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STATUTORY INSTRUMENTS

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**2011 No. 2440**

**The Belarus (Restrictive Measures)  
(Overseas Territories) Order 2011**

*GENERAL*

**Offences in connection with applications for licences, conditions attaching to licences, etc**

**22.**—(1) If, for the purposes of obtaining any licence under this Order, any person makes a statement or furnishes any document or information which to their knowledge is false in any material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, they shall be guilty of an offence under this Order.

(2) Subject to paragraph (3), any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with the conditions attaching to that licence shall be guilty of an offence under this Order.

(3) No person shall be guilty of an offence under paragraph (2) where they prove that the condition with which they failed to comply was modified, otherwise than with their consent, by the Governor after the doing of the act authorised by the licence.

**Obtaining of evidence and information**

**23.**—(1) The provisions of Schedule 5 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor—

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
  - (i) this Order in the Territory; or
  - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory;
- (b) of evidence of the commission—
  - (i) in the Territory, of an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
  - (ii) with respect to any of the matters regulated by this Order, of an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory;
- (c) of evidence or information establishing—
  - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by a listed person; or
  - (ii) the nature of any financial transactions entered into by a listed person;
- (d) of evidence or information considered by the Governor appropriate for the purpose of co-operating with any domestic or international investigation relating to the funds, economic resources or financial transactions of a listed person.

- (2) No information furnished or document produced by any person in pursuance of a request made under Schedule 5 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 their capacity as a 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 the possession of that document in their own right;
  - (b) to any person empowered under Schedule 5 to request that the information be furnished or the document produced to any person holding or acting in any office under or in the service of—
    - (i) the Crown in respect of the Government of the United Kingdom;
    - (ii) the Government of the Isle of Man;
    - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
    - (iv) the States of Jersey; or
    - (v) the Government of any other British overseas territory;
  - (c) with a view to the institution of, or otherwise for the purposes of, any proceedings—
    - (i) in the Territory, for an offence under this Order or with respect to any of the matters regulated by this Order, for any offence relating to customs, or
    - (ii) for an offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory;
  - (d) to the Financial Services Authority of the United Kingdom or to the relevant authority with responsibility in any other country or territory for regulating and supervising financial services business.

## Penalties

- 24.—**(1) A person guilty of an offence under article 4(1), 5(3), 6 or 7(3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both; or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (2) A person guilty of an offence under article 14(3)(b)(ii), 15(2), 16(2) or 18, or paragraph 4(b) or (d) of Schedule 5 is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
  - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (3) A person guilty of an offence under article 10(4), 22(1) or (2) is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both;
  - (b) on a summary conviction to a fine not exceeding £5,000 or its equivalent or to both.
- (4) A person guilty of an offence under article 14(3)(a), 14(3)(b)(i), 14(3)(c), 21(4) or paragraph 4(a) or (c) of Schedule 5 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) A person guilty of an offence under article 9 or 10(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) If an offence under this Order committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer of the body corporate, or

(b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished accordingly.

### **Proceedings**

**25.**—(1) Proceedings against any person for an offence may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(2) Summary proceedings for an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(3) No proceedings for an offence shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions.

(4) Irrespective of whether such consent has been obtained, paragraph (3) does not prevent—

(a) the arrest of any person in respect of such an offence, or

(b) the remand in custody or on bail of any person charged with such an offence.

(5) In this article, “offence” means an offence under this Order.

### **Notices**

**26.**—(1) This article has effect in relation to any notice to be given to a person by the Governor under article 8(4)(a), 19(4)(b) or (c)(i), or 20(5)(a).

(2) Any such notice may be given—

(a) by posting it to the person’s last known address; or

(b) where the person is a body corporate, by posting it to the registered or principal office of the body corporate in the Territory.

(3) Where the Governor does not have an address in the Territory for the person, the Governor shall make arrangements for the notice to be given to that person at the first available opportunity.

### **Exercise of the powers of the Governor**

**27.**—(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his or her powers under this Order to any person, or class or description of persons approved by the Governor.

(2) In the case of a delegation referred to in paragraph (1) of this article, references in this Order to the Governor are to be construed accordingly.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

### **Miscellaneous**

**28.**—(1) Any provision of this Order which prohibits the doing of an act except under the authority of a licence granted by the Governor shall not have effect in relation to any such act done anywhere other than the Territory provided that it is duly authorised.

(2) An act is duly authorised for the purpose of paragraph (1) if—

- (a) it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (and that law substantially corresponds to the relevant provisions of this Order); and
- (b) that licence is granted by the authority competent in that behalf under that law.

### **Postponement etc. of the operation of the Regulation**

**29.**—(1) If the Council of the European Union takes any decision which has the effect of postponing, suspending or terminating the operation of the Regulation, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, to the same extent from the date the decision of the Council comes into force.

(2) The Governor shall publish particulars of the decision in a notice in the Gazette.

### **Revocation**

**30.** The instrument mentioned in Schedule 6 is revoked.