

Statutory Document No. 2020/0108

*European Communities (Isle of Man) Act 1973*

SOMALIA SANCTIONS (ARMS EMBARGO, ETC) (AMENDMENT) REGULATIONS 2020¹

Laid before Tynwald: 17th March 2020
Coming into operation in accordance with regulation 2

The Council of Ministers makes the following Regulations under sections 2B and 2C of the European Communities (Isle of Man) Act 1973.

1 Title

These Regulations are the Somalia Sanctions (Arms Embargo, Etc) (Amendment) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they are made¹.

3 Amendment of the Somalia Sanctions (Arms Embargo, Etc) Regulations 2012

(1) The Somalia Sanctions (Arms Embargo, Etc) Regulations 2012² are amended as follows.

(2) In regulation 3 for the definition of “the EU Regulation” substitute —

☒ “the EU Regulation” means Council Regulation (EC) No 147/2003³ of 27 January 2003 concerning certain restrictive measures in respect of Somalia as amended by —


¹ Regulations made under section 2B(1) of the European Communities (Isle of Man) Act 1973 must be laid before Tynwald as soon as possible after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting resolves that the regulations should be annulled, the regulations shall upon such resolution cease to have effect.

² SD 0643/12, amended by SD 0707/12, SD 0258/13, SD 0438/13 and SD 2014/0204.

³ OJ L24, 29.01.2003, p.2.




- (a) Council Regulation (EC) No 631/2007⁴ of 7 June 2007 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (b) Council Regulation (EU) No 1137/2010⁵ of 7 December 2010 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (c) Council Regulation (EU) No 642/2012⁶ of 16 July 2012 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (d) Council Regulation (EU) No 941/2012⁷ of 15 October 2012 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (e) Council Regulation (EU) No 431/2013⁸ of 13 May 2013 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (f) Council Regulation (EU) No 1153/2013⁹ of 15 November 2013 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia;
- (g) Council Regulation (EU) No 478/2014¹⁰ of 12 May 2014 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia; and
- (h) Council Regulation (EU) No 2020/169¹¹ of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia,

as these instruments have effect in the Island¹², and a reference to a numbered Article or Annex (without more) is a reference to the Article of, or Annex to, the EU Regulation so numbered. .

(3) In regulation 4 (breaches of the EU Regulation) –

(a) for paragraph (1), substitute –

 (1) A person commits an offence if the person fails to comply with the following provisions of the EU Regulation –

⁴ OJ L146, 8.6.2007, p.1.

⁵ OJ L322, 8.12.2010, p.2.

⁶ OJ L187, 17.7.2012, p.8.

⁷ OJ L282, 16.10.2012, p.1.

⁸ OJ L129, 14.5.2013, p.12.

⁹ OJ L306, 15.11.2013, p.1.

¹⁰ OJ L318, 13.5.2014, p.1.

¹¹ OJ L36, 7.2.2020, p.1.

¹² These EU instruments were applied to the Island, with modifications, by SD 0642/12, SD 0706/12, SD 0257/13, SD 0438/13, SD 2014/0203 and SD 2020/0107. As the EU Regulation has effect in the Island references to the Annexes to the EU Regulation are construed as references to those Annexes as amended from time to time.

- (a) Article 1;
 - (b) Article 2;
 - (c) Article 3a(1);
 - (d) Article 3b(1); or
 - (e) Article 3c(1).²²; and
- (b) in paragraph (2)(b), for “regulation 6”, substitute ²³regulation 5.²².
- (4) In regulation 8(2) (penalties and proceedings) —
- (a) in paragraph (2) —
 - (i) omit “regulation 4(b), or”; and
 - (ii) for “3(2)”, substitute ²⁴3(b)²²; and
 - (b) in paragraph (4), for “Paragraph (4)”, substitute ²⁵Paragraph (3)²².
- (5) For the Schedule (information), substitute the Schedule to these Regulations.

4 Revocation

The Somalia Sanctions (Arms Embargo, Etc) (Amendment) Regulations 2014¹³ are revoked.

MADE 17:15 17TH FEBRUARY 2020

¹³ SD 2014/0204.

SCHEDULE

[Regulation 3(4)]

SCHEDULE

[Regulation 6]

INFORMATION

1 Powers to request information

- (1) The Treasury (or any person authorised by the Treasury for that purpose, either generally or in a particular case) (“the requesting authority”) may request any person in or resident in the Island to furnish to the requesting authority any information in his or her possession or control, or to produce to the requesting authority any document in his or her possession or control, which the requesting authority may require for the purpose of ensuring compliance with the EU Regulation; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.
- (2) If a person is convicted of an offence under paragraph 2 of failing to furnish any information or produce any document, the court may make an order requiring that person, within such period as may be specified in the order, to furnish the information or produce the document.
- (3) The power conferred by this paragraph to request any person to produce documents includes power to take copies of or extracts from any document so produced and to request that person or, if 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 Failure to comply with request for information

A person commits an offence if the person —

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;
- (b) intentionally furnishes false information or a false explanation to any person exercising his or her powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document.


3 General powers to disclosure information

- (1) The Treasury (or any person authorised by the Treasury as a “requesting authority” under paragraph 1) may disclose any information obtained by it pursuant to these Regulations to any person for the purpose of facilitating or ensuring compliance with the EU Regulation.
- (2) The power in sub-paragraph (1) includes but is not limited to disclosing information to the following persons —
 - (a) a police officer;
 - (b) any person holding or acting in any office under, or in the service of —
 - (i) the Government of the Island;
 - (ii) the Crown in right of the Government of the United Kingdom;
 - (iii) the Crown in right of the Scottish Administration, the Northern Ireland Executive or the Welsh Government;
 - (iv) the States of Jersey, Guernsey or Alderney or the Chief of Pleas of Sark; or
 - (v) the Government of any British overseas territory;
 - (c) any law officer of the Crown in any of the British Islands;
 - (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;
 - (e) the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;
 - (f) any organ of the United Nations;
 - (g) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country;
 - (h) any of the competent authorities specified in, and for the purpose of ensuring compliance, with the EU Regulation; or
 - (i) with the consent of a person who, in the person’s own right, is entitled to the information or to possession of the document, copy or extract, to any third party.
- (3) In sub-paragraph (2)(i) “in the person’s own right” means not merely in the capacity as a servant or agent of another person.
- (4) The purpose of facilitating or ensuring compliance with the EU Regulation includes but is not limited to the following —

- (a) monitoring compliance with, or detecting evasion of, these Regulations or the EU Regulation;
 - (b) giving assistance or co-operation, pursuant to the EU Regulation; or
 - (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings —
 - (i) in the Island for an offence under these Regulations; or
 - (ii) in any other part of the British Islands or any British overseas territory, for an offence under a similar provision in any such jurisdiction.
- (5) A disclosure under sub-paragraph (1) does not breach —
- (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).
- (6) A person commits an offence if the person, without reasonable excuse, discloses information otherwise than in accordance with sub-paragraph (1).

4 Application of provisions

- (1) Nothing done under this Schedule is to be treated as a breach of any regulation imposed by statute or otherwise.
- (2) But nothing in this Schedule authorises a disclosure —
 - (a) that contravenes data protection legislation; or
 - (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988.
- (3) Nothing in this Schedule is to be read as requiring a person who has acted as advocate or other legal adviser to any person to disclose any privileged information in their possession in that capacity.
- (4) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.
- (5) This Schedule does not limit the powers of the Treasury to impose conditions in connection with the discharge of its functions under regulation 5.
- (6) In this paragraph —

- (a) “**data protection legislation**” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018¹⁴; and
- (b) “**privileged information**” means information with respect to which a claim to legal professional privilege could be maintained in legal proceedings. .

¹⁴ SD 2018/0145.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.