



Jersey

COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – SOMALIA) (JERSEY) ORDER 2011

Arrangement

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Made

Coming into force

THE CHIEF MINISTER, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, orders as follows –

1 Interpretation

In this Order “Council Regulation” means –

- (a) in Article 2, the provisions of Council Regulation (EU) No. 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ No. L 105/1, 27.4.2010¹) as amended up to 27 September 2011; and
- (b) in Articles 3 to 5, the provisions of that Council Regulation as they have effect in Jersey by virtue of Article 2.

2 Implementation of the Council Regulation

- (1) Subject to this Article, the Council Regulation has full force and effect in Jersey.
- (2) A reference in the Council Regulation to a Member State, Member States or the Union is to be construed so as to include Jersey.
- (3) A reference in the Council Regulation to the competent authority or competent authorities is to be construed so as to include the Minister.
- (4) The Council Regulation is modified as follows –
 - (a) in Article 1 the definition “territory of the Union” is omitted;
 - (b) for Article 5(3) there is substituted the following paragraph –

“3. The Minister may inform any Member State and the Commission of any authorisation granted under paragraphs 1 and 2.”;
 - (c) for Article 9(3) there is substituted the following paragraph –

- “1. Without prejudice to the any provision of the law of Jersey concerning reporting, confidentiality and professional secrecy, natural or legal persons, entities or bodies shall –
- (a) supply immediately the Minister with any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2; and
 - (b) co-operate with the Minister in any verification of the information.”;
- (d) for Article 10 there is substituted the following Article –

“Article 10

The Minister may inform the Commission or any Member State of the measures he or she proposes to take, or has taken, under this Regulation and may supply the Commission or any Member State with any other relevant information at his or her disposal in connection with this Regulation.”.

- (e) Articles 11 to 16 are omitted;
- (f) for Article 17 there is substituted the following Article –

“Article 17

This Regulation shall apply –

- (a) to Jersey, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of Jersey;
- (c) to any legal person, entity or body which is incorporated or constituted under the law of Jersey;
- (d) to any legal person, entity or body in respect of any business done in whole or in part in Jersey.”.

3 Information

The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Minister, of information for any purpose in connection with the Council Regulation.

4 Offences

- (1) A person who –
 - (a) contravenes or fails to comply with Article 2 or 8 of the Council Regulation;
 - (b) being a financial or credit institution, fails to comply with the requirement imposed by the second sentence of Article 3.2 of the Council Regulation;
 - (c) intentionally furnishes false information or a false explanation to any person exercising powers under the Schedule; or

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- (d) with intent to evade the provisions of the Schedule, destroys, mutilates, defaces, secretes or removes any document,
is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (2) A person who, without reasonable excuse –
- (a) fails to comply with Article 9(1) of the Council Regulation as substituted by this Order; or
- (b) refuses or fails within the time and manner specified (or, if no time has been specified, within a reasonable time) to comply with a request made under the Schedule,
is guilty of an offence and liable to imprisonment for a term of 3 months and to a fine.
- (3) If an offence under this Order committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
- (b) a person purporting to act in any such capacity,
the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (5) A prosecution for an offence under this Order must not be instituted without the consent of the Attorney General.

5 Functions of Minister

- (1) The Minister, with a view to ensuring compliance with the Council Regulation, must perform the functions required to be performed by a competent authority of a Member State under the Council Regulation, as if the Minister were a competent authority.
- (2) The Minister may, to such extent and subject to such restrictions as he or she may think proper, delegate or authorize the delegation of any of his or her functions under this Order to any person, or class or description of person, approved by the Minister.

6 Citation and commencement

This Order may be cited as the Community Provisions (Restrictive Measures – Somalia) (Jersey) Order 2011 and shall come into force on the day after the day it is made.

Signed.....

Date.....

Chief Minister

SCHEDULE

(Article 3)

INFORMATION

1 Disclosure of information

- (1) The Minister (or any person authorized by the Minister for that purpose either generally or in a particular case) may request a person in or resident in Jersey to –
 - (a) furnish to the Minister information; or
 - (b) produce to the Minister a document,
in the person's possession or control, that the Minister may require for the purpose of ensuring compliance with the Council Regulation.
- (2) A person to whom a request is made pursuant to sub-paragraph (1) must comply with it within such time and in such manner as may be specified in the request.
- (3) Nothing in sub-paragraph (1) requires a person who has acted as legal adviser for a person to disclose a privileged communication made to the person in that capacity.
- (4) If a person is convicted of an offence under this Order of failing to furnish information or to produce a document, the court may make an order requiring the person, within such period as may be specified in the order, to furnish the information or produce the document.
- (5) The power conferred by this paragraph to request a person to produce a document includes the power to take copies of or extracts from a document so produced and to request the person or, if the 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 Restrictions on disclosure

- (1) Information furnished or a document produced (including any copy or extract made of a document produced) by a person in pursuance of a request made under this Schedule must not be disclosed except –
 - (a) subject to sub-paragraph (2), with the consent of the person by whom the information was furnished or the document was produced;
 - (b) to a person who would have been empowered under this Schedule to request that it be furnished or produced or a person holding or acting in an office under or in the service of the States;

- (c) on the authority of the Minister, to the European Commission or to any of the competent authorities of the Member States, as identified on the websites listed in Annex II to the Council Regulation, for any purpose in connection with the Council Regulation;
 - (d) on the authority of the Minister, to the Jersey Financial Services Commission, for the purpose of any of its functions, where the Minister believes that the exercise of such a function may assist in achieving compliance with the Council Regulation; or
 - (e) with a view to the institution of, or otherwise for the purposes of, proceedings for an offence under this Order.
- (2) A person who has obtained information or is in possession of a document only in the person's capacity as a servant or agent of another person may not give consent for the purposes of sub-paragraph (1)(a) but such consent may instead be given by a person who is entitled to that information or to possession of that document in the person's own right.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R0356:EN:NOT>