



GUERNSEY STATUTORY INSTRUMENT

2020 No. 15

**The Democratic Republic of the Congo (Restrictive Measures) (Bailiwick of Guernsey) Regulations, 2020**

<i>Made</i>	<i>3<sup>rd</sup> March, 2020</i>
<i>Coming into operation</i>	<i>3<sup>rd</sup> March, 2020</i>
<i>Laid before the States</i>	<i>, 2020</i>

THE STATES OF GUERNSEY POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 2, 26 and 27 of the Sanctions (Bailiwick of Guernsey) Law, 2018<sup>a</sup>, and all other powers enabling it in that behalf, hereby orders:-

**Application of EU Regulation.**

1. Subject to the modifications in regulation 2, Council Regulation (EC) No. 1183/2005 of the 18<sup>th</sup> July 2005<sup>b</sup> ("the EU Regulation") concerning restrictive measures in view of the situation in the Democratic Republic of Congo has full force and effect in the Bailiwick.

**Modification of the EU Regulation.**

2. The modifications referred to in regulation 1 are as follows -

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<sup>a</sup> Order in Council No. VII of 2019.

<sup>b</sup> OJ L 193 of 23.7. 2005, p.1

- (a) Article 10 of the EU Regulation shall not apply,
- (b) references to the competent authority of a Member State shall be construed so as to include the Committee,
- (c) references to an obligation of a competent authority of a Member State, or Member State, to consult, inform, notify or obtain advance approval shall be construed as an obligation on the part of the Committee to consult, inform, notify or obtain advance approval from one of Her Majesty's Principal Secretaries of State, and references to a notification, determination or advance approval by the Sanctions Committee shall be construed as references to a notification, determination or advance approval by one of Her Majesty's Principal Secretaries of State,
- (d) references to the obligation of any natural or legal person, entity or body to transmit information to the Commission shall be construed as an obligation to transmit such information to the Committee,
- (e) references to a Member State shall be construed so as to include the Bailiwick,
- (f) references to a national of a Member State shall be construed so as to include a person in or from the Bailiwick,

- (g) references to the Union shall be construed so as to include the Bailiwick,
- (h) references to -
  - (i) the territories of Member States, or
  - (ii) the territory of the Union and its airspace,shall be construed so as to include the Bailiwick, its airspace and the territorial waters adjacent thereto,
- (i) the inclusion of any natural or legal person, entity or body in any list provided for by the EU Regulation shall be subject to any annulment of the EU Regulation in its application to that person, entity or body by the Court of Justice of the European Union and having effect in the European Union for the time being.

### **Appeals.**

3. Section 24 (appeals against decisions of the Committee) of the Sanctions (Bailiwick of Guernsey) Law, 2018 ("**the Law**") shall apply to a decision of the Committee made under the EU Regulation as the EU Regulation has effect by virtue of these Regulations in the same way as that section applies to a decision of the Committee made under the Law.

### **Furnishing of false information etc.**

- 4. (1) A person who in purported compliance with any article of the

EU Regulation as the EU Regulation has effect by virtue of these Regulations intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

- (2) A person guilty of an offence under this regulation 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.

**Offences by legal persons and unincorporated bodies.**

5. (1) Where a legal person is guilty of an offence under regulation 4, 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 -

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person, or
- (b) any person purporting to act in any such capacity,

he or she as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection

with his or her functions of management as if he or she were a director.

(3) Where an offence under regulation 4 is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in subparagraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under regulation 4 is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under paragraph (4) shall be paid from the funds of that body.

**Amendment of the Sanctions Law.**

6. In the table at Schedule 1 to the Sanctions (Bailiwick of Guernsey) Law,

2018, insert the following row in the appropriate place by alphabetical order -

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United Nations Security Council Resolutions 1493(2003) and 1596 (2005)	Council Regulation (EC) No. 1183/2005	The Democratic Republic of Congo (Restrictive Measures) (Bailiwick of Guernsey) Regulations, 2020
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**Interpretation.**

7. In these Regulations, except where the context requires otherwise -

"**the Committee**" means the States of Guernsey Policy & Resources Committee,

"**the EU Regulation**": see regulation 1,

"**foundation official**" has the same meaning as it does under the Foundations (Guernsey) Law, 2012<sup>c</sup>, and

and other terms used both in these Regulations and the EU Regulation shall have the same meanings as in the EU Regulation.

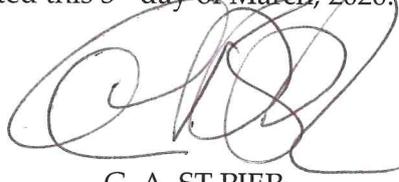
**Citation and Commencement.**

8. These Regulations may be cited as the Democratic Republic of Congo (Restrictive Measures) (Bailiwick of Guernsey) Regulations, 2020 and shall come into force on the day they were made.

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<sup>c</sup> Order in Council No. I of 2013.

Dated this 3<sup>rd</sup> day of March, 2020.

A handwritten signature in black ink, consisting of several loops and flourishes, positioned above the printed name.

G. A. ST PIER

President of the Policy & Resources Committee

For and on behalf of the Committee

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect within the Bailiwick to sanctions measures enacted by the European Union to implement United Nations Security Council Resolutions made in response to concern about the situation in the Democratic Republic of Congo. These measures comprise trade restrictions and an asset freeze and other financial restrictions on listed persons. The United Nations Security Council Resolutions were previously implemented in the Bailiwick by an Order in Council made under the United Nations Act, 1946.

These Regulations come into force on the day they were made.