

**DRAFT COMMUNITY PROVISIONS (FREEZING OF FUNDS  
OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND  
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. 1295/98 concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and 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 certain of the Community provisions.

These provisions are -

Article 2(2) which provides that (subject to certain exceptions set out in Article 3) no funds are to be made available, directly or indirectly, to or for the benefit of the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia; and

Article 4(1) which prohibits the knowing and intentional participation in activities the object of which is to circumvent the provisions of Article 2.

*Regulation 4* and the *Schedule* provides for information to be requested by or on behalf of the Committee in accordance with Article 4(2) and (3) of the Community provisions. Failure to provide that information, the provision of false information or the suppression of information is made a criminal offence.

*Regulation 5* 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 (FREEZING OF FUNDS OF THE  
FEDERAL REPUBLIC OF YUGOSLAVIA AND 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. 1295/98 on certain provisions concerning the freezing of funds held abroad by the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia.

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

- (a) in paragraph 2 of Article 4 the reference to Community rules concerning confidentiality shall be read as a reference to any provision of the law of Jersey concerning confidentiality;

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

- (b) in paragraphs 2 and 3 of Article 4 the expression “the Member States” shall be read as a reference to the Bailiwick;
- (c) the omission of Article 5;
- (d) in Article 6 the expression “Member State” shall be read as a reference to the Bailiwick;
- (e) in Article 7 the expression “Member States” shall be read as a reference to the Bailiwick;
- (f) (i) in Article 8 the expressions “the Community” and “a Member State” shall be read as references to the Bailiwick; and
  - (ii) the third paragraph shall be deleted; and
- (g) the Annex shall be read as if it included a reference to the Attorney General of Jersey.

**3.-**(1) Any person who contravenes paragraph 2 of Article 2 or paragraph 1 of Article 4 of the Community provisions 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 this Law 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 paragraphs 2 and 3 of 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. These Regulations may be cited as the Community Provisions (Freezing of Funds of the Federal Republic of Yugoslavia and 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 listed in Annex 1 to 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. 1295/98**

**of 22 June 1998**

**concerning the freezing of funds held abroad by the Governments of the  
Federal Republic of Yugoslavia and 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  
98/326/CFSP of 7 May 1998  
defined by the Council on the basis  
of Article J.2 of the Treaty on  
European Union concerning the  
freezing of funds held abroad by  
the Federal Republic of Yugoslavia  
(FRY) and Serbian  
Governments<sup>(1)</sup>,

Having regard to the proposal from  
the Commission,

Whereas the said common position  
provides for a freezing of funds  
held abroad by the Governments of  
the Federal Republic of Yugoslavia  
and the Republic of Serbia;

Whereas this measure falls within  
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 circumvention of this  
Regulation, notably by entities  
owned by the said governments  
should be countered with an  
adequate system of information  
and, where appropriate,  
consideration of appropriate  
remedial measures, including  
additional Community legislation;

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

Whereas there is a need for  
Commission and Member States to  
inform each other of the measures

<sup>(1)</sup> OJ L.143, 14.5.1998, p.1.



taken under this Regulation and of other relevant information at their disposal in connection with this Regulation,

HAS ADOPTED THIS  
REGULATION:

*Article 1*

For the purpose of this Regulation:

1. 'Government of the Federal Republic of Yugoslavia' means: the Government of the Federal Republic of Yugoslavia, including the public administrations and agencies at the federal level.
2. 'Government of the Republic of Serbia' means: the Government of the Republic of Serbia, including the public administrations and agencies at the central government level in the Republic of Serbia.
3. 'Funds' means funds of any kind, including interest, dividends or other value accruing to or from any such funds.
4. 'Freezing of funds' means: preventing any change in volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds concerned.

*Article 2*

Except as permitted by Article 3:

1. all funds held outside the territory of the Federal Republic of Yugoslavia and belonging to the Government of the Federal Republic of Yugoslavia and/or to the Government of the Republic of Serbia shall be frozen.
2. No funds shall be made available, directly or indirectly, to or for the benefit of, either or both, those Governments.

*Article 3*

Article 2 shall not apply to funds exclusively used for the following purposes:

- (a) payment for current expenses, including salaries of local staff, embassies, consular posts or diplomatic missions of the Government of the Federal Republic of Yugoslavia and/or the Government of the Republic of Serbia within the Community;
- (b) transfer from the Community to natural persons resident in the Federal Republic of Yugoslavia of social security or pension payments as well as the transfer of other payments to protect entitlements in the area of social insurance;
- (c) payments for democratisation projects or humanitarian activities carried out by the European Community and/or the Member States, including the implementation of the Education Agreement of

September 1996, signed by President Milosevic and the leader of the ethnic Albanian community Dr. Ibrahim Rugova;

(d) payments of debts incurred with the Federal Republic of Yugoslavia and Serbian Governments before the entry into force of this Regulation, on the condition that these payments are made into accounts held by those Governments with banks or financial institutions within the Community;

(e) payments for essential transit services provided by the Federal Republic of Yugoslavia and Serbian Governments, on the condition that the supply of such services takes place at the usual rates.

*Article 4*

1. The participation, knowingly and intentionally in related activities, the object or effect of which is, directly or indirectly, to circumvent the provisions of Articles 2 and 4 shall be prohibited.

2. 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.

3. Any information that the provisions of Article 2 are being, or have been circumvented shall be notified to the competent authorities of the [Bailiwick] and/or the Commission as listed in Annex.

*Article 5*

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*Article 6*

[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 7*

The Commission and the [Bailiwick] shall inform each other of the measures taken under this Regulation and supply each other with the relevant information at their disposal in connection with this Regulation, including information received in accordance with Article 4(3), such as breaches and enforcement problems, judgments handed down by national courts or decisions of relevant international forums.

*Article 8*

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

*Article 9*

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

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

Done at Luxembourg, 22 June 1998.

*For the Council*  
*The President*  
J. BATTLE

*ANNEX*

List of names and addresses of the competent authorities/services or coordinating service/authority of the Commission and Member States as referred to in Article 4.

[The Attorney General of Jersey]

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