



Jersey

# **EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 2014**

## **Official Consolidated Version**

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## EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 2014

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## EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 2014

**A LAW** to enable the States and Ministers to give effect in Jersey to legislation of the European Union and to make supplementary provision in relation to that legislation, to make amendments and other provision in connection with the withdrawal of the United Kingdom from the European Union, and for related purposes<sup>1</sup>

Commencement [[see endnotes](#)]

### 1 Interpretation<sup>2</sup>

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

“EU” means the European Union, being the Union established by the Treaty on European Union, and includes, if and in so far as the context permits or requires, the European Atomic Energy Community established by the Euratom Treaty;

“EU Court” means the Court of Justice of the European Union and includes, if and in so far as the context permits or requires, the EFTA Court established under the EEA Agreement;

“EU institution” means any institution of the EU;

“EU instrument” means any instrument issued by an EU institution;

“EU provision” means any provision that –

- (a) is contained in or arises under any of the EU Treaties; or
- (b) comprises or is contained in an EU instrument;

“EU Treaties” means –

- (a) the Treaty on European Union;
- (b) the Treaty on the Functioning of the European Union;
- (c) the Euratom Treaty;
- (d) the EEA Agreement;
- (e) the Withdrawal Agreement; and
- (f) the Trade and Cooperation Agreement (“TCA”);

“implemented EU provision” has the meaning given by Article 5(1);

“implementing Jersey provision” means a provision of an enactment, whenever made, so far as that provision –

- (a) is made, or is to be treated as made, under Article 2 or under Regulations made under that Article;
  - (b) is otherwise made for a purpose described in Article 2(2); or
  - (c) relates otherwise to the EU or the European Economic Area;
- “member”, in the expression “member State”, refers to membership of the EU;
- “Minister” means the Minister for External Relations and Financial Services;
- “repeal day” means the date on which the [European Union \(Jersey\) Law 1973](#) is repealed;
- “treaty” includes any international agreement, and any protocol or annex to a treaty or international agreement.<sup>3</sup>
- (2) For the purpose of paragraph (1) –
- (a) the “Treaty on European Union” is the treaty of that name signed at Maastricht on 7th February 1992, as amended by any treaty up to the date on which the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#) is adopted by the States;
  - (b) the “Treaty on the Functioning of the European Union” is the treaty of that name signed (as the Treaty Establishing the European Economic Community) at Rome on the 25th March 1957, as amended by any treaty up to the date on which the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#) is adopted by the States;
  - (c) the “Euratom Treaty” is the Treaty establishing the European Atomic Energy Community signed at Rome on 25th March 1957, as amended from time to time by any treaty;
  - (d) the “EEA Agreement” is the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as amended from time to time by any treaty;
  - (e) the “Withdrawal Agreement” is the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community signed in Brussels and London on 24th January 2020;
  - (f) the “Trade and Cooperation Agreement” is the trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in Brussels and London on 30th December 2020.<sup>4</sup>
- (3) The Minister may, with the approval of the Council of Ministers, by Order amend the definition “EU Treaties” in paragraph (1), and the definitions in paragraph (2), to add any other treaty –
- (a) that is entered into between the United Kingdom and the EU, in connection with the withdrawal of the United Kingdom from the EU;
  - (b) that is entered into between the United Kingdom and the EU, in connection with the relationship between the United Kingdom and the EU at any time after that withdrawal;
  - (c) that is entered into by Jersey, or is extended to Jersey, and, in the opinion of the Minister, is related to that withdrawal or that relationship;
  - (d) that is entered into by the EU, or by all of the member States, and another country, in connection with the accession of that country to the EU; or

- (e) that is entered into by all of the member States and by no other party, whether –
  - (i) to amend any of the EU Treaties,
  - (ii) to provide for the withdrawal of a member State (other than the United Kingdom), or
  - (iii) for any other purpose.
- (4) An Order under paragraph (3) is not to be read as altering, whether by virtue of provision made under Article 2(4)(b)(iii) or otherwise –
  - (a) the effect of any Regulations under Article 2, if those Regulations were made before the making of the Order; or
  - (b) the effect of any Order made under Regulations falling within sub-paragraph (a).
- (5) An Order under paragraph (3) may –
  - (a) amend any enactment (including this Law) to reflect a change in terminology or numbering arising out of an amendment, by the treaty that is added to paragraph (1) or (2), to any of the EU Treaties; and
  - (b) make any provision incidental or consequential on such a change in terminology or numbering.

## **2 Implementation of EU provisions through Orders or Regulations**

- (1) <sup>5</sup>
- (2) The States may by Regulations make such provision as appears to them to be necessary or expedient for the purposes of –
  - (a) giving effect, either wholly or partly, to any EU provision;
  - (b) dealing with matters arising out of or related to any such provision.<sup>6</sup>
- (3) Subject to paragraphs (5) and (6), the provision that may be made under paragraph (2) includes any such provision (of any such extent) as might be made by a Law passed by the States.<sup>7</sup>
- (4) Without prejudice to the generality of paragraph (3), Regulations under paragraph (2) may –
  - (a) make provision by reference to or by incorporation (by reference, annexation or otherwise) of any EU provision, or of any class or description of EU provisions;
  - (b) when making the provision described in sub-paragraph (a) –
    - (i) do so to such extent and subject to such exceptions, adaptations and modifications to the EU provision as may be specified in the Regulations,
    - (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 United Kingdom are to be treated as if they were a member State, or formed part of any member State, for the purpose of the provision,
    - (iii) provide that a reference to the EU provision is to be read as a reference to that EU provision as amended, substituted, extended or applied from time to time by any other EU provision, or as that

provision otherwise has effect in the EU from time to time by virtue of any judgment of the EU Court;

- (c) amend any Law or other enactment that may be amended by a Law;
- (ca) confer a power or impose a duty on the Minister, or on any other Minister, to make, by Order, any provision that may be made by the Regulations;
- (d) contain such incidental, supplemental or transitional provisions or savings as the States consider expedient.<sup>8</sup>
- (5) The provision that may be made by Regulations under paragraph (2) does not include provision –
  - (a) imposing or increasing taxation;
  - (b) taking effect from a date earlier than that of the making of the Regulations containing the provision; or
  - (c) amending this Law or the [Human Rights \(Jersey\) Law 2000](#).<sup>9</sup>
- (6) The provision that may be made by Order under Regulations under paragraph (2), does not include provision –
  - (a) imposing a penalty of imprisonment for more than 2 years for a criminal offence;
  - (b) falling within either of paragraphs (5)(a) or (c);
  - (ba) taking effect from a date earlier than that of the making of the Order containing the provision; or
  - (c) amending Regulations made under paragraph (2), or making any provision inconsistent with any such Regulations.<sup>10</sup>

**3** 11

**3A** 12

**4** 13

## **5 Interpretation of EU provisions, Regulations and Orders**

- (1) In this Article “implemented EU provision” means an EU provision in respect of which Regulations under Article 2, or an Order under such Regulations, purport –
  - (a) to give effect, wholly or partly, to that EU provision; or
  - (b) to deal with matters arising out of or related to that EU provision.<sup>14</sup>
- (2) Unless the contrary intention appears, an expression used in Regulations under Article 2, or in an Order under such Regulations, is to be read –
  - (a) if that expression is used in the implemented EU provision, as having the same meaning as in that provision; or
  - (b) if sub-paragraph (a) does not apply, but that expression is defined in this Law, as having the meaning so assigned.<sup>15</sup>
- (3) For the purposes of all legal proceedings any question as to the validity or meaning of an implemented EU provision is to be treated as a question of law and is to be

for determination as such in accordance with the principles laid down by, and any relevant decision of, the EU Court.<sup>16</sup>

- (3A) Judicial notice is to be taken of the EU Treaties, of the Official Journal of the EU and of any decision of, or expression of opinion by, the EU Court on any such question, and the Official Journal is admissible as evidence of any EU instrument, or of any other act of the EU or of any EU institution, communicated by the Official Journal.<sup>17</sup>
- (3B) Evidence of any EU instrument, including any judgment or Order of the EU Court, or of any document in the custody of an EU institution, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution.<sup>18</sup>
- (3C) A document purporting to be a copy certified as described in paragraph (3B) is to be received in evidence without proof of the official position or handwriting of the person signing the certificate.<sup>19</sup>
- (4) Regulations under Article 2, or an Order under such Regulations, may provide that any of paragraphs (3) to (3C) does not apply, at all or to any specified extent, to the EU provision implemented by those Regulations or that Order.<sup>20</sup>

## **5A Regulations to deal with deficiencies arising from withdrawal of UK from EU<sup>21</sup>**

- (1) The States may by Regulations make such provision as the States consider appropriate to prevent, remedy or mitigate any matter appearing to the States to amount to –
  - (a) a failure, arising from a relevant change, of an implementing Jersey provision to operate effectively; or
  - (b) any other deficiency of any kind, arising from a relevant change, in an implementing Jersey provision.
- (2) For the purpose of this Article a relevant change is –
  - (a) the withdrawal of the United Kingdom from the EU;
  - (b) the ending of the arrangements for Jersey set out in the EU Treaties before that withdrawal;
  - (c) the repeal of the [European Union \(Jersey\) Law 1973](#);
  - (d) the repeal of the [European Economic Area \(Jersey\) Law 1995](#); or
  - (e) a matter falling within any of sub-paragraphs (a) to (d) when taken together with –
    - (i) the operation of any provision made by or under this Law, or
    - (ii) the interaction between any such provisions.
- (3) Paragraphs (4) to (6) of Article 2 –
  - (a) apply to Regulations made under this Article as they apply to Regulations made under Article 2; and
  - (b) apply accordingly to an Order, made under Regulations that are made under this Article, as they apply to an Order made under Regulations that are made under Article 2.
- (4) Without prejudice to the generality of paragraph (3), Regulations under this Article may in particular –

- (a) provide for a function of an EU institution or of a public authority in a member State (including the making of an EU instrument of a legislative character or the provision of funds) to be –
  - (i) exercisable instead by a public authority (whether already or newly established) in Jersey or in the United Kingdom, or
  - (ii) replaced, abolished or otherwise modified;
- (b) provide for the establishment of a public authority in Jersey to carry out a function provided for by Regulations under this Article; or
- (c) enable provision falling within sub-paragraph (a) or (b) to be made by an Order under the Regulations.

## **5B Regulations to prevent or remedy breaches of international obligations following withdrawal of UK from EU<sup>22</sup>**

- (1) The States may by Regulations make such provision as the States consider appropriate to prevent or remedy any breach of an international obligation that applies or extends to Jersey, being a breach that appears to the States to arise from a relevant change, within the meaning of Article 5A.
- (2) Paragraphs (4) to (6) of Article 2 –
  - (a) apply to Regulations made under this Article as they apply to Regulations made under Article 2; and
  - (b) apply accordingly to an Order made under Regulations that are made under this Article as they apply to an Order made under Regulations that are made under Article 2.
- (3) No Regulations may be made under this Article after the end of the period of 2 years beginning with the repeal day.

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

- (1) The European Communities Legislation (Implementation) (Jersey) Law 1996 is repealed.
- (2) For the purpose of paragraph (3) a “relevant enactment” is an enactment that was –
  - (a) made under the European Communities Legislation (Implementation) (Jersey) Law 1996; and
  - (b) in force immediately before 31st October 2014.
- (3) A relevant enactment –
  - (a) continues in force and is to be treated as if made under this Law; and
  - (b) is to be construed as if any reference in the relevant enactment to the European Community or Communities were a reference to the European Union, and any reference to a Community instrument were to an EU instrument.



**6A Consequential, transitional and other provisions related to repeal of 1973 Law<sup>23</sup>**

- (1) The States may by Regulations make such transitional, consequential, incidental, supplementary or savings provisions as they consider necessary or expedient in respect of –
  - (a) the repeal of the [European Union \(Jersey\) Law 1973](#);
  - (b) the repeal of the [European Economic Area \(Jersey\) Law 1995](#); or
  - (c) an amendment to this Law made by the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#).
- (2) Regulations under paragraph (1) may amend any enactment, including any Law other than this Law or the [Human Rights \(Jersey\) Law 2000](#).

**7 Citation**

This Law may be cited as the European Union Legislation (Implementation) (Jersey) Law 2014.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
European Union Legislation (Implementation) (Jersey) Law 2014	<a href="#">L.28/2014</a>	31 October 2014	<a href="#">P.164/2013</a>
United Nations Financial Sanctions (Jersey) Law 2017	<a href="#">L.3/2017</a>	1 April 2017 ( <a href="#">R&amp;O.42/2017</a> )	<a href="#">P.108/2016</a>
European Union (Repeal and Amendment) (Jersey) Law 2018	<a href="#">L.17/2018</a>	19 September 2018 (in part) ( <a href="#">R&amp;O.93/2018</a> )  19 July 2019 (Articles 6 and 7) ( <a href="#">R&amp;O.64/2019</a> )	<a href="#">P.16/2018</a>
European Union Legislation (Addition of Treaties) (Jersey) Order 2020	<a href="#">R&amp;O.190/2020</a>	11 p.m. on 31 December 2020 ( <a href="#">R&amp;O.189/2020</a> )	
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	<a href="#">R&amp;O.29/2021</a>	2 March 2021	

\*Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
7	spent
8	7
Schedules 1 and 2	spent, omitted

### Table of Endnote References

<sup>1</sup> long title	amended by L.17/2018
<sup>2</sup> Article 1	substituted by L.17/2018
<sup>3</sup> Article 1(1)	amended by R&O.190/2020, R&O.29/2021
<sup>4</sup> Article 1(2)	amended by R&O.190/2020
<sup>5</sup> Article 2(1)	deleted by L.17/2018
<sup>6</sup> Article 2(2)	amended by L.17/2018
<sup>7</sup> Article 2(3)	amended by L.17/2018
<sup>8</sup> Article 2(4)	amended by L.17/2018
<sup>9</sup> Article 2(5)	amended by L.17/2018
<sup>10</sup> Article 2(6)	amended by L.3/2017, L.17/2018

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- <sup>11</sup> Article 3 *repealed by L.17/2018*
- <sup>12</sup> Article 3A *inserted by L.3/2017, repealed by L.17/2018*
- <sup>13</sup> Article 4 *repealed by L.17/2018*
- <sup>14</sup> Article 5(1) *substituted by L.17/2018*
- <sup>15</sup> Article 5(2) *amended by L.17/2018*
- <sup>16</sup> Article 5(3) *substituted by L.17/2018*
- <sup>17</sup> Article 5(3A) *inserted by L.17/2018*
- <sup>18</sup> Article 5(3B) *inserted by L.17/2018*
- <sup>19</sup> Article 5(3C) *inserted by L.17/2018*
- <sup>20</sup> Article 5(4) *amended by L.17/2018*
- <sup>21</sup> Article 5A *inserted by L.17/2018*
- <sup>22</sup> Article 5B *inserted by L.17/2018*
- <sup>23</sup> Article 6A *inserted by L.17/2018*