

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

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

[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 Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. XXIX of 2004 (Recueil d'Ordonnances Tome XXIX, p. 521); as amended by 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 This Ordinance has been repealed by the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 (G.S.I. No. 162 of 2020).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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(Made on 18th May, 2004.)

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

THE STATES LEGISLATION COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders: –

Offence of infringing EC Regulation.

1. Any person who, except under the authority of a licence issued by the States of Guernsey [Policy & Resources Committee] ("the Committee") 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,
- (b) Article 2(b), prohibiting the provision of financing or financial assistance related to military activities for any sale, supply, transfer or export of arms and related

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

material to any person, entity or body in, or for use in, Zimbabwe,

- (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),
- (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,
- (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, knowingly and intentionally, to any person, entity, or body in, or for use in, Zimbabwe,
- (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 Article 3(a), (b) or (c),

is guilty of an offence.

NOTE

In section 1, the words in the first and second pairs of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 10(a) and section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Licences and offences in relation to licences.

2. (1) Authorisation for the transactions set out in section 1 shall in Guernsey be by way of a licence in writing granted by the [Committee].

(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 [Committee] without that person's consent, and
- (b) the alleged contravention would not have been a contravention had the licence not been so modified.

NOTE

In section 2, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Penalties and proceedings.

3. (1) A person guilty of an offence under section 1, 2(2) or 2(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 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, 1972^c applies 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 Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 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

"[Committee]" means the States of Guernsey [Policy & Resources Committee],

"**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

^c Ordres en Conseil Vol. XXIII, p. 573; and No. XIII of 1991.

Zimbabwe^d,

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark,

"**uniform scale**" means the uniform scale of fines specified by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e.

(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.

NOTES

In section 5, the words in the first and second pairs of square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively, section 5(1), Schedule 3, paragraph 1 and section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.

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.

Repeal.

6. The Zimbabwe (Export of Goods & Freezing of Funds) (Guernsey) Ordinance, 2002 is repealed^f.

d OJ No. L55/1 24.2.2004.

e Ordres en Conseil Vol. XXXI, p. 278.

f Ordinance No. V of 2002.

Citation.

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

Commencement.

8. This Ordinance shall come into force on the 18th May, 2004.

REPEALED