

STATES OF JERSEY



DRAFT EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 201-

**Lodged au Greffe on 16th December 2013
by the Minister for External Relations**

STATES GREFFE



DRAFT EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for External Relations has made the following statement –

In the view of the Minister for External Relations the provisions of the Draft European Union Legislation (Implementation) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator Sir P.M. Bailhache**

Minister for External Relations

Dated: 12th December 2013

REPORT

Introduction

Since 1996 a number of important changes have taken place with regard to the European Union (EU), most notably implementation of the Treaty of Lisbon, which entered into force on 1st December 2009. The Treaty makes significant amendments to the Maastricht Treaty (also known as the Treaty on European Union) and the Treaty establishing the European Community ('TEC', also known as the Treaty of Rome, now renamed as the Treaty on the Functioning of the European Union, 'TFEU').

It is necessary to replace certain references in Jersey law to the previous treaties and to update a number of provisions relating to subsequent treaties.

The draft Law repeals and replaces the European Communities Legislation (Implementation) (Jersey) Law 1996 ("the 1996 Law"), to improve and update the powers to give effect in Jersey to EU legislation, particularly sanctions, whether or not that legislation is directly applicable to Jersey under Protocol 3 to the Treaty of Accession by which the United Kingdom joined the then European Economic Community.

It also amends and renames the European Communities (Jersey) Law 1973, and amends references to Europe in other enactments, to reflect the Treaty of Lisbon, replacing the European Communities with the European Union. An amendment to Article 2 of the 1973 Law is to remedy inconsistency in the practical implementation of the legislation.

The opportunity has been taken to clarify the circumstances and the extent to which the States may by Regulations, and the Minister may by Order, introduce legislation to give effect to any EU provision. The draft Law will also clarify the effect of ambulatory references, facilitate the speedy and effective implementation of EU sanctions measures, and clarify the interpretation of expressions used in the legislation.

Financial and manpower implications

There are no financial or manpower implications arising from the adoption of this draft Law.

Human Rights Note

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX

Human Rights Note on the Draft European Union Legislation (Implementation) (Jersey) Law 201-

These notes have been prepared in respect of the Draft European Union Legislation (Implementation) (Jersey) Law 201- by the Law Officers' Department. They summarise the principle human rights issues arising from the contents of the draft Law and explain why, in the Law Officers' opinion, the draft Law is compatible with the European Convention on Human Rights ("ECHR").

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

Articles 2 and 3 of the draft potentially engage Article 1 of the First Protocol of the ECHR ("A1P1") which guarantees the right to property.

A1P1 provides –

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest of to secure the payment of taxes or other contributions or penalties."

The draft Law is, *prima facie*, unlikely to directly engage the rights afforded by the ECHR because it is a Law providing for legislative process rather than provisions accommodating policy outcomes which may specifically engage A1P1. However, it is likely that the provisions in the draft Law will affect items which may be deemed to be "possessions" under the ECHR. Such "possessions" include moveable and immovable property and encompass "financial services" businesses. Accordingly, such businesses and their associated products are "property" for the purposes of A1P1.

Articles 2(1) and 2(2) of the draft Law provides an ability for the Minister to give effect to certain EU provisions by Order and for the States to give effect to any EU provisions by Regulation. The aim of these secondary measures may include the imposition of an obligation or prohibition in respect of financial services business undertaken with a connection to Jersey as set out in Article 3(3). This means that the draft Law provides the ability for the Minister and the States to potentially deprive a person of their property, or interfere with their peaceful enjoyment of it. Although the respective Orders and Regulations would contain the further legislative detail, the powers granted to the Minister and States may have the effect of being an interference with property which, in order to be permissible, must (i) serve a legitimate objective in the public or general interest; (ii) be proportionate to realising that objective; and (iii) comply with the principle of legal certainty.

Accordingly, the objective behind the draft Law can be identified as maintaining consistency with EU standards and is held to be a legitimate aim within the scope of A1P1. Given the importance of this objective, the interference with the A1P1 rights can thus be regarded as proportionate. Finally, the scope of the interference provided for in Articles 2 and 3 constitute a clear and precise legislative statement with no

obvious room for ambiguity. Accordingly, the interference instigated by Articles 2 and 3 is ‘in accordance with the law.’

Therefore, Articles 2 and 3 of the draft Law: (i) serve a legitimate objective in the public or general interest; (ii) are proportionate; and (iii) comply with the principle of legal certainty.”

Explanatory Note

This Law repeals and replaces the European Communities Legislation (Implementation) (Jersey) Law 1996 (“the 1996 Law”), to improve and update the powers to give effect in Jersey to EU legislation, particularly sanctions, whether or not that legislation is directly applicable to Jersey under Protocol 3 to the Treaty of Accession by which the United Kingdom joined the then European Economic Community (“Protocol 3”). It also amends and renames the European Communities (Jersey) Law 1973 (“the 1973 Law”), and amends references to Europe in other enactments, to reflect the Treaty of Lisbon replacing the European Communities with the European Union.

Article 1 is the interpretation provision. Paragraph (3) defines “EU provision” to mean any EU legislation, including Treaties, Regulations, Directives and other forms of instrument made by any of the EU institutions. This Law, like the 1996 Law, allows Jersey to give effect to EU provisions that do not already apply in Jersey through Protocol 3 and the 1973 Law. So in this Law, to give greater flexibility in making Regulations and Orders, the definition of an EU provision also includes all provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union. That means, in particular, that the Common Foreign and Security Policy, which is the ultimate source of sanctions measures, is included for the purposes of this Law, although it remains excluded for the purposes of the 1973 Law (see *Schedule 1* below).

Article 2 replaces Article 2 of the 1996 Law and provides the main powers to give effect to EU provisions. Paragraph (1) allows the Minister to make Orders for that purpose, but no longer requires that the Minister should consider immediate or early enactment to be necessary or expedient in the public interest. Paragraph (1)(a) now allows Orders to be used to give full effect to EU provisions that are already binding on Jersey under Protocol 3, where further action is needed to do so, such as by imposing criminal penalties for breach of the provision. Paragraph (1)(b) allows Orders to give effect to sanctions measures, as under the 1996 Law. But it updates and corrects the references to the sources in EU law for those sanctions measures (Chapter 2 of Title V of the Treaty on European Union, and Article 215 of the Treaty on the Functioning of the European Union). It also adds reference to Article 75 of the Treaty on the Functioning of the European Union, which allows measures to be taken against terrorism and related activities.

Paragraph (2) allows the States by Regulations to give effect to any EU provision. That includes those EU provisions to which effect may be given by Order (but see paragraph (6)(c), ensuring that an Order under paragraph (1) cannot vary or repeal or be inconsistent with Regulations under paragraph (2)).

Paragraph (3) reproduces the effect of the first half of Article 2(2) of the 1996 Law, in allowing either Orders or Regulations to do anything that can be done by a Law. The breadth of this provision (particularly as read with paragraph (4)(c), enabling amendment of any other Law or other enactment) is limited by paragraphs (5) and (6).

Paragraph (4) reproduces the effect of Article 2(3) of the 1996 Law, but contains new provisions in (4)(b)(ii) and (iii). Paragraph (4)(b)(ii) clarifies that any one or more of Jersey, Guernsey and the Isle of Man can be treated, for the purpose of a particular

Order or Regulations, as if they were separate member States of the EU or were part of the United Kingdom (or of any other member State). Paragraph (4)(b)(iii) ensures that Orders and Regulations can refer, where desired, to EU provisions as they may be amended in future by other EU legislation or by decisions of the EU courts (allowing for what are called “ambulatory references”). Paragraph (4)(c) clarifies that the power includes amending any Law or other enactment (as long as it could be amended by a Law – but see paragraphs (5)(c) and (6)(c)). Paragraph (4)(d) reproduces the effect of Article 2(3)(b) of the 1996 Law, allowing for incidental and related provision.

Paragraphs (5) and (6) make new provision to limit the use of the power to make Orders and Regulations. Neither Orders or Regulations can be used to impose or increase taxes, to make retrospective provision, or to amend this Law or the 1973 Law. The power to make Orders (but not Regulations) is further limited. An Order cannot be used to set a penalty of imprisonment for more than 2 years for a criminal offence (but a fine can be unlimited). Nor can an Order be used to vary or repeal Regulations made under paragraph (2), or to make any provision inconsistent with them (given that Regulations could cover the same subject matter as an Order).

Article 3 has no equivalent in the 1996 Law. It provides for EU sanctions and related provisions (such as obligations to freeze assets) to be extended to apply in relation to types of financial services covered by Jersey legislation, even when they are not covered by the equivalent EU legislation, such as forms of trust company business. The provision can be used to cover any form of financial services business falling within the Proceeds of Crime (Jersey) Law 1999.

Article 4 has no equivalent in the 1996 Law. It provides for general provisions to be made in advance, so that particular Regulations or Orders can, if appropriate, apply them without repeating them each time. It does not expand the scope of what can be enacted, but it enables effect to be given more quickly to new EU provisions that apply existing measures to new situations (particularly where standard sanctions measures are applied to new countries).

Article 5 has no equivalent in the 1996 Law. It provides interpretation rules. Under paragraph (2) expressions used in an Order or Regulation under this Law are to be given the meanings they have in the EU provisions that they implement, or otherwise the meanings they have in this Law or the 1973 Law. Paragraphs (3) and (4) ensure that the implemented EU provisions are interpreted in the same way as EU provisions that are directly applicable to Jersey. Paragraph (5) ensures these interpretation rules are subject to any exceptions or modifications made in the Regulations or Order.

Article 6 repeals the 1996 Law. It preserves the Regulations and Orders made under that Law, and updates the terminology used in them.

Article 7 introduces the Schedules (see below).

Article 8 names this Law, using “European Union” instead of “European Communities”, to reflect the changes brought about by the Treaty of Lisbon since the 1996 Law. It would bring this Law into force 14 days after registration at the Royal Court.

Schedule 1 contains amendments to the European Communities (Jersey) Law 1973 (renamed as the European Union (Jersey) Law 1973), to update it in light of the Treaty of Lisbon which replaced the European Communities with the European Union.

Paragraphs 1(f)(ii) and (iii) also add references to other treaties since 2000, including the treaty on the accession of Croatia, as well as the Lisbon Treaty. The amendments

ensure that any provision on the Common Foreign and Security Policy (“CFSP”) is still not treated as part of the EU Treaties that apply directly to Jersey, even if the CFSP provision would otherwise fall under Protocol 3 (but the States or the Minister can choose to give effect to a CFSP provision – see *Articles 1* and *2* above). Paragraph 1(4) adds a power for the Minister to make any other amendments needed in Regulations or Orders to adapt to the terminology and numbering changes brought about by the Lisbon Treaty, or by any treaties that may in future be added to the list of EU Treaties in the 1973 Law. Paragraph 1(5) removes a redundant provision construing references to Jersey legislation, but replaces it with a provision ensuring that the reference to section 1(3) of the United Kingdom’s equivalent Act (in Article 1(2) of the 1973 Law, allowing Jersey to use Regulations to follow suit in adding new treaties) keeps pace with any amendments to that Act. Paragraph 1(6) removes a redundant reference to the Subordinate Legislation (Jersey) Law 1960.

Paragraph 2 deletes the requirement to lodge, present to the States and gazette any EU instruments that have effect in Jersey through Protocol 3.

Paragraphs 3 and 4 update terminology in Articles 3 and 4 of the 1973 Law.

Paragraph 5 amends Article 5 of the 1973 Law, to rename the Law as the European Union (Jersey) Law 1973, reflecting the changed terminology.

Schedule 2 contains amendments of other enactments to reflect the changes to terminology in the Treaty of Lisbon.



DRAFT EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 201-

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DRAFT EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 201-

A LAW to enable the States or the Minister for External Relations to give effect in Jersey to legislation of the European Union and to make supplementary provision in relation to that legislation, to make amendments and other provision in connection with the Treaty of Lisbon, and for related purposes

Adopted by the States

[date to be inserted]

Sanctioned by Order of Her Majesty in Council

[date to be inserted]

Registered by the Royal Court

[date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

- (1) In this Law, unless the context otherwise requires –

“1973 Law” means the European Union (Jersey) Law 1973¹ (as so renamed by paragraph 5 of Schedule 1);

“Minister” means the Minister for External Relations;

“Treaty on European Union” means the treaty of that name signed at Maastricht on 7th February 1992, as amended from time to time by the EU Treaties;

“Treaty on the Functioning of the European Union” means the treaty of that name signed (as the Treaty Establishing the European Economic Community) at Rome on the 25th March 1957, as amended from time to time by the EU Treaties.

- (2) An expression defined in the 1973 Law (including in particular “EU instrument” and “EU Treaties”) has, when used in this Law, the same meaning as in that Law.

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- (3) For the purposes of this Law an “EU provision” is any provision, whether or not directly applicable in or binding upon Jersey, that –
- (a) is contained in or arises under any one or more of the following –
 - (i) the Treaty on European Union,
 - (ii) the Treaty on the Functioning of the European Union,
 - (iii) any of the EU Treaties; or
 - (b) comprises or is contained in an EU instrument.

2 Implementation of EU provisions through Orders or Regulations

- (1) The Minister may by Order make such provision as appears to him or her to be necessary or expedient for the purposes of –
- (a) giving further effect to any EU provision that is directly applicable in or binding upon Jersey;
 - (b) giving effect, either wholly or partly, to any other EU provision adopted under any one or more of –
 - (i) Chapter 2 of Title V of the Treaty on European Union,
 - (ii) Article 75 of the Treaty on the Functioning of the European Union, and
 - (iii) Article 215 of that Treaty;
 - (c) dealing with matters arising out of or related to any EU provision falling within sub-paragraph (a) or (b).
- (2) The States may by Regulations make such provision as appears to them to be necessary or expedient for the purposes of –
- (a) giving effect, either wholly or partly, to any EU provision, whether or not one in respect of which the Minister may make an Order under paragraph (1);
 - (b) dealing with matters arising out of or related to any such provision.
- (3) Subject to paragraphs (5) and (6), the provision that may be made under paragraph (1) or (2) includes any such provision (of any such extent) as might be made by a Law passed by the States.
- (4) Without prejudice to the generality of paragraphs (1) to (3), an Order or Regulations under this Article may –
- (a) make provision by reference to or by incorporation (by reference, annexation or otherwise) of any EU provision, or of any class or description of EU provisions;
 - (b) when making the provision described in sub-paragraph (a) –
 - (i) do so to such extent and subject to such exceptions, adaptations and modifications to the EU provision as may be specified in the Order or Regulations,
 - (ii) make adaptations or modifications mentioned in clause (i) by providing that any one or more of Jersey, Guernsey and the Isle of Man are to be treated as if they were a member State, or formed part of any member State, for the purpose of the provision,

- (iii) provide that a reference to the EU provision is to be read as a reference to that EU provision as amended, substituted, extended or applied from time to time by any other EU provision, or as that provision otherwise has effect in the EU from time to time by virtue of any judgment of the European Court;
 - (c) amend any Law or other enactment that may be amended by a Law;
 - (d) contain such incidental, supplemental or transitional provisions or savings as the Minister or States consider expedient.
- (5) The provision that may be made by Regulations under paragraph (2) does not include provision –
- (a) imposing or increasing taxation;
 - (b) taking effect from a date earlier than that of the making of the Order or Regulations containing the provision; or
 - (c) amending this Law or the 1973 Law.
- (6) The provision that may be made by Order under paragraph (1) does not include provision –
- (a) imposing a penalty of imprisonment for more than 2 years for a criminal offence;
 - (b) falling within any of paragraphs (5)(a), (b) and (c); or
 - (c) amending Regulations made under paragraph (2), or making any provision inconsistent with any such Regulations.

3 Implementation of EU provisions: financial services

- (1) Paragraph (2) applies if an EU provision –
 - (a) imposes an obligation or prohibition on any description of persons in respect of the finances of, or a financial service of any sort in relation to, another person; and
 - (b) falls within Article 2(1)(b), or includes any restrictive measure similar to those that may be included in EU provisions falling within that Article.
- (2) An Order or Regulations under Article 2 may, if the Minister or the States consider it necessary or expedient in the interests of Jersey or for the better implementation of the EU provision in Jersey –
 - (a) impose the obligation or prohibition on any description of persons falling within paragraph (3); and
 - (b) adapt the obligation or prohibition as necessary or expedient for its imposition on such persons.
- (3) A person falls within this paragraph if –
 - (a) the EU provision would not otherwise impose the obligation or prohibition on persons of that description in the EU; and
 - (b) the person –

-
- (i) whether or not an individual, carries on financial services business, within the meaning of the Proceeds of Crime (Jersey) Law 1999², in or from within Jersey, or
 - (ii) not being an individual, is incorporated or constituted under the law of Jersey and carries on such financial services business in any part of the world.

4 General provisions Orders

- (1) The Minister may by Order prescribe general provisions that are to be read as forming part of special Orders.
- (2) For the purposes of this Article –
 - (a) a special Order is an Order made under Article 2(1) in relation to one or more particular EU provisions;
 - (b) a general provision is any provision that, although not relating to a particular EU provision, could, if it did so relate, be made in a special Order; and
 - (c) a general provisions Order is an Order made under this Article.
- (3) A general provisions Order may provide that a general provision –
 - (a) is to be read as forming part of any special Order unless that special Order expressly provides otherwise; or
 - (b) is to be read as forming part of a special Order only if that special Order expressly so provides by reference to the general provisions Order.
- (4) Without prejudice to the application of Article 11(4) of the Interpretation (Jersey) Law 1954³, a general provisions Order may provide that a general provision applies –
 - (a) in respect of special Orders whenever enacted; or
 - (b) only in respect of special Orders made after the commencement of the general provisions Order.

5 Interpretation of EU provisions, Regulations and Orders

- (1) In this Article “implemented EU provision” means an EU provision in respect of which Regulations or an Order purport –
 - (a) to give effect, wholly or partly, to that EU provision, or to deal with matters arising out of or related to it, under Article 2; or
 - (b) to impose or adapt it under Article 3(2).
- (2) Unless the contrary intention appears, an expression used in Regulations or an Order under Article 2 is to be read –
 - (a) if that expression is used in the implemented EU provision, as having the same meaning as in that provision; or
 - (b) if sub-paragraph (a) does not apply, but that expression is defined in the 1973 Law or in this Law, as having the meaning so assigned.

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- (3) Article 3 of the 1973 Law applies to any question as to the validity, meaning or effect of an implemented EU provision that does not have effect in Jersey by virtue of the arrangements for the Channel Islands contained in the EU Treaties, as that Article applies to such a question in relation to a provision or instrument that does have effect in Jersey by virtue of those arrangements.
 - (4) Regulations or an Order under Article 2 may provide that paragraph (3) does not apply, at all or to any specified extent, to the EU provision implemented by those Regulations or that Order.

6 Repeal of European Communities Legislation (Implementation) (Jersey) Law 1996

- (1) The European Communities Legislation (Implementation) (Jersey) Law 1996⁴ is repealed.
- (2) For the purpose of paragraph (3) a “relevant enactment” is an enactment that was –
 - (a) made under the European Communities Legislation (Implementation) (Jersey) Law 1996; and
 - (b) in force immediately before the commencement of this Law.
- (3) A relevant enactment –
 - (a) continues in force and is to be treated as if made under this Law; and
 - (b) is to be construed as if any reference in the relevant enactment to the European Community or Communities were a reference to the European Union, and any reference to a Community instrument were to an EU instrument.

7 Amendments of 1973 Law and other enactments

- (1) Schedule 1 has effect to amend the 1973 Law (which is renamed as the European Union (Jersey) Law 1973 by paragraph 5 of that Schedule).
- (2) Schedule 2 has effect to amend other Laws.

8 Citation and commencement

This Law may be cited as the European Union Legislation (Implementation) (Jersey) Law 201- and comes into force 14 days after it is registered.

SCHEDULE 1

(Article 7)

**RENAMING AND AMENDMENTS OF EUROPEAN COMMUNITIES
(JERSEY) LAW 1973****1 Article 1 amended**

(1) In Article 1(1) of the 1973 Law –

- (a) for the definition “Communities” there are substituted the following definitions –

“‘Communities’ means the European Atomic Energy Community, the former European Economic Community, the former European Community and the former European Coal and Steel Community;

‘EU’ means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7th February 1992 (as amended by any later Treaty), and includes, if and in so far as the context permits or requires, the European Atomic Energy Community;”;

- (b) for the definition “Community institution” there is substituted the following definition –

“‘EU institution’ means any institution of the EU;”;

- (c) in the definition “Community instrument” for the word “Community”, in both places where it occurs, there is substituted the word “EU”;

- (d) in the definition “European Court” for the words “European Communities or any court attached thereto” there are substituted the words “European Union”;

- (e) in the definition “member” for the word “Communities” there is substituted the word “EU”;

- (f) in the definition “Treaties” or “Community Treaties” –

- (i) for the words “Community Treaties” there are substituted the words “EU Treaties”,

- (ii) after sub-paragraph (k) there is inserted the following sub-paragraph –

“(ka) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts –

- (i) Articles 2 to 10, and

- (ii) the other provisions of the Treaty so far as they relate to those Articles,

and the Protocols adopted on that occasion;”,

- (iii) after sub-paragraph (m) there are inserted the following sub-paragraphs –
- “(n) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy;
 - “(o) the Protocol amending the Protocol (No 36) on transitional provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, signed at Brussels on 23rd June 2010;
 - “(p) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9th December 2011;
 - “(q) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16th May 2012.”,
- (iv) in the full-out at the end of the definition, for the words “entered into by any of the Communities” there are substituted the words “entered into by the EU (except in so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy)”.
- (2) In Article 1(2) of the 1973 Law for the words “Community Treaties”, in each place where they occur, there are substituted the words “EU Treaties”.
- (3) In Article 1(4) of the 1973 Law for the words “Community Treaties”, in both places where they occur, there are substituted the words “EU Treaties”.
- (4) After Article 1(4) of the 1973 Law there is inserted the following paragraph –
- “(4A) The Minister may by Order –
- “(a) amend any enactment (including this Law) to reflect changes in terminology or numbering arising out of –
 - “(i) the Treaty of Lisbon, described in sub-paragraph (n) in the definition ‘Treaties’ in paragraph (1), or
 - “(ii) any other treaty becoming, at any time after the signing of the Treaty of Lisbon, one of the Treaties as defined in paragraph (1); and
 - “(b) to make any provision incidental or consequential on such an amendment.”.
- (5) For Article 1(5) there is substituted the following sub-paragraph –

- “(5) The reference in paragraph (2) to section 1(3) of the European Communities Act 1972 of the United Kingdom shall be construed as a reference to that section as amended from time to time.”.
- (6) Article 1(6) is deleted.

2 Article 2 amended

Paragraphs (3) and (4) of Article 2 of the 1973 Law are deleted.

3 Article 3 amended

In Article 3 of the 1973 Law –

- (a) in the heading for the words “Community instruments” there are substituted the words “EU instruments”;
- (b) in paragraph (1) for the words “Community instrument” there are substituted the words “EU instrument”;
- (c) in paragraph (2) –
 - (i) for the words “Official Journal of the Communities” there are substituted the words “Official Journal of the EU”,
 - (ii) for the words “of any of the Communities or of any Community institution” there are substituted the words “of the EU or of any EU institution”;
- (d) in paragraph (3) for the words “a Community institution”, in both places where they occur, there are substituted the words “an EU institution”;
- (e) in paragraph (4) for the words “Community instrument” there are substituted the words “EU instrument”.

4 Article 4 amended

In the heading to Article 4 of the 1973 Law, for the words “Community offences” there are substituted the words “EU offences”.

5 Article 5 amended

In Article 5 of the 1973 Law, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973”.

SCHEDULE 2

(Article 7)

AMENDMENTS OF OTHER LAWS

1 Amendment of European Economic Area (Jersey) Law 1995

In the European Economic Area (Jersey) Law 1995⁵ –

- (a) for Article 1 there is substituted the following Article –

“1 Interpretation

- (1) In this Law –

‘Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993;

‘EU obligation’ means any obligation created by or arising by or under the Treaties;

‘1973 Law’ means the European Union (Jersey) Law 1973⁶.

- (2) In this Law, unless the context otherwise requires, expressions defined in Article 1 of the 1973 Law (including ‘Communities’, ‘EU’ and ‘Treaties’) have the meanings assigned to them by that Law.”.

- (b) in Article 2 –

(i) in paragraph (1)(a), for the words “by reference to the Communities or by reference to some connection with the Communities” there are substituted the words “by reference to the Communities or the EU or by reference to some connection with the Communities or the EU”,

(ii) in the full-out after paragraph (1)(b), for the words “both the Communities and the European Economic Area” there are substituted the words “both the EU and the European Economic Area”,

(iii) in paragraph (2)(a), for the words “a Community instrument” there are substituted the words “an EU instrument”,

(iv) in paragraph (2)(b), for the words “a Community institution” there are substituted the words “an EU institution”;

- (c) in Article 3 for the words “a Community obligation” there are substituted the words “an EU obligation”;

- (d) in Article 4(b) for the words “a Community institution” there are substituted the words “an EU institution”.

2 Amendment of other Laws

- (1) In the Banking Business (Jersey) Law 1991⁷, in the definition “institution” in Article 1, and in Articles 8(2)(b), 38(1) and 38(2), for the words “European Community” there are substituted the words “European Union”.
- (2) In Article 60 of the Competition (Jersey) Law 2005⁸ –
 - (a) in the heading and the body, for the words “European Community” there are substituted the words “European Union”;
 - (b) for the words “Community law” there are substituted the words “European Union law”.
- (3) In Article 4(3)(a) of the Consumer Safety (Jersey) Law 2006⁹ for the words “European Communities” there are substituted the words “European Union”.
- (4) In Articles 2(1)(e)(iv) and (v) of the Corruption (Jersey) Law 2006¹⁰ for the words “European Communities” there are substituted the words “European Union”.
- (5) In the Customs and Excise (Jersey) Law 1999¹¹ –
 - (a) in Article 1(1) –
 - (i) the definitions “Communities” and “Community customs duty” are deleted,
 - (ii) after the definition “enactment” there are inserted the following definitions –

“‘EU’ has the same meaning as in the European Union (Jersey) Law 1973¹²;

‘EU customs duty’ means any customs duty payable in respect of goods pursuant to a requirement of the EU which is enforceable in Jersey;”,
 - (iii) in the definition “Treaties”, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973¹³”;
 - (b) in Article 6 –
 - (i) in the heading and paragraph (1), for the word “Community” there is substituted the word “EU”,
 - (ii) in paragraphs (2)(b), (3) and (3)(a) for the word “Communities” there is substituted the word “EU”;
 - (c) in Articles 44(2) and 68(5)(d) for the word “Communities” there is substituted the word “EU”.
- (6) In the Data Protection (Jersey) Law 2005¹⁴ –
 - (a) in Article 51(6)(a) for the words “Community finding” there are substituted the words “EU finding”;
 - (b) in Article 59(2)(c) for the words “European Community” there is substituted the word “EU”;
 - (c) in paragraph 15 of Part 2 of Schedule 1, in the heading and in subparagraphs (1) and (2), for the words “Community finding” there are substituted the words “EU finding”.

- (7) In Article 39A(1) of the Financial Services (Jersey) Law 1998¹⁵, in subparagraph (c) of the definition “public sector body”, for the words “European Economic Community” there is substituted the word “EU”.
- (8) In Article 1(1) of the Financial Services Commission (Jersey) Law 1998¹⁶ for the words “Community instrument (within the meaning of Article 1 of the European Communities (Jersey) Law 1973)” there are substituted the words “EU instrument (within the meaning of Article 1 of the European Union (Jersey) Law 1973¹⁷)”.
- (9) In Articles 90B(1)(a)(i) and (b)(i) of the Income Tax (Jersey) Law 1961¹⁸ for the words “European Communities” in each place where they occur there is substituted the word “EU”.
- (10) In Article 1(1) of the Insurance Business (Jersey) Law 1996¹⁹, in the definition “member State”, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973²⁰”.
- (11) In the Intellectual Property (Unregistered Rights) (Jersey) Law 2011²¹ –
- (a) in Article 1(1) –
 - (i) the definition “Community Treaties” is deleted,
 - (ii) after the definition “employed” there is inserted the following definition –
 - “ ‘EU Treaties’ has the same meaning as in the European Union (Jersey) Law 1973²²;”;
 - (b) in Articles 42(5) and 344(5) for the words ‘European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973”;
 - (c) in Article 401 –
 - (i) in the heading and in paragraph (1)(b), for the words “Community Treaties” there are substituted the words “EU Treaties”,
 - (ii) in paragraph (2) for the words “European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “European Union Legislation (Implementation) (Jersey) Law 201-²³”.
- (12) In the Law Revision (Jersey) Law 2003²⁴ –
- (a) in Article 1 –
 - (i) the definition “Community instrument” is deleted,
 - (ii) after the definition “effective date” there is inserted the following definition –
 - “ ‘EU instrument’ has the same meaning as in the European Union (Jersey) Law 1973²⁵;”;
 - (b) in Article 3 –
 - (i) in paragraph (1)(c) for the words “Community instruments” there are substituted the words “EU instruments”,

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- (ii) in paragraph (2) for the words “Community instrument” in both places where they occur, there are substituted the words “EU instrument”.
 - (13) In Article 4(3) of the Licensing (Jersey) Law 1974²⁶ for the words “European Economic Community” there are substituted the words “European Union”.
 - (14) In the Medicines (Jersey) Law 1995²⁷ –
 - (a) in Articles 25(2) and 29(3)(i) for the words “Community obligation” there are substituted the words “EU obligation”;
 - (b) in Article 29(3)(j)(ii) for the words “Community obligations which bind” there are substituted the words “any EU obligation which binds”;
 - (c) in Article 47(2) for the words “Community obligation” there are substituted the words “EU obligation”.
 - (15) In Article 4 of the Plant Health (Jersey) Law 2003²⁸ –
 - (a) in paragraph (2)(b) for the words “Community provision” there are substituted the words “EU provision”;
 - (b) in paragraph (3) for the words “‘Community provision’ has the same meaning as it has in the European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “‘EU provision’ has the same meaning as it has in the European Union Legislation (Implementation) (Jersey) Law 201-²⁹”.
 - (16) In Article 10 of the Sea Fisheries (Jersey) Law 1994³⁰ –
 - (a) in the heading of the Article, for the word “Community” there is substituted the word “Union”;
 - (b) in paragraphs (1), (2) and (4) for the word “Community” there is substituted the word “EU”;
 - (c) in paragraphs (1), (2) and (4) for the words “European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “European Union Legislation (Implementation) (Jersey) Law 201-³¹”.
 - (17) In Article 6(1) of the Service of Process and Taking of Evidence (Jersey) Law 1960³² for the words “European Communities” there are substituted the words “European Union”.
 - (18) In Article 1 of the Supply of Goods and Services (Jersey) Law 2009³³, in the definition “producer”, for the words “European Community” there are substituted the words “European Union”.
 - (19) In the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005³⁴ –
 - (a) in Regulations 5(1)(c)(iv) and (d)(iv) for the words “established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Jersey” there are substituted the words “established outside Jersey and outside the territory to which the Treaty on European Union

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- applies by virtue of Article 52 of that Treaty and Article 355 of the Treaty on the Functioning of the European Union”;
- (b) in Schedule 2, in the list under the heading “B International entities”, for the item “European Community” there is substituted the item “European Union (formerly European Community)”.

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- 1 *chapter 17.210*
2 *chapter 08.780*
3 *chapter 15.360*
4 *L.2/1996 (chapter 17.245)*
5 *chapter 17.280*
6 *chapter 17.210*
7 *chapter 13.075*
8 *chapter 05.070*
9 *chapter 05.100*
10 *chapter 08.090*
11 *chapter 24.660*
12 *chapter 17.210*
13 *chapter 17.210*
14 *chapter 15.240*
15 *chapter 13.225*
16 *chapter 13.250*
17 *chapter 17.210*
18 *chapter 24.750*
19 *chapter 13.425*
20 *chapter 17.210*
21 *chapter 05.350*
22 *chapter 17.210*
23 *P.164/2013*
24 *chapter 15.420*
25 *chapter 17.210*
26 *chapter 11.450*
27 *chapter 20.625*
28 *chapter 01.885*
29 *P.164/2013*
30 *chapter 14.825*
31 *P.164/2013*
32 *chapter 07.840*
33 *chapter 05.800*
34 *chapter 17.850.10*