



STATUTORY INSTRUMENTS.

S.I. No. 455 of 2019



EUROPEAN COMMUNITIES (CONTROL OF TRADE IN GOODS THAT
MAY BE USED FOR TORTURE) REGULATIONS 2019

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I, Heather Humphreys, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving full effect to Regulation (EU) 2019/125 of the European Parliament and of the Council, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Control of Trade in Goods that may be used for Torture) Regulations 2019.

2. (1) In these Regulations –

- (i) “authorisation” means the authorisation that is required under the Council Regulation in order to export such of the goods to which the Council Regulation applies, the export of which may take place under the Council Regulation and which are listed in Annex III of the Council Regulation;
- (ii) “Council Regulation” means Regulation (EU) 2019/125 of the European Parliament and of the Council concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;
- (iii) “goods to which the Council Regulation applies” means -
 - (a) goods, the export of which is prohibited under Article 3 of the Council Regulation, or the import of which is prohibited under Article 4 of the Council Regulation and which are listed in Annex II of the Council Regulation, or
 - (b) goods, the export of which may take place under the Council Regulation and which are listed in Annex III of the Council Regulation;
- (iv) “Minister” means the Minister for Business, Enterprise and Innovation.

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

3. An authorised officer within the meaning of section 7 of the Control of Exports Act 2008 (No. 1 of 2008) may exercise any of the functions conferred on him or her under that section for the purposes of enforcing the Council Regulation and these Regulations.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 13th September, 2019.*

4. (1) A person who-
- (a) exports or supplies technical assistance in relation to goods to which the Council Regulation applies contrary to Article 3 of the Council Regulation,
 - (b) imports or accepts technical assistance in relation to goods to which the Council Regulation applies contrary to Article 4 of the Council Regulation,
 - (c) exports goods to which the Council Regulation applies-
 - (i) without an authorisation, or
 - (ii) otherwise than in compliance with a condition to which the authorisation is subject imposed by the competent authority,
 - (d) otherwise contravenes a provision of the Council Regulation, or
 - (e) for the purpose of obtaining an authorisation for himself or herself or for any other person makes to the competent authority or to any person concerned a statement or representation which is, to his or her knowledge false or misleading, or
 - (f) otherwise contravenes a provision of the Council Regulation,

is guilty of an offence.

- (2) A person who—
- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 3,
 - (b) without reasonable excuse, refuses or fails to comply with a requirement made of him or her by an authorised officer under Regulation 3, or
 - (c) makes a statement or furnishes information to an authorised officer pursuant to a requirement made of him or her by such an officer, which is, to his or her knowledge, false or misleading in a material respect,

is guilty of an offence.

- (3) A person guilty of an offence under this Regulation shall be liable –
- (a) On summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
 - (b) On conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or both.

- (4) (a) Where-
- (i) an offence under this Regulation is committed by a body corporate
- and,
- (ii) is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person who was either-
 - (I) a director, manager, secretary to other officer of the body corporate, or
 - (II) a person who was purporting to act in any such capacity,that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (b) Where the affairs of a body corporate are managed by its members paragraph (a) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if he or she were a director or manager of the body corporate.

(5) An offence under this Regulation may be prosecuted by the Minister.

5. European Communities (Control of Trade in Goods That May Be Used for Torture) Regulations 2006 (S.I. No. 366/2006) and European Communities (Control of Trade in Goods That May Be Used for Torture) (Amendment) Regulations 2018 (S.I. No. 358/2018) are revoked.



GIVEN under my Official Seal,
3 September, 2019.

HEATHER HUMPHREYS,
Minister for Business, Enterprise and Innovation.

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