

STATES OF JERSEY



Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 3) (JERSEY) LAW 202-

**Lodged au Greffe on 6th February 2023
by the Minister for External Relations and Financial Services
Earliest date for debate: 21st March 2023**

STATES GREFFE



Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 3) (JERSEY) LAW 202-

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 and Financial Services has made the following statement –

In the view of the Minister for External Relations and Financial Services, the provisions of the Draft Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy P.F.C. Ozouf of St. Saviour**
Minister for External Relations and Financial Services

Dated: 3rd February 2023

REPORT

1. Background

- 1.1 The [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#) (“SAFL”) and the [Sanctions and Asset-Freezing \(Implementation of External Sanctions\) \(Jersey\) Order 2021](#) (the “Sanctions Order”), which is made under SAFL, are the Island’s key pieces of sanctions legislation, through which it implements all United Nations sanctions and all autonomous UK sanctions.
- 1.2 The draft Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 202- (the “draft Law”) is intended, broadly, to achieve two outcomes: firstly, to remove the powers within SAFL to implement European Union (“EU”) sanctions provisions by Ministerial Order, and; secondly, to improve further SAFL’s compliance with international standards set by the Financial Action Task Force.
- 1.3 The FATF related changes would build on improvements made to SAFL by the [Sanctions and Asset-Freezing \(Amendment No. 2\) \(Jersey\) Law 2022](#). This draft Law forms part of Jersey’s preparation for the Island’s assessment against FATF standards by MONEYVAL later this year.

2. Removal of power to implement EU Sanctions by Order

- 2.1 While the UK remained a member of the EU, in common with all other EU Member States, it had an obligation to implement autonomous EU sanctions in addition to its international obligation to implement UN sanctions. Jersey also implemented autonomous EU sanctions and UN sanctions, which ensured that implementation of sanctions in the Island was aligned with that of the UK. However, following its exit from the EU, the UK introduced new legislation to enable it to implement both UN sanctions and its own autonomous sanctions outside of the EU framework.
- 2.2 SAFL came into force in July 2019 and provided for Jersey to implement UK sanctions regulations by Ministerial Order, so that once the UK began implementing autonomous UK sanctions the Island would be able to do the same. SAFL also retained powers to implement EU sanctions provisions by Ministerial Order (previously available through the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#)). The powers to implement both UK and EU sanctions provisions by Order enabled Jersey to remain aligned with the UK on sanctions throughout the Brexit transition period and after it had ended.
- 2.3 Sanctions are a key foreign policy tool used by individual states, or groups of countries working together, when other diplomatic methods have failed to achieve their aims. Jersey supports UK foreign policy and, in line with the other Crown Dependencies, implements UN and autonomous UK sanctions. This alignment between Jersey and the UK on sanctions also provides greater certainty for businesses, which is especially important given the extensive linkages between the two jurisdictions in financial services and other sectors of the economy.
- 2.4 Part 1 of the draft Law proposes the removal of the power to implement EU sanctions provisions by Ministerial Order. Article 4 of the draft Law amends Article 3 of SAFL to remove this power, and Article 8 of the draft Law amends Article 8 of SAFL to remove the power to implement EU blocking provisions by Ministerial Order.

- 2.5 Articles 2, 3, 5-7, and 9-17 of the draft Law are all consequential amendments relating to the removal of the powers to implement EU sanctions provisions and EU blocking provisions by Ministerial Order.

3. Amendments for the Financial Action Task Force (the “FATF”) and for other purposes

Licences and Exceptions

- 3.1 Under SAFL, the Minister may grant both specific sanctions licences and general licences. A specific sanctions licence is granted by the Minister in response to a licence application to permit an action or actions that would otherwise be prohibited under sanctions legislation (e.g. to pay the basic needs of a Designated Person, such as mortgage payments or legal fees), a general licence is granted by the Minister to permit an act or acts by any person, or by specified persons,¹ that would otherwise be prohibited by sanctions legislation.
- 3.2 Article 19 of the draft Law would amend Article 3 of SAFL to provide that the Minister can by Order give automatic effect to UK sanctions General Licences in full, but subject to any adaptations or modifications that the Minister may specify. At present the Sanctions Order gives automatic effect to UK sanctions General Licences made under the Russia sanctions regime in so far as they apply to non-asset-freezing prohibitions (e.g. trade restrictions) but not to asset-freezing prohibitions (e.g. the freezing of a Designated Person’s funds). The amendment would enable the Minister to amend the Sanctions Order to implement UK sanctions General Licences in full under the Russia sanctions regime (or any other sanctions regime implemented under the Sanctions Order).
- 3.3 Full automatic implementation of the UK sanctions General Licences under the Russia sanctions regime would further reduce the administrative burden on the Minister, by decreasing the number of specific sanctions licence applications on which he must make a decision, it would also ensure that persons (e.g. those working in financial services) are able to rely on these licences without submitting a specific licence to the Minister. For example, when new prohibitions are introduced under the Russia sanctions regime, they are sometimes accompanied at the same time by a General Licence that provides a limited period of time to wind down a position and exit a relationship with a sanctioned entity.
- 3.4 Article 21 of the draft Law would amend Article 15 of SAFL to provide an exception to an otherwise prohibited act so that specified persons may act in the interests of national security or the prevention or detection of crime in Jersey or elsewhere. Similar exceptions are provided for in the UK under UK sanctions regulations made under the UK Sanctions and Anti-Money Laundering Act 2018. These provisions have been implemented in Jersey through the Sanctions Order; however, this amendment would provide for such an exception in SAFL that has been drafted specifically for the Jersey context.

Terrorist Asset-Freeze Designations

- 3.5 FATF Recommendation 6² specifies that autonomous terrorism asset-freezing designations (i.e. those made by the Minister) should not be conditional on the existence of criminal proceedings and that there should be no requirement to notify a person that is being considered for designation. The amendments to Articles 20 and 22 of SAFL that would be made, respectively, by Articles 23

¹ For example, a regulator (or those acting on behalf of a regulator), or subsidiaries of a bank.

² Which relates to ‘Targeted financial sanctions related to terrorism and terrorist financing’.

and 24 of the draft Law are required to clarify Jersey's compliance with these requirements of the FATF standards. Articles 37 and 38 of the draft Law make similar amendments to Articles 45A (Request from or to another country for a terrorism designation) and 45B (Request to UN for a terrorism designation), respectively.

- 3.6 Presently, under SAFL, a final terrorism asset-freeze designation expires after 12 months unless it is renewed. This provision does not fully comply with United Nations Security Council Resolution 1373 (2001) or FATF Recommendation 6, which do not allow for an automatic expiration date. Article 25 of the draft Law replaces Article 23 of SAFL to provide that there is no automatic expiration after 12 months. However, the Designated Person retains the right to appeal the designation at any time. Further, and regardless of whether the designation is appealed, the Minister must review the designation at least once in every calendar year, after that in which it was made, to assess whether there are still grounds for the designation.
- 3.7 Article 26 of the draft Law amends Article 25 of SAFL to require the Minister to make a decision within 28 days, once the Minister has received sufficient information, on an appeal by a Designated Person to have their interim or final asset-freeze designation varied or revoked. Article 35 of the draft Law makes a similar amendment to Article 43A of SAFL. Both amendments relate to improving compliance with the relevant international standards for sanctions implementation set by the FATF.

Implementation of UN Asset-Freezing Designations

- 3.8 Under SAFL, any new UN asset-freeze designations have automatic and immediate effect in Jersey, if the relevant UK sanctions regulations implementing the UN sanctions regime has been implemented in Jersey (e.g. the South Sudan regime). However, in the case of a new UN asset-freeze designation made under a brand new sanctions regime before there has been time to implement that regime in Jersey, the designation would not have effect until the Minister has made an Order implementing the designation or the UK has implemented the designation, whichever is sooner.
- 3.9 The amendment made by Article 27 of the draft Law to Article 29 of SAFL would provide that a new UN asset-freeze made under a new UN sanctions regime that had not yet been implemented in Jersey, would apply automatically and immediately on an interim basis for a period of 90 days. This would allow sufficient time for the UK to have implemented the new UN sanctions regime through regulations and for those regulations to be implemented by Order in Jersey. The change would ensure there could be no time delay between any new UN asset-freeze designation being made and it being effective in Jersey.

Reporting Obligations and the Minister's powers to require information

- 3.10 FATF Recommendations 6 and 7³ state that countries should require financial institutions to report frozen assets and 'actions taken in compliance' with sanctions prohibitions to the competent authority (in Jersey this is the Minister). Article 29 of the draft Law would amend Article 32 (Reporting obligations...) of SAFL to make clearer this requirement. When making a sanctions report to the Minister, relevant financial institutions would be required to include information on any actions taken in compliance with obligations imposed under Article 37 of

³ Recommendation 7 relates to 'Targeted financial sanctions related to proliferation': proliferation in this context refers to the proliferation of Weapons of Mass Destruction (i.e. nuclear, chemical, or biological weapons).

the [Proceeds of Crime \(Jersey\) Law 1999](#) (under which the [Money Laundering \(Jersey\) Order 2008](#) is made).

- 3.11 The draft Law would also amend SAFL to strengthen the Ministers powers in respect of requiring information and documentation from persons in connection with sanctions compliance. In addition, it would provide for the Minister to require information from persons for the purpose of making a terrorism asset-freeze designation, which is required to meet the relevant FATF standards.

Extra-territorial extent

- 3.12 The FATF standards require that asset-freeze prohibitions must be complied with by a country's nationals, whether in the country or not. The current extra-territorial application of SAFL is insufficiently broad in that an individual can only commit an offence in respect of conduct outside of Jersey if they are both ordinarily resident in Jersey and a UK national. Article 36 of the draft Law would amend Article 45 of SAFL so that its provisions apply to conduct that happens outside of Jersey if that person is an individual ordinarily resident in Jersey, regardless of whether they are also a UK national.

Requests for UN asset-freezing designation and requests for assistance with UN de-listing

- 3.13 Under SAFL, the Minister may propose to the UN (via the UK) that a person be designated for the purpose of a terrorism asset-freeze. Article 38 of the draft Law would amend Article 45B of SAFL to provide that the Minister may propose an asset-freeze designation under any UN sanctions regime, regardless of whether it concerns terrorism.
- 3.14 Separately, the Article 35 of the draft Law would amend Article 43A of SAFL to provide that a person designated for the purpose of an asset-freeze by the UN, may request the Minister uses his best endeavours to secure that the person ceases to be a UN-listed person.

Regulation making power

- 3.15 The draft Law would also introduce a new regulation making power to provide that the States may amend any provision of SAFL to implement a provision related to sanctions in any enactment of the UK; a UN sanctions resolution, or; a standard promoted by the FATF or any other international body.
- 3.16 Standards for the effective implementation of sanctions are constantly evolving: the purpose of the proposed amendment is to enable improvements to the Islands sanctions regime to be made more quickly.

4. Other amendments and final provisions

- 4.1 Articles 40-45 of the draft Law are miscellaneous amendments to Laws other than SAFL, substituting references to SAFL for references to the Terrorist Asset-Freezing (Jersey) Law 2011 (which was repealed and replaced by SAFL).
- 4.2 Article 46 provides for the draft Law to be brought into force by Ministerial Order.

5. Financial and manpower implications

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

6. Human Rights

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

APPENDIX TO REPORT**Human Rights Notes on the Draft Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 202-**

These notes have been prepared in respect of the Draft Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department.

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

The draft Law has been reviewed by the Law Officers’ Department to ensure compliance with the European Convention on Human Rights. Subject to the following observations, it has been determined that, due to the nature of the amendments made, the draft Law does not give rise to any additional human rights issues above and beyond those that exist under the current version of the Sanctions and Asset-Freezing (Jersey) Law 2019 (the “**Principal Law**”).

Notwithstanding that the Law Officers’ Department’s view is that the draft Law does not give rise to additional human rights concerns *per se*, it is considered prudent to highlight the following new or amended provisions in the context of the previous human rights notes relating to the Principal Law:

1. Amended Article 20:

Article 20, under which the Minister can make interim terrorism designations, will be amended by the addition of wording that clarifies that the test for making an interim designation of a person will apply irrespective of whether or not any criminal proceedings have been taken against a person. The proposed amendment also introduces a specific provision which makes it clear that the Minister is not required to notify a person before making a designation, that the Minister is considering making an interim terrorism designation of that person. This provision is clarificatory in nature: it is important in the context of a designated person not being made aware of his/her designation until the necessary steps have been taken, including in relation to publicising the designation (i.e., to avoid any potential “tipping off” of that person).

2. Amended Article 22:

Article 22, under which the Minister can make final terrorism designations, will be amended in the same way as Article 20.

3. Amended Article 23:

Currently under existing Article 23, a final terrorism designation expires after 12 months unless it is renewed. International standards require that final terrorism designations should remain in force indefinitely until it is determined that the designation no longer meets the criteria for designation. Article 23 will be amended to the effect that a final terrorism designation will remain in effect indefinitely until it is revoked under Article 25. There will, however, be a review period built into the Article

which will require the Minister to keep a designation under review, to subject the designation to an annual review and to revoke the designation if satisfied there are no longer any grounds for it under Article 22. The amended Article also provides that, where the Minister revokes such a designation, there is nothing to prevent him from designating the person again under any power in the Principal Law.

4. Amended Article 31:

Article 31, under which the Minister may by way of a “final UN asset-freezing Order” specify a UN sanctions resolution for the purpose of Article 31, will be amended in a similar way to Article 23 to the effect that such an Order will remain in effect until it is revoked in accordance with the provisions of new paragraph 6A of Article 31. Paragraph 6A provides that the Minister must keep a “final UN asset-freezing Order” under review and to reconsider every 12 months whether there are still grounds under Article 31 for the Order. Further, the Minister must revoke the Order if satisfied there are no longer any grounds for it under Article 31.

5. Amended Article 45A:

See paragraph 3 above in relation to “tipping off”. The Minister will not be required to notify a person before deciding to designate them, that the Minister is considering a request from an “overseas country” for that person to be designated. This will also apply where the Minister himself makes a request to an overseas country to take a measure that corresponds to designation under Part 4 of the Principal Law.

6. Amended Article 45B:

Article 45B, under which the Minister must request the UK government to secure that a person becomes a UN-listed person if the Minister reasonably believes that person should be so listed, will be amended to provide for the Minister to make such requests for designation under any criteria and not just “terrorism”, as currently drafted. Article 45B will also be amended as per paragraph 3 above in relation to “tipping off”.

From an Article 8(2) ECHR perspective, and as per the previous human rights notes on the Principal Law, the above provisions are considered to be justifiable by being both necessary in a democratic society and proportionate to the legitimate aims.

EXPLANATORY NOTE

This Law, if passed, will amend the Sanctions and Asset-Freezing (Jersey) Law 2019 (“SAFL”).

Part 1 (Articles 1 to 17) makes amendments to remove the power to implement EU sanctions provisions.

Part 2 (Articles 18 to 39) makes amendments to implement standards and recommendations of the international body known as the Financial Action Task Force (“FATF”), and for other purposes, as outlined below.

Article 18 states that this Part amends SAFL.

Article 19 amends Article 3 of SAFL to provide that an Order under that Article (currently, this is the Sanctions and Asset-Freezing (Implementation of External Sanctions) (Jersey) Order 2021) may provide for UK general licences to be automatically implemented in full.

Article 20 makes an updating housekeeping amendment to Article 5 of SAFL

Article 21 amends Article 15 of SAFL to provide a further exception to the prohibitions in Part 3 of SAFL (that is, prohibitions implementing asset-freezes against designated persons). The exception is for acts that a responsible officer, such as the Minister for External Relations and Financial Services (“the Minister”) or a Law Officer, determines would be in the interests of national security or the prevention or detection of crime.

Article 22 amends Article 16 of SAFL, which enables the Minister to grant licences to allow a person to do something that would otherwise be prohibited under Part 3 of SAFL, so that a licence may “describe” (rather than specify, as currently) the type of acts it authorises.

Article 23 amends Article 20 of SAFL to clarify that the Minister’s power to make an interim terrorism designation of a person can be exercised regardless of whether criminal proceedings have been taken against the person. It also provides that the Minister is not required to give the person prior notice of the designation.

Article 24 amends Article 22 of SAFL to clarify that the Minister’s power to make a final terrorism designation of a person can be exercised regardless of whether criminal proceedings have been taken against the person. It also provides that the Minister is not required to give the person prior notice of the designation, and makes a minor amendment consequential on the substitution of new Article 23 of SAFL.

Article 25 substitutes a new Article 23 into SAFL, the effect of which is to provide that a final terrorism designation remains in force unless and until the Minister is satisfied that there are no longer grounds for the designation and revokes it (currently the designation would expire after 12 months unless renewed).

Article 26 amends Article 25 of SAFL to provide that, if a designated person applies to the Minister for their interim or final terrorism designation to be varied or revoked, the Minister must decide on the application within 28 days of receiving sufficient information to be able to do so.

Article 27 amends Article 29 of SAFL to provide that the automatic interim designation of a UN-listed person applies regardless of whether the relevant UN financial sanctions resolution has been implemented by the UK, but lasts only a maximum of 90 days from when the person is first listed by the UN (rather than 30 days as currently).

Article 28 amends Article 31 of SAFL to provide that a final UN asset-freezing Order remains in effect unless and until the Minister is satisfied that there are no longer

grounds for the Order and revokes it (currently the designation would expire on the date specified in the Order being a date no later than 12 months after the Order was made or last amended).

Article 29 amends the reporting obligations of relevant financial institutions under Article 32 of SAFL to provide that they must also inform the Minister of any actions taken in compliance with obligations imposed under Article 37 of the Proceeds of Crime (Jersey) Law 1999 (“POCL”) (that is, under the Money Laundering (Jersey) Order 2008).

Article 30 amends Article 33 of SAFL, which sets out the Minister’s power to require information, to make clear that it applies to relevant financial institutions and any other person in or resident in Jersey, and to provide that the Minister may require information for the purpose of making a decision whether to make, vary or revoke an interim or final terrorism designation.

Article 31 amends Article 34 of SAFL to provide that, if the Minister requires information under Article 33 of SAFL (as amended by this Law) from a designated person, a relevant financial institution, or any other person acting under a licence granted under Article 16 of SAFL, that person or institution must take reasonable steps to obtain that information regardless of whether the information is in their possession or control, or is in or outside Jersey.

Article 32 amends Article 37 of SAFL, which requires the Attorney General and the Minister to take steps to co-operate with investigations into designated persons, to provide that this obligation also applies in relation to investigations into offences under SAFL and equivalent offences under the law of another country or territory.

Article 33 makes an updating housekeeping amendment to Article 37A of SAFL.

Article 34 makes an amendment to Article 40 of SAFL consequential on the substitution of new Article 23 of SAFL.

Article 35 amends Article 43A of SAFL, mirroring the amendment made by this Law to Article 25 of SAFL, to provide that if a UN-listed person asks the Minister to request the UK government to use its best endeavours to have the UN delist that person, the Minister must decide whether to comply with the request within 28 days of receiving sufficient information to be able to do so.

Article 36 amends Article 45 of SAFL, which provides that conduct occurring outside Jersey may constitute an offence under provisions of SAFL, so that in the case of conduct by a natural person, it applies to an individual who is ordinarily resident in Jersey (rather than, as currently, to a “UK national” who is ordinarily resident in Jersey).

Article 37 amends Article 45A of SAFL to provide that, where the Minister is considering a request from another country to designate a person under Part 4 of SAFL and has not yet made a decision on the request, or where the Minister has made or is considering making a request to another country to designate a person, the Minister is not required to give the person prior notice.

Article 38 amends Article 45B of SAFL, which sets out the circumstances in which the Minister must request that the UK government uses its best endeavours to secure that a person becomes a UN-listed person. The effect of the amendments is that the Article applies when the Minister reasonably suspects that the person should be a UN-listed person or should be subject to measures under a UN sanctions resolution (rather than, as currently, being limited to terrorism designations), and it provides that the Minister is not required to give the person prior notice of the potential designation.

Article 39 inserts a new Article 47A into SAFL to give the States power, by Regulations, to amend any provision of SAFL as appears appropriate in connection with the

implementation in Jersey of UK sanctions legislation, UN sanctions resolutions, or any standard promoted by FATF or any other international body.

Part 3 (Articles 40 to 46) amends other legislation to replace references to the Terrorist Asset-Freezing (Jersey) Law 2011 (“TAFI”) which was revoked and replaced by SAFL, with references to SAFL. It also contains final provisions.

Articles 40 to 45 replace references to TAFI with references to SAFL in the following –

- (a) Court of Appeal (Civil) Rules 1964;
- (b) POCL;
- (c) Terrorism (Jersey) Law 2002;
- (d) Police Procedures and Criminal Evidence (Jersey) Law 2003;
- (e) Royal Court Rules 2004;
- (f) Regulation of Investigatory Powers (Jersey) Law 2005.

Article 46 gives the name of the Law and provides for it to come into force on a day to be specified by the Minister by Order.



Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 3) (JERSEY) LAW 202-

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Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (AMENDMENT No. 3) (JERSEY) LAW 202-

A LAW to amend further the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

PART 1

REMOVAL OF POWER TO IMPLEMENT EU SANCTIONS

1 Amendment of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#)

This Part amends the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

2 Article 1 (interpretation) amended

In Article 1 –

- (a) in paragraph (1) –
 - (i) for the definition “designation” there is substituted –
““designation” means designation under Article 3(4), Part 4 or Part 5;”,
 - (ii) the definitions “EU”, “EU Implementation Law”, “EU provision” and “EU sanctions provision” are deleted,
 - (iii) for the definition “UK sanctions provision” there is substituted –
““UK sanctions provision” has the meaning given by Article 3(1)(a);”;
- (b) for paragraph (2) there is substituted –

- “(2) In relation to a reference to an enactment of the UK in this Law, or in an Order under this Law, unless otherwise provided –
- (a) Article 9(3) of the [Interpretation \(Jersey\) Law 1954](#) applies to that reference as it applies to a reference to a Law; and
 - (b) Article 6 of the [Legislation \(Jersey\) Law 2021](#) applies in relation to that enactment of the UK, and to any enactment of the UK that repeals that enactment, as it applies in relation to Jersey legislation.”.

3 Heading to Part 2 (implementation of UK and EU sanctions) substituted

In the heading to Part 2 for “UK and EU sanctions” there is substituted “UK sanctions”.

4 Article 3 (implementation of UK and EU sanctions provisions through Orders) substituted

For Article 3 there is substituted –

“3 Implementation of UK sanctions provisions through Orders

- (1) The Minister may by Order make provision appearing to the Minister to be necessary or expedient for the purposes of –
 - (a) giving effect, either wholly or partly, to 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 (a “UK sanctions provision”); or
 - (b) dealing with matters arising out of or related to a UK sanctions provision.
- (2) The provision that may be made under paragraph (1) includes provision by way of an amendment of an enactment other than this Law or the [Human Rights \(Jersey\) Law 2000](#), and of any other provision that may be made by a Law, but 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.
- (3) An Order under paragraph (1) may –
 - (a) make provision by reference to or by incorporation (by reference, annexation or otherwise) of a UK sanctions provision, or of any class or description of UK sanctions provision;
 - (b) when making the provision described in sub-paragraph (a) –

- (i) do so to the extent and subject to the exceptions, adaptations and modifications to the UK sanctions provision that may be specified in the Order,
 - (ii) make exceptions, adaptations or modifications mentioned in clause (i) by providing that references to the UK are to be treated as references to Jersey, or to Jersey and the UK, or that references to any part of the British Islands are to be treated as references to any other part;
 - (c) include provision made under any of Articles 4 to 7;
 - (d) include provision that is incidental, supplemental, consequential, transitional or saving in relation to the Order.
- (4) An Order under paragraph (1) may provide that a person is a designated person for the purpose of Part 3 if the person is a UK financial sanctions target.
- (5) In paragraph (4) a person is a “UK financial sanctions target” if –
- (a) a UK sanctions provision imposes financial sanctions; and
 - (b) the person is designated under that provision, or under another UK sanctions provision in relation to that provision.
- (6) In paragraph (5) “imposes financial sanctions” and “designated” have the meanings that they have in Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK.
- (7) If an Order makes provision described in paragraph (4) in relation to a UK sanctions provision, the Order may provide, for the purpose of any prohibitions in Part 3 –
- (a) that a UK exception provision has effect –
 - (i) as an exception under Article 15(3A) to that prohibition in Part 3, or
 - (ii) as a ground for the grant of a licence under Article 16(3A)(b) in relation to that prohibition in Part 3; and
 - (b) that a UK licence provision has effect as a ground on which the Minister may grant a licence under Article 16(3A)(b) in relation to that prohibition in Part 3.
- (8) For the purpose of paragraph (7) –
- (a) a “UK exception provision” is an exception, in the UK sanctions provision, to a prohibition in the UK sanctions provision corresponding to the prohibition in Part 3;
 - (b) a “UK licence provision” is a power or duty, in the UK sanctions provision, to grant a licence in relation to a prohibition in the UK sanctions provision corresponding to the prohibition in Part 3;
 - (c) a UK exception provision or UK licence provision may be given effect with or without adaptations and modifications under paragraph (3)(b);
 - (d) a UK exception provision may be given effect subject to a condition, which may include a condition as to giving

- information to the Minister before or after relying on the exception; and
- (e) an Order imposing a condition under sub-paragraph (d) may provide –
 - (i) that the exception does not apply unless the condition is met, or
 - (ii) that Article 15(5) applies to a failure to comply with the condition.
- (9) Paragraphs (3) to (8) do not limit paragraph (1), and paragraphs (7) and (8) do not limit paragraph (3) or (4).”.

5 Article 4 (implementation of UK and EU provisions: financial services) amended

In Article 4 –

- (a) in the heading for “UK and EU provisions” there is substituted “UK provisions”;
- (b) in paragraph (1) “or an EU sanctions provision” is deleted;
- (c) in paragraph (2) “or EU sanctions provision” is deleted;
- (d) for paragraph (3)(a) there is substituted –
 - “(a) the UK sanctions provision would not otherwise impose the obligation or prohibition on persons of that description in the UK; and”.

6 Article 5 (general provisions Orders) amended

In Article 5 –

- (a) in paragraph (2)(a) “or EU sanctions provisions” is deleted;
- (b) in paragraph (2)(b) “or EU sanctions provision” is deleted.

7 Article 6 (interpretation of Orders and of UK and EU provisions) amended

In Article 6 –

- (a) in the heading for “UK and EU provisions” there is substituted “UK provisions”;
- (b) in paragraph (1) “or an EU sanctions provision” is deleted;
- (c) paragraphs (3), (4) and (5) are deleted.

8 Article 8 (implementation of UK and EU blocking provisions) amended

In Article 8 –

- (a) in the heading for “UK and EU blocking provisions” there is substituted “UK blocking provisions”;
- (b) in paragraph (2)(a) –

- (i) at the start there is inserted “any enactment of the UK that, as retained EU law under the European Union (Withdrawal) Act 2018 of the UK, gives effect to”,
- (ii) for “and any EU” there is substituted “or to any EU”;
- (c) paragraph (2)(c) is deleted;
- (d) in paragraph (2)(d) “or EU” is deleted.

9 Article 9 (meaning of “designated person”) amended

For Article 9(1)(a) there is substituted –

“(a) a provision included, under Article 3(4), in an Order implementing a UK sanctions provision;”.

10 Article 15 (exceptions) amended

In Article 15(3A)(a) for “Article 3(9)(a)(i)” there is substituted “Article 3(7)(a)(i)”.

11 Article 16 (licences) amended

In Article 16(3A)(b) for “Article 3(9)(a)(ii) or (b)” there is substituted “Article 3(7)(a)(ii) or (b)”.

12 Article 19 (designation by virtue of UK, EU or UN listing related to terrorism) amended

In the heading to Article 19 for “UK, EU or UN listing” there is substituted “UK or UN listing”.

13 Article 29 (interim designation of UN-listed person when UNSCR is implemented by UK or EU) amended

In Article 29 –

- (a) in the heading “or EU” is deleted;
- (b) paragraph (1)(b)(ii) is deleted.

14 Article 30 (designation by interim UN asset-freezing Order) amended

In Article 30(5)(b) for “or an EU sanctions provision, that implements (in the UK or the EU) the relevant UN resolution” there is substituted “that implements the relevant UN resolution in the UK”.

15 Article 31 (designation by final UN asset-freezing Order) amended

In Article 31 –

- (a) in paragraph (3) for “whether the UK or the EU” there is substituted “whether the UK”;

- (b) in paragraph (3)(a) for “the UK or the EU, or both,” there is substituted “the UK”;
- (c) in paragraph (3)(b) –
 - (i) for “neither the UK nor the EU has” there is substituted “the UK has not”,
 - (ii) for “the UK and the EU” there is substituted “the UK”.

16 Article 36 (general power to disclose information) amended

In Article 36 –

- (a) in paragraph (1)(g) for “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” there is substituted “EU provision that corresponds to a provision of or under this Law”;
- (b) in paragraph (1)(h)(iv) for “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” there is substituted “EU provision that corresponds to a provision of or under this Law”;
- (c) after paragraph (2) there is inserted –
 - “(3) Expressions used in this Article, that are defined in the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), have the same meaning as in that Law.”.

17 Article 47 (power to amend other enactments in relation to related matters) amended

In Article 47(2)(i) for “EU Implementation Law” there is substituted “[European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#)”.

PART 2

AMENDMENTS FOR FATF AND OTHER PURPOSES

18 Amendment of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#)

This Part amends the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

19 Article 3 (implementation of UK and EU sanctions provisions through Orders) amended

After Article 3(7)(b) (as substituted by Article 4 of this Law) there is inserted –

- “(c) that a general licence, granted in the UK under a UK licence provision, has effect in Jersey as if it had been granted by the Minister under Article 16, subject to any adaptations or modifications under paragraph (3)(b).”.

20 Article 5 (general provisions Orders) amended

In Article 5(4), for “Article 11(4) of the [Interpretation \(Jersey\) Law 1954](#)” there is substituted “Article 9(2) of the [Legislation \(Jersey\) Law 2021](#)”.

21 Article 15 (exceptions) amended

After Article 15(3A) there is inserted –

“(3B) An act does not contravene a provision of this Part in relation to a designated person if the act is one that a responsible officer has determined would be in the interests of –

- (a) national security; or
- (b) the prevention or detection of crime in Jersey or elsewhere.

(3C) For the purpose of paragraph (3B) a responsible officer is a person acting in the course of that person’s duty as –

- (a) a member of the States of Jersey Police Force;
- (b) a member of the financial intelligence unit established under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#);
- (c) a Law Officer, or a person acting on behalf of a Law Officer;
- (d) the Minister, or a person acting on behalf of the Minister, when performing a function under this Law.”.

22 Article 16 (licences) amended

In Article 16(3)(a) for “specify” there is substituted “describe”.

23 Article 20 (power of Minister to make interim terrorism designation) amended

In Article 20 –

- (a) after paragraph (2) there is inserted –

“(2A) Paragraph (2) applies whether or not any criminal proceedings have been taken against the person.”;

- (b) after paragraph (5) there is inserted –

“(5A) Nothing in this Article requires the Minister to notify a person, before making the designation, that the Minister is considering making an interim terrorism designation of that person.”.

24 Article 22 (power of Minister to make final terrorism designation) amended

In Article 22 –

- (a) after paragraph (2) there is inserted –

“(2A) Paragraph (2) applies whether or not any criminal proceedings have been taken against the person.”;

- (b) after paragraph (3) there is inserted –

“(3A) Nothing in this Article requires the Minister to notify a person, before making the designation, that the Minister is considering making a final terrorism designation of that person.”;

- (c) in paragraph (4) “or renewal” is deleted.

25 Article 23 (duration and renewal of final terrorism designation) substituted

For Article 23 there is substituted –

“23 Duration and review of final terrorism designation

- (1) A final terrorism designation of a person remains in effect until it is revoked under Article 25, except that its effect is suspended during a period when the person is a designated person under a provision of this Law other than Article 20 or 22.
- (2) The Minister must –
- (a) keep a final terrorism designation under review;
 - (b) reconsider at least once in every calendar year, after that in which the designation is first made, whether there are still grounds under Article 22 for the designation; and
 - (c) revoke the designation if satisfied that there are no longer any grounds for it under Article 22, whether as a result of consideration under sub-paragraph (a) or (b) or otherwise.
- (3) If, under paragraph (2)(c) or otherwise, the Minister revokes a designation, nothing in this Article prevents the Minister from designating the person again under any power in this Law.”.

26 Article 25 (variation or revocation of interim or final terrorism designation) amended

For Article 25(3) there is substituted –

- “(3) If a person applies to the Minister for the variation or revocation of the person’s designation –
- (a) the Minister must decide on the application within 28 days of receiving sufficient information to make a decision; and
 - (b) if the Minister refuses the application, the Minister must give written notice of the refusal to the person.”.

27 Article 29 (interim designation of UN-listed person when UNSCR is implemented by UK) amended

In Article 29 –

- (a) paragraph (1)(b) is deleted;
- (b) in paragraph (1)(c) for “30 days” there is substituted “90 days”;
- (c) paragraph (2)(b)(ii) is deleted.

28 Article 31 (designation by final UN asset-freezing order) amended

For Article 31(6) there is substituted –

“(6) A final UN asset-freezing Order remains in effect until it is revoked under paragraph (6A).

(6A) The Minister must –

- (a) keep a final UN asset-freezing Order under review;
- (b) reconsider at least once in every calendar year, after that in which the Order is made, whether there are still grounds under this Article for the Order; and
- (c) revoke the Order if satisfied that there are no longer any grounds for it under this Article, whether as a result of consideration under sub-paragraph (a) or (b) or otherwise.”.

29 Article 32 (reporting obligations of relevant financial institutions and statutory authorities) amended

After Article 32(2)(c) there is inserted –

“(d) any actions taken by the institution in compliance with an obligation imposed under Article 37 of the [Proceeds of Crime \(Jersey\) Law 1999](#).”.

30 Article 33 (powers to require information) amended

In Article 33(5) –

- (a) for “any person in or resident in Jersey” there is substituted “a relevant financial institution, or any other person in or resident in Jersey,”;
- (b) after sub-paragraph (a) there is inserted –
 - “(aa) deciding whether to make, vary or revoke an interim terrorism designation or a final terrorism designation of a person under this Law;”.

31 Article 34 (production of documents) amended

In Article 34 –

- (a) in the opening words of paragraph (3), for “a designated person, or a person acting under a licence granted under Article 16,” there is substituted “a person described in paragraph (4)”;
- (b) in paragraph (3)(a) for “(if not already in the person’s possession or control)” there is substituted “(if not already in the person’s possession or control, and regardless of whether in Jersey or elsewhere)”;
- (c) after paragraph (3) there is inserted –
 - “(4) The persons are –
 - (a) a designated person;
 - (b) a relevant financial institution; and

- (c) any other person acting under a licence granted under Article 16.”.

32 Article 37 (co-operation with investigations) amended

In Article 37 –

- (a) in paragraph (1) for “person” there is substituted “person, or otherwise relating to an offence under this Law or to an equivalent offence under the law of another country or territory”;
- (b) in paragraph (2) for “person” there is substituted “person, or otherwise relating to an offence under this Law or to an equivalent offence under the law of another country or territory”.

33 Article 37A (publication of procedures and memorandum of understanding) amended

In Article 37A(3) for “Her Majesty’s Government” there is substituted “His Majesty’s Government”.

34 Article 40 (appeal to Royal Court on certain decisions) amended

Article 40(1)(d) is deleted.

35 Article 43A (requests for assistance with UN de-listing) amended

In Article 43A –

- (a) for paragraphs (1) and (2) there is substituted –
 - “(1) A UN-listed person who is a designated person may request the Minister to use the Minister’s best endeavours to secure that the person ceases to be a UN-listed person.
 - (2) If the Minister receives a request that falls within paragraph (1) and does not fall within paragraph (3) –
 - (a) the Minister must consider the request and decide, within 28 days of receiving sufficient information to make a decision, whether or not to comply with the request;
 - (b) if the Minister decides to comply with the request, the Minister must request His Majesty’s Government in the UK to use its best endeavours to secure that the person ceases to be a UN-listed person.”;
- (b) in paragraph (3)(b) for “Her Majesty’s Government” there is substituted “His Majesty’s Government”.

36 Article 45 (offences: extra-territorial application) amended

In Article 45 –

- (a) for paragraph (1)(a) there is substituted –
 - “(a) an individual who is ordinarily resident in Jersey; or”;

- (b) paragraph (2) is deleted.

37 Article 45A (request from or to another country for terrorism designation) amended

After Article 45A(4) there is inserted –

- “(5) Nothing in this Article requires the Minister to notify a person –
- (a) before making a decision under paragraph (2)(b) in relation to that person, that the Minister is considering a request described in paragraph (1) in relation to that person; or
 - (b) that the Minister has made, or is considering making, a request under paragraph (3) in relation to that person.”.

38 Article 45B (request to UN for terrorism designation) amended

In Article 45B –

- (a) in the heading, “terrorism” is deleted;
- (b) for paragraph (1) there is substituted –

“(1) This Article applies if the Minister reasonably suspects that a person, who is not a UN-listed person –

- (a) should be a UN-listed person; or
- (b) should otherwise be subject to measures under a UN sanctions resolution, in relation to which it is reasonable that the person should be a designated person.”;

(c) in paragraphs (2) and (4), for “Her Majesty’s Government” there is substituted “His Majesty’s Government”;

(d) after paragraph (5) there is inserted –

“(6) Nothing in this Article requires the Minister to notify a person that the Minister has made, or is considering making, a request under paragraph (2) in relation to that person.”.

39 Article 47A (power to amend this Law by Regulations to implement UK or international sanctions provisions) inserted

After Article 47 there is inserted –

“47A Power to amend this Law by Regulations in connection with the implementation of UK or international sanctions provisions etc

- (1) The States may, by Regulations, amend any provision of this Law other than this Article to make alternative or supplementary provision that appears to the States to be appropriate in connection with the implementation of –
- (a) a provision related to sanctions in any enactment of the UK;
 - (b) a UN sanctions resolution; or

- (c) a standard promoted by FATF or by any other international body.
- (2) This Article does not limit any other power to amend this Law by Regulations or Order.”.

PART 3

OTHER AMENDMENTS AND FINAL PROVISIONS

40 [Court of Appeal \(Civil\) Rules 1964](#) amended

- (1) This Article amends the [Court of Appeal \(Civil\) Rules 1964](#).
- (2) For the heading to Rule 18A (appeals from proceedings under the Terrorist Asset-Freezing and Money Laundering and Weapons Development Laws) there is substituted –

“18A Appeals from proceedings under the Sanctions and Asset-Freezing and Money Laundering and Weapons Development Laws”.

- (3) In Rule 18A(1) –
 - (a) the definition “2011 Law” is deleted;
 - (b) after the definition “2012 Law” there is inserted –
 - “ “2019 Law” means the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#);”;
 - (c) for the definition “appeal” there is substituted –
 - “ “appeal” means an appeal against a decision of the Royal Court in proceedings under Article 40 or Article 41 of the 2019 Law or under Article 10 of the 2012 Law.”.

41 [Proceeds of Crime \(Jersey\) Law 1999](#) amended

For Article 37(11)(a)(ii) and (iii) of the [Proceeds of Crime \(Jersey\) Law 1999](#) there is substituted –

- “(ii) any provision of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#), or
- (iii) any provision of an Order under Article 3 of that Law;”.

42 [Terrorism \(Jersey\) Law 2002](#) amended

In Article 1 (general interpretation) of the [Terrorism \(Jersey\) Law 2002](#), in paragraph (1) in the definition “financial services” for “Terrorist Asset-Freezing (Jersey) Law 2011” there is substituted “[Sanctions and Asset-Freezing \(Jersey\) Law 2019](#)”.

43 [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) amended

In Schedule 1 (serious offences) to the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#), in Part 2 (offences mentioned in Article 3(2)(b)) for paragraph 17 there is substituted –

- “17. In the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#) –
- (a) Articles 10, 11, 12, 13, 14 and 17; and
 - (b) Article 32 (except that an offence against Article 32 is not a serious offence for the purposes of Article 13 of this Law).”.

44 [Royal Court Rules 2004](#) amended

- (1) This Article amends the [Royal Court Rules 2004](#).
- (2) For the heading to Part 16A (proceedings under the Terrorist Asset-Freezing and the Money Laundering and Weapons Development Laws) there is substituted –

“PART 16A

PROCEEDINGS UNDER THE SANCTIONS AND ASSET-FREEZING AND THE MONEY LAUNDERING AND WEAPONS DEVELOPMENT LAWS”.

- (3) In Rule 16A/1 (application and interpretation) –
 - (a) for paragraph (1) there is substituted –

“(1) This Part applies to –

 - (a) any appeal to the Court under Article 40(2) of the 2019 Law;
 - (b) any application to the Court –
 - (i) under Article 41(2) of the 2019 Law, or
 - (ii) under Article 10(1) of the 2012 Law.”;
 - (b) in paragraph (4) –
 - (i) the definition “2011 Law” is deleted,
 - (ii) after the definition “2012 Law” there is inserted –

“ “2019 Law” means the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).”;
 - (iii) for the definition “special counsel” there is substituted –

“ “special counsel” means a person appointed under paragraph 5 of Schedule 1 to the 2019 Law or under paragraph 5 of the Schedule to the 2012 Law as the case may be.”.

45 [Regulation of Investigatory Powers \(Jersey\) Law 2005](#) amended

In Article 22 (exceptions to Article 21) of the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#), for paragraph (1)(da)(i) there is substituted –

- “(i) on an appeal under Article 40 of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#), or on an application under Article 41 of that Law, or”.

46 Citation and commencement

This Law may be cited as the Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 202- and comes into force on a day to be specified by the Minister for External Relations and Financial Services by Order.