

**2004 No. 221**

**CUSTOMS AND EXCISE**

**The Democratic Republic of Congo (Financing and  
Financial Assistance and Technical Advice, Assistance and  
Training) (Penalties and Licences) Regulations 2004**

*Made - - - - - 2nd February 2004*

*Laid before Parliament 4th February 2004*

*Coming into force - - - 6th February 2004*

The Secretary of State, being a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Democratic Republic of Congo (Financing and Financial Assistance and Technical Advice, Assistance and Training) (Penalties and Licences) Regulations 2004 and shall come into force on 6th February 2004.

(2) In these Regulations—

“the EC Regulation” means Council Regulation (EC) No. 1727/2003 of 29th September 2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo<sup>(c)</sup>; and

“customs and excise Acts” has the same meaning as in section 1 of the Customs and Excise Management Act 1979<sup>(d)</sup>.

**Offences**

**2.**—(1) Any person who directly or indirectly infringes any of the following prohibitions in the EC Regulation:

- (a) Article 1(a), prohibiting financing or financial assistance for any sale, supply, transfer or export of arms and related material of all types to any person, entity or body in the Democratic Republic of Congo; or
- (b) Article 1(b), prohibiting the provision to any person, entity or body in the Democratic Republic of Congo of technical advice, assistance or training related to military activities; or
- (c) Article 1(2), prohibiting the participation in activities which promote the transaction or activities referred to in Article 1(a) and 1(b);

shall be guilty of an offence and may be arrested.

---

<sup>(a)</sup> S.I. 1983/1706 and 2000/1813.

<sup>(b)</sup> 1972 c. 68.

<sup>(c)</sup> OJ No. L249, 1.10.2003, p.5.

<sup>(d)</sup> 1979 c. 2.

## Licences

3.—(1) Authorisation for the provision of financing and financial assistance for the sale, supply, transfer or export of arms and related material of all types, and technical advice, assistance or training related to military activities, as provided for in Articles 2 and 3 of the EC Regulation, shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

- (2) If, for the purpose of obtaining a licence, any person,
- (a) makes any statement or furnishes any document or information 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 acted under the authority of a licence granted under this Regulation, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been previously modified by the Secretary of State without that person's consent, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

## Penalties

- 4.—(1) A person guilty of an offence under regulation 2 or 3(2) or (3) above shall be liable—
- (a) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or to both; or
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

(2) Notwithstanding that the offence in regulation 2 above is not, by virtue of the term of imprisonment for which a person may be sentenced in respect of it, an arrestable offence within the meaning of the Police and Criminal Evidence Act 1984(a) and the Police and Criminal Evidence (Northern Ireland) Order 1989(b), section 24(1) of that Act (in England and Wales) and Article 26(2) of that Order (in Northern Ireland) shall apply to the offence as if it were mentioned therein, and the offence shall accordingly be an arrestable offence within the meaning of the Act and the Order.

(3) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for an offence under regulation 2 above as it applies to the arrest of any person for an offence under the customs and excise Acts.

(4) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties, proof and other matters) 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 and excise Acts.

(5) Nothing in subsections (1) to (4) of section 145 of the said Act (institution of proceedings for offences under the customs and excise Acts to be by order of the Commissioners) shall prevent the institution of proceedings by the Secretary of State for an offence under regulation 3(2) or (3) above.

*Nigel Griffiths,*  
Parliamentary Under-Secretary of State for  
Small Business and Enterprise,  
Department of Trade and Industry

2nd February 2004

---

(a) 1984 c. 60; section 24(1) was amended by the Criminal Justice and Court Services Act 2000 (c. 43), s.74, Sch 7, Pt II, paras. 76 and 77 and the Police Reform Act 2002 (c. 30), s.48(6).

(b) S.I. 1341 (N.I. 12).

## **EXPLANATORY NOTE**

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

These Regulations provide that breaches of certain provisions of Council Regulation (EC) 1727/2003 (“the EC Regulation”) are to be criminal offences. Regulation 2 creates penalties in respect of the following provisions of the EC Regulation:

- (a) Article 1(a), which prohibits the provision of financing or financial assistance for any sale, supply, transfer or export of arms and related material of all types to any person, entity or body in the Democratic Republic of Congo; and
- (b) Article 1(b), which prohibits the provision to the Democratic Republic of Congo of technical advice, assistance or training related to military activities; and
- (c) Article 1(2), which prohibits the participation in activities which promote the transactions or activities covered by Article 1(a) and 1(b).

Regulation 3 provides for licensing of financing and financial assistance (for the sale, supply, transfer or export of arms and related material) and licensing of technical advice, assistance or training (related to military activities), and regulation 4 provides for enforcement and penalties for breach of the EC Regulation.

A full regulatory impact assessment has not been provided for this instrument as it has no impact on the costs of business.

**2004 No. 221**

**CUSTOMS AND EXCISE**

**The Democratic Republic of Congo (Financing and  
Financial Assistance and Technical Advice, Assistance and  
Training) (Penalties and Licences) Regulations 2004**

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of  
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.  
E0128 3/2004 140128 19585

