

# STATES OF JERSEY



## DRAFT SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 201-

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Lodged au Greffe on 23rd October 2018  
by the Minister for External Relations

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STATES GREFFE





Jersey

## **DRAFT SANCTIONS AND ASSET-FREEZING (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 Sanctions and Asset-Freezing (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

*Minister for External Relations*

Dated: 19th October 2018

# REPORT

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## 1. Background

- 1.1 Sanctions are a foreign policy tool used by the United Nations (“UN”), and countries, either acting alone or together with others, to change the behaviour of a target country or regime. UN sanctions are introduced when the UN Security Council makes a sanctions resolution and all members of the UN have an obligation under international law to implement and enforce these resolutions. When it is not possible to introduce sanctions at the UN level, countries may introduce their own measures, which are known as autonomous sanctions.
- 1.2 Although not a member of the UN in its own right, the United Kingdom’s membership of the UN extends to Jersey and therefore, in common with all UN members, the Island has an obligation to implement all UN sanctions. UN sanctions are implemented in the European Union (“EU”) by European Council Regulations, and the EU also introduces its own autonomous sanctions by Regulations, which all EU member states must enforce. As Jersey is not a member of the EU, it is not obligated to implement autonomous EU sanctions. However, in line with Jersey’s commitment to meeting international standards, the Island has a longstanding policy of implementing EU sanctions. Both UN and EU sanctions are enacted in Jersey by sanctions Orders made under the [European Union Legislation Implementation \(Jersey\) Law 2014](#) (“EU Implementation Law”), which implement the relevant EU Council Regulation.
- 1.3 The Island’s policy of choosing to implement EU sanctions, in addition to UN sanctions, ensures that the same sanctions are enforced in Jersey as in the UK. It is important that Jersey has the ability to implement the same sanctions as the UK because of the close links between the two jurisdictions’ financial services industries.
- 1.4 However, following its decision to leave the EU, the UK passed the Sanctions and Anti-Money Laundering Act 2018 (“SAML A”), which will come into force before 29 March 2019. SAML A will enable the UK to continue to meet its international obligation to implement UN sanctions, as well as implement its own autonomous UK sanctions. Although the UK Government has repeatedly affirmed its desire to work closely with the EU on sanctions measures, once SAML A comes into force some time before 29 March 2019, there will be some differences between UK and EU sanctions regimes, and it is possible that there may be increasing divergence over time.
- 1.5 In response to these forthcoming changes, the Minister for External Relations (“the Minister”) decided to introduce the Draft Sanctions and Asset-Freezing (Jersey) Law 201- (“the draft Law”). The changes that would be made by the draft Law are explained in detail in section 3 below.

## 2. How sanctions are currently implemented in Jersey: existing legislation

- 2.1 In addition to implementing EU sanctions Regulations under the EU Implementation Law, which ensures that both UN sanctions and EU sanctions can be enforced, there are a number of other pieces of legislation that make up Jersey’s sanctions regime.

*Terrorist Asset-Freezing (Jersey) Law 2011*

- 2.2 The [Terrorist Asset-Freezing \(Jersey\) Law 2011](#) (“TAFL”) provides for all asset-freezing designations made under the UK Terrorist Asset-Freezing etc. Act 2010, EU Council Regulation (EC) 2580/2001 (which concerns terrorism designations), and the UN Security Council sanctions Committees established to counter the financing of terrorism, to have immediate effect in Jersey.
- 2.3 The Minister may also make an Order designating a person for the purposes of an asset-freeze, if the Minister considers it necessary to protect members of the Public from terrorism.

*United Nations Financial Sanctions (Jersey) Law 2017*

- 2.4 As detailed above, Jersey has an obligation to implement UN sanctions measures. And it must do so ‘without delay’. While the term ‘without delay’ has never been defined by the UN, the Financial Action Task Force (“FATF”) have said that restrictions should be in place within hours, and at most within 48 hours. The EU has in the past taken significantly longer than 48 hours to implement UN asset-freeze designations and, because Jersey implements EU sanctions Regulations, this exposed Jersey to the risk of asset flight in the time window between UN designation and EU implementation.
- 2.5 The [United Nations Financial Sanctions \(Jersey\) Law 2017](#) (“UNFSL”) was therefore introduced to ensure that Jersey could meet its international obligations in respect of the ‘without delay’ requirement. UNFSL provides for UN asset-freeze designations made under an existing regime (e.g. North Korea) to have immediate effect in Jersey, and asset-freeze designations introduced under a new UN sanctions regime (e.g. in respect of a country or regime not currently the subject of UN sanctions) to have effect within 48 hours.
- 2.6 The Minister also has the power to make an Order designating a person for the purpose of an asset-freeze, if that person has been designated under a new UN sanctions regime that has not yet been implemented in Jersey.

*Other relevant legislation*

- 2.7 The [Money Laundering and Weapons Development \(Directions\) \(Jersey\) Law 2012](#) (“MLWDDL”) allows the Minister to make an Order targeting persons or entities involved in weapons production or money laundering with certain restrictions.
- 2.8 The [Crime and Security \(Jersey\) Law 2003](#) (“CSL”) introduced, *inter alia*, offences regarding nuclear weapons and other weapons of mass destruction. It also provides for the Minister to make an Order to freeze the assets of a government or person involved in harmful activity against Jersey.

**3. Legislative proposals**

- 3.1 The primary purpose of the draft Law is to enable Jersey to implement new UK sanctions that will come into force before March 2019. It would also repeal TAFL and UNFSL, and incorporate them with amendments into the new Law. The changes would bring all of Jersey’s most important sanctions laws together into one piece of legislation.
- 3.2 In addition, amendments would be made to CSL and MLWDD to allow for persons designated under those Laws to be treated as if they have been designated for an asset-freeze under this Law.

### *Implementation of UN, UK, and EU sanctions*

- 3.3 The Law would introduce powers to enable the implementation of UK sanctions Regulations made under SAMLA in much the same way that EU sanctions Regulations can be implemented in Jersey under the EU Implementation Law. As the provisions of the EU Implementation Law that enable Jersey to implement EU sanctions Regulations will be repealed when Articles 6 and 7 of the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#) (“EURAL”) are brought into force, provisions have been included in the draft Law that would retain these powers.
- 3.4 The Law would therefore add the power to implement UK sanctions and incorporate powers available under existing legislation to implement UN and EU sanctions, bringing them together into one piece of legislation.

### *Rationalisation of TAFL and UNFSL with the new Law*

- 3.5 As well as ensuring that the UK has the ability post-Brexit to meet its international obligation to implement UN sanctions, and its own autonomous sanctions regimes, SAMLA makes a number of other notable changes. Particularly relevant to Jersey is that it will repeal a large majority of the provisions in the Terrorist Asset-Freezing etc. Act 2010 (“TAFAs”) and Part 8 of the Policing and Crime Act 2017 (“PCA”), and incorporates them into SAMLA. The effects of TAFAs and Part 8 of PCA are mirrored in Jersey’s legislation by TAFL and UNFSL, which also make reference to TAFAs and PCA respectively. And so once SAMLA comes into force, TAFL and UNFSL will cease to function effectively, potentially leaving Jersey in breach of its international obligations.
- 3.6 Therefore, at a minimum, amendments need to be made to TAFL and UNFSL to take into account the forthcoming changes to UK legislation. From a drafting perspective, it is simpler to repeal TAFL and UNFSL and retain their effects by incorporating the relevant provisions with amendments into the new Law, rather than leaving them as standalone pieces of legislation.
- 3.7 The ability to require financial institutions to freeze the assets and economic resources of designated persons and entities is integral to any sanctions regime; and therefore the new sanctions Law must include asset-freezing provisions. As TAFL and the UNFSL also include asset-freezing provisions and would be repealed and incorporated with amendments into the draft Law, there would be one Law containing Jersey’s sanctions asset-freezing provisions rather than three.
- 3.8 This would mirror what the UK have done, and have the added benefit of making the Island’s sanctions regime easier to understand for the financial services industry, who must comply with its requirements. It is important to note that these provisions do not include powers to confiscate assets; assets frozen under this legislation would remain frozen until the relevant sanctions measure is lifted.

### *Information provisions*

- 3.9 Information provisions must include reference to the reporting obligations (whether of individuals or institutions, or both) to the Competent Authority (“CA”), powers for the CA to require relevant information (e.g. from industry), and the ability of the CA to disclose information to others (e.g. relevant agencies in Jersey or other jurisdictions).

- 3.10 Currently, there are differences between the information provisions contained in TAFL and UNFSL, and those implemented by sanctions Orders made pursuant to the EU Implementation Law. This is because the latter directly implement (with some modifications) EU Council Regulations, including their information provisions. These provisions are drawn broadly and, for example, put a positive obligation on all persons in Jersey to provide information to the CA, whereas those contained in TAFL and UNFSL are more detailed and the obligation is to supply information on a 'relevant institution' (as defined in the legislation).
- 3.11 The introduction of the new Law would create one set of information provisions for Jersey's sanctions regime that uses, with some minor amendments, the model used in TAFL and UNFSL, further simplifying Jersey's sanctions regime. A power for the States to amend these provisions by Regulations is included to enable future improvements to be made.

*Shipping sanctions provisions*

- 3.12 The UK introduced provisions by amendment into the Sanctions and Anti-Money Laundering Act 2018 to enable it to enforce shipping sanctions in foreign and international waters. Although this will make such extra-territorial enforcement action legal under UK legislation, it would not be legal in any other jurisdiction's waters (including in Jersey), unless that jurisdiction's own legislation provides a legal basis for such action.
- 3.13 Therefore, provisions need to be included in the draft Law to ensure that, for example, the Royal Navy is able to enforce shipping sanctions in Jersey territorial waters without such action being open to challenge in Jersey courts. These provisions would not enable any other jurisdiction to enforce sanctions in the Island's waters.
- 3.14 The Minister may by Order disapply these provisions if he considers it necessary to do so.

*UK and EU blocking provisions*

- 3.15 Blocking provisions are measures intended to counteract extra-territorial sanctions introduced by other jurisdictions. For example, the EU recently introduced such measures to counteract the effect on EU businesses of US sanctions against Iran. Under the EU Implementation Law, it is possible to implement EU blocking provisions by Regulations. The Law would include powers for the Minister to implement UK or EU blocking provisions by Order.

*Amendments to CSL and MLWDDL*

- 3.16 The Law would amend CSL to ensure that a person subject to an asset-freeze under that Law would be treated as if they had been designated for an asset-freeze under the draft Law. The draft Law would also introduce a new power to enable the Minister to make an Order designating a person for an asset-freeze, if that person had been designated under the Anti-Terrorism, Crime and Security Act 2001.
- 3.17 The Law would amend MLDDL to allow for an Order made under that Law to direct financial services businesses to treat a person as if they had been designated for an asset-freeze under the draft Law.

#### **4. Coming into force**

- 4.1 For reasons outlined above in section 3, when SAMLA comes into force, TAFL and UNFSL will no longer function effectively. Therefore the draft Law includes provision for the Minister to bring the draft Law into force by Order to avoid the delay that would necessarily result from the use of an Appointed Day Act. There is precedent for introducing sanctions legislation by Ministerial Order: UNFSL was introduced by Ministerial Order in April 2017. Provision is also included to ensure that the draft Law would come into force no later than the day on which Article 6(a) EURAL enters into force.

#### **Financial and manpower implications**

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

#### **Human Rights**

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.

**Human Rights Notes on the Draft Sanctions and Asset-Freezing  
(Jersey) Law 201-**

These Notes have been prepared in respect of the Draft Sanctions and Asset-Freezing (Jersey) Law 201- (the “**Law**”) by the Law Officers’ Department. They summarise the principal 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.**

1. The Law will provide a consolidated framework for the application and enforcement of sanctions and asset-freezing measures in relation to ‘designated persons’. Designated persons will be defined as persons associated with terrorist activities or activities engaging sanctions prohibitions. The Law will therefore prevent such persons from dealing with certain assets, ensure the protection against terrorist financing, as well as the general economic well-being of the Island and its residents.
2. In achieving its objectives, the Law will affect the human rights of those persons defined as designated persons, and it is therefore appropriate to review the effects of the Law to confirm human rights compliance.

**Article 6 ECHR – The right to a fair trial**

3. Article 6(1) ECHR entitles an individual to a fair and public hearing in the determination of his civil rights or obligations or any criminal charge against him. Article 6 ECHR is engaged by Part 7 of the Law dealing with Review and Appeals.

**Reviews and Appeals**

4. For the safeguards guaranteed by Article 6 ECHR to be applicable, there must be a ‘determination of civil rights or obligations’. The imposition of an asset-freeze under the Law will be a decision that impacts upon civil rights and obligations for Article 6(1) ECHR purposes, notably the interference with the right to free enjoyment of property.
5. Article 6(1) ECHR requires that civil rights be determined by an ‘independent and impartial tribunal’. The Minister’s decision process for imposing an asset-freezing Order, and for arriving at other decisions he is required to make under the Law, will only accord to the rights provided under Article 6 if that decision is “subject to subsequent control by a judicial body that has full jurisdiction and does provide the guarantees of Article 6(1)”, and, “has the ability to quash the impugned decision or to remit the case for a new decision by an impartial body”. The body in question here is the Royal Court, who will hear appeals against the Minister’s decisions under Articles 40 and 41.
6. In this case, the ability to appeal to the Royal Court is sufficient to make the process of determining civil rights and obligations under the Law compatible

with Article 6 ECHR. As the Court has, under Article 40(3), the ability to “make such order as it thinks appropriate” on such an appeal.

7. With regard to an application for a review under Article 41, the Court must apply the principles applicable on an application for judicial review. Those considerations are particularly complex, but in general terms, it is considered that conventional judicial review grounds would provide a compatible review in some cases. In others, however, there may be a need for that subsequent review to be more expansive than the traditional scope of judicial review, which would require the Court to consider the merits or factual elements of the original decision. The Royal Court’s ability to have this expanded ability to review the merits and facts of a dispute to ensure Article 6 ECHR compliance was expressly upheld by the Royal Court earlier this year in *J v His Excellency the Lieutenant Governor of Jersey* [2018] JRC 072A.
8. It is therefore possible to conclude that this more modern judicial review jurisdiction in Jersey law would amount to a sufficient review standard for challenges of a Minister’s decision under the Law.

#### **Closed procedures**

9. The Schedule to the Law contains provision relating to the making of rules of court to be applicable in proceedings pursuant to the Law; the disclosure of material relied upon by the Minister (affecting or supporting his case), and the appointment of special counsel whose role it is to represent the interests of a party to proceedings, and their representative, from which they are excluded.
10. Typical civil procedure, and Article 6 ECHR procedural safeguards, require that a party to proceedings is entitled to know the allegations against him and to see the evidence relied upon. Courts have interpreted Article 6 ECHR as requiring that individuals are given sufficient information to enable them to give effective instructions in order to refute allegations against them. It may be permissible in certain cases, in view of pressing public interest concerns, to override this imperative, but the balance between the right of disclosure and the public interest is a fine one.
11. The Law permits proceedings and court rules in relation to the review of the imposition of asset-freezing orders to detract from this standard. The Schedule provides that rules of court may make provision, amongst other things, enabling proceedings to take place without full particulars of the reasons for decisions being given to a party to the proceedings. Further, that rules of court may make provision, amongst other things, enabling the Minister to apply to court for permission not to disclose material relevant to proceedings or that such material is considered in the absence of parties to the proceedings.
12. The ECHR assessment of the effect of these provisions has been considered on a number of previous occasions in the context of previous laws which have provided a similar provision. This will be an assessment to be determined in each case. However, a notable safeguard in this context is in paragraph 4(5) of the Schedule which states: “Nothing in this paragraph, or in rules of court as referred to in it, is to be read as requiring the court to act in a manner inconsistent with Article 6 of the Human Rights Convention.”. The provisions on rule-making can therefore be considered compatible with Article 6 ECHR in principle, but must be applied so as to strike a fair balance between the Article 6 ECHR rights of the individual and the public interest.

## **Article 8 ECHR – The right to respect for private and family life**

13. Parts 2, 3, 4 and 5 of the Law relate to identifying designated persons and the effects of being a designated person with regards to asset-freezing, both of which engage the right to respect for private and family life under Article 8 ECHR. In particular, the Law allows the Minister to make Orders to implement UK and EU sanctions provisions through Orders where –
  - (a) a UK sanctions provision is made in the UK under Regulations by virtue of the Sanctions and Anti-Money-Laundering Act 2018 (“SAML A”); or
  - (b) an EU sanctions provision is made under Chapter 2 of Title V of the Treaty on European Union and Articles 75 and 215 of the Treaty on the Functioning of the European Union.
14. Further, the Law allows the Minister to make Orders related to –
  - (a) terrorism which engages the listing of a person, group or entity designated by Regulations made under SAML A; the list provided for by Article 2(3) of Council Regulation 2580/2001; or listed on the ISIL (Da’esh) and Al-Qaida Sanctions List maintained by the UN Security Council, as well as a list maintained and amended from time to time by the committee established by the UN Security Council under resolution 1988 (2011), or a list maintained and amended from time to time by the Counter-Terrorism Committee established by the UN Security Council under resolution 1373 (2001).
  - (b) interim asset-freezing Orders and final asset-freezing Orders relating to terrorism;
  - (c) a designated person who is designated as such by an Order under Part 2 of the Crime and Security (Jersey) Law 2003; and
  - (d) a UN sanctions resolution so as to designate by an interim or final UN asset freezing Order for UN measures that are not terror-related.
15. The effect of such Orders is to make a person, a “designated person” for the purposes of the Law. As a designated person this, in turn, means that the person in question becomes subject to the asset-freezing provisions of Part 3 of the Law and the effect of those provisions includes preventing a designated person from having access to funds, resources and financial services. However, the Minister may, where he decides to do so, grant a licence under Article 16 which disapplies the prohibitions in a particular case. Further, the Minister may, by Order, provide that despite the definition of a designated person under the Law, that person is not in fact a designated person (or that some correction to identity, history and description needs to be made) by virtue of powers under Articles 19(4) and 29(2).
16. From an Article 8(1) perspective, any interference with a right must be justified under Article 8(2), meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2); and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need and the existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

17. The nature of interference constituted by the provisions in the Law would be deemed to be ‘in accordance with the law’, as those provisions have a basis in domestic legislation and can be viewed as sufficiently precise and accessible, therefore being foreseeable.
18. In terms of what is ‘necessary in a democratic society’, this requires there to be a pressing social need for the interference in question. The rationale for the provisions in the relevant Parts of the Law is to enable Jersey to meet its international obligations with regard to sanctions and the prevention of terrorism, which in turn have peace and security objectives. Asset-freezing powers and associated prohibitions are ‘necessary’ for meeting these standards and obligations, and security and the prevention of crime is a clear and pressing social need in any context. An interference pursuant to these provisions, and in pursuit of the draft Law’s objectives, would fall neatly within the national security and prevention of crime categories of justification under Article 8(2) ECHR.
19. In terms of proportionality, while the interference permitted under the provisions of Parts 2, 3, 4 and 5 of the Law would *prima facie* appear severe, the licensing system in Article 16 of the Law and the ability for the Minister to provide that a person is not a designated person (or that a corrected identity, description or history of a designated person is provided), would allow a fair balance to be struck in the imposition of asset-freezing Orders, depending on the nature of a particular case. The Law also contains provision enabling a designated person to appeal to the Royal Court or seek the setting-aside of a decision of the Minister. Therefore, taken as a whole, the proposed powers in Parts 2, 3, 4 and 5 of the Law are proportionate, when supported by the strength of rationale for the freezing of assets.

**Article 1 of the First Protocol of the ECHR (“A1P1”) – Right to property**

20. Part 3 of the Law contains provisions relating to the making and effect of asset-freezing Orders. A1P1 provides that every person (natural or legal) is entitled to the peaceful enjoyment of his possessions, and that no one shall be deprived of their possessions except in the public interest, and subject to the conditions provided for by law and by the general principles of international law.
21. Part 3 therefore engages the right to property guaranteed by A1P1 which includes, within its ambit of ‘possessions’, the types of assets to which the draft Law applies, e.g. cash, deposits, interest. The nature and effect of the asset-freezing provisions of the Law is that a person’s funds and economic resources are frozen, and those provisions will also prohibit making funds, economic resources or financial services available to or for the benefit of a designated person. These provisions can include restrictions on the enjoyment of the property of others (notably through restrictions on the provision of such property to a designated person). Such provisions will constitute a considerable interference with the A1P1 rights of designated persons, and will amount to either a deprivation of property or at least a control of use of their property.
22. Much of the assessment of justification for an interference under A1P1 is similar to that discussed above in relation to Article 8 ECHR. For an interference with the A1P1 right to be lawful it must be “necessary” and meet a “pressing social need”. The primary aim of UN sanctions is to implement decisions by the UN Security Council for the maintenance of international

peace and security. The Law and the asset-freezing provisions in particular are aimed at addressing these wider objectives specifically, in addition to demonstrating Jersey's commitment to meeting international obligations and standards in relation to the financial services industry. Implementing provisions in pursuit of strategies for the maintenance of peace and security is an obviously permissible aim for the state to pursue, so would be deemed 'necessary' and in pursuit of a 'pressing social need'. It should also be noted that, where property rights are concerned, states have a considerable margin of appreciation in determining the existence of a problem of general public concern, such as combatting the types of activities to which UN sanctions are aimed at addressing, and in implementing measures designed to meet it, such as an asset-freezing system. A final point to note here is that the interference with the A1P1 rights would be considered to be lawful because the prohibitions are sufficiently accessible and certain, i.e. contained in clearly expressed statutory provisions.

23. A measure interfering with the A1P1 right must also be proportionate to achieving the identified 'social need' and must constitute the least restrictive way of interfering with individual rights. As noted above with respect to Article 8 ECHR, a fair balance has been struck between the public interest and the interests of the property owner in particular by means of the licensing system in Article 16 (which allows controlled access to funds), as well as the Minister's powers at Articles 19(4) and 29(2). As such, the framework of provisions under which there can be an interference with property is compatible with A1P1 in principle but, again, the provisions must be applied in a proportionate manner, with concessions under the licensing system introduced where required to prevent the designated person being faced with an individual and excessive burden.

## Explanatory Note

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This Law preserves the power to implement EU sanctions, which will be repealed by the European Union (Repeal and Amendment) (Jersey) Law 2018, and adds a similar power to implement sanctions made under the Sanctions and Anti-Money Laundering Act 2018 of the UK. It also consolidates other Laws relating to the freezing (but not confiscation) of assets under international sanctions, particularly the Terrorist Asset-Freezing (Jersey) Law 2011 (“TAFL”) and the United Nations Financial Sanctions (Jersey) Law 2017 (“UNFSL”).

**Part 1** provides for interpretation of the Law.

*Article 1* contains general provisions for interpretation. Those provisions can be amended by the States by Regulations.

*Article 2* makes provision, adapted from Articles 3 and 4 of TAFL, for the meaning of the expressions “financial services”, “funds”, “economic resources”, “owned”, “held”, “controlled”, “directly” and “indirectly”. The provisions can be amended by the States by Regulations.

**Part 2** makes provision for the implementation of UK and EU sanctions, largely reproduced from Articles 2, 3 and 4 of the European Union Legislation (Implementation) (Jersey) Law 2014 (the “EU Implementation Law”), which will be repealed by Articles 6 and 7 of the European Union (Repeal and Amendment) (Jersey) Law 2018 when those Articles are brought into force.

*Article 3* enables the Minister for External Relations (the “Minister”) to implement UK and EU sanctions provisions through Orders. The provisions take those of Article 2 of the EU Implementation Law and adapt them to add power to implement provisions made in the UK by or under regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK (when that Act is brought into force).

*Article 4* makes provision, reproduced from Article 3 of the EU Implementation Law, to ensure that the implemented UK and EU sanctions can impose obligations on all those who carry on financial services business, as defined by the Proceeds of Crime (Jersey) Law 1999, whether or not that type of business would be affected in the UK or EU.

*Article 5* makes provision, reproduced from Article 4 of the EU Implementation Law, for the Minister to make a general provisions Order, that can be applied to all Orders that implement UK or EU sanctions (avoiding the need to repeat common material every time).

*Article 6* makes provision, adapted from Article 5 of the EU Implementation Law, for the interpretation of the Orders that implement UK or EU sanctions (so that they will be interpreted consistently with the implemented UK or EU provisions).

*Article 7* makes new provision for powers to be exercised by UK authorities (but not EU authorities) in relation to ships in Jersey waters. The UK authorities can stop, board and search a ship (and persons on the ship), seize goods, demand information and documents, and require the ship to be taken to a port or anchorage (and use reasonable force in exercising those functions). The powers apply if they would be available under the Sanctions and Anti-Money Laundering Act 2018 of the UK, but the Minister can make an Order disapplying or modifying the powers, enabling other persons to exercise the powers, or requiring the UK authorities to be accompanied by other persons. The provisions can be amended by the States by Regulations if the UK amends the Sanctions and Anti-Money Laundering Act 2018.

*Article 8* makes new provision for the Minister to implement, by Order, UK and EU blocking provisions. Blocking provisions are intended to counter-act the extra-territorial effect of sanctions imposed by other countries (so far only the United States of America, and only against Cuba, Iran and Libya) that are not also imposed by the UK or EU.

**Part 3** makes provision for asset-freezes against designated persons, largely reproduced from Part 3 of TAFL, which was in turn reproduced by Part 3 of UNFSL, and enforced by criminal offences carrying the same penalties as in those Laws.

*Article 9* defines “designated person” in relation to an asset-freeze. It draws together those who are designated under the reproduced provisions of TAFL and UNFSL, those who are designated under the Crime and Security (Jersey) Law 2003 (and under new powers to implement UK designations in the Act on which that Law was based – see notes below on *Article 27*), and those who are designated for this purpose when the Minister makes an Order implementing UK or EU sanctions. The definition of “designated person” can be amended by the States by Regulations.

*Article 10* freezes the funds and economic resources of designated persons. The provisions are reproduced from Article 13 of TAFL and Article 7 of UNFSL.

*Article 11* prohibits the making available, to designated persons, of funds or financial services. The provisions are reproduced from Article 14 of TAFL and Article 8 of UNFSL.

*Article 12* prohibits the making available, for benefit of designated persons, of funds or financial services. The provisions are reproduced from Article 15 of TAFL and Article 9 of UNFSL.

*Article 13* prohibits the making available, to designated persons, of economic resources. The provisions are reproduced from Article 16 of TAFL and Article 10 of UNFSL.

*Article 14* prohibits the making available, for benefit of designated persons, of economic resources. The provisions are reproduced from Article 17 of TAFL and Article 11 of UNFSL.

*Article 15* makes provision for exceptions to the prohibitions in the previous 3 Articles, to enable financial institutions to credit frozen accounts as long as the credited amounts are also frozen (and to make payments under social security legislation). The provisions are reproduced from Article 18 of TAFL and Article 12 of UNFSL.

*Article 16* enables the Minister to grant licences to allow a person to do something otherwise prohibited by this Part. The provisions are reproduced from Article 19 of TAFL and Article 13 of UNFSL.

*Article 17* prohibits intentional participation in activities when the object or effect is to circumvent the other prohibitions in this Part, or to enable or facilitate their contravention. The provisions are reproduced from Article 20 of TAFL and Article 14 of UNFSL.

**Part 4** makes provision for designation (for asset-freezes) in terrorism and related cases. The provisions are reproduced from TAFL, and supplemented by provision based on Part 3 of the Crime and Security (Jersey) Law 2003.

*Article 18* makes provision for Meaning of “terrorism” and related terms, drawn from Articles 1(1) and 8(2) of TAFL. It adds provision as to the giving of notices, drawn from Article 37 of TAFL – see also the Electronic Communications (Jersey)

Law 2000 for giving notices electronically. The provisions can be amended by the States by Regulations.

*Article 19* makes provision, drawn from Article 2 of TAFL, for the automatic designation of persons designated for asset-freezes, in relation to terrorism, by the UK, EU or UN. The reference to UK designation is updated to take account of the Sanctions and Anti-Money Laundering Act 2018 (which replaces the Terrorist Asset-Freezing etc. Act 2010 for these purposes). If designation is based solely on listing by the UN, then it is interim until the person becomes designated by the UK or EU. That interim character was introduced to TAFL by an amendment by UNFSL, which also meant the interim UN designation had effect for a maximum of 30 days. That time limit is not reproduced in these provisions, giving an effect more similar to that of TAFL before it was amended. The provisions can be amended by the States by Regulations. A designation under this Article ceases if the Minister makes an Order disapplying it (the Minister can also correct details relating to Jersey), under provisions reproduced from Article 3(5) of UNFSL, rather than TAFL – see notes below on the similar provision in *Article 29* for UN designations.

*Article 20* enables the Minister to make an interim terrorism designation. The provision is reproduced from Article 6 of TAFL, and can be amended by the States by Regulations.

*Article 21* makes provision for the duration of an interim terrorism designation. The provision is reproduced from Article 7 of TAFL.

*Article 22* enables the Minister to make a final terrorism designation. The provision is reproduced from Article 8 of TAFL (with the definition moved to *Article 18* – see note above), and can be amended by the States by Regulations.

*Article 23* makes provision for the duration and renewal of a final terrorism designation. The provision is reproduced from Article 9 of TAFL.

*Article 24* makes provision for the notification of interim or final terrorism designation. The provision is reproduced from Article 10 of TAFL.

*Article 25* makes provision for the variation or revocation of interim or final terrorism designation. The provision is reproduced from Article 11 of TAFL.

*Article 26* makes provision for confidentiality of information relating to terrorism designations. The provision is reproduced from Article 12 of TAFL.

*Article 27* makes provision for designation in cases of detriments to the economy or threats to life or property. Paragraph (1) ensures (along with amendments by *Article 49* – see notes below) that, if a person is the subject of an asset-freeze under the Crime and Security (Jersey) Law 2003, then that person is a designated person for the purpose of this Law. Paragraph (2) enables the Minister to make an Order designating a person for the purpose of this Law, if that person is designated in the UK under section 5(3) of the Anti-terrorism, Crime and Security Act 2001, on which the Crime and Security (Jersey) Law 2003 was based.

**Part 5** makes provision for designation (for asset-freezes), in cases where it is required by the United Nations (other than terrorism-related cases). The provisions are reproduced from UNFSL.

*Article 28* defines “UN Security Council”, “UN sanctions resolution”, “UN financial sanctions resolution” and “UN-listed person”, adapting the definitions in Articles 1(1) and 2 of UNFSL. The provisions can be amended by the States by Regulations.

*Article 29* makes provision for the automatic interim designation of a UN-listed person when the relevant UN financial sanctions resolution is implemented by the UK or EU.

The provision merges the effects of Article 3(2) to (5) of UNFSL and Article 3A of the EU Implementation Law (which was inserted by UNFSL). If a person is listed by the UN, and the relevant UN financial sanctions resolution is implemented by the UK or EU (even if the UK or EU has not yet updated their listing to include the person listed by the UN), that person is immediately treated as designated in Jersey (even if no Order has yet been made to implement the UK or EU sanctions provision). But this designation only lasts until at the latest 30 days from when the person is first listed by the UN (which will be before they are listed by the UK or EU, and hence before they are treated as designated in Jersey, so that the full 30 days will not normally apply). The interim designation under this Article ceases when it is overtaken by designation under another Article. It also ceases if the Minister makes an Order disapplying it (the Minister can also correct details relating to Jersey), under provisions reproduced from Article 3(5) of UNFSL.

*Article 30* enables the Minister to designate a person (regardless of any designation by the UK or EU) by making an interim UN asset-freezing Order (lasting a maximum of 30 days) to implement a UN sanctions resolution that appears to require an asset freeze. The provision is reproduced from Articles 4 and 5 of UNFSL, and can be amended by the States by Regulations (but not as to the 30 day limit).

*Article 31* enables the Minister to designate a person (again regardless of any designation by the UK or EU) by making a final UN asset-freezing Order (lasting a maximum of a year, but renewable) to implement a UN financial sanctions resolution. The provision is reproduced from Article 6 of UNFSL, and can be amended by the States by Regulations (but not as to the duration).

**Part 6** makes provision for the obtaining and disclosure of information. The provision is adapted from Part 4 of TAFL and Articles 15 and 16 of UNFSL – see also Articles 10 and 11 of the EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014. All of the Articles in this Part can be amended by the States by Regulations (see *Article 39* below).

*Article 32* makes provision for the reporting obligations of relevant financial institutions. The provision is reproduced from Article 21 of TAFL and Article 15 of UNFSL.

*Article 33* gives the Minister powers to require information in relation to the Law. The provision is reproduced from Article 22 of TAFL (which is applied by Article 16 of UNFSL).

*Article 34* makes provision as to the production of documents under a requirement under *Article 33*. The provision is reproduced from Article 23 of TAFL (which is also applied by Article 16 of UNFSL).

*Article 35* makes provision for offences relating to the provision of information. The provision is reproduced from Article 24 of TAFL and Article 16(2) to (4) of UNFSL.

*Article 36* makes provision for powers to disclose information. The provision is reproduced from Article 25 of TAFL, as adapted and applied by Article 16(5) of UNFSL in relation to UN sanctions. Names of overseas bodies are updated and provisions are added for disclosure to EU bodies, adapted from relevant provisions of Article 11 of the EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014, and for disclosure, with the Attorney General's permission, to assist an investigation into a suspected offence in any country.

*Article 37* requires the Attorney General and the Minister to take any steps they consider appropriate to co-operate with investigations, in Jersey or elsewhere, into

designated persons. The provision is reproduced from Article 26 of TAFL (which is also applied by Article 16(5) of UNFSL).

*Article 38* makes provision for the relation of the information provisions of this Law to other powers and duties in contracts and enactments. The provision is reproduced from Article 27 of TAFL (which is also applied by Article 16(5) of UNFSL).

*Article 39* enables the States to amend *Part 6* by Regulations to make alternative or supplementary provision as to the reporting, gathering, disclosure or other treatment of information for purposes of or related to this Law. This is a new provision, not reflected in TAFL and UNFSL, but adapted from the power of the Minister by Order to amend Articles 10 and 11 of the EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014, which relate to information in connection with EU sanctions.

**Part 7** and the *Schedule* make provision for reviews and appeals, drawn from Part 5 of, and the Schedule to, TAFL (which are applied by Article 17 of UNFSL).

*Article 40* makes provision for appeal to the Royal Court on certain decisions, based on Article 28 of TAFL. The list of appealable decisions is expanded to cover the main decisions made by the Minister under this Law.

*Article 41* makes provision for review by the Royal Court of any other decisions made by the Minister under this Law, reproduced from Article 29 of TAFL (and adding provision equivalent to Article 28(4) of TAFL).

*Article 42* introduces the *Schedule*, which makes provision for the procedure on appeals and reviews, reproduced from Article 30 of, and the Schedule to, TAFL. The provisions can be amended by the States by Regulations.

*Article 43* makes provision for reports on and reviews of the operation of *Part 4* (in relation to terrorism), reproduced from Articles 31 and 32 of TAFL.

**Part 8** makes general provision as to offences and other miscellaneous provision.

*Article 44* makes provision for the responsibility of directors, partners and officers for offences under this Law, and for the procedure for offences under this Law committed by unincorporated associations. The provisions are drawn from Articles 34 and 36 of TAFL (which are, respectively, reproduced in and applied by Article 18 of UNFSL), and updated to reflect similar provisions in more recent Laws. The provisions can be amended by the States by Regulations.

*Article 45* makes provision for extra-territorial application of offences under this Law, reproduced from Article 33 of TAFL (as applied by Article 18 of UNFSL).

*Article 46* makes provision for delegation by the Minister to persons other than Assistant Ministers and officers. The provisions are reproduced from Article 38 of TAFL (as applied by Article 19 of TAFL), updated to reflect changes to Articles 28, 30 and 30A of the States of Jersey Law 2005 (under which the Minister can delegate to Assistant Ministers and officers).

*Article 47* gives the Assembly power, by Regulations, to amend other enactments in relation to related matters, reproduced from Article 20(2) to (3) of UNFSL, adapted to this Law.

*Article 48* makes saving provision for sanctions Orders made under the EU Implementation Law (adapted from the equivalent savings made by Article 6 of that Law in relation to the Law that it repealed). It also gives the Assembly power, by Regulations, to make other saving, transitional and consequential provision in relation to the commencement of this Law. Other Regulations and Orders under this Law can include transitional, saving, consequential, incidental and supplementary provision.

*Article 49* amends the Crime and Security (Jersey) Law 2003, consequentially on *Article 27(1)* – see notes above. The effect is that a freezing order under that Law leads to designation for the purpose of Part 3 of this Law.

*Article 50* amends the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012, to enable a direction under that Law to require a recipient to treat a person as if that person were a designated person for the purpose of Part 3 of this Law.

*Article 51* repeals TAFL and UNFSL.

*Article 52* allows this Law to be cited as the Sanctions and Asset-Freezing (Jersey) Law 201-.

*Article 53* enables the Minister to specify the day or days on which this Law, or different provisions of this Law, are to come into force. The day or days must not be later than the date on which the power to make sanctions Orders under Article 2(1)(b) of the EU Implementation Law is removed by Article 6(a) of the European Union (Repeal and Amendment) (Jersey) Law 2018 (which will be specified by the Minister under that Law, with the approval of the Council of Ministers).





Jersey

## DRAFT SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 201-

### Arrangement

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Jersey

## DRAFT SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 201-

A **LAW** to provide for the implementation of international sanctions and the freezing of assets, 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 –

### PART 1

#### INTERPRETATION

##### 1 Interpretation

(1) In this Law –

“designated person” has the meaning given by Article 9;

“designation” means designation under Article 3(4)(c), Part 4 or Part 5;

“economic resources” has the meaning given by Article 2;

“EU” has the meaning given by the EU Implementation Law;

“EU Implementation Law” means the European Union Legislation (Implementation) (Jersey) Law 2014<sup>1</sup>;

“EU provision” has the meaning given by the EU Implementation Law;

“EU sanctions provision” has the meaning given by Article 3(2)(b);

“final terrorism designation” means a designation made under Article 22;

“financial services” has the meaning given by Article 2;

“funds” has the meaning given by Article 2;

“interim terrorism designation” means a designation made under Article 20;

“involved in terrorist activity” is to be read in accordance with Article 18;

“Minister” means the Minister for External Relations;

“person” includes, without prejudice to the generality of Part 1 of the Schedule to the Interpretation (Jersey) Law 1954<sup>2</sup>, an organisation and any other association or combination of persons;

“relevant financial institution” means –

- (a) a person (whether or not an individual) who carries on financial services business, within the meaning of the Proceeds of Crime (Jersey) Law 1999<sup>3</sup>, in or from within Jersey; or
- (b) a person (not being an individual) that is incorporated or constituted under the law of Jersey and carries on such financial services business in any part of the world;

“special counsel” means a person appointed as such under paragraph 5 of the Schedule;

“terrorism” and related terms are to be read in accordance with Article 18;

“UK” means the United Kingdom;

“UK sanctions provision” has the meaning given by Article 3(2)(a);

“UN financial sanctions resolution” has the meaning given by Article 28(2);

“UN-listed person” has the meaning given by Article 28(3);

“UN sanctions resolution” has the meaning given by Article 28(1)(b);

“UN Security Council” has the meaning given by Article 28(1)(a).

- (2) A reference in this Law to an enactment of the UK or of the EU is a reference to that enactment as amended from time to time.
- (3) A reference in this Law to a function or offence under this Law includes a reference to a function or offence under an Order under this Law.
- (4) The States may by Regulations amend this Article to make alternative or supplementary provision as to definitions of expressions used in this Law.

## **2 Meaning of “financial services”, “funds”, “economic resources” and related expressions**

- (1) In this Law, “financial services” means any services of a financial nature, including –
  - (a) insurance-related services consisting of any of the following –
    - (i) direct life assurance,
    - (ii) direct insurance other than life assurance,
    - (iii) reinsurance and retrocession,
    - (iv) insurance intermediation, such as brokerage and agency,
    - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

- 
- (b) banking and other financial services consisting of any of the following –
- (i) accepting deposits and other repayable funds,
  - (ii) lending (including consumer credit, mortgage credit, factoring, and financing of commercial transactions),
  - (iii) financial leasing,
  - (iv) payment and money transmission services (including by credit, charge and debit cards, travellers' cheques and bankers' drafts),
  - (v) providing guarantees or commitments,
  - (vi) financial trading,
  - (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues,
  - (viii) money brokering,
  - (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services,
  - (x) settlement and clearing services for financial assets (including for securities, derivative products and other negotiable instruments),
  - (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services),
  - (xii) providing advisory or other auxiliary financial services in respect of any activity listed in clauses (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy); and
- (c) any service that –
- (i) is provided by way of financial service business, within the meaning of Article 2 of the Financial Services (Jersey) Law 1998<sup>4</sup>, and
  - (ii) does not fall within sub-paragraph (a) or (b).
- (2) In paragraph (1)(b)(vi), “financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in any of the following –
- (a) money market instruments (including cheques, bills and certificates of deposit);
  - (b) foreign exchange;
  - (c) derivative products (including futures and options);
  - (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
  - (e) transferable securities;

- 
- (f) other negotiable instruments and financial assets (including bullion).
- (3) In this Law, “funds” means financial assets and benefits of every kind, including any of the following –
- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
  - (b) deposits with relevant financial institutions or other persons, balances on accounts, debts and debt obligations;
  - (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
  - (d) interest, dividends and other income on or value accruing from or generated by assets;
  - (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
  - (f) letters of credit, bills of lading and bills of sale;
  - (g) documents providing evidence of an interest in funds or financial resources;
  - (h) any other instrument, being an instrument of export financing.
- (4) In this Law, “economic resources” means assets of every kind, whether tangible or intangible, and movable or immovable, that are not funds but can be used to obtain funds, goods or services.
- (5) The fact that funds or economic resources are owned, held or controlled by a designated person jointly with another person or otherwise does not prevent those funds being treated as being owned, held or controlled by the designated person for the purposes of this Law.
- (6) A reference in this Law to an account, funds or economic resources being “owned, held or controlled” by a person includes a reference to them being owned, held or controlled directly or indirectly by that person.
- (7) In this Law –
- (a) the words “owned”, “held”, “controlled”, “directly” and “indirectly” have the same meaning as they have in Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism; and
  - (b) Article 5 of the EU Implementation Law applies to any question as to the meaning or effect of those words, as that Article applies to such a question in relation to a provision given effect in Jersey under that Law.
- (8) The States may by Regulations amend this Article to make alternative or supplementary provision as to the meaning of expressions used in Part 3 (including expressions that are also used elsewhere).

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**PART 2****IMPLEMENTATION OF UK AND EU SANCTIONS****3 Implementation of UK and EU sanctions provisions through Orders**

- (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 effect, either wholly or partly, to a UK sanctions provision or an EU sanctions provision; or
  - (b) dealing with matters arising out of or related to any such sanctions provision.
- (2) For the purpose of paragraph (1) –
  - (a) a UK sanctions provision is a provision made in the UK by or under regulations made under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK; and
  - (b) an EU sanctions provision is a provision made by any EU institution, by an instrument that is 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 the Treaty on the Functioning of the European Union.
- (3) In paragraph (2)(b) the expressions “EU institution”, “Treaty on European Union” and “Treaty on the Functioning of the European Union” have the meanings given by the EU Implementation Law.
- (4) Without prejudice to the generality of paragraph (1), an Order under that paragraph may –
  - (a) make provision by reference to or by incorporation (by reference, annexation or otherwise) of a UK sanctions provision or an EU sanctions provision, or of any class or description of such 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 UK sanctions provision or EU sanctions provision as may be specified in the Order,
    - (ii) make adaptations or modifications mentioned in clause (i) by providing that any one or more of Jersey, Guernsey, the Isle of Man and the UK are to be treated as if they were a member State, or formed part of the UK, for the purpose of the provision,
    - (iii) provide that a reference to the UK sanctions provision or EU sanctions provision is to be read as a reference to that provision as amended, substituted, extended or applied from

- time to time by any other UK sanctions provision or EU sanctions provision,
- (iv) provide that a reference to the UK sanctions provision or EU sanctions provision is to be read as a reference to that provision as that provision otherwise has effect in the UK from time to time by virtue of any judgment of a court in the UK, or otherwise has effect in the EU from time to time by virtue of any judgment of the European Court;
  - (c) provide that a person, against whom a prohibition is imposed by the UK sanctions provision or EU sanctions provision for a purpose falling within a sub-paragraph of Article 28(2), is a designated person for the purpose of Part 3, if the Minister is satisfied that it is necessary or expedient to do so in order to implement that prohibition;
  - (d) include provision made under any of Articles 4 to 7;
  - (e) include such incidental, supplemental or transitional provisions or savings as the Minister considers expedient.
- (5) The provision that may be made by Order under paragraph (1) does not include provision –
- (a) imposing a penalty of imprisonment for more than 7 years for a criminal offence;
  - (b) imposing or increasing taxation; or
  - (c) taking effect from a date earlier than that of the making of the Order containing the provision.

#### **4 Implementation of UK and EU provisions: financial services**

- (1) Paragraph (2) applies if a UK sanctions provision or an EU sanctions provision 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.
- (2) An Order under Article 3 may, if the Minister considers it necessary or expedient in the interests of Jersey or for the better implementation of the UK sanctions provision or EU sanctions 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 UK sanctions provision or EU sanctions provision would not otherwise impose the obligation or prohibition on persons of that description in the UK or the EU; and
  - (b) the person is a relevant financial institution.

## **5 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 3(1) in relation to one or more particular UK sanctions provisions or EU sanctions provisions;
  - (b) a general provision is any provision that, although not relating to a particular UK sanctions provision or EU sanctions 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 1954<sup>5</sup>, 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.

## **6 Interpretation of Orders and of UK and EU provisions**

- (1) In this Article “implement”, in relation to an Order and to a UK sanctions provision or an EU sanctions provision, means to purport –
  - (a) to give effect, wholly or partly, to that provision, or to deal with matters arising out of or related to it, under Article 3; or
  - (b) to impose or adapt an obligation or prohibition contained in that provision, under Article 4(2).
- (2) Unless the contrary intention appears, an expression used in an Order that implements a UK sanctions provision is to be read, if that expression is not used in this Law but is used in the UK sanctions provision, as having the same meaning as in that provision.
- (3) Unless the contrary intention appears an expression, used in an Order that implements an EU sanctions provision, is to be read –
  - (a) if that expression is used in the EU sanctions 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 EU Implementation Law, as having the meaning so assigned.
- (4) Article 5 of the EU Implementation Law applies to any question as to the validity, meaning or effect of an EU sanctions provision that is

implemented by an Order, as that Article applies to such a question in relation to an implemented EU provision within the meaning of that Law.

- (5) An Order that implements an EU sanctions provision may provide that paragraph (4) does not apply, at all or to any specified extent, to the EU sanctions provision for the purpose of that implementation.

## **7 Powers in relation to ships in Jersey waters under UK sanctions provisions**

- (1) Paragraph (2) applies if a UK sanctions provision –
- (a) is contained in regulations made under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK; and
  - (b) confers, under the law of the UK, a function falling within paragraph (5) (the “relevant function”) on a person prescribed by those regulations (the “UK-prescribed person”), in relation to a ship.
- (2) The UK-prescribed person may exercise the relevant function when the ship is in the territorial sea adjacent to Jersey, to enforce the UK sanctions provision.
- (3) Paragraph (2) applies –
- (a) regardless of any limitation under the law of the UK as to the sea in which the ship must be present for the relevant function to be exercised; and
  - (b) regardless of whether the UK sanctions provision is given effect by an Order under Article 3.
- (4) The Minister may, despite paragraphs (1) to (3) and without prejudice to the generality of Article 3, by Order –
- (a) disapply or modify the effect of paragraph (2) in relation to the UK sanctions provision;
  - (b) provide that any other person or description of persons may exercise the relevant function under paragraph (2), in addition to the UK-prescribed person;
  - (c) require the UK-prescribed person, exercising the relevant function under paragraph (2), to be accompanied by any other person or description of persons.
- (5) A function falls within this paragraph in relation to a ship if it is a power or duty to –
- (a) stop, board or search the ship;
  - (b) stop or search a person on the ship;
  - (c) seize goods found on such a search;
  - (d) require a person on the ship to provide information or produce documents;
  - (e) inspect or copy such documents or information;
  - (f) require the ship to be taken to a port or anchorage (whether in Jersey or elsewhere); or

- (g) use reasonable force in the exercise of a function falling within any of the preceding sub-paragraphs.
- (6) If Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK is amended, the States may by Regulations amend this Article to make such provision as the States consider necessary or expedient in relation to the amendment to that Act.

## **8 Implementation of UK and EU blocking provisions**

- (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 effect, either wholly or partly, to a blocking provision; or
  - (b) dealing with matters arising out of or related to a blocking provision.
- (2) For the purpose of paragraph (1), a blocking provision is –
  - (a) Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (OJ L 309, 29.11.1996, p. 1), and any EU provision made under that Council Regulation;
  - (b) the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996 of the UK (SI Number 3171 of 1996);
  - (c) either of those instruments if, and to the extent that, they are given effect in the UK as retained EU law under the European Union (Withdrawal) Act 2018 of the UK; or
  - (d) any other legislation of the UK or EU that –
    - (i) is enacted after the date on which the proposition for this Law is lodged, and
    - (ii) appears to the Minister to serve a purpose similar to the instruments mentioned in sub-paragraphs (a) and (b) in relation to legislation appearing to the Minister to fall within paragraph (3).
- (3) Legislation falls within this paragraph if it –
  - (a) is adopted by a country or territory other than the UK;
  - (b) purports to have extra-territorial effect;
  - (c) purports to impose a prohibition for a purpose falling within a sub-paragraph of Article 28(2); and
  - (d) does not implement a UN sanctions resolution.

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## PART 3

### ASSET-FREEZES AGAINST DESIGNATED PERSONS

#### 9 Meaning of “designated person”

- (1) In this Part “designated person” means a person, group or entity that is a designated person for the purpose of this Part by virtue of any one or more of the following –
  - (a) a provision included, under Article 3(4)(c), in an Order implementing a UK sanctions provision or an EU sanctions provision;
  - (b) the operation of Article 19;
  - (c) an interim terrorism designation made by the Minister under Article 20;
  - (d) a final terrorism designation made by the Minister under Article 22;
  - (e) the operation of Article 27(1);
  - (f) an Order under Article 27(2);
  - (g) the operation of Article 29;
  - (h) an interim UN asset-freezing Order under Article 30;
  - (i) a final UN asset-freezing Order under Article 31.
- (2) The States may by Regulations amend this Article to make alternative or supplementary provision as to the meaning of “designated person”.

#### 10 Freezing of funds and economic resources

- (1) A person (“P”) must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.
- (2) In paragraph (1) “deal with” means –
  - (a) in relation to funds –
    - (i) use, alter, move, allow access to, or transfer, the funds,
    - (ii) deal with the funds in any other way that would result in any change in their volume, amount, location, ownership, possession, character or destination, or
    - (iii) make any other change that would enable use of the funds, including by way of, or in the course of, portfolio management; or
  - (b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.
- (3) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

**11 Making funds or financial services available to designated person**

- (1) A person (“P”) must not make funds or financial services available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or financial services so available.
- (2) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

**12 Making funds or financial services available for benefit of designated person**

- (1) A person (“P”) must not make funds or financial services available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds or financial services so available.
- (2) For the purpose of this Article –
  - (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
  - (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
- (3) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

**13 Making economic resources available to designated person**

- (1) A person (“P”) must not make economic resources available (directly or indirectly) to a designated person if P knows, or has reasonable cause to suspect –
  - (a) that P is making the economic resources so available; and
  - (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.
- (2) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

**14 Making economic resources available for benefit of designated person**

- (1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.
- (2) For the purpose of this Article –
  - (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and

- (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
- (3) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

## 15 Exceptions

- (1) Articles 10(1), 11(1) and 12(1) do not prevent a relevant financial institution from crediting a frozen account with –
  - (a) interest or other earnings due on the account; or
  - (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.
- (2) Article 11(1) and 12(1) do not prevent a relevant financial institution from crediting a frozen account where it receives funds transferred to the account.
- (3) Article 12(1) is not contravened by the making of a payment that –
  - (a) is a benefit under or by virtue of an enactment relating to social security (irrespective of the name or nature of the benefit); and
  - (b) is made to a person who is not a designated person, whether or not the payment is made in respect of a designated person.
- (4) A relevant financial institution must, as soon as practicable but in any case within 14 days, inform the Minister if it credits a frozen account with a payment referred to in paragraph (1)(b) or in the circumstances referred to in paragraph (2).
- (5) A failure to comply with paragraph (4) does not constitute an offence but the Royal Court may, on the application of the Attorney General or the Minister, grant an injunction or other order in respect of compliance with paragraph (4).
- (6) In this Article “frozen account” means an account with a relevant financial institution, being an account owned, held or controlled by a designated person.

## 16 Licences

- (1) Articles 10(1), 11(1), 12(1), 13(1) and 14(1) do not apply to anything done under the authority of a licence granted by the Minister under this Article.
- (2) The Minister may grant a licence in respect of a designated person.
- (3) A licence granted under this Article –
  - (a) must specify the acts authorised by it;
  - (b) may be general or granted to a category of persons or to a particular person;
  - (c) may be unconditional or subject to conditions; and
  - (d) may be unlimited or limited in duration.

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- (4) The Minister may at any time vary or revoke a licence granted under this Article.
  - (5) On the grant, variation or revocation of a licence under this Article, the Minister must –
    - (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person; or
    - (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Minister considers appropriate to publicise the grant, variation or revocation of the licence.
  - (6) A person commits an offence, and is liable to imprisonment for a term of 5 years and to a fine, if the person, for the purpose of obtaining a licence under this Article, knowingly or recklessly –
    - (a) provides information that is false in a material respect; or
    - (b) provides or produces a document that is not what it purports to be.
  - (7) A person commits an offence, and is liable to imprisonment for a term of 5 years and to a fine, if the person –
    - (a) purports to act under the authority of a licence granted under this Article; but
    - (b) fails to comply with any condition to which the licence is subject.

#### **17 Circumventing prohibitions etc.**

- (1) A person must not intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly) –
  - (a) to circumvent Article 10(1), 11(1), 12(1), 13(1) or 14(1); or
  - (b) to enable or facilitate the contravention of any of those provisions.
- (2) A person who contravenes paragraph (1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.

### **PART 4**

#### **DESIGNATION FOR ASSET-FREEZE: TERRORISM AND RELATED**

#### **18 Meaning of “terrorism” and related terms**

- (1) For the purposes of this Part –
  - (a) “terrorism” has the same meaning as in the Terrorism (Jersey) Law 2002<sup>6</sup>;
  - (b) involvement in terrorist activity is any one or more of the following –
    - (i) the commission, preparation or instigation of acts of terrorism,
    - (ii) conduct that facilitates the commission, preparation or instigation of such acts, or that is intended to do so,

- (iii) conduct that gives support or assistance to persons who are known or believed by the person giving the support or assistance to be involved in conduct falling within clauses (i) or (ii); and
  - (c) it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.
- (2) A reference in this Part to giving notice to a person is to be read as a reference to –
  - (a) sending the notice in the manner by which the person was last known to receive notices;
  - (b) if the person is a body corporate, partnership or unincorporated body other than a partnership, sending it to the registered or principal office of the body or partnership; or
  - (c) if neither (a) nor (b) applies, taking reasonable steps to send it to the person at the first available opportunity.
- (3) The States may by Regulations amend this Article to make alternative or supplementary provision as to meanings of expressions related to terrorism.

## **19 Designation by virtue of UK, EU or UN listing related to terrorism**

- (1) A person, group or entity is a designated person, for the purpose of Part 3, if he, she or it –
  - (a) is a designated person within the meaning of the Sanctions and Anti-Money Laundering Act 2018 of the UK, by virtue of Regulations under that Act that –
    - (i) state, under section 2(3) of that Act, their purpose as being a particular purpose that is within section 1(2)(a) of that Act, or
    - (ii) are specified by the Minister by Order for the purpose of this sub-paragraph, as Regulations that appear to the Minister to designate persons on the basis of being, or being suspected of being, involved in terrorist activity;
  - (b) is included in the list (as in force from time to time) provided for by Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (as that Regulation is amended from time to time); or
  - (c) is listed on –
    - (i) the ISIL (Da'esh) and Al-Qaida Sanctions List maintained and amended from time to time by the Committee established by the UN Security Council under resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities,
    - (ii) a list maintained and amended from time to time by the Committee established by the UN Security Council under

resolution 1988 (2011), as being associated with the Taliban,  
or

- (iii) a list maintained and amended from time to time by the Counter Terrorism Committee established by the UN Security Council under resolution 1373 (2001).
- (2) Despite paragraph (1)(c), a person, group or entity ceases to be a “designated person” by virtue of that sub-paragraph if he, she or it remains listed as mentioned in that sub-paragraph at a time at which he, she or it becomes a “designated person” by virtue of either or both of paragraphs (1)(a) and (b).
- (3) The States may by Regulations amend paragraphs (1) and (2), to make alternative or supplementary provision as to descriptions of person who are to be designated persons for the purpose of Part 3, being persons appearing to the States to be identified by the United Nations, or by any government or international body, as having a connection with terrorism that calls for designation for the purpose of that Part.
- (4) The Minister may by Order –
- (a) provide that a particular person is not, despite paragraph (1), a designated person for the purpose of this Law; or
  - (b) provide that a corrected identity, description or history of a particular person is to apply for the purpose of any or all of the sub-paragraphs of paragraph (1), if the Minister is satisfied that there is an inaccurate reference to Jersey, or to a matter relating to Jersey, in the identity, description or history of that person in –
    - (i) the designation by virtue of which that person falls within paragraph (1)(a),
    - (ii) the list mentioned in paragraph (1)(b), by virtue of which that person falls within that sub-paragraph, or
    - (iii) a list mentioned in paragraph (1)(c)(i), (ii) or (iii), by virtue of which that person falls within paragraph (1)(c).

## **20 Power of Minister to make interim terrorism designation**

- (1) A person is a designated person, for the purpose of Part 3, if an interim terrorism designation of that person, made by the Minister under paragraph (2), has effect.
- (2) The Minister may make an interim terrorism designation of a person if the Minister considers that it is necessary, for purposes connected with protecting members of the public from terrorism, that financial restrictions should be applied in relation to the person and –
- (a) the Minister reasonably suspects that the person is or has been involved in terrorist activity;
  - (b) the Minister reasonably suspects that the person is owned or controlled (directly or indirectly) by a person who the Minister reasonably suspects is or has been involved in terrorist activity; or

- (c) the Minister reasonably suspects that the person is acting on behalf of or at the direction of a person who the Minister reasonably suspects is or has been involved in terrorist activity.
- (3) The reference in paragraph (2) to financial restrictions includes a reference to restrictions relating to economic resources.
- (4) Paragraph (2) does not empower the Minister –
  - (a) to make more than one interim designation of the same person in relation to the same, or substantially the same, evidence; or
  - (b) to renew an interim designation.
- (5) Nothing in this Article, however, prevents the making of a final terrorism designation under Article 22 of a person who has been the subject of an interim designation.
- (6) The States may by Regulations amend this Article to make alternative or supplementary provision as to the making of, but not the duration of, interim terrorism designations.

## **21 Duration of interim terrorism designation**

- (1) An interim terrorism designation of a person –
  - (a) is of no effect during any period when the person is a designated person by virtue of any provision of this Law other than Article 20; and
  - (b) expires at the end of the 30 days beginning with the day on which it was made, or when a final terrorism designation of the person is made, whichever is earlier.
- (2) Where an interim designation expires the Minister must –
  - (a) give written notice of the expiry to the designated person; and
  - (b) take reasonable steps to bring the expiry to the attention of the persons who were informed of the designation under Article 24.
- (3) Where an interim designation expires on the making of a final terrorism designation in relation to the same person –
  - (a) a notice under paragraph (2) may be combined with written notice under Article 24 of the final terrorism designation; and
  - (b) steps under paragraph (2) may be combined with steps under Article 24 to publicise the final terrorism designation.

## **22 Power of Minister to make final terrorism designation**

- (1) A person is a designated person, for the purpose of Part 3, if a final terrorism designation of that person, made by the Minister under paragraph (2), has effect.
- (2) The Minister may make a final terrorism designation of a person if the Minister considers that it is necessary, for purposes connected with protecting members of the public from terrorism, that financial restrictions should be applied in relation to the person and –

- (a) the Minister reasonably believes that the person is or has been involved in terrorist activity;
  - (b) the Minister reasonably believes that the person is owned or controlled (directly or indirectly) by a person who the Minister reasonably believes is or has been involved in terrorist activity; or
  - (c) the Minister reasonably believes that the person is acting on behalf of or at the direction of a person who the Minister reasonably believes is or has been involved in terrorist activity.
- (3) The reference in paragraph (2) to financial restrictions includes a reference to restrictions relating to economic resources.
  - (4) The States may by Regulations amend this Article to make alternative or supplementary provision as to the making of, but not the duration or renewal of, final terrorism designations.

### **23 Duration and renewal of final terrorism designation**

- (1) A final terrorism designation of a person –
  - (a) is of no effect during any period when the person is a designated person by virtue of any provision of this Law other than Article 20 or 22; and
  - (b) expires 12 months after it was made, unless it is renewed.
- (2) The Minister may renew a final terrorism designation of a person at any time before it expires, if the requirements for final terrorism designation under Article 22 are met in respect of the person at the time of the renewal.
- (3) A final terrorism designation so renewed expires 12 months after it was renewed (or last renewed), unless it is renewed again.
- (4) Article 24 applies to the renewal under this Article of a final terrorism designation in the same way as it applies to a final terrorism designation under Article 22.
- (5) Where a final terrorism designation expires the Minister must –
  - (a) give written notice of the expiry to the designated person; and
  - (b) take reasonable steps to bring the expiry to the attention of the persons who were informed of the designation under Article 24.
- (6) Nothing in this Article prevents the Minister from designating a person more than once under Article 22.

### **24 Notification of interim or final terrorism designation**

- (1) Where the Minister makes a designation of a person, the Minister must –
  - (a) give written notice of the designation to the person; and
  - (b) take steps to publicise the designation.
- (2) Unless one or more of the following conditions is satisfied, the Minister must take steps to publicise the designation generally –

- 
- (a) the Minister believes that the designated person is an individual under the age of 18;
  - (b) the Minister considers that disclosure of the designation should be restricted –
    - (i) in the interests of the security of Jersey or of any other country or territory,
    - (ii) for reasons connected with the prevention or detection of serious crime, or
    - (iii) in the interests of justice.
  - (3) If one or more of those conditions is satisfied, the Minister must inform only such persons of the designation as the Minister considers appropriate.
  - (4) If one or more of the conditions referred to in paragraph (2) is satisfied in respect of a designation, but later none of the conditions referred to in paragraph (2) is satisfied in respect of the designation, and the designation is still in effect, the Minister must –
    - (a) give written notice of that fact to the designated person; and
    - (b) take steps to publicise the designation generally.

## **25 Variation or revocation of interim or final terrorism designation**

- (1) The Minister may at any time vary or revoke a designation.
- (2) Where the Minister varies or revokes a designation of a person, the Minister must –
  - (a) give written notice of the variation or revocation to the person; and
  - (b) take reasonable steps to bring the variation or revocation to the attention of the persons who were informed of the designation under Article 24.
- (3) If the Minister refuses an application by a person for the variation or revocation of the person's designation by the Minister, the Minister must give written notice of the refusal to the person.

## **26 Confidential information relating to terrorism designation**

- (1) Where the Minister in accordance with Article 24(3) informs only certain persons of the designation of a person, the Minister may specify that the information conveyed in so informing those people is to be treated as confidential.
- (2) A person who –
  - (a) is provided with information that is so specified as to be treated as confidential; or
  - (b) obtains such information,must not disclose it if the person knows, or has reasonable cause to suspect, that the information has been specified under paragraph (1) as information to be treated as confidential.

- (3) Paragraph (2) does not apply to any disclosure made by the person if that disclosure is made with lawful authority.
- (4) For the purpose of paragraph (3), information is disclosed with lawful authority only if and to the extent that –
  - (a) the disclosure is made by the Minister or authorised by the Minister;
  - (b) the disclosure is made by the designated person or made with the consent of the designated person;
  - (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of this Law or any other enactment; or
  - (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.
- (5) This Article does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.
- (6) A person who contravenes paragraph (2) commits an offence and is liable to imprisonment for a term of 2 years and to a fine.
- (7) The Royal Court may, on the application of the designated person who is the subject of the information, or on the application of the Attorney General or the Minister, grant an injunction to prevent a breach of paragraph (2).

## **27 Designation for detriment to economy or threat to life or property**

- (1) A person is a designated person, for the purpose of Part 3, if the person is specified as such by an Order under Part 3 of the Crime and Security (Jersey) Law 2003<sup>7</sup>.
- (2) The Minister may by Order designate a person, for the purpose of Part 3, if the person is specified, under section 5(3) of the Anti-terrorism, Crime and Security Act 2001 of the UK, in an order under that section in relation to the UK.

## **PART 5**

### **DESIGNATION FOR ASSET-FREEZE: UNITED NATIONS MEASURES, NOT TERROR-RELATED**

## **28 Meaning of “UN Security Council”, “UN sanctions resolution”, “UN financial sanctions resolution” and “UN-listed person”**

- (1) In this Part –
  - (a) “UN Security Council” means the Security Council of the United Nations;
  - (b) “UN sanctions resolution” means a resolution adopted by the UN Security Council under Article 41 of the Charter of the United Nations.

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- (2) In this Part “UN financial sanctions resolution” means a UN sanctions resolution that requires states to impose a prohibition for one or more of the following purposes –
- (a) freezing funds or economic resources owned, held or controlled by a person specified in –
    - (i) the UN sanctions resolution itself,
    - (ii) another UN sanctions resolution, or
    - (iii) an instrument made by an organ of the United Nations for the purpose of the UN sanctions resolution;
  - (b) preventing funds or economic resources being made available to, or for the benefit of a person so specified;
  - (c) prohibiting access to financial markets or financial services by, or for the benefit of a person so specified.
- (3) In this Part “UN-listed person” means a person who, in relation to a UN financial sanctions resolution, is specified in a manner described in a sub-paragraph of paragraph (2) for a purpose falling within that sub-paragraph.
- (4) For the purposes of paragraphs (1) to (3) it is irrelevant whether the UN sanctions resolution requires states to take other measures in addition to imposing a prohibition for a purpose mentioned in paragraph (2).
- (5) The States may by Regulations amend paragraphs (2) to (4) to make alternative or supplementary provision as to the meanings of “UN financial sanctions resolution” and “UN-listed person”.

**29 Interim designation of UN-listed person when UNSCR is implemented by UK or EU**

- (1) A person is a designated person, for the purpose of Part 3, if –
- (a) the person is a UN-listed person;
  - (b) a UN financial sanctions resolution, in respect of which that person is a UN-listed person, is implemented –
    - (i) in the UK, by a provision that is, or is contained in, a UK sanctions provision, or
    - (ii) in the EU, by an EU sanctions provision;
  - (c) no more than 30 days have elapsed since the day on which the person became a UN-listed person; and
  - (d) the person has not become a designated person under any other Article of this Law.
- (2) The Minister may by Order –
- (a) provide that a particular person is not, despite paragraph (1), a designated person for the purpose of Part 3; or
  - (b) provide that a corrected identity, description or history of a particular person is to apply for the purpose of paragraph (1), if satisfied that there is an inaccurate reference to Jersey, or to a matter relating to Jersey, in the identity, description or history of that person in –

- (i) the resolution or instrument by virtue of which that person is a UN-listed person, or
- (ii) the UK sanctions provision, or EU sanctions provision, falling within paragraph (1)(b)(i) or (ii) respectively in relation to that person.

### **30 Designation by interim UN asset-freezing Order**

- (1) The Minister may by Order (an “interim UN asset-freezing Order”) specify a resolution, adopted by the UN Security Council, for the purpose of this Article if the Minister considers that all of the conditions in paragraph (2) are met.
- (2) The conditions are –
  - (a) that the resolution appears to be a UN financial sanctions resolution, and accordingly that it appears that it does or will relate to one or more UN-listed persons;
  - (b) that there is an urgent need to implement the resolution in respect of UN-listed persons to whom the resolution does or will relate; and
  - (c) that it is proportionate to make the Order, for the purpose of temporarily imposing the requirements of Part 3 in relation to UN-listed persons to whom the resolution does or will relate, in order to avoid a risk that the resolution might not otherwise be implemented effectively in Jersey.
- (3) A person is a designated person, for the purpose of Part 3, by virtue of an interim UN asset-freezing Order at any time at which that person –
  - (a) is a UN-listed person in relation to the resolution specified by the interim UN asset-freezing Order; and
  - (b) is not a designated person under Part 4.
- (4) For the purpose of paragraph (3) it is irrelevant whether that person is a UN-listed person at the time of the making of the Order or becomes a UN-listed person after that time.
- (5) An interim UN asset-freezing Order must provide that (unless earlier revoked) it ceases to have effect on whichever is the soonest of –
  - (a) the end of a period of 30 days after the day of the adoption by the UN Security Council of the UN sanctions resolution that is implemented by that Order (the “relevant UN resolution”);
  - (b) the commencement of any Order under Article 3(1) that gives effect to a UK sanctions provision or an EU sanctions provision, that implements (in the UK or the EU) the relevant UN resolution; and
  - (c) the date (if any) on which the relevant UN resolution ceases to have effect.
- (6) The Minister must not amend the sunset provision of an interim UN asset-freezing Order, being the provision that is made under paragraph (5), except –

- (a) on only one occasion, and only if that occasion falls before the day on which the Order otherwise ceases to have effect;
  - (b) so as to substitute, for the period of 30 days mentioned in paragraph (5)(a), a period of a number of days, specified in the amending Order, being no more than 60 days; and
  - (c) without limiting the operation of the provision made under paragraph (5)(b).
- (7) The States may by Regulations amend paragraph (1) to (4) to make alternative or supplementary provision as to the making of, but not the duration of, an interim UN asset-freezing Order.

### **31 Designation by final UN asset-freezing Order**

- (1) The Minister may by Order (a “final UN asset-freezing Order”) specify a UN sanctions resolution for the purpose of this Article if the Minister considers that one of the conditions in paragraph (2) is met.
- (2) The conditions are that, in respect of the UN sanctions resolution, the Minister considers –
- (a) that the resolution requires all of the provisions of Part 3 to be applied in relation to the persons who are or will become UN-listed persons in relation to that resolution, or does so when regard is had to the power to grant licences under Article 16; or
  - (b) that, although the condition in sub-paragraph (a) is not met, it is proportionate, in order to implement the resolution effectively in Jersey, to apply all of those provisions in relation to those persons until the date specified under paragraph (4).
- (3) In determining whether to make a final UN asset-freezing Order, the Minister must take account of whether the UK or the EU has implemented the resolution, and –
- (a) if the UK or the EU, or both, has implemented the resolution, of whether it would be more effective or more proportionate to implement the resolution by an Order under Article 3(1); or
  - (b) if neither the UK nor the EU has implemented the resolution, of whether there is some reason to implement the resolution in Jersey despite any apparent reason for the UK and the EU not doing so.
- (4) A final UN asset-freezing Order must describe each person who is a UN-listed person in relation to the resolution specified under paragraph (1), but the Order –
- (a) may do so in any manner, including by referring to the resolution or other instrument in which the person is specified as a UN-listed person; and
  - (b) may provide that a reference in the Order to such a resolution or instrument is to have effect as a reference to the resolution or instrument as amended from time to time, including in relation to persons who may become UN-listed persons after the commencement of the Order.

- (5) A person is a designated person, for the purpose of Part 3, by virtue of a final UN asset-freezing Order at any time at which that person –
  - (a) is a UN-listed person described, under paragraph (4), in a final UN asset-freezing Order; and
  - (b) is not a designated person under Part 4.
- (6) A final UN asset-freezing Order must provide that, unless earlier revoked, it ceases to have effect on a date specified in the Order, being no later than 12 months after the Order was made or last amended.
- (7) The States may by Regulations amend paragraph (1) to (5) to make alternative or supplementary provision as to the making of, but not the duration of, a final UN asset-freezing Order.

## **PART 6**

### INFORMATION

#### **32 Reporting obligations of relevant financial institutions**

- (1) A relevant financial institution must inform the Minister as soon as practicable if –
  - (a) it holds an account of a person, has entered into dealings or an agreement with a person or has been approached by or on behalf of a person;
  - (b) it knows, or has reasonable cause to suspect, that the person –
    - (i) is a designated person, or
    - (ii) has committed an offence under this Law; and
  - (c) the information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business.
- (2) The information given to the Minister under paragraph (1) must include –
  - (a) the information or other matter on which the institution's knowledge or reasonable cause for suspicion is based;
  - (b) any information that the institution holds about the person by which the person can be identified; and
  - (c) if the person is a customer or client of the institution, the nature and amount or quantity of any funds or economic resources held by the institution for the person at the time when –
    - (i) the institution first had the knowledge or reasonable cause for suspicion, or
    - (ii) this Article came into force,whichever time is the later.
- (3) A relevant financial institution that fails to comply with paragraph (1) commits an offence and is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.

**33 Powers to require information**

- (1) The Minister may require a designated person to provide information concerning –
  - (a) funds or economic resources owned, held or controlled by, or on behalf of, the designated person; or
  - (b) any disposal of such funds or economic resources.
- (2) The Minister may require a designated person to provide such information as the Minister may reasonably require about expenditure –
  - (a) by or on behalf of the designated person; or
  - (b) for the benefit of the designated person.
- (3) The power in paragraph (1) or (2) is exercisable only where the Minister believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Law.
- (4) The Minister may require a person acting under a licence granted under Article 16 to provide information concerning –
  - (a) funds or economic resources dealt with under the licence; or
  - (b) funds, economic resources or financial services made available under the licence.
- (5) The Minister may require any person in or resident in Jersey to provide such information as the Minister may reasonably require for the purpose of –
  - (a) establishing for the purposes of this Law –
    - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,
    - (ii) the nature and amount or quantity of any funds, economic resources or financial services made available directly or indirectly to, or for the benefit of, a designated person, or
    - (iii) the nature of any financial transactions entered into by a designated person;
  - (b) monitoring compliance with or detecting evasion of this Law; or
  - (c) obtaining evidence of the commission of an offence under this Law.
- (6) The Minister may specify the manner in which, and the period within which, information is to be provided, being information that the Minister requires to be provided under this Article.
- (7) If no such period is specified, the information so required to be provided must be provided within a reasonable time.
- (8) A requirement under this Article may impose a continuing obligation to keep the Minister informed as circumstances change, or on such regular basis as the Minister may specify.
- (9) A requirement under this Article for information to be provided in relation to a designated person –

- (a) may relate to any period during which the person is, or was, a designated person; and
- (b) if the information falls within paragraph (1)(b), (2) or (5)(a)(iii), may relate to any period before the person became a designated person (as well as, or instead of, any period described in subparagraph (a)).

### **34 Production of documents**

- (1) A requirement under Article 33 may include a requirement to produce specified documents or documents of a specified description.
- (2) Where the Minister requires under Article 33 that one or more documents be produced, the Minister may –
  - (a) take copies of or extracts from any document so produced;
  - (b) require any person so producing a document to give an explanation of the document; and
  - (c) where a person so producing a document is a partnership, association or body corporate, require a person who is –
    - (i) in the case of a partnership, a present or past partner or employee of the partnership,
    - (ii) in any other case, a present or past officer or employee of the association or body corporate,to give an explanation of the document.
- (3) Where the Minister requires under Article 33 a designated person, or a person acting under a licence granted under Article 16, to produce one or more documents, the person must –
  - (a) take reasonable steps to obtain the documents (if not already in the person's possession or control); and
  - (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Minister or as the Minister may otherwise permit).

### **35 Offences relating to provision of information**

- (1) A person commits an offence, and is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale, if the person, without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with a requirement made under Article 33 or 34.
- (2) A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if the person –
  - (a) knowingly or recklessly gives any information, or produces any document, that is false in a material particular in response to a requirement of or under this Part;
  - (b) with intent to evade the provisions of this Part, destroys, mutilates, defaces, conceals or removes a document; or

- (c) otherwise intentionally obstructs the Minister in the exercise of the Minister's powers under this Part.
- (3) A court that convicts a person of an offence under this Article may make an order requiring the person, within such period as may be specified in the order, to comply with the relevant requirement in accordance with the order, or to do such other thing relating to the requirement as the court orders.

### **36 General power to disclose information**

- (1) The Minister may disclose any information obtained by him or her in exercise of his or her powers under this Part (including any document so obtained and any copy or extract made of any document so obtained) –
  - (a) to the Attorney General;
  - (b) to a member of the States of Jersey Police Force;
  - (c) to a person holding or acting in any office under or in the service of –
    - (i) the Crown in right of the Government of the UK,
    - (ii) the Crown in right of the Scottish Government, the Welsh Government or the Northern Ireland Executive,
    - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
    - (iv) the Government of the Isle of Man, or
    - (v) the Government of any British overseas territory;
  - (d) to any law officer of the Crown for Guernsey or of the Crown for the Isle of Man;
  - (e) to the Legal Aid Agency (of the UK), the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;
  - (f) to the Financial Conduct Authority or the Prudential Regulatory Authority (of the UK), the Jersey Financial Services Commission, the Guernsey Financial Services Commission, or the Isle of Man Financial Services Authority;
  - (g) to the European Commission, or to a competent authority of a member State of the EU, for the purpose of assisting or co-operating with the performance of any of their functions under an EU sanctions provision that is given effect under Article 3, or of any of their functions under any other EU provision by virtue of which a person is a designated person under Article 19 or 29;
  - (h) with a view to instituting, or otherwise for the purposes of, any proceedings –
    - (i) in Jersey, for an offence under this Law,
    - (ii) in the UK, for an offence under a UK sanctions provision,
    - (iii) in any of the other Channel Islands, in the Isle of Man or in any British overseas territory, for an offence under an enactment in force there, being an enactment that is similar

- to this Law, to an Order under this Law, or to a UK sanctions provision, or
- (iv) in a member State of the EU, for an offence under an EU sanctions provision that is given effect under Article 3, or an offence under any other EU provision by virtue of which a person is a designated person under Article 19 or 29;
  - (i) with the permission of the Attorney General, for the purposes of an investigation into a suspected offence falling within any of the clauses of sub-paragraph (h);
  - (j) for the purpose of giving assistance or co-operation, under a UN sanctions resolution, to –
    - (i) any organ of the United Nations, or
    - (ii) any person in the service of the United Nations, the UK, the Council of the EU, the European Commission or the Government of any other country or territory; or
  - (k) with the consent of a person who, in his or her own right, is entitled to the information or to possession of the document, copy or extract, to a third party.
- (2) In paragraph (1)(k) “in his or her own right” means not merely in the capacity as a servant or agent of another person.

### **37 Co-operation with investigations**

- (1) The Attorney General must take such steps as he or she considers appropriate to co-operate with an investigation relating to the funds, economic resources or financial transactions of a designated person.
- (2) The Minister must take such steps as he or she considers appropriate to co-operate with an investigation relating to the funds, economic resources or financial transactions of a designated person.
- (3) Paragraphs (1) and (2) apply whether the investigation takes place in Jersey or elsewhere.

### **38 Relation to other powers and duties**

- (1) Nothing done in accordance with this Part is to be treated as a breach of any restriction imposed by contract, enactment or otherwise.
- (2) However, nothing in this Part authorises a disclosure that –
  - (a) contravenes the Data Protection (Jersey) Law 2018<sup>8</sup>; or
  - (b) is prohibited by Part 2 of the Regulation of Investigatory Powers (Jersey) Law 2005<sup>9</sup>.
- (3) Nothing in this Part is to be read as requiring a person (“P”) who has acted for another person in the capacity of advocate, counsel or solicitor, or otherwise in the capacity of lawyer, to disclose any privileged information that is in P’s possession in that capacity.
- (4) This Part does not limit the circumstances in which information may be disclosed otherwise than by virtue of this Part.

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- (5) This Part does not limit the powers of the Minister to impose conditions in connection with the performance of the Minister's functions under Article 16 in relation to licences.
- (6) In this Article –
- “information” includes documents;
- “privileged information” means information with respect to which a claim to legal professional privilege could be maintained in legal proceedings.

### **39 Power to amend Part 6 by Regulations**

The States may by Regulations amend this Part to make alternative or supplementary provision as to the reporting, gathering, disclosure or other treatment of information for purposes of or related to this Law.

## **PART 7**

### **REVIEWS AND APPEALS**

### **40 Appeal to Royal Court on certain decisions**

- (1) This Article applies to a decision of the Minister –
- (a) to refuse to make an Order under Article 19(4)(a) to provide that a person is not a designated person;
  - (b) to make an interim terrorism designation of a person under Article 20;
  - (c) to make a final terrorism designation of a person under Article 22;
  - (d) to renew a final terrorism designation of a person under Article 23;
  - (e) to vary, not to vary, or not to revoke an interim or final terrorism designation of a person under Article 25;
  - (f) to make an Order designating a person under Article 27(2);
  - (g) to refuse to make an Order under Article 29(2)(a) to provide that a person is not a designated person;
  - (h) to make or amend an interim UN asset-freezing Order designating a person under Article 30; or
  - (i) to make or amend a final UN asset-freezing Order designating a person under Article 31.
- (2) The person may appeal against the decision to the Royal Court.
- (3) On such an appeal, the Royal Court may make such order as it thinks appropriate.
- (4) The making of an appeal under this Article does not suspend the effect of the decision or Order to which the appeal relates, unless the Royal Court orders otherwise.

**41 Review of other decisions by Royal Court**

- (1) This Article applies to any decision of the Minister taken in the performance of, or in connection with, his or her functions under this Law, other than a decision to which Article 40 applies.
- (2) A person affected by a decision to which this Article applies may apply to the Royal Court for the decision to be set aside.
- (3) In determining whether the decision should be set aside, the Court must apply the principles applicable on an application for judicial review.
- (4) If the Court decides that the decision should be set aside it may make any such order, or give any such relief, as may be made or given in proceedings for judicial review.
- (5) The making of an application for review under this Article does not suspend the effect of the decision to which the appeal relates, unless the Royal Court orders otherwise.

**42 Procedure on appeal and review**

- (1) The Schedule makes provision as to the procedure on an appeal and on a review.
- (2) The States may by Regulations amend the Schedule to make alternative or supplementary provision as to the procedure on an appeal or review.

**43 Report on and review of operation of interim and final terrorism designations**

- (1) As soon as reasonably practicable after the end of each reporting period, during which the Minister performs any function under any of Articles 20 to 26, or under Article 16 in relation to a person designated under any of those Articles, the Minister must –
  - (a) prepare a report about the performance of that function during that period; and
  - (b) lay a copy of the report before the States.
- (2) For the purpose of paragraph (1), the reporting periods are the 3-month periods ending at midnight on 31st March, 30th June, 30th September and 31st December in each year, being 3-month periods during which this Article is in force.
- (3) However, the first reporting period commences on the date of the coming into force of this Article and ends on whichever of the days specified in paragraph (2) first falls at least 3 months after that date.
- (4) The Minister must appoint a person to review the operation, during any year, of Articles 20 to 26, and of Article 16 in relation to a person designated under any of Articles 20 to 26, if –
  - (a) during part or all of the year a designation under any of Articles 20 to 26 was in effect;

- (b) during part or all of the year a licence under Article 16 was in effect that had been granted in relation to a person designated under any of Articles 20 to 26; or
  - (c) during the year the Minister performed a function under any of Articles 20 to 26, or under Article 16 in relation to a person designated under any of Articles 20 to 26.
- (5) The person so appointed must carry out the review as soon as reasonably practicable after the end of the relevant year and send the Minister a report of the findings of the review as soon as reasonably practicable after completing the review.
- (6) On receiving such a report, the Minister must lay a copy of it before the States.
- (7) The Minister may pay the expenses of a person who conducts such a review and also such allowances as the Minister determines.

## PART 8

### OFFENCES AND MISCELLANEOUS

#### 44 Offences: responsibility of directors, partners and officers

- (1) In this Article –
- “relevant offence” means an offence under this Law committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
- “relevant person” means –
- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
  - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
    - (i) a director, manager, secretary or other similar officer of the body corporate, and
    - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
  - (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of

the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

- (3) If a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person,

that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) A fine imposed on an unincorporated association on its conviction of an offence under this Law must be paid out of the funds of the association.
- (5) Paragraphs (6) and (7) apply if it is alleged that an offence under this Law has been committed by an unincorporated association (that is, not by a member of the association).
- (6) Proceedings for such an offence must be brought in the name of the association.
- (7) For the purposes of such proceedings, any rules of court relating to the service of documents have effect as if the association were a body corporate (to the extent that those rules do not make specific provision for service on unincorporated associations).
- (8) The States may by Regulations amend this Article to make alternative or supplementary provision as to liability for offences.

#### **45 Offences: extra-territorial application**

- (1) An offence under this Law may be constituted by conduct (including acts and omissions) wholly or partly outside Jersey by –
  - (a) a UK national who is ordinarily resident in Jersey; or
  - (b) a person incorporated or constituted under the law of Jersey.
- (2) In paragraph (1) “UK national” means –
  - (a) a British citizen, a British National (Overseas), a British Overseas citizen or a British overseas territories citizen (where each of those terms has its meaning in the British Nationality Act 1981 of the UK);
  - (b) a person who under that Act is a British subject; or
  - (c) a British protected person within the meaning of that Act.
- (3) Where an offence under this Law is committed outside Jersey –
  - (a) proceedings for the offence may be brought in Jersey; and
  - (b) the offence may for all incidental purposes be treated as having been committed in Jersey.
- (4) Nothing in this Article affects any criminal liability arising otherwise than by virtue of this Article.

**46 Delegation to persons other than Assistant Ministers and officers**

- (1) The provisions of this Article are supplementary to those of Article 28 of the States of Jersey Law 2005<sup>10</sup>, and Articles 30 and 30A of that Law apply to a delegation under this Article as they apply to a delegation under that Law.
- (2) The Minister may, by instrument in writing, delegate wholly or partly any of his or her functions under this Law to any person or body other than a person to whom those functions may be delegated under Article 28 of the States of Jersey Law 2005.
- (3) The delegation may be unconditional or subject to any condition specified in the instrument of delegation.
- (4) The Minister may not delegate any power to make an Order under this Law.
- (5) The delegation of a function by the Minister under this Article does not prevent the Minister performing that function personally.
- (6) Where any licence, permit or authorisation is granted in purported performance of a function delegated under paragraph (2), no criminal proceedings are to lie against any person for any act done, or omitted to be done, in good faith and in accordance with the terms of the licence, permit or authorisation, by reason that the function had not been delegated, or that any requirement attached to the delegation of the function had not been complied with.

**47 Power to amend other enactments in relation to related matters**

- (1) The States may, by Regulations, amend any enactment listed in paragraph (2) to make such provision as they consider necessary or expedient –
  - (a) in consequence of the coming into force of –
    - (i) this Law, or
    - (ii) an amendment to this Law, made by Regulations under any other Article of this Law; or
  - (b) in relation to a reference (direct or indirect) in that other enactment to –
    - (i) money laundering,
    - (ii) the freezing of assets,
    - (iii) the United Nations Act 1946 of the UK, or an Order in Council (whether extending to Jersey or not) under that Act,
    - (iv) any of the enactments listed in paragraph (2), or
    - (v) either of the Laws repealed by Article 51.
- (2) The enactments referred to in paragraph (1) are –
  - (a) the Crime and Security (Jersey) Law 2003<sup>11</sup>;
  - (b) the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012<sup>12</sup>;
  - (c) the Proceeds of Crime (Jersey) Law 1999<sup>13</sup>;

- (d) the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>14</sup>;
- (e) the Regulation of Investigatory Powers (Jersey) Law 2005<sup>15</sup>;
- (f) the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017<sup>16</sup>;
- (g) the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008<sup>17</sup>;
- (h) any enactment made under any of the enactments listed in sub-paragraphs (a) to (g);
- (i) any Order made under Article 2(1)(b) of the EU Implementation Law, that is treated as continuing in force under Article 48(1) of this Law;
- (j) any other enactment (not including this Law) that contains a reference to money laundering, to the freezing of assets, or to any of the enactments listed in sub-paragraphs (a) to (i).

#### **48 Savings, transitional and consequential provisions**

- (1) Despite the repeal of Article 2(1) of the EU Implementation Law by Article 6(a) of the European Union (Repeal and Amendment) (Jersey) Law 2018<sup>18</sup>, a prior EU sanctions Order continues in force on that repeal and is to be treated as if made under Article 3(1) of this Law.
- (2) For the purpose of paragraph (1) a “prior EU sanctions Order” is an Order that –
  - (a) was made under Article 2(1)(b) of the EU Implementation Law, whether or not also made under paragraph (1)(a) or (1)(c) of that Article; and
  - (b) was in force immediately before the coming into force of Article 6(a) of the European Union (Repeal and Amendment) (Jersey) Law 2018<sup>19</sup>.
- (3) The States may, by Regulations, make such other saving, transitional or consequential provision as appears to the States to be necessary or expedient in relation to the commencement of this Law.
- (4) An Order or Regulations under this Law may contain such transitional, saving, consequential, incidental or supplementary provision as appears to the Minister or the States to be necessary or expedient for the purposes of the Order or Regulations respectively.

#### **49 Amendment of Crime and Security (Jersey) Law 2003**

- (1) In Article 8 (contents of order) of the Crime and Security (Jersey) Law 2003<sup>20</sup> (the “2003 Law”) –
  - (a) for paragraph (1) there is substituted –
    - “(1) A freezing order must provide that a person is a designated person for the purpose of Part 3 of the Sanctions and Asset-Freezing (Jersey) Law 201-<sup>21</sup>.”;
  - (b) paragraph (2) is deleted;

- (c) in paragraph (3), for “as the person or persons to whom or for whose benefit funds are not to be made available” there is substituted “as the designated person or persons”;
  - (d) paragraphs (6) and (7) are deleted.
- (2) Article 12 (Orders) of the 2003 Law is deleted.
- (3) In the Schedule (freezing orders) to the 2003 Law –
- (a) paragraphs 1 to 8 are deleted;
  - (b) in paragraph 10, for “a person to whom or for whose benefit funds are not to be made available” there is substituted “a designated person”.

## **50 Amendment of Money Laundering and Weapons Development (Directions) (Jersey) Law 2012**

In Article 6 (directions) of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012<sup>22</sup> –

- (a) in paragraph (7), for “paragraphs (8) to (11)” there is substituted “paragraphs (8) to (11A)”;
- (b) after paragraph (11) there is inserted –
  - “(11A) A direction may require a recipient to treat a person, in relation to whom requirements are imposed under paragraphs (3) and (4), as if that person were a designated person for the purpose of Part 3 of the Sanctions and Asset-Freezing (Jersey) Law 201-.”<sup>23</sup>.

## **51 Repeals**

The following Laws are repealed –

- (a) the Terrorist Asset-Freezing (Jersey) Law 2011<sup>24</sup>;
- (b) the United Nations Financial Sanctions (Jersey) Law 2017<sup>25</sup>.

## **52 Citation**

This Law may be cited as the Sanctions and Asset-Freezing (Jersey) Law 201-.

## **53 Commencement**

This Law comes into force on a day specified by the Minister by Order, being no later than the day on which Article 6(a) of the European Union (Repeal and Amendment) (Jersey) Law 2018<sup>26</sup> comes into force.

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**SCHEDULE**

(Article 42)

**RULES FOR APPEALS AND REVIEWS****1 Application of this Schedule**

This Schedule applies to –

- (a) proceedings under Article 40 or 41; or
- (b) proceedings on an appeal relating to proceedings under Article 40 or 41.

**2 This Schedule is part of rule-making powers**

Article 13 of the Royal Court (Jersey) Law 1948<sup>27</sup> and Article 19 of the Court of Appeal (Jersey) Law 1961<sup>28</sup> are to be read as including the provisions of this Schedule for the purpose of making rules of court in relation to proceedings to which this Schedule applies.

**3 General provisions about rules of court**

- (1) In making rules of court, the Royal Court or Court of Appeal must have regard to –
  - (a) the need to secure that the decisions that are the subject of the proceedings are properly reviewed; and
  - (b) the need to secure that disclosures of information are not made where they would be contrary to the public interest.
- (2) Rules of court may make provision –
  - (a) about the mode of proof and about evidence in the proceedings;
  - (b) enabling or requiring the proceedings to be determined without a hearing; and
  - (c) about legal representation in the proceedings.
- (3) Rules of court may make provision –
  - (a) enabling the proceedings to take place without full particulars of the reasons for the decisions to which the proceedings relate being given to a party to the proceedings (or to any legal representative of a party to the proceedings);
  - (b) enabling the court to conduct proceedings in the absence of any person, including a party to the proceedings (or any legal representative of a party to the proceedings);
  - (c) about the functions of special counsel; and
  - (d) enabling the court to give a party to the proceedings a summary of evidence taken in the party's absence.
- (4) In this paragraph –

- (a) references to a party to the proceedings do not include the Minister; and
- (b) references to a party's legal representative do not include special counsel.

#### **4 Rules of court about disclosure**

- (1) Subject to sub-paragraphs (2) to (5), rules of court must secure that the Minister is required to disclose –
  - (a) material on which he or she relies;
  - (b) material that adversely affects his or her case; and
  - (c) material that supports the case of a party to the proceedings.
- (2) Rules of court must secure –
  - (a) that the Minister has the opportunity to make an application to the court before which the proceedings take place for permission not to disclose material otherwise than to –
    - (i) the court, or
    - (ii) special counsel;
  - (b) that such an application is always considered in the absence of every party to the proceedings (and in the absence of every legal representative of every party to the proceedings);
  - (c) that the court is required to give permission for material not to be disclosed if it considers that the disclosure of the material would be contrary to the public interest;
  - (d) that, if permission is given by the court not to disclose material, it must consider requiring the Minister to provide a summary of the material to every party to the proceedings (and to every legal representative of every party to the proceedings); and
  - (e) that the court is required to ensure that such a summary does not contain material the disclosure of which would be contrary to the public interest.
- (3) Rules of court must secure that provision applies, to the effect set out in sub-paragraph (4), in cases where the Minister –
  - (a) does not receive the court's permission to withhold material, but elects not to disclose it; or
  - (b) is required to provide every party to the proceedings (and every legal representative of every party to the proceedings) with a summary of material that is withheld, but elects not to provide the summary.
- (4) The court must be authorised by the rules of court –
  - (a) if it considers that the withheld material (whether or not a summary of that material is required) might adversely affect the Minister's case or support the case of a party to the proceedings, to direct that the Minister may not rely on the material, or must make such concessions or take such other steps, as the court may specify; or

- (b) in any other case, to ensure that the Minister does not rely on the withheld material (whether or not a summary of that material is required).
- (5) Nothing in this paragraph, or in rules of court as referred to in it, is to be read as requiring the court to act in a manner inconsistent with Article 6 of the Convention, within the meaning of the Human Rights (Jersey) Law 2000<sup>29</sup>.
- (6) In this paragraph –
  - (a) references to a party to the proceedings do not include the Minister;
  - (b) references to a party's legal representative do not include special counsel.

## **5 Appointment of special counsel**

- (1) The Attorney General must, for the purposes of this paragraph, appoint a panel of persons, such panel consisting of no fewer than 10 advocates of the Royal Court.
- (2) A person so appointed may be removed from the panel at any time by the Attorney General whether or not at the person's request.
- (3) Subject to sub-paragraph (5), the Royal Court or Court of Appeal, as the case requires, may appoint as special counsel, for the purposes described in sub-paragraph (4), a person who is –
  - (a) a member of the panel; or
  - (b) a person who is eligible under the Counter-Terrorism Act 2008 of the UK to be appointed as a special advocate for the purposes of that Act.
- (4) Those purposes are to represent the interests of a party to –
  - (a) proceedings from which the party (and any legal representative of the party) is excluded; or
  - (b) proceedings (being proceedings on an appeal) from which the party (and any legal representative of the party) is excluded.
- (5) A person referred to in sub-paragraph (3)(b) must not be appointed under sub-paragraph (3) unless the Royal Court or the Court of Appeal, as the case requires, is satisfied that it is in the public interest or in the interests of justice to appoint such a person in the particular circumstances of the proceedings in question.
- (6) A person appointed as special counsel is not responsible to the party to the proceedings whose interests the person is appointed to represent.

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- 1 *chapter 17.245*
  - 2 *chapter 15.360*
  - 3 *chapter 08.780*
  - 4 *chapter 13.225*
  - 5 *chapter 15.360*
  - 6 *chapter 17.860*
  - 7 *chapter 08.110*
  - 8 *chapter 15.240*
  - 9 *chapter 08.830*
  - 10 *chapter 16.800*
  - 11 *chapter 08.110*
  - 12 *chapter 08.685*
  - 13 *chapter 08.780*
  - 14 *chapter 23.750*
  - 15 *chapter 08.830*
  - 16 *chapter 17.245.53*
  - 17 *chapter 08.785*
  - 18 *L.17/2018*
  - 19 *L.17/2018*
  - 20 *chapter 08.110*
  - 21 *P.119/2018*
  - 22 *chapter 08.685*
  - 23 *P.119/2018*
  - 24 *L.8/2011 (chapter 17.861)*
  - 25 *L.3/2017 (chapter 17.918)*
  - 26 *L.17/2018*
  - 27 *chapter 07.770*
  - 28 *chapter 07.245*
  - 29 *chapter 15.350*