

# STATES OF JERSEY



## TERRORIST ASSET-FREEZING BILL: EXTENSION OF A CLAUSE TO JERSEY

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Lodged au Greffe on 26th July 2010  
by the Chief Minister

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to signify, pursuant to Article 31(1)(a) of the States of Jersey Law 2005, whether they agree that a provision of the Terrorist Asset-Freezing Bill of the United Kingdom Parliament should be made that would, when the Bill comes into force, prolong the duration of the Terrorist Asset-Freezing (Temporary Provisions) Act 2010, as it relates to Jersey, until 31st March 2011, as summarised in the report of the Chief Minister dated 16th July 2010.

CHIEF MINISTER

## REPORT

### Executive Summary

The purpose of this Proposition is to request the States to consider whether to agree in principle to the extension to Jersey of a clause of the Terrorist Asset-Freezing Bill. The clause, when it comes into force, would prolong the duration of the Terrorist Asset-Freezing (Temporary Provisions) Act 2010, as it relates to Jersey, until 31st March 2011.

The intention of this prolongation is to provide additional time in which it is proposed to complete the passage of a Jersey Law for the purposes of terrorist asset-freezing.

### Background

1. The Terrorism (United Nations Measures) (Channel Islands) Order 2001 is intended to implement resolution 1373 (2001) adopted by the Security Council of the United Nations on 28th September 2001 relating to terrorism.
2. On 27th January 2010 the UK Supreme Court decided that the UK Terrorism (United Nations Measures) Order 2006 was *ultra vires* the United Nations Act 1946, and on 4th February 2010 made an order quashing the 2006 Order. The UK Supreme Court judgment did not refer directly but is believed to have relevance in relation to the Terrorism (United Nations Measures) (Channel Islands) Order 2001.
3. The effect of the Supreme Court's judgment is that primary legislation is considered necessary to implement Jersey's obligations under the UN resolution.
4. On 4th February 2010, following the Supreme Court order, the UK Government announced that it proposed to legislate to provide for the temporary validity of the UN Terrorism Orders to maintain asset-freezing restrictions while the Government took steps to put in place by means of primary legislation an asset-freezing regime to comply with the obligations in resolution 1373.
5. On 10th February 2010 the Terrorist Asset-Freezing (Temporary Provisions) Act ("the Temporary Provisions Act") came into force, including (with agreement of the Jersey authorities) provisions that extended certain sections of the Act directly to Jersey. The effect was to temporarily maintain the validity of the Terrorism (United Nations Measures) (Channel Islands) Order 2001.
6. The Temporary Provisions Act is due to expire on 31st December 2010, and is to be replaced in the UK by provisions set out in the Terrorist Asset-Freezing Bill.

### Terrorist Asset-Freezing Bill

7. The Terrorist Asset-Freezing Bill includes a permissive extent clause to enable its extension to Jersey by Order in Council, if requested. This clause is merely *permissive* and does not actually extend any UK legislation to Jersey.

It is not intended to use the extent clause, but to prepare Jersey primary legislation to maintain a terrorist asset-freezing regime in this jurisdiction.

8. However, it will not be possible to complete the passage of the Jersey Law before 31st December. To ensure the continuity of the terrorist asset-freezing regime in Jersey, it is therefore proposed to prolong the duration of the Temporary Provisions Act in relation to Jersey, by a clause of the Terrorist Asset-Freezing Bill, until 31st March 2011.

9. Clause 48 (as currently drafted) of the Terrorist Asset-Freezing Bill provides –

**“48 Channel Islands, Isle of Man and British overseas territories**

(1) *Her Majesty may by Order in Council provide for any of the provisions of Part 1 (including Part 1 of Schedules 1 and 2) to extend, with or without modifications, to any of the Channel Islands, the Isle of Man or any British overseas territory.*

(2) *Sections 1 and 3 of the Terrorist Asset-Freezing (Temporary Provisions) Act 2010, so far as they have effect as part of the law of Guernsey, Jersey, the Isle of Man and the territories listed in Schedule 1 to the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (S.I. 2001/3366), have effect as if the reference in section 1(1) of that Act to 31 December 2010 were a reference to 31 March 2011.”*

10. Article 31(1) of the States of Jersey Law 2005 states that –

**“31 Duty to refer certain matters to the States**

(1) *Where it is proposed –*

(a) *that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; ...*

*the Chief Minister shall lodge the proposal in order that the States may signify their views on it.”*

11. Clause 48(1) falls outside the requirement of Article 31 of the States of Jersey Law 2005. However, clause 48(2) would extend directly to Jersey. It is therefore necessary, in accordance with Article 31, to seek the view of the States on the matter.

**Manpower and resource implications**

There will be no additional manpower, revenue or capital requirements arising from this provision.

Law drafting time will be made available within existing resources to introduce a primary Jersey Law to maintain the terrorist asset-freezing regime after the Temporary Provisions Act expires on 31 March 2011.