



EUROPEAN COMMUNITIES (ISLE OF MAN) ACT 1973

ZIMBABWE SANCTIONS (FREEZING OF FUNDS, OTHER FINANCIAL ASSETS OR ECONOMIC RESOURCES) REGULATIONS 2002

*Laid before Tynwald 21 May 2002
Coming into operation in accordance with Article 1*

In exercise of the powers conferred on the Council of Ministers by Section 2B of the European Communities (Isle of Man) Act 1973^(a), and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

Citation and commencement and interpretation

1. - (1) These Regulations may be cited as the Zimbabwe Sanctions (Freezing of Funds, other Financial Assets or Economic Resources) Regulations 2002, and shall come into operation on the day on which they are made.

(2) In these Regulations –

“the EC Regulation” means Council Regulation (EC) No. 310/2002 of 18th February 2002 concerning certain restrictive measures in respect of Zimbabwe, as applied to the Island by the European Communities (Zimbabwe Sanctions) (Application) Order 2002 – SD 139/02

Breaches of the EC Regulation

2. - (1) Any person who commits a breach of Article 2(1), 2(2) or 9 in so far as it relates to Article 2 of the EC Regulation shall be guilty of an offence.

(2) Any person who –

- (a) without reasonable excuse fails to comply with Article 3(1) of the EC Regulation;
- (b) uses information in breach of Article 3(2) of the EC Regulation; or
- (c) fails to comply with final paragraph of Article 4,

shall be guilty of an offence.

^(a) 1973 c.14

Requests for exemptions etc

3. - Any person who in connection with a request for an authorisation pursuant to Article 5(1) of the EC Regulation –

- (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,

shall be guilty of an offence.

Information

4. - The Schedule shall have effect in order to facilitate the obtaining by or on behalf of the Island's Treasury of information for the purpose of ensuring compliance with the EC Regulation.

Penalties and Proceedings

5. - (1) Any person guilty of an offence under regulation 2(1) or 3 above or paragraph 2(b) or (c) of the Schedule shall be liable –

- (a) on conviction on information, to custody for a term not exceeding two years or to a fine, or both;
- (b) on summary conviction, to custody for a term not exceeding three months or to a fine not exceeding £5,000, or both.

(2) Any person guilty of an offence under regulation 2(2) above or paragraph 2(a) or 3(2) of the Schedule shall be liable on summary conviction to custody for a term not exceeding three months or to a fine not exceeding £5,000, or both.

(3) Where any body corporate is guilty of an offence under these Regulations, 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 shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the Island having jurisdiction in the place where that person is for the time being.

(5) No proceedings for an offence under these Regulations, other than a summary offence, shall be instituted except by or with the consent of the Attorney General.

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

INFORMATION

1. – (1) The Island's Treasury (or any person authorised by the Treasury for that purpose, either generally or in a particular case) ("the requesting authority") may request any person in or resident in the Island to furnish to the requesting authority any information in his possession or control, or to produce to the requesting authority any document in his possession or control, which the requesting authority 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) Nothing in sub-paragraph (1) shall require any person who has acted as advocate for any person to disclose any privileged document or information in his possession in that capacity.

(3) 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.

(4) 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,

shall be guilty of an offence.

3. – (1) No information furnished or document produced (including any copy 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.
- (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 Government of the Isle of Man;
- (c) to the European Commission 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 these Regulations.

(2) Any person who, without reasonable excuse, discloses information or a document in contravention of paragraph (1) is guilty of an offence.

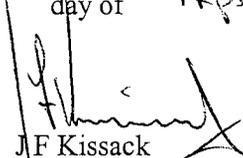
Made this

4th

day of

April

2002.


J F Kissack
Chief Secretary

EXPLANATORY NOTE
(This is not part of the Regulations)

These Regulations provide that breaches of Council Regulation (EC) No 310/2002 as applied in the Island by the European Communities (Zimbabwe Sanctions) (Application) Order 2002 (SD No. 139/02) ("the EC Regulation") are to be criminal offences. The provisions in question are:

- (a) Article 2, which provides for the freezing of funds, other financial assets or economic resources belonging to certain individual members of the Government of Zimbabwe and persons associated with them as listed in Annex I to the EC Regulation, and prohibits the making available of funds, other financial assets or economic resources directly or indirectly to them or for their benefit;
- (b) Article 3, which requires all persons to provide the Treasury any information which would facilitate compliance with the EC Regulation, but which requires such information to be used only for the purposes for which it was provided or received; and
- (c) Article 9, which prohibits the knowing and intentional participation in activities the object or effect of which is to promote the transactions or activities referred to in Article 2 of the EC Regulation or to circumvent the provisions of the EC Regulation.

Regulation 3 of these Regulations makes it an offence to provide false information in connection with a request for an authorisation under Article 5(1) of the EC Regulation.

Regulation 4 and the Schedule of these Regulations make provision for information to be requested by or on behalf of the Treasury for the purpose of ensuring compliance with the EC Regulation. Failure to provide such information, the provision of false information or the suppression of information is made a criminal offence. Unauthorised disclosure of information acquired under the Schedule is also made a criminal offence.

Provision is made with respect to penalties and proceedings for offences under these Regulations.