

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3521 of 9th March, 2006

B. 03/06

BILL

FOR

AN ORDINANCE to provide for effective sanctions in case of a breach of the provisions of Council Regulation (EC) No. 2560/2001 of the European Parliament and the Council of 19 December 2001 on cross-border payments in euro.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1.(1) This Ordinance may be cited as the Financial Services (Cross-Border Payments in Euro) Ordinance 2006.

(2) This Ordinance comes into operation on the date of publication.

Interpretation.

2. In this Ordinance—

- (a) the “Community Regulation” means Regulation (EC) No. 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro; and
- (b) expressions used in the Community Regulation have the same meaning in this Ordinance as they have in the Community Regulation.

Civil proceedings.

3. Any contravention by an institution of—

- (a) Article 3(1) of the Community Regulation; or
- (b) Article 3(2) of the Community Regulation,

shall be actionable at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other matters applying to actions for breach of statutory duty.

Criminal proceedings.

4. Any institution that fails to comply with—

- (a) any provision of Article 4 of the Community Regulation;
- (b) Article 5(1) of the Community Regulation;
- (c) the last sentence of Article 5(2) of the Community Regulation;
or
- (d) Article 5(3) of the Community Regulation,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Offences by a body corporate.

5.(1) If an offence under this Ordinance committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of any director, chief executive, manager, secretary or other similar officer of the corporate body, or any person purporting to act in any such capacity; or
- (b) to be attributable to any neglect on his part,

he as well as the corporate body is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) If the affairs of a corporate body are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) If an offence under this Ordinance committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner, or any person purporting to act as a partner; or
- (b) to be attributable to any neglect on his part,

he as well as the partnership is guilty of an offence and is liable to be proceeded against and punished accordingly.

(4) If an offence under this Ordinance committed by an unincorporated association (other than a partnership) is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or any person purporting to act in any such capacity; or
- (b) to be attributable to any neglect on his part,

he as well as the association is guilty of an offence and is liable to be proceeded against and punished accordingly.

EXPLANATORY MEMORANDUM

This Ordinance provides for the sanctions required under Article 7 of Regulation (EC) No. 2560/2001 of the European Parliament and of the Council (referred to in the Ordinance as the “Community Regulation”), laying down rules on cross-border payments in euro, to ensure that compliance with the Community Regulation is guaranteed by effective, proportionate and deterrent sanctions.

Section 3 makes provision for civil proceedings to be brought in cases where an institution breaches Article 3 of the Community Regulation. Section 4 creates criminal offences, in respect of breaches of the provisions of Articles 4 and 5 of the Community Regulation, and sets out the maximum penalties which can be imposed on persons convicted of those offences.

Section 5 provides for directors and managers of companies, partners of partnerships and other similar persons to be liable to conviction if these offences are committed by the company, partnership or other body with their consent or connivance or as a result of their neglect.