue of this Ordinance were previously transferred to it from the Sark General Purposes and Finance Committee and its Chairman by the Sark General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009, section 1, Schedule 1, with effect from 1st November, 2009, subject to the savings and transitional provisions in section 2(1) of the 2009 Ordinance; and the functions, rights and liabilities of the Sark General Purposes and Finance Committee and of its Chairman arising under or by virtue of this Ordinance were previously transferred to them from the Sark General Purposes and Advisory Committee and its President by the Sark General Purposes and Advisory Committee (Transfer of Functions) Ordinance, 2001, section 1, with effect from 3rd October, 2001, subject to the savings and transitional provisions in section 2 of the 2001 Ordinance.