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STATUTORY INSTRUMENTS

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**2013 No. 244**

**The Guinea (Sanctions) (Overseas Territories) Order 2013**

**PART 3**

**General**

**Licences granted by the Governor**

**10.**—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under article 4 or 7 to 9.

(2) A person is not guilty of an offence under article 4 or 7 to 9 in respect of anything done by the person under the authority of a licence granted by the Governor.

(3) A licence may, in particular, relate to—

- (a) payment of basic expenses of designated persons and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines, medical treatment, taxes, insurance premiums and public utility charges;
- (b) payment of reasonable professional fees and expenses associated with the provision of legal services;
- (c) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- (d) payment of necessary extraordinary expenses;
- (e) satisfaction of a judicial, administrative or arbitral lien or judgment entered into prior to the date on which this Order comes into force and not for the benefit of a designated person;
- (f) the sale, supply, transfer or export of equipment which might be used for internal repression listed in Annex I to the Council Regulation, provided it is intended solely—
  - (i) for humanitarian or protective use, or
  - (ii) for institution building programmes or crisis management operations of the United Nations or the European Union,

and assistance related to such goods, programmes or operations;

- (g) the sale, supply, transfer or export of non-lethal equipment which might be used for internal repression listed in Annex I to the Council Regulation, provided it is intended solely to enable the police and gendarmerie of Guinea to use only appropriate and proportionate force while maintaining public order, and assistance related to such goods;
- (h) the provision of assistance related to non-lethal restricted goods (not including equipment which might be used for internal repression) intended solely—
  - (i) for humanitarian or protective use,
  - (ii) for institution building programmes or crisis management operations of the United Nations or the European Union, or

- (iii) to enable the police and gendarmerie of Guinea to use only appropriate and proportionate force while maintaining public order;
  - (i) the sale, supply, transfer or export of non-combat transport helicopters stripped of military equipment which have been previously transferred or exported from Guinea and are intended solely for the use of the Guinean authorities, provided that the Government of Guinea has given a prior written undertaking that their use will remain under civilian control and that they will not be equipped with military equipment, and assistance related to those helicopters;
  - (j) the sale, supply, transfer or export of non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for the protective use of the personnel of the European Union and its Member States in Guinea, and assistance related to those vehicles;
  - (k) the sale, supply, transfer or export of explosives and related equipment listed in point 4 of Annex I to the Council Regulation intended solely for civilian use in mining and infrastructure investments and the provision of assistance related to such items, provided that the storage and use of the explosives and related equipment and services are controlled and verified by an independent body and that the providers of related services are identified;
  - (l) protective clothing, including flak jackets and military helmets, temporarily exported to Guinea by United Nations personnel, personnel of the European Union or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.
- (4) A licence must specify the acts authorised by it and may be—
- (a) general or granted to a category of persons or to a particular person,
  - (b) subject to conditions, and
  - (c) of indefinite duration or subject to an expiry date.
- (5) The Governor may, with the consent of the Secretary of State, vary or revoke a licence at any time.
- (6) On the grant, variation or revocation of a licence, the Governor must—
- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person, and
  - (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Governor considers appropriate to publicise the grant, variation or revocation of the licence.
- (7) Any notice to be given to a person by the Governor under paragraph (6) may be given—
- (a) by posting it to the person's last known address, or
  - (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office in the Territory of the body or partnership.
- (8) Where the Governor does not have an address in the Territory for the person, the Governor must make arrangements for the notice to be given to the person at the first available opportunity.
- (9) Failing to comply with any condition in the licence is acting in a way that is not authorised by the licence unless—
- (a) the licence was modified after the completion of the act authorised by the licence, and
  - (b) the alleged failure to comply with a condition in the licence would not have been a failure if the licence had not been so modified.

(10) It is an offence for a person to knowingly or recklessly make any statement or give any document or information which is false in a material particular for the purpose of obtaining a licence.

(11) A licence granted in connection with the application for which the false statement was made or the false document or information given is void from the time it was granted.

### **Licences granted outside the Territory**

**11.** A person is not guilty of an offence under article 4 or 7 to 9 in respect of anything done by the person—

- (a) outside the Territory, and
- (b) under the authority of a licence granted in accordance with any provisions of the law in force in the place where it is done corresponding to the provisions of this Order.

### **Requirement to publish list of designated persons and restricted goods**

**12.—**(1) The Governor must—

- (a) publish a list of designated persons and restricted goods, and
- (b) keep the list up to date.

(2) The Governor may publish a list under paragraph (1) in any form the Governor considers appropriate, including by means of a website.

### **Evidence and information**

**13.** Schedule 6 (which contains further provisions about obtaining evidence and information) has effect.

### **Functions of the Governor**

**14.—**(1) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor's functions under this Order to any person, or class or description of persons.

(2) 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.

### **Circumvention and contravention of prohibitions**

**15.** It is an offence for a person to intentionally participate in an activity, knowing that the object or effect of the activity is (directly or indirectly)—

- (a) to circumvent any of the prohibitions in articles 4 or 7 to 9, or
- (b) to enable or facilitate the contravention of any such prohibition.

### **Penalties**

**16.—**(1) A person guilty of an offence under article 4, 7, 8, 9 or 15 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 6 or 10(10), paragraph 2(2)(b) or paragraph 3(6) (b) or (c) of Schedule 2, or paragraph 3(b), (c) or (d) of Schedule 6 is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two 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.

(3) A person guilty of an offence under paragraph 3(6)(a) of Schedule 2, or paragraph 3(a) or paragraph 5 of Schedule 6 is liable 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.

(4) A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) 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**

**17.**—(1) Proceedings against a 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 within the period of 12 months beginning with the date on which the person charged first enters the Territory after committing the offence.

(3) Proceedings for an offence must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(4) Nothing in paragraph (3) prevents—

(a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence, or

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

(5) A reference in this article to an offence is to an offence under this Order.