

**DRAFT COMMUNITY PROVISIONS (BAN ON SUPPLY TO  
INDONESIA OF EQUIPMENT FOR INTERNAL REPRESSION  
OR TERRORISM) (JERSEY) REGULATIONS 199**

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**Lodged au Greffe on 16th November 1999  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

## Explanatory Note

These Regulations give effect to Council Regulation (EC) No.2158/1999 of 11th October 1999 concerning a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism (“the Community provisions”).

*Regulation 1* is the interpretation provision.

*Regulation 2* gives effect to the Community provisions, with modifications. The text of the Community provisions as modified is printed with, but does not form part of, these Regulations.

*Regulation 3* makes it an offence to infringe Article 1 of the Community provisions and applies, for the purpose of the prosecution of offences under these Regulations, certain provisions of the Customs and Excise (General Provisions) (Jersey) Law 1972 which are supplemental to the arrest and prosecution of a person for an offence under that Law.

*Regulation 4* -

- (a) empowers the Finance and Economics Committee to grant a licence authorizing the supply of equipment to Indonesia, which would otherwise constitute an offence; and
- (b) makes it an offence to give false information for the purpose of obtaining a licence or to fail to comply with a condition of a licence.

*Regulation 5* imposes a penalty for an offence under regulation 3 or 4 of imprisonment for up to two years and/or an unlimited fine.

*Regulation 6* is the citation and commencement provision. It should be noted that the Community provisions themselves only apply until 17th January 2000.

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

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COMMUNITY PROVISIONS (BAN ON SUPPLY TO INDONESIA OF  
EQUIPMENT FOR INTERNAL REPRESSION OR TERRORISM)  
(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 Legislation (Implementation) (Jersey) Law 1996<sup>1</sup> have made the following Regulations -

**Interpretation**

**1.** In these Regulations -

“1972 Law” means the Customs and Excise (General Provisions) (Jersey) Law 1972,<sup>2</sup> as amended;<sup>3</sup>

“Committee” means the Finance and Economics Committee;

“Community provisions” means the provisions of Council Regulation (EC) No. 2158/1999 of 11th October 1999 concerning a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism (OJ No. L265/1 13.10.1999);

“customs or excise Laws” shall be construed in accordance with the 1972 Law.<sup>2</sup>

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

<sup>2</sup> Recueil des Lois, Volume 1970-1972, page 451.

<sup>3</sup> Recueil des Lois, Volume 1979-1981, page 18, Volume 1986-1987, page 313, and Volume 1990-1991, page 469.

### **Implementation of the Community provisions**

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

- (a) in Article 1(1)(a), the substitution for the words “the Community” of the words “the Bailiwick”;
- (b) in Article 1(2), the substitution for the words “The competent authorities of the Member States, listed in Annex II,” of the words “The Finance and Economics Committee”;
- (c) the omission of Article 2;
- (d) in Article 3 -
  - (i) the substitution for the words “Each Member State” of the words “The Bailiwick”,
  - (ii) the omission of the words beginning “Pending the adoption,” to the end of the Article;
- (e) in Article 4, the substitution for the words “the Member States” of the words “the Bailiwick”;
- (f) in Article 5 -
  - (i) the substitution for the words “the Community” and, in each place where they appear, “a Member State” of the words “the Bailiwick”,
  - (ii) the omission of the words “- to any person elsewhere who is a national of a Member State,”; and
- (g) the omission of Annex II.

### **Infringement of Community provisions**

3. Any person who infringes the prohibition in Article 1 of the Community provisions shall be guilty of an offence.

### **Authorization by licence**

#### **4.-(1) Authorization for -**

- (a) the supply, sale, export or shipment of equipment to Indonesia; or
- (b) the participation in related activities,

as provided for in the Community provisions shall, in the Bailiwick, be by way of a licence in writing granted by the Committee.

#### (2) If, for the purpose of obtaining a licence, any person -

- (a) makes any statement or furnishes any document which to his knowledge is false in a material particular; or
- (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 carried out any of the acts specified in paragraph (1) of this regulation under the authority of a licence granted under that paragraph, fails to comply with any requirements or conditions to which the licence is subject shall be guilty of an offence unless -

- (a) the licence had been modified previously by the Committee 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 carrying out of the act had taken place before the modification had been made.

## **Penalty and proceedings for offences**

5. -(1) A person guilty of an offence under regulation 3 or 4(2) or (3) of these Regulations shall be liable to imprisonment for a term not exceeding two years or a fine, or both.

(2) Where an offence under these Regulations committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body, or (in either case) any person purporting to act in any such capacity, the person shall be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) of this regulation shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Any person who aids, abets, counsels or procures the commission of an offence under these Regulations shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(5) Article 55 of the 1972 Law<sup>4</sup> shall apply to the arrest of any person for an offence under regulation 3 of these Regulations as it applies to the arrest of any person for an offence under the customs or excise Laws.

(6) Articles 62, 63, 64 and 65 of the 1972 Law<sup>5</sup> 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 or excise Laws.

<sup>4</sup> Recueil des Lois, Volume 1970-1972, page 489.

<sup>5</sup> Recueil des Lois, Volume 1970-1972, page 494.

**Citation and commencement**

6. These Regulations may be cited as the Community Provisions (Ban on supply to Indonesia of equipment for internal repression or terrorism) (Jersey) Regulations 199 and shall come into force on the day following promulgation.

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. 2158/1999**

**of 11 October 1999**

**concerning a ban on the supply to Indonesia of equipment which  
might be used for internal repression or terrorism**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Council Common Position 1999/624/CFSP of 16 September 1999, concerning restrictive measures against the Republic of Indonesia,

Having regard to the proposal from the Commission,

Whereas:

- (1) Common Position 1999/624/CFSP, in view of the current situation in East Timor where serious violations of human rights and international humanitarian law are taking place, provides for a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism;
- (2) That measure falls within the scope of the Treaty establishing the European Community;
- (3) Therefore, and with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of that measure as far as the territory of the Community is concerned; such territory is deemed to encompass, for the purposes of this Regulation, all the territories of the Member States to which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty;



- (4) A procedure should be provided to amend, if necessary, the list of equipment which might be used for internal repression or terrorism;
- (5) 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, without prejudice to existing obligations with regard to certain items concerned;
- (6) In view of the possibly limited duration of the Regulation, it should be provided that sanctions can be imposed immediately where the provisions of the Regulation are infringed,

HAS ADOPTED THIS REGULATION:

*Article 1*

- 1. It shall be prohibited, knowingly and intentionally, to:
  - (a) sell, supply, export or ship, directly or indirectly, equipment listed in Annex I, parts A and B, whether or not originating in [the Bailiwick], to any person or body in the Republic of Indonesia or to any person or body for the purpose of any business carried on in, or operated from, the territory of the Republic of Indonesia;
  - (b) participate in related activities the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in subparagraph (a).
- 2. [The Finance and Economics Committee] may authorise the transactions or activities referred to in paragraph 1, in respect of the items listed in part B of Annex I, when they have obtained conclusive evidence that the end-use of these items is not for internal repression or terrorism.

*Article 2*

\* \* \* \* \*

*Article 3*

[The Bailiwick] shall determine the sanctions to be imposed where the provisions of this Regulation are infringed.

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*Article 4*

The Commission and [the Bailiwick] shall, insofar as they are not otherwise already obliged to do so, inform each other of the measures taken under this Regulation and supply each other with other relevant information at their disposal, such as breaches and enforcement problems, judgments handed down by national courts or decisions of international fora and authorisations granted under Article 1(2).

*Article 5*

This Regulation shall apply:

- within the territory of [the Bailiwick] including its air space,
- on board any aircraft or any vessel under the jurisdiction of [the Bailiwick],
- \* \* \* and
- to any body which is incorporated or constituted under the law of [the Bailiwick].

*Article 6*

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

It shall apply until 17 January 2000.

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

Done at Luxembourg, 11 October 1999.

*For the Council*  
*The President*  
T. HALONEN

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*ANNEX I*

**EQUIPMENT FOR INTERNAL REPRESSION OR TERRORISM,  
ENVISAGED BY ARTICLE 1**

*(The following list does not include items which have been specially designed or modified for military use and are covered by the arms embargo established on the basis of Common Position 1999/624/CFSP)*

PART A

Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

Specially designed fingerprint equipment.

Power controlled searchlights.

Construction equipment provided with ballistic protection.

Hunting knives.

Specially designed production equipment to make shotguns.

Ammunition hand-loading equipment.

Communications intercept devices.

Solid-state optical detectors.

Image-intensifier tubes.

Telescopic weapon sights.

Smooth bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor;

*except:*

1. signal pistols;
2. air or cartridge powered guns designed as industrial tools or humane animal stunners.

Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.

Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.

Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.

All-wheel-drive utility vehicles capable of off road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.

Water cannon and specially designed or modified components therefor.

Vehicles equipped with water cannon.

Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.

Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.

Leg-irons, gangchains, shackles and electric-shock belts, specially designed for restraining human beings;

*except:*

handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers) and components therefor specially designed or modified for that purpose.

Electronic equipment capable of detecting concealed explosives and specially designed components therefor;

*except:*

TV or X-rayons inspection equipment.

Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.

Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor;

*except:*

those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g. car air bag inflaters, electric-surge arresters or fire sprinkler actuators).

Equipment and devices designed for explosive ordnance disposal;

*except:*

1. bomb blankets;
2. containers designed for holding objects known to be, or suspected of being improvised explosive devices.

Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

Software specially designed and technology required for all listed items.

PART B

Linear cutting explosive charges.

Explosives and related substances as follows:

- amatol,
- nitrocellulose (containing more than 12.5% nitrogen),
- nitroglycol,
- pentaerythritol tetranitrate (PETN),
- picryl chloride,
- trinitrophenylmethylnitramine (tetryl),
- 2, 4, 6-trinitrotoluene (TNT).

Software specially designed and technology required for all listed items.

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ANNEX II

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