

2002 No. 868

CUSTOMS AND EXCISE

The Zimbabwe (Sale, Supply, Export and Shipment of Equipment) (Penalties and Licences) Regulations 2002

Made - - - - - *26th March 2002*

Laid before Parliament *28th March 2002*

Coming into force - - *31st March 2002*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Zimbabwe (Sale, Supply, Export and Shipment of Equipment) (Penalties and Licences) Regulations 2002 and shall come into force on 31st March 2002.

(2) In these Regulations—

“the EC Regulation” means Council Regulation (EC) No. 310/2002 of 18th February 2002 concerning certain restrictive measures in respect of Zimbabwe(c); and

“customs and excise Acts” has the same meaning as in section 1 of the Customs and Excise Management Act 1979(d)

2.—Any person who infringes the following prohibitions in the EC Regulation:

- (a) Article 6, prohibiting the provision to Zimbabwe of technical training or assistance related to military activities;
- (b) Article 7(1) prohibiting the sale, supply and shipment of equipment which might be used for internal repression as listed in Annex II to the EC Regulation; or
- (c) Article 9 prohibiting the participation in activities which promote the transactions or activities referred to in Articles 6 and 7(1) or to circumvent the provisions of the EC Regulation,

shall be guilty of an offence and may be arrested.

3.—(1) Authorisation for the sale, supply, export or shipment of equipment to Zimbabwe as provided for in Article 7(2) of the EC Regulation shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If for the purpose of obtaining a licence any person—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or

(a) S.I. 1994/757.

(b) 1972 c. 68.

(c) OJ No. L50, 21.2.2002, p.4.

(d) 1979 c. 2.

- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having sold or supplied equipment under the authority of a licence granted under this Regulation, fails to comply with any requirements or conditions to which the licence is subject shall be guilty of any offence unless—

- (a) the licence had previously been modified by the Secretary of State without that person's consent,
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified, and
- (c) that person proves that the sale or supply had taken place before the modification had been made.

4.—(1) A person guilty of an offence under regulation 2 or 3(2) or (3) above shall be liable—

- (a) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(2) Notwithstanding that the offence in regulation 2 above is not, by virtue of the term of imprisonment for which a person may be sentenced in respect of it, an arrestable offence within the meaning of the Police and Criminal Evidence Act 1984(a) and the Police and Criminal Evidence (Northern Ireland) Order 1989(b), section 24(2) of that Act (in England and Wales) and Article 26(2) of that Order (in Northern Ireland) shall apply to the offence as if it were mentioned therein, and the offence shall accordingly be an arrestable offence within the meaning of the Act and the Order.

(3) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for an offence under regulation 2 above as it applies to the arrest of any person for an offence under the customs and excise Acts.

(4) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979(c) (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under these Regulations and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under the customs and excise Acts.

(5) Nothing in subsections (1) to (4) of section 145 of the said Act (institution of proceedings for offences under the customs and excise Acts to be by order of the Commissioners) shall prevent the institution of proceedings by the Secretary of State for an offence under regulation 3(2) or (3) above.

Nigel Griffiths

Parliamentary Under-Secretary of State for Small Business,
Department of Trade and Industry

26th March 2002

(a) 1984 c. 60.

(b) S.I. 1989/1341 (N.I. 12).

(c) Section 145(6) was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1); section 146(1) was modified by S.I. 1990/2167; section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and (4); section 147(1) was repealed by the Finance Act 1989 (c. 26), section 16(2) and (4), section 187(1) and Schedule 17, Part I; section 147(2) was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; section 147(5) was repealed by the Criminal Justice Act 1982 (c. 48), section 77 and Schedule 114, paragraph 42 and section 78 and Schedule 16; section 148 was extended by S.I. 1993/1813; section 151 was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 177; section 153(4) was inserted by the Finance Act 1981 (c. 35), section 11(1) and Schedule 8, Part I, paragraph 9; section 154(2) was modified by S.I. 1990/2167.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that breaches of certain provisions of Council Regulation (EC) No. 310/2002 (“the EC Regulation”) are to be criminal offences. The provisions in question are:

- (a) Article 6, which prohibits the provision of technical training or, assistance related to the provision, manufacture, maintenance or use of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned;
- (b) Article 7(1), which prohibits the sale and supply to Zimbabwe of, specified equipment, which might be used for internal repression or terrorism. The equipment are listed in Annex II of the EC Regulation; and
- (c) Article 9, which prohibits participation in activities the object of which is to promote the transactions or activities referred to in Article 6 and 7(1) of the EC Regulation or to circumvent the provisions of the EC Regulation.

Regulation 3 of these Regulations provides for licensing of exports, sales or supplies in accordance with the EC Regulation.

Regulation 4 of these Regulations provides for enforcement and penalties for breach of the EC Regulation.

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Equipment) (Penalties and Licences) Regulations 2002**

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