



## The Haiti (Sanctions) (Prohibition of Claims) (Bailiwick of Guernsey) Regulations, 2020

<i>Made</i>	<i>December, 2020</i>
<i>Coming into operation</i>	<i>December, 2020</i>
<i>Laid before the States</i>	

THE STATES OF GUERNSEY POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 2 and 27 of the Sanctions (Bailiwick of Guernsey) Law, 2018<sup>a</sup>, and all other powers enabling it in that behalf, hereby orders:-

### Application of EU Regulation.

1. Subject to the modifications in regulation 2, Council Regulation (EC) No. 1264/1994 of the 30<sup>th</sup> May 1994<sup>b</sup> ("the EU Regulation") concerning prohibitions on claims arising from restrictive measures in respect of Haiti has full force and effect in the Bailiwick.

### Modification of the EU Regulation.

2. The modifications referred to in regulation 1 are as follows -

---

<sup>a</sup> Order in Council No. VII of 2019.

<sup>b</sup> OJ L 139 of 2.6. 1994, p.4.

- (a) Article 5 shall not apply,
- (b) references to the Community shall be construed so as to include the Bailiwick,
- (c) references to a Member State shall be construed so as to include the Bailiwick,
- (d) references to a national of a Member State shall be construed so as to include a person in or from the Bailiwick,
- (e) references to a court in a Member State shall be construed so as to include the Royal Court, and
- (f) references to the law of a Member State shall be construed so as to include the law of the Bailiwick or any part of the Bailiwick.

**Furnishing of false information etc.**

3. (1) A person who in purported compliance with any article of the EU Regulation as the EU Regulation has effect by virtue of these Regulations intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

- (2) A person guilty of an offence under this regulation is liable -
  - (a) on conviction on indictment, to imprisonment for a term

not exceeding two years, to a fine, or to both,

- (b) 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.

**Offences by legal persons and unincorporated bodies.**

4. (1) Where a legal person is guilty of an offence under regulation 3, 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 -

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person, or
- (b) any person purporting to act in any such capacity,

he or she as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director.

(3) Where an offence under regulation 3 is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,

- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in subparagraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under regulation 3 is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under paragraph (4) shall be paid from the funds of that body.

**Interpretation.**

5. In these Regulations, except where the context requires otherwise -

"the EU Regulation": see regulation 1,

"foundation official" has the same meaning as it does under the Foundations (Guernsey) Law, 2012<sup>c</sup>, and

---

<sup>c</sup> Order in Council No. I of 2013.

and other terms used both in these Regulations and the EU Regulation shall have the same meanings as in the EU Regulation.

**Citation and Commencement.**

6. These Regulations may be cited as the Haiti (Sanctions) (Prohibition of Claims) (Bailiwick of Guernsey) Regulations, 2020 and shall come into force on the day they were made.

Dated this <sup>th</sup> 14 day of December, 2020.



P.T. R. FEBRACHE

President of the Policy & Resources Committee

For and on behalf of the Committee

---

EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect within the Bailiwick to measures enacted by the European Union concerning the effect of United Nations Security Council Resolutions relating to Haiti. The measures prohibit claims in respect of the performance of contracts or transactions that were affected by the implementation of the relevant United Nations Security Council Resolutions. This prohibition was previously implemented in the Bailiwick by an Order in Council made under the United Nations Act, 1946.

These Regulations come into force on the day they were made.