

BILLET D'ÉTAT No. X, 2014

28th MAY 2014

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PROJET DE LOI

ENTITLED

The Merchant Shipping (Bailiwick of Guernsey) (Amendment) Law, 2014

THE STATES, in pursuance of their Resolution of the 28th May, 2014^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of Law of 2002.

1. In section 267 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^b -

- (a) omit the words "under this Law", and
- (b) in paragraph (b) immediately after the words "on the high seas", insert "or in any foreign port or harbour".

Interpretation.

2. (1) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

^a Article IX of Billet d'État No. IX of 2014 (Volume 2).

^b Ordres en Conseil Vol. XLIV(2), p. 1; Order in Council No. XIII of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, p. 624; Ordinance No. LIV of 2012.

(2) The provisions of the Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Law throughout the Bailiwick.

Citation.

3. This Law may be cited as the Merchant Shipping (Bailiwick of Guernsey) (Amendment) Law, 2014.

^c Ordres en Conseil Vo. XIII, p. 355.

The Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolution of the 30th April, 2014^a, and in exercise of the powers conferred on them by section 14 of the Disclosure (Bailiwick of Guernsey) Law, 2007^b and all other powers enabling them in that behalf, hereby order:-

Amendment of sections 1 to 3 of the Law.

1. For sections 1 to 3 of the Law, substitute the following sections -

"Obligation to disclose knowledge or suspicion etc. of money laundering - financial services businesses.

1. (1) A person must make a required disclosure if the conditions in subsections (2) and (3) are satisfied.

- (2) The first condition is that he -

- (a) knows or suspects, or

- (b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering or that certain property is or is derived from the proceeds of criminal conduct.

^a Article IX of Billet d'État No. IX of 2014 (Volume 2).

^b Order in Council No. XVI of 2007; amended by Recueil d'Ordonnances Tome XXXIII, pp. 161 and 472; Ordinance Nos. XIV, XIX and XXXVII of 2010.

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based,
or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a financial services business.

(4) Any person who fails to make a required disclosure as soon as is practicable after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter -

(a) to a nominated officer or a prescribed police officer,

(b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 11.

(6) But a person does not commit an offence under this section if -

(a) he has a reasonable excuse for not disclosing

the information or other matter,

(b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances, or

(c) subsection (7) applies to him.

(7) This subsection applies to a person if -

(a) he does not know or suspect that another person is engaged in money laundering or that certain property is or represents the proceeds of criminal conduct, and

(b) he has not been provided by his employer with such training as is required by regulations made under section 49 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

(8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

(a) made or issued by the Commission under section 15 or any other enactment, and

(b) published in a manner it approved as appropriate in its opinion to bring the rules,

guidance or instructions to the attention of persons likely to be affected by them.

(9) A disclosure to a nominated officer is a disclosure which -

(a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and

(b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(10) For the purposes of a disclosure to a nominated officer-

(a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in the course of the business of which the person carries out a function (whether or not for gain or reward), and

(b) references to employment are to be construed accordingly.

(11) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to

him -

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(12) But subsection (11) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(13) A disclosure made in good faith to a nominated officer or to a prescribed police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(14) In subsection (13) "**good faith**" means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in

money laundering.

Obligation to disclose knowledge or suspicion etc. of money laundering - nominated officers in financial services businesses.

2. (1) A person who is a nominated officer under section 1(9)(a) must make a required disclosure if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering or that certain property is or is derived from the proceeds of any person's criminal conduct.

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based, or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in consequence of a disclosure made under section 1.

(4) A nominated officer who fails to make a required

disclosure as soon as is practicable after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter -

- (a) to a prescribed police officer,
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 11.

(6) But a person does not commit an offence under this section if he has a reasonable excuse for not disclosing the information or other matter.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

- (a) made or issued by the Commission under section 15 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) A disclosure made in good faith to a prescribed police officer does not contravene any obligation as to confidentiality or other

restriction on the disclosure of information imposed by statute, contract or otherwise.

(9) In subsection (8) "**good faith**" means that the person making the disclosure -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in money laundering or that certain property is or is derived from the proceeds of criminal conduct.

Obligation to disclose knowledge or suspicion etc. of money laundering - non financial services businesses.

3. (1) A person must make a required disclosure if both of the following conditions are satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering or that certain property is or is derived from the proceeds of criminal conduct.

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based, or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a non financial services business.

(4) A person who fails to make a required disclosure as soon as is practicable after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter to a prescribed police officer.

(6) But a person does not commit an offence under this section if -

(a) he does not know or suspect that another person is engaged in money laundering or that certain property is or is derived from the proceeds of any person's criminal conduct and he has not been provided by his employer with any training required by regulations made under section 49A of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey)

Law, 1999,

- (b) if paragraph (a) does not apply, the person was in employment at the time in question and he disclosed the information or other matter to the appropriate person in accordance with any procedure established by his employer for the making of such disclosures,
- (c) he has some other reasonable excuse for not disclosing the information or other matter, or
- (d) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

- (a) made or issued by the Commission under section 15 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to

him -

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(9) But subsection (8) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(10) A disclosure made in good faith to a prescribed police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(11) In subsection (10) "**good faith**" means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in

money laundering or that certain property is or is derived from the proceeds of any person's criminal conduct."

Amendment of section 3A of the Law.

2. In section 3A(1)(a) of the Law, immediately after the words "money laundering", insert "or that certain property is or is derived from the proceeds of any person's criminal conduct".

Amendment of section 4 of the Law.

3. In section 4 of the Law -

(a) immediately after subsection (2), insert the following subsection -

"(2A) Subsection (1) does not apply to a disclosure made -

(a) by the client of a professional legal adviser to that adviser in connection with the seeking of legal advice, or

(b) to any person -

(i) in contemplation of legal proceedings, and

(ii) for the purposes of those proceedings.",

(b) in subsection (3) for "Subsection (2) does", substitute "Subsections (2) and 2(A) do".

Amendment of section 6 of the Law.

4. In section 6(1) of the Law -

- (a) immediately before the words "a police officer", insert "Her Majesty's Procureur or",
- (b) in paragraph (c), delete "or" where it appears at the end of the paragraph,
- (c) in paragraph (d), for the full stop substitute a comma, and
- (d) immediately after paragraph (d), insert the following paragraphs -
 - "(e) any civil forfeiture investigations within the meaning of section 18 of the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007, or
 - (f) any proceedings under that Law or under corresponding legislation in force in a country designated under section 53 of that Law."

Amendment of section 8 of the Law.

5. In section 8 of the Law -

- (a) in subsection (1), immediately before the words "a police officer", insert "Her Majesty's Procureur or", and

(b) in subsection (2) -

(i) in paragraph (d), delete "or", and

(ii) immediately after paragraph (d), insert the following paragraph -

"(da) the conduct of -

(i) any civil forfeiture investigations within the meaning of section 18 of the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007, or

(ii) any proceedings under that Law or under corresponding legislation in force in a country designated under section 53 of that Law, or".

Insertion of Part IVA.

6. Immediately before Part V of the Law, insert the following Part -

"PART IVA

DISCLOSURE OF INFORMATION RELATING TO SANCTIONS

Disclosure relating to international sanctions.

10A. (1) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by

reason of the disclosure by that person or by any of that person's officers, servants or agents of any information or document for any of the purposes set out in subsection (2).

(2) The purposes are any of the following -

- (a) the implementation of, compliance with or enforcement of international sanctions measures within the Bailiwick,
- (b) the prevention, detection or investigation of breaches of international sanctions measures that have been given effect within the Bailiwick,
- (c) the enabling of any person or body within the Bailiwick, whose functions include any of the matters set out at paragraphs (a) and (b), to carry out those functions,
- (d) the enabling of any person or body in another country or territory, with similar functions to those set out at paragraphs (a) and (b), to carry out those functions.

(3) Nothing in this section prejudices any power to disclose information which exists apart from this section."

Amendment of section 11 of the Law.

7. In section 11 of the Law -

- (a) in subsection (1)(b), immediately after the words "additional information", insert "from any person", and
- (b) in subsection (2)(a), immediately after the words "by the discloser", insert "or any other person".

Interpretation

8. In this Ordinance, "**the Law**" means the Disclosure (Bailiwick of Guernsey) Law, 2007, as amended.

Extent.

9. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

10. This Ordinance may be cited as the Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Commencement.

11. This Ordinance shall come into force on the 28th May, 2014.

The Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolution of the 30th April, 2014^a, and in exercise of the powers conferred on them by sections 18(8) and 81A of, and paragraph 10(1) of Schedule 2 to, the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^b and all other powers enabling them in that behalf, hereby order:-

Amendment of section 1 of the Law.

1. In section 1 of the Law -

(a) for subsection (1), substitute the following subsection-

"(1) In this Law "**terrorism**" means the use or threat of action which -

(a) involves the commission of an offence, or is an act, of a type described in any of the articles of the conventions or other instruments set out in Schedule 10, or

(b) is an action falling within subsection (2), and the use or threat is -

^a Article IX of Billet d'État No. IX of 2014 (Volume 2).

^b Ordres en Conseil Vol. XLII(1), p. 427; Order in Council No. XIII of 2006; No. XIII of 2010; No. XI of 2011 and No. XIV of 2012; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXII, p. 648; Ordinance Nos. XIII, XX and XXXVI of 2010; G.S.I. 16 of 2003 and G.S.I. 41 of 2005.

- (i) designed to influence the government or an international organisation or to intimidate the public or a section of the public, and
- (ii) made for the purpose of advancing a political, religious, racial or ideological cause.",

(b) in subsection (2), delete paragraph (f).

Insertion of section 1A.

2. Immediately after section 1 of the Law, insert the following section -

"Purposes of terrorism: interpretation.

1A. (1) In this Law "**purposes of terrorism**" includes the provision of support to persons involved in terrorism as defined in subsection (2), whether or not such support is provided in relation to a specific act of terrorism.

(2) "**Persons involved in terrorism**" are

- (a) any legal or natural persons, bodies, organisations or entities, whether or not proscribed under this Law, who commit, attempt to commit, facilitate or participate in the commission of acts of terrorism,

(b) any bodies or entities owned, controlled, directly or indirectly, by any party that comes within paragraph (a), or

(c) any legal or natural person, body or entity acting on or behalf of or at the direction of any party that comes within paragraphs (a) and (b).

(3) Support for the purposes of subsection (1) includes the provision of financial support for any purpose."

Amendment of section 12 of the Law.

3. For section 12 of the Law, substitute the following section -

"Obligation to disclose knowledge or suspicion etc. of terrorist financing - non financial services businesses.

12. (1) A person must make a required disclosure if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property.

(3) The second condition is that the information or other

matter -

- (a) on which his knowledge or suspicion is based,
or
- (b) which gives reasonable grounds for such
knowledge or suspicion,

came to him in the course of the business of a non financial services
business.

(4) Any person who does not make a required disclosure
as soon as is practicable after the information or other matter comes to him
commits an offence.

(5) A required disclosure is a disclosure of the
information or other matter to a prescribed police officer.

(6) But a person does not commit an offence under this
section if -

- (a) he does not know or suspect that another
person is engaged in terrorist financing or that
certain property is or is derived from terrorist
property and he has not been provided by his
employer with any training required by
regulations made under section 49A of the
Criminal Justice (Proceeds of Crime)
(Bailiwick of Guernsey) Law, 1999,

- (b) if paragraph (a) does not apply, the person was in employment at the time in question and he disclosed the information or other matter to the appropriate person in accordance with any procedure established by his employer for the making of such disclosures,
- (c) he has some other reasonable excuse for not disclosing the information or other matter, or
- (d) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

- (a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to

him -

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(9) But subsection (8) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(10) A disclosure made in good faith to a prescribed police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(11) In subsection (10) "**good faith**" means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in

terrorist financing or that certain property is or is derived from terrorist property."

Deletion of section 13 of the Law.

4. Section 13 of the Law is deleted.

Amendment of section 14 of the Law.

5. In section 14(2)(a) of the Law, immediately after the words "other property is", insert "or is derived from".

Amendment of sections 15 and 15A of the Law.

6. For sections 15 and 15A of the Law, substitute the following sections-

"Obligation to disclose knowledge or suspicion etc. of terrorist financing - financial services businesses.

15. (1) A person must make a required disclosure if the conditions in subsections (2) and (3) are satisfied.

- (2) The first condition is that he -

- (a) knows or suspects, or

- (b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property.

- (3) The second condition is that the information or other

matter -

- (a) on which his knowledge or suspicion is based,
or
- (b) which gives reasonable grounds for such
knowledge or suspicion,

came to him in the course of the business of a financial services business.

(4) A person who does not make a required disclosure as soon as is practicable after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter -

- (a) to a nominated officer or a prescribed police officer,
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 15C.

(6) But a person does not commit an offence under this section if -

- (a) he has a reasonable excuse for not disclosing the information or other matter,

(b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances, or

(c) subsection (7) applies to him.

(7) This subsection applies to a person if -

(a) he does not know or suspect that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property, and

(b) he has not been provided by his employer with such training as is required by regulations made under section 49 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

(8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

(a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and

(b) published in a manner it approved as appropriate in its opinion to bring the rules,

guidance or instructions to the attention of persons likely to be affected by them.

(9) A disclosure to a nominated officer is a disclosure which -

(a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and

(b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(10) For the purposes of a disclosure to a nominated officer-

(a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in the course of the business of which the person carries out a function (whether or not for gain or reward), and

(b) references to employment are to be construed accordingly.

(11) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to

him -

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(12) But subsection (11) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(13) A disclosure made in good faith to a nominated officer or to a prescribed police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(14) In subsection (13) "**good faith**" means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in

terrorist financing or that certain property is or is derived from terrorist property.

Obligation to disclose knowledge or suspicion etc. of terrorist financing - nominated officers in financial services businesses.

15A. (1) A person who is a nominated officer under section 15(9)(a) must make a required disclosure if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property .

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based,
or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in consequence of a disclosure made under section 15.

(4) Any person who does not make a required disclosure as soon as is practicable after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter -

- (a) to a prescribed police officer,
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 15C.

(6) But a person does not commit an offence under this section if he has a reasonable excuse for not disclosing the information or other matter.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned -

- (a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) A disclosure made in good faith to a prescribed police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(9) In subsection (8) "**good faith**" means that the person making the disclosure -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing or that certain property is or is derived from terrorist property."

Amendment of section 15C of the Law.

7. In section 15C of the Law -

(a) in subsection (1)(b), immediately after the words "additional information", insert "from any person", and

(b) in subsection (2)(a), immediately after the words "by the discloser" insert "or any other person".

Amendment of section 40 of the Law.

8. In section 40 of the Law, immediately after subsection (6), insert the following subsection -

"(6A) Subsections (2) and (4) do not apply to a disclosure which is made, other than with a view to furthering a criminal purpose -

(a) by a client of a professional legal adviser to that adviser in connection with the seeking of legal advice, or

(b) to any person -

(i) in contemplation of legal proceedings, and

(ii) for the purposes of those proceedings.".

Amendment of section 79 of the Law.

9. In section 79 of the Law, in the definition of "terrorist financing", immediately after "Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011", insert ", or section 1(2) of the Afghanistan (Restrictive Measures) (Guernsey) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures) (Alderney) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures) (Sark) Ordinance 2011, section 1(2) of the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance 2013, section 1(2) of the Al-Qaida (Restrictive Measures) (Alderney) Ordinance 2013 or section 1(2) of the Al-Qaida (Restrictive Measures) (Sark) Ordinance 2013".

Interpretation.

10. In this Ordinance, "**the Law**" means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, as amended.

Extent.

11. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

12. This Ordinance may be cited as the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Commencement.

13. This Ordinance shall come into force on the 28th May, 2014.

The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolution of the 30th April 2014^a, and in exercise of the powers conferred on them by sections 35 and 53A of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^b and all other powers enabling them in that behalf, hereby order:-

Amendment of section 41 of the Law.

1. In section 41 of the Law -

(a) immediately after subsection (4), insert the following subsection -

"(4A) Subsections (1) to (3) do not apply to a disclosure made -

^a Article IX of Billet d'État No. IX of 2014 (Volume 2).

^b Ordres en Conseil Vol. XXXIX, p. 137; Order in Council No. II of 2005; No. XV of 2007 and No. XI of 2011; Recueil d'Ordonnances Tome XXVIII, p. 266; Tome XXIX, pp. 112 and 406; Tome XXXII, p. 666; Ordinance No. XXXVII of 2008 and Nos. XVI and XXXIV of 2010; G.S.I. No. 27 of 2002; G.S.I. No. 33 of 2007, G.S.I. No. 48 of 2008; G.S.I. No. 12 of 2010 and G.S.I. No. 14 of 2013 and certain sections of the Law are modified in their application to external confiscation orders by Recueil d'Ordonnances Tome XXVIII, p. 274 and Tome XXIX, p. 586.

- (a) by the client of a professional legal adviser to that adviser in connection with the seeking of legal advice, or
- (b) to any person -
 - (i) in contemplation of legal proceedings, and
 - (ii) for the purposes of those proceedings.",
- (b) in sub-section (5), for the words "Subsection (4) does" substitute "Subsections (4) and 4(A) do".

Amendment of section 49(6) of the Law.

2. In section 49(6) of the Law, in the definition of "money laundering", immediately after "Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011,", insert "or section 1(2) of the Afghanistan (Restrictive Measures) (Guernsey) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures) (Alderney) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures) (Sark) Ordinance 2011, section 1(2) of the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance 2013, section 1(2) of the Al-Qaida (Restrictive Measures) (Alderney) Ordinance 2013 or section 1(2) of the Al-Qaida (Restrictive Measures) (Sark) Ordinance 2013".

Amendment of section 49A(6) of the Law.

3. In section 49A(6) of the Law, in the definition of "money laundering", immediately after "Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011,", insert "or section 1(2) of the Afghanistan (Restrictive Measures) (Guernsey) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures)

(Alderney) Ordinance 2011, section 1(2) of the Afghanistan (Restrictive Measures) (Sark) Ordinance 2011, section 1(2) of the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance 2013, section 1(2) of the Al-Qaida (Restrictive Measures) (Alderney) Ordinance 2013 or section 1(2) of the Al-Qaida (Restrictive Measures) (Sark) Ordinance 2013".

Interpretation.

4. In this Ordinance, "**the Law**" means the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

Extent.

5. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

6. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Commencement.

7. This Ordinance shall come into force on the 28th May, 2014.

The Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolution of the 30th April, 2014^a, and in exercise of the powers conferred on them by sections 35 and 71A of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^b and all other powers enabling them in that behalf, hereby order:-

Amendment of section 61 of the Law.

1. In section 61 of the Law -

(a) immediately after subsection (4), insert the following subsection -

"(4A) Subsections (1) to (3) do not apply to a disclosure made -

(a) by the client of a professional legal adviser to that adviser in connection with the seeking of legal advice, or

(b) to any person -

^a Article IX of Billet d'État No. IX of 2014 (Volume 2).

^b Ordres en Conseil Vol. XL, p. 131; Order in Council No. II of 2005; Nos. XVI and XVII of 2007; No. XVII of 2008 and No. XIII of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, p. 159; Ordinance Nos. XV and XXXV of 2010.

- (i) in contemplation of legal proceedings,
and
- (ii) for the purposes of those proceedings.",
- (b) in sub-section (5), for the words "Subsection (4) does", substitute "Subsections (4) and 4(A) do".

Interpretation.

2. In this Ordinance, "**the Law**" means the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, as amended.

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Commencement.

5. This Ordinance shall come into force on the 28th May, 2014.

The European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolution of the 27th November, 2013^a, and in exercise of the powers conferred on them by sections 2 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^b, hereby order:-

Treaty of Lisbon, Accession of Croatia and Protocol on concerns of Irish people.

1. In section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973, as amended^c, immediately after paragraph (n)^d in the definition of "'the Treaties" or "the Community Treaties"', insert -

"and

- (o) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December, 2007 (together with its Annex and protocols), excluding any provision that relates to, or

^a Article IX of Billet d'État No. XX of 2013.

^b Ordres en Conseil Vol. XXXV (1), p. 65.

^c Ordres en Conseil Vol. XXIV, p. 87; Vol. XXVII, p. 242; Vol. XXIX, pp. 127 and 419 and No. XXV of 2002; also amended by Recueil d'Ordonnances Tome XXVI, p. 316; Tome XXVIII, pp. 79 and 541; Tome XXIX, p. 362 and Tome XXXII, p. 6.

^d Paragraph (n) was inserted by Recueil d'Ordonnances Tome XXXII, p. 6.

in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy, and

- (p) the Protocol amending the Protocol (No 36) on transitional provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, signed at Brussels on 23rd June, 2010, and
- (q) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9th December, 2011, and
- (r) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16th May, 2012,".

Ordinances made under Law of 1994 and instruments having direct effect under 1973 Law.

2. (1) For the avoidance of doubt -

- (a) any Ordinance made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 shall, on the commencement of this Ordinance, be deemed to have been made under that Law as it has effect immediately after the commencement of this Ordinance, and

- (b) all such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as (having regard to the provisions of Articles twenty-five, twenty-six and twenty-seven of the Act annexed to the Treaty of Accession and to the provisions of the Protocol) in accordance with the Treaties are without further enactment to be given legal effect or used in the Channel Islands shall, in the Bailiwick, on the commencement of this Ordinance, be recognised and available in law, and be enforced, allowed and followed accordingly, by virtue of the provisions of the European Communities (Bailiwick of Guernsey) Law, 1973, as amended, as it has effect immediately after the commencement of this Ordinance.

(2) In subsection (1)(b) the expressions "the Treaties", "the Treaty of Accession" and "the Protocol" have the meanings respectively assigned by the European Communities (Bailiwick of Guernsey) Law, 1973, as amended, as it has effect immediately after the commencement of this Ordinance.

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Commencement.

5. This Ordinance shall come into force on the 28th May, 2014.

The Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2014

THE STATES, in pursuance of their Resolutions of the 29th October, 2013^a, the 11th December, 2013^b and the 28th May, 2014^c, and in exercise of the powers conferred on them by sections 39A, 203A and 208C of the Income Tax (Guernsey) Law, 1975, as amended^d and all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance.

1. (1) In section 1(2)(a)(i) of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007^e, for the words "a person" substitute "an individual".

(2) For section 1(2)(b) of the said Ordinance substitute the following paragraph -

"(b) to the extent that -

(i) the amount of money borrowed in
respect of the land or building exceeds

^a Article I (proposition 13A) of Billet d'État No. XXI of 2013.

^b Article IX (proposition 11) of Billet d'État No. XXIV of 2013.

^c Article ** of Billet d'État No. ** of 2014.

^d Ordres en Conseil Vol. XXV, p. 124; section 39A was inserted by Order in Council No. XVII of 2001 (Ordres en Conseil Vol. XLI, p. 597); section 203A was inserted by Order in Council No. XVII of 2005; and section 208C was inserted by Order in Council No. V of 2011.

^e Ordinance No. I of 2008 (Receuil d'Ordonnances Tome XXXIII, p. 1).

£400,000, or

- (ii) the amount of interest paid in the year of charge in respect of which the deduction is claimed exceeds £25,000 for any individual borrower (or £50,000 for a married couple where each party to the marriage is the borrower).".

Citation.

2. This Ordinance may be cited as the Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2014.

Commencement.

3. (1) This Ordinance shall, subject to subsection (2), come into force on the 1st June , 2014.

(2) Section 1(2) shall be deemed to have come into force on the 1st January, 2014, and shall accordingly have effect in respect of the whole of the year of charge 2014.

The Ukraine (Restrictive Measures) (Guernsey) Ordinance, 2014

THE STATES LEGISLATION SELECT 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 and all other powers enabling the States in that behalf, hereby orders:-

Application and infringement of EU Regulation

1. (1) Council Regulation (EU) No. 208/2014 of the 5th March, 2014^c, concerning restrictive measures against Ukraine ("**the EU Regulation**") is applicable in Guernsey in all respects as if Guernsey, subject to the modifications in section 2, were a Member State.

(2) A person who infringes, or causes or permits any infringement of, any of the prohibitions in the EU Regulation is guilty of an offence.

Modification of Regulation.

2. Except where the context requires otherwise, the EU Regulation in its application to Guernsey is modified as follows -

(a) Article 1(g), 15 and 16 shall not apply,

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c OJ L 66, 6.3.2014, p.1.

- (b) references to the competent authorities of the Member States shall be construed as including a reference to the Policy Council,
- (c) references to the obligation of a Member State to inform or notify shall be construed as including a reference to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (d) subject to paragraph (e), references to the Member State concerned shall be construed as including a reference to the Policy Council,
- (e) references to the Member State concerned shall be construed as including a reference to Guernsey where such references concern the enforcement of decisions or public policy,
- (f) references to the Union shall be construed as including a reference to Guernsey,
- (g) references to the territory of the Union and its airspace shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,
- (h) references to the law of a Member State shall be construed as including the law of Guernsey, and

- (i) the inclusion of any natural or legal person, entity or body in the lists provided for by Article 2 of 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 against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation in its application to Guernsey, or by a decision of the Policy Council not to exercise any of its powers under the EU Regulation, may appeal to the Ordinary Court against that decision on the grounds that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Ordinary Court may -

- (a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the

matter to the Policy Council with such directions as the Court thinks fit, or

(b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Ordinary Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

Information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

Failure to provide information or to co-operate.

5. A person who, without reasonable excuse, fails to comply with any obligation to provide information to or co-operate with the Policy Council in the exercise of any power to request or demand the provision of information, or the co-operation of any person, under any article of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. A person who in purported compliance with any article of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

Penalties and proceedings.

7. (1) A person guilty of an offence under -

- (a) section 1(2), 5 or 6, or
- (b) paragraph 2(b) or (c) of the Schedule,

is liable -

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both,
- (ii) 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) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable 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.

(3) 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.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in

connection with his functions of management as if he were a director of the body corporate.

Interpretation.

8. (1) In this Ordinance, except where the context requires otherwise-

"**advocate**" means an advocate of the Royal Court of Guernsey,

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délégué and a Judge of the Royal Court,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation,

"**EU Regulation**" has the meaning given by section 1,

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

"**Judge of the Royal Court**" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^d,

^d Order in Council No. XXII of 2008.

"Ordinary Court" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

"Policy Council" means the States of Guernsey Policy Council,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and

"uniform scale of fines" means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

(2) A reference in this Ordinance to an enactment or to the EU Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

Citation.

9. This Ordinance may be cited as the Ukraine (Restrictive Measures) (Guernsey) Ordinance, 2014.

Commencement.

10. This Ordinance shall come into force on the 7th March, 2014.

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

SCHEDULE

Section 4

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a 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) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) 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.

(5) 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. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, 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. (1) 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 item 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 Guernsey,
- (c) on the authority of the Policy Council, to the European Commission, to any of the competent authorities listed in or under the EU Regulation or any annex thereto, or to one of Her Majesty's Principal Secretaries of State, for the purpose of assisting the Commission, that competent authority or that Principal Secretary of State to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an

offence.

The Territorial Integrity etc. of Ukraine (Restrictive Measures) (Guernsey) Ordinance, 2014

THE STATES LEGISLATION SELECT 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 and all other powers enabling the States in that behalf, hereby orders:-

Application and infringement of EU Regulation

1. (1) Council Regulation (EU) No. 269/2014 of the 17th March, 2014^c, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of the Ukraine ("**the EU Regulation**") is applicable in Guernsey in all respects as if Guernsey, subject to the modifications in section 2, were a Member State.

(2) A person who infringes, or causes or permits any infringement of, any of the prohibitions in the EU Regulation is guilty of an offence.

Modification of Regulation.

2. Except where the context requires otherwise, the EU Regulation in its application to Guernsey is modified as follows -

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c OJ L 78, 17.3.2014, p.6.

- (a) Articles 1(c), 1(h), 15 and 16 shall not apply,
- (b) references to the competent authorities of the Member States shall be construed as including a reference to the Policy Council,
- (c) references to the obligation of a competent authority or Member State to inform or notify shall be construed as including a reference to the obligation of the Policy Council to inform or notify 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 Policy Council,
- (e) subject to paragraph (f), references to a Member State or the Member State concerned shall be construed as including a reference to the Policy Council,
- (f) references to a Member State or the Member State concerned shall be construed as including a reference to Guernsey where such references concern the enforcement of decisions or public policy,
- (g) references to the Union shall be construed as including a reference to Guernsey,
- (h) references to the territory of the Union and its airspace

shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,

- (i) references to the law of a Member State shall be construed as including the law of Guernsey, and
- (j) the inclusion of any natural or legal person, entity or body in the lists provided for by Article 2 of 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 against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation in its application to Guernsey, or by a decision of the Policy Council not to exercise any of its powers under the EU Regulation, may appeal to the Ordinary Court against that decision on the grounds that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or

(e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Ordinary Court may -

(a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy Council with such directions as the Court thinks fit, or

(b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Ordinary Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

Information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

Failure to provide information or to co-operate.

5. A person who, without reasonable excuse, fails to comply with any obligation to provide information to or co-operate with the Policy Council in the exercise of any power to request or demand the provision of information, or the co-operation of any person, under any article of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. A person who in purported compliance with any article of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

Penalties and proceedings.

7. (1) A person guilty of an offence under -

(a) section 1(2), 5 or 6, or

(b) paragraph 2(b) or (c) of the Schedule,

is liable -

(i) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both,

(ii) 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) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable 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.

(3) 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.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Interpretation.

8. (1) In this Ordinance, except where the context requires otherwise-

"**advocate**" means an advocate of the Royal Court of Guernsey,

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délégué and a Judge of the Royal Court,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation,

"**EU Regulation**" has the meaning given by section 1,

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

"Judge of the Royal Court" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^d,

"Ordinary Court" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

"Policy Council" means the States of Guernsey Policy Council,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and

"uniform scale of fines" means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

(2) A reference in this Ordinance to an enactment or to the EU Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

^d Order in Council No. XXII of 2008.

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

Citation.

9. This Ordinance may be cited as the Territorial Integrity etc. of Ukraine (Restrictive Measures) (Guernsey) Ordinance, 2014.

Commencement.

10. This Ordinance shall come into force on the 19th March, 2014.

SCHEDULE

Section 4

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a 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) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) 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.

(5) 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. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, 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. (1) 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 item 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 Guernsey,
- (c) on the authority of the Policy Council, to the European Commission, to any of the competent authorities listed in or under the EU Regulation or any annex thereto, or to one of Her Majesty's Principal Secretaries of State, for the purpose of assisting the Commission, that competent authority or that Principal Secretary of State to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an

offence.

The Central African Republic (Restrictive Measures) (Guernsey) Ordinance, 2014

THE STATES LEGISLATION SELECT 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 and all other powers enabling the States in that behalf, hereby orders:-

Application and infringement of EU Regulation

1. (1) Council Regulation (EU) No. 224/2014 of the 10th March, 2014^c, concerning restrictive measures in view of the situation in the Central African Republic ("**the EU Regulation**") is applicable in Guernsey in all respects as if Guernsey, subject to the modifications in section 2, were a Member State.

(2) A person who infringes, or causes or permits any infringement of, any of the prohibitions in the EU Regulation is guilty of an offence.

Modification of Regulation.

2. Except where the context requires otherwise, the EU Regulation in its application to Guernsey is modified as follows -

(a) Articles 19 and 20 shall not apply,

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c OJ L 70, 11.3.2014, p.1.

- (b) references to the competent authorities of the Member States shall be construed as including a reference to the Policy Council,
- (c) references to the obligation of a competent authority or Member State to inform or notify shall be construed as including a reference to the obligation of the Policy Council to inform or notify 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 Policy Council,
- (e) subject to paragraph (f), references to a Member State or the Member State concerned shall be construed as including a reference to the Policy Council,
- (f) references to a Member State or the Member State concerned shall be construed as including a reference to Guernsey where such references concern jurisdiction or the enforcement of decisions or public policy,
- (g) references to the Union shall be construed as including a reference to Guernsey,
- (h) references to the territory of the Union and its airspace

shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,

- (i) references to the law of a Member State shall be construed as including the law of Guernsey, and
- (j) the inclusion of any natural or legal person, entity or body in the lists provided for by Article 2 of 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 against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation in its application to Guernsey, or by a decision of the Policy Council not to exercise any of its powers under the EU Regulation, may appeal to the Ordinary Court against that decision on the grounds that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or

(e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Ordinary Court may -

(a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy Council with such directions as the Court thinks fit, or

(b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Ordinary Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

Information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

Failure to provide information or to co-operate.

5. A person who, without reasonable excuse, fails to comply with any obligation to provide information to or co-operate with the Policy Council in the exercise of any power to request or demand the provision of information, or the co-operation of any person, under any article of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. A person who in purported compliance with any article of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

Penalties and proceedings.

7. (1) A person guilty of an offence under -

(a) section 1(2), 5 or 6, or

(b) paragraph 2(b) or (c) of the Schedule,

is liable -

(i) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both,

(ii) 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) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable 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.

(3) 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.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Interpretation.

8. (1) In this Ordinance, except where the context requires otherwise-

"**advocate**" means an advocate of the Royal Court of Guernsey,

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délégué and a Judge of the Royal Court,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation,

"**EU Regulation**" has the meaning given by section 1,

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

"Judge of the Royal Court" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^d,

"Ordinary Court" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

"Policy Council" means the States of Guernsey Policy Council,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and

"uniform scale of fines" means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

(2) A reference in this Ordinance to an enactment or to the EU Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

^d Order in Council No. XXII of 2008.

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

Citation.

9. This Ordinance may be cited as the Central African Republic (Restrictive Measures) (Guernsey) Ordinance, 2014.

Commencement.

10. This Ordinance shall come into force on the 24th March, 2014.

SCHEDULE

Section 4

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a 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) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) 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.

(5) 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. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, 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. (1) 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 item 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 Guernsey,
- (c) on the authority of the Policy Council, to the European Commission, to any of the competent authorities listed in or under the EU Regulation or any annex thereto, or to one of Her Majesty's Principal Secretaries of State, for the purpose of assisting the Commission, that competent authority or that Principal Secretary of State to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.