

**DRAFT COMMUNITY PROVISIONS (PROHIBITION ON  
INVESTMENT IN THE REPUBLIC OF SERBIA) (JERSEY)  
REGULATIONS 199**

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**Lodged au Greffe on 17th November 1998  
by the Finance and Economics Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

### **Explanatory Note**

The purpose of these draft Regulations is to give effect in the Bailiwick to Council Regulation (EC) No. 1607/98 concerning the prohibition of new investments in the Republic of Serbia.

*Regulation 1* defines the Community provisions.

*Regulation 2* describes the modifications to the Community provisions necessary for their application to the Bailiwick.

*Regulation 3* makes it a criminal offence to contravene Article 1 of the Community provisions which prohibits the making of new investments in the Republic of Serbia except where authorization has been granted under Article 2 of those provisions.

*Regulation 4* and the *Schedule* make provision for information to be requested by or on behalf of the Committee for the purposes of complying with the Community provisions. Failure to provide that information, provision of false information or the suppression of information is made a criminal offence.

*Regulation 5* provides that authorizations under Article 2 of the Community provisions are to be granted by the Committee, and it is a criminal offence to provide false information in connection with a request for an authorization.

*Regulation 6* is the citation and commencement provision.

The text of the Community provisions as modified follows the draft Regulations, for the purposes of information only.

**European Communities (Implementation) (Jersey) Law 1996**

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COMMUNITY PROVISIONS (PROHIBITION ON INVESTMENT IN  
THE REPUBLIC OF SERBIA) (JERSEY) REGULATIONS 199

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*(Promulgated on the      day of      199 )*

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**STATES OF JERSEY**

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The      day of      199

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**THE STATES**, in pursuance of Article 2 of the European Communities (Implementation) (Jersey) Law 1996,<sup>1</sup> have made the following Regulations -

**1.** In these Regulations -

“the Committee” means the Finance and Economics Committee;

“the Community provisions” means the provisions of Council Regulation (EC) No. 1607/98 on certain provisions concerning the prohibition of new investment in the Republic of Serbia (OJ No. L209 25.7.98).

**2.** The Community provisions shall have full force and effect in the Bailiwick subject to the following modifications -

- (a) in Article 2 the expression “the Member States” shall be read as a reference to the Bailiwick;
- (b) in Article 3 the expression “Each Member State” shall be read as a reference to the Bailiwick;

<sup>1</sup> Recueil des Lois, Volume 1996-1997, page 4.

- (c) (i) in Article 4 the expression “the Member States” shall be read as a reference to the Bailiwick; and
- (ii) the reference to the Community rules concerning confidentiality shall be read as a reference to any provision of the law of Jersey concerning confidentiality;
- (d) in Article 5 the expression “the Member States” shall be read as a reference to the Bailiwick; and
- (e) (i) in Article 6 the expressions “the Community” and “a Member State” shall be read as references to the Bailiwick; and
- (ii) the third paragraph shall be deleted.

3.-(1) Any person who contravenes Article 1 of the Community provisions, paragraph (2) of Regulation 5 or paragraph 2 of the Schedule commits an offence and is liable to imprisonment for three months or a fine not exceeding level 4 on the standard scale or both.

(2) Where a body corporate commits an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in a like capacity, he, as well as the body corporate, commits that offence.

(3) Any person who aids, abets, counsels or procures the commission of an offence under these Regulations is liable to be dealt with, tried and punished as a principal offender.

(4) No proceedings for an offence under these Regulations shall be instituted without the consent of the Attorney General but a person may be arrested for, charged with and remanded on bail or in custody in respect of that offence notwithstanding that that consent has not been obtained.

4. In accordance with Article 4 of the Community provisions the Schedule shall have effect in order to facilitate the obtaining, by or

on behalf of the Committee, of information for the purpose of ensuring compliance with those provisions.

5.-(1) Authorizations for the release of funds or other financial assets on a case-by-case basis pursuant to Article 2 of the Community provisions shall be given by or on behalf of the Committee.

(2) No person shall, in connection with a request for that authorization -

- (a) make any statement or furnish any document or information which is to his knowledge false in a material particular; or
- (b) recklessly make any statement or furnish any document or information which is false in a material particular,

and any authorization granted pursuant to the request shall be void as from the time it was granted.

6. These Regulations may be cited as the Community Provisions (Prohibition on Investment in the Republic of Serbia) (Jersey) Regulations 199 and shall come into force on the day following promulgation.

*SCHEDULE***(Regulation 4)**

## INFORMATION

1.-(1) The Committee (or any person authorized by them for that purpose either generally or in a particular case) may request any person in or resident in the Bailiwick to furnish to them (or that authorized person) any information in his possession or control, or to produce to them (or that authorized person) any document in his possession or control which they (or that authorized person) may require for the purpose of ensuring compliance with the Community provisions; 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) Nothing in sub-paragraph (1) shall require any person who has acted as legal adviser for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where 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. No person shall -

- (a) without reasonable excuse, refuse or fail 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 furnish false information or a false explanation to any person exercising his powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroy, mutilate, deface, secrete or remove any document.

3. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule 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 his capacity as 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 to possession of that document in his own right; or
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the States in respect of the Government of the United Kingdom; or
- (c) on the authority of the Committee to the Commission of the Communities or to any of the competent authorities of the Bailiwick referred to in the Community provisions for the purpose of assisting the Commission or that competent authority to ensure compliance with those provisions;
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under these Regulations.

THE TEXT OF THE COMMUNITY PROVISIONS AS MODIFIED IS  
SET OUT BELOW FOR INFORMATION ONLY AND DOES NOT  
FORM PART OF THE REGULATIONS

COUNCIL REGULATION (EC) No. 1607/98

of 24 July 1998

**concerning the prohibition of new investment in the Republic of Serbia**

THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty  
establishing the European  
Community, and in particular  
Articles 73G and 228a,

Having regard to Common Position  
98/374/CPSP of 8 June 1998  
defined by the Council on the basis  
of Article J.2 of the Treaty on  
European Union concerning the  
prohibition of new investment in  
Serbia<sup>(1)</sup>,

Having regard to the proposal from  
the Commission,

Whereas this prohibition measure  
falls under the scope of the Treaty  
establishing the European  
Community;

Whereas, therefore, and notably  
with a view to avoiding distortion  
of competition, Community  
legislation is necessary for the  
implementation of this measure, as  
far as the territory of the  
Community is concerned; whereas  
such territory is deemed to

encompass, for the purposes of this  
Regulation, the territories of the  
Member States to which the Treaty  
establishing the European  
Community is applicable, under the  
conditions laid down in that Treaty;

Whereas the competent authorities  
of the Member States should,  
where necessary, be empowered to  
ensure compliance with this  
Regulation;

Whereas there is a need for the  
Commission and the Member States  
to inform each other of the  
measures taken under this  
Regulation and of other relevant  
information at their disposal in  
connection with this Regulation.

HAS ADOPTED THIS  
REGULATION:

*Article 1*

1. It shall be prohibited, as from  
the date of entry into force of this  
Regulation, to transfer funds or  
other financial assets to:

- the State or Government of the  
Federal Republic of Yugoslavia  
and of the Republic of Serbia,

<sup>(1)</sup> OJ L.165, 10.6.1998, p.1.



- any person in, or resident in, the Republic of Serbia,
- any body carrying out business in, incorporated or constituted under the law of the Republic of Serbia,
- any body owned or controlled by any of the governments, persons or bodies referred to in this paragraph,
- any person acting on behalf of any of the above governments, persons or bodies,

in so far as such funds or other financial assets are transferred for the purposes of establishing a lasting economic link with the Republic of Serbia, including the acquisition of real estate there.

2. For the purposes of paragraph 1, 'funds and other financial assets' shall be understood to mean cash, liquid assets, dividends, interest or other income on shares, bonds, debt obligations and any other securities, or amounts derived from an interest in, or the sale or other disposal of, or any other dealing with tangible and intangible assets, including property rights.

3. The prohibition of paragraph 1 is without prejudice to the execution of contracts concluded before the entry into force of this Regulation and without prejudice to the execution of trade contracts for the supply of goods or services on usual commercial payment conditions.

#### *Article 2*

Notwithstanding Article 1, the competent authorities of the [Bailiwick] may authorize the release of the funds or other financial assets on a case-by-case basis, where those funds or other financial assets are to be used solely for projects in support of democratisation, humanitarian and educational activities and independent media.

#### *Article 3*

[The Bailiwick] shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions must be effective, proportionate and dissuasive.

#### *Article 4*

Without prejudice to [any provision of the law of Jersey concerning] confidentiality, the competent authorities of the [Bailiwick] shall have the power to require banks, other financial institutions and other bodies and persons to provide all relevant information necessary for ensuring compliance with this Regulation.

#### *Article 5*

The Commission and the [Bailiwick] shall inform each other of the measures taken under this Regulation and supply each other with other relevant information at their disposal in connection with this Regulation, such as breaches

and enforcement problems, judgments handed down by national courts or decisions of relevant international fora.

*Article 6*

This Regulation shall apply:

- within the territory of [the Bailiwick] including its airspace,
- on board any aircraft or any vessel under the jurisdiction of [the Bailiwick],

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 July 1998.

- \* \* \*
- to any body which is incorporated or constituted under the law of the Bailiwick.

*Article 7*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

*For the Council*  
*The President*  
W. SCHUSSEL