



Jersey

# **SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 2019**

## **Official Consolidated Version**

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Showing the law from 1 September 2022 to 29 March 2023



Jersey

## SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 2019

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Jersey

## SANCTIONS AND ASSET-FREEZING (JERSEY) LAW 2019

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

Commencement [[see endnotes](#)]

### 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](#);

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

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

“FATF” means the international body known as the Financial Action Task Force;

“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 and Financial Services;

“person” includes, without prejudice to the generality of Part 1 of the Schedule to the [Interpretation \(Jersey\) Law 1954](#), 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](#), 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 Schedule 1;
- “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).<sup>1</sup>
- (2) In relation to a reference to an enactment of the UK or EU 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 or EU, and to any enactment of the UK or EU that repeals that enactment, as it applies in relation to Jersey legislation.<sup>2</sup>
  - (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, and a reference to an offence includes a reference to an offence under Article 1 of the [Criminal Offences \(Jersey\) Law 2009](#) in relation to that offence.<sup>3</sup>
  - (4) The States may by Regulations amend this Article to make alternative or supplementary provision as to definitions of expressions used in this Law.
  - (5) <sup>4</sup>
  - (6) <sup>5</sup>

## 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](#), 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) <sup>6</sup>
- (6) <sup>7</sup>
- (7) <sup>8</sup>
- (8) The Minister may, by Order, amend this Article to make alternative or supplementary provision as to the meaning of “financial services”, “funds”, “economic resources” and related expressions used in Part 3 (including expressions that are also used elsewhere) if the Minister is satisfied that it is appropriate to do so to give effect to any enactment of the UK, to any UN sanctions resolution or to any standard promoted by FATF or by any other international body.<sup>9</sup>

## **2A Meaning of “owned”, “held”, “controlled”, “directly” and “indirectly”<sup>10</sup>**

- (1) A reference in this Law to an account, funds or economic resources “owned, held or controlled” by a person includes a reference to –
- (a) an account, funds or economic resources owned, held or controlled directly or indirectly by that person;
  - (b) an account, funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the account, funds or economic resources;
  - (c) any tangible property (other than immovable property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.
- (2) The fact that funds or economic resources are owned, held or controlled by a person (“P”) jointly with another person or otherwise does not prevent those funds being treated as being owned, held or controlled by P for the purposes of this Law (regardless of whether P is a designated person).
- (3) A reference in this Law to an account, funds or economic resources (an “item”) being owned, held or controlled “indirectly” by a person (“P”) includes a reference to the item being owned, held or controlled by another person (“T”), who is an individual, if –
- (a) T acts in relation to the item as the employee, agent or nominee of P, at the direction of P or otherwise on behalf of P; or

- (b) by virtue of any other arrangement (as defined in Schedule 2) between T and P, it is reasonable to believe that T will act in relation to the item –
    - (i) in accordance with P’s directions or instructions, or
    - (ii) with P’s consent or concurrence.
- (4) In this Law, a person who is not an individual (“C”) is owned, held or controlled “directly or indirectly” by another person (“P”) if any or all of the following conditions are met.
- (5) The first condition is that P is –
  - (a) the holding body of C, as defined by Article 2 of the [Companies \(Jersey\) Law 1991](#), but disregarding the requirement of that Article for P to be a body corporate; or
  - (b) the beneficial owner of C, as defined by Article 2 of the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 2020](#), but disregarding the requirement of that Article for C to be an entity.
- (6) The second condition is that P –
  - (a) holds directly or indirectly more than 50% of the shares in C;
  - (b) holds directly or indirectly more than 50% of the voting rights in C; or
  - (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.
- (7) The third condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes.
- (8) Schedule 2 contains provision applying for the purpose of interpreting paragraph (6).
- (9) For the purposes of this Law a relevant item is also owned, held or controlled “directly or indirectly” by a person (“P”) if the relevant item is owned, held or controlled by another person who is owned, held or controlled directly or indirectly by P, or by a chain of such other persons.
- (10) In paragraph (9) “relevant item” means –
  - (a) an account, funds or economic resources; or
  - (b) a person who is not an individual.
- (11) The Minister may, by Order, amend this Article and Schedule 2 to make alternative or supplementary provision as to the meaning of “owned”, “held”, “controlled”, “directly”, “indirectly” and related expressions used in Part 3 (including expressions that are also used elsewhere) if the Minister is satisfied that it is appropriate to do so to give effect to any enactment of the UK, to any UN sanctions resolution or to any standard promoted by FATF or by any other international body.

## 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 is a designated person for the purpose of Part 3 if the person is –
    - (i) a person against whom a prohibition is imposed by the EU sanctions provision for a purpose falling within paragraph (6), or
    - (ii) a UK financial sanctions target, within the meaning of paragraph (7);
  - (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.<sup>11</sup>

- (5) The provision that may be made by Order under paragraph (1) includes an amendment of any enactment other than this Law or the [Human Rights \(Jersey\) Law 2000](#), 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.<sup>12</sup>
- (6) The purposes mentioned in paragraph (4)(c)(i) are –
- (a) freezing funds or economic resources owned, held or controlled by the person against whom the prohibition is imposed;
  - (b) preventing funds or economic resources being made available to, or for the benefit of that person;
  - (c) prohibiting access to financial markets or financial services by, or for the benefit of that person.<sup>13</sup>
- (7) For the purpose of paragraph (4)(c)(ii) a person is a “UK financial sanctions target” if –
- (a) a UK sanctions provision imposes financial sanctions; and
  - (b) the person is designated (whether by name, description or otherwise, and under whatever procedure) under that provision, or under another UK sanctions provision in relation to that provision.<sup>14</sup>
- (8) In paragraph (7) “imposes financial sanctions” and “designated” have the same meanings as they have in Part 1 of the Sanctions and Anti-Money Laundering Act 2018 of the UK.<sup>15</sup>
- (9) If an Order makes provision described in paragraph (4)(c)(ii) in relation to a UK sanctions provision, the Order may provide, for the purpose of any of the 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.<sup>16</sup>
- (10) For the purpose of paragraph (9) –
- (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 (4)(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.<sup>17</sup>
- (11) Paragraphs (9) and (10) do not limit paragraph (1) or (4).<sup>18</sup>

#### **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](#), a general provisions Order may provide that a general provision applies –
  - (a) in respect of special Orders whenever enacted; or
  - (b) only in respect of special Orders made after the commencement of the general provisions Order.

- (5) Nothing in this Article prevents an Order under Article 3(1) that implements more than one UK sanctions provision from combining provisions that could otherwise be separated between a general provisions Order and a number of separate special Orders.<sup>19</sup>

## **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.

## **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.
- (3A) An act does not contravene a provision of this Part in relation to a designated person if –
- (a) an Order under Article 3(9)(a)(i) gives effect to an exception in relation to that designated person and to that provision;
  - (b) the conditions, if any, specified in that Order for that purpose are met; and
  - (c) the exception applies to the act.<sup>20</sup>
- (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 as described in paragraph (1) or in the circumstances referred to in paragraph (2).<sup>21</sup>
- (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.
- (3A) In deciding whether to grant or refuse a licence, and whether to impose conditions, the Minister –
- (a) must seek to ensure that the grant of a licence will not lead to –

- (i) a UN sanctions resolution being contravened, or
  - (ii) the purpose of the person's designation being frustrated; and
- (b) may rely on a ground given effect by an Order under Article 3(9)(a)(ii) or (b).<sup>22</sup>
- (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”, “act of terrorism” and “terrorist entity” have the same meanings as in the [Terrorism \(Jersey\) Law 2002](#);
  - (b)
  - (c) it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.<sup>23</sup>
- (1A) In this Part “involved person” means a person who –

- (a) is or has been involved in terrorist activity;
  - (b) is owned or controlled (directly or indirectly) by a terrorist entity or by a person who is or has been involved in terrorist activity;
  - (c) is acting on behalf of or at the direction of a terrorist entity or a person who is or has been involved in terrorist activity; or
  - (d) is a member of, or has pledged allegiance in any way to or is otherwise associated with, a terrorist entity or a person who is or has been involved in terrorist activity.<sup>24</sup>
- (1B) A reference in this Part to being involved in an activity includes being involved in whatever way and wherever any act constituting the involvement takes place.<sup>25</sup>
- (1C) In this Article “terrorist activity” means –
- (a) engaging in, or being responsible or providing support for, the commission, preparation or instigation of an act of terrorism;
  - (b) facilitating, promoting or encouraging terrorism;
  - (c) providing or receiving training for the purpose of terrorism;
  - (d) travelling or attempting to travel from or into the British Islands for the purpose of terrorism;
  - (e) recruiting for terrorism;
  - (f) soliciting funds, or otherwise procuring funds, for the purpose of financing the travel of a person recruited for terrorism;
  - (g) organising, providing support for or otherwise facilitating the travel of a person recruited for terrorism;
  - (h) being responsible for a coercive action against a person on behalf of, or in the name of, a terrorist entity or a person who is involved in an activity mentioned in any of sub-paragraphs (a) to (d);
  - (i) supporting or assisting another person, knowing or believing that other person to be a terrorist entity or to be involved in an activity mentioned in any of sub-paragraphs (a) to (f);
  - (j) providing financial services, or making available funds or economic resources, for the purpose of terrorism or for an activity mentioned in any of sub-paragraphs (a) to (h); or
  - (k) being involved in assisting the contravention or circumvention of –
    - (i) Part 3 in relation to a person designated under this Part, or
    - (ii) a provision of the law of a country or territory other than Jersey that corresponds to a provision of Part 3 in relation to terrorism or in relation to a power corresponding to any of the powers in this Part.<sup>26</sup>
- (1D) In paragraph (1C)(e) to (g) “recruiting for terrorism” means soliciting another person (who is “recruited for terrorism” whether the soliciting is successful or not) to –
- (a) become a member of a person, other than an individual, involved in an activity mentioned in any of sub-paragraphs (a) to (d) of that paragraph; or
  - (b) participate in an act by, in conjunction with, in the name of, on behalf of or in support of, a person involved in an activity mentioned in any of those sub-paragraphs (a) to (d).<sup>27</sup>
- (1E) In paragraph (1C)(h) –

- (a) “being responsible for” includes engaging in, being complicit in, providing support for, or promoting; and
  - (b) “coercive action” means abduction, enslavement, forced marriage, rape or sexual violence.<sup>28</sup>
- (1F) Nothing in any sub-paragraph of paragraph (1C) limits the meaning of any of the other sub-paragraphs of that paragraph.<sup>29</sup>
- (1G) For the purpose of any provision requiring a suspicion that a person is an involved person, nothing in this Article is to be read as requiring that the person who has the suspicion is aware of any criminal proceedings.<sup>30</sup>
- (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;
  - (aa)
  - (b)
  - (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)<sup>31</sup>
- (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 falling within paragraph (1)(a), but not within paragraph (1)(c), is not a designated person for the purpose of this Law if the Minister is satisfied that the person –
    - (i) is resident in, or established in, Jersey, and
    - (ii) is not a person who could be designated by the Minister under Article 20 or 22; 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)
    - (iii) a list mentioned in paragraph (1)(c)(i) or (ii), by virtue of which that person falls within paragraph (1)(c).<sup>32</sup>

## 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 –
  - (a) the Minister reasonably suspects that the person is an involved person; and
  - (b) the Minister considers that it is appropriate that financial restrictions should be applied in relation to the person for purposes connected with –
    - (i) protecting members of the public (whether in Jersey or elsewhere) from terrorism,
    - (ii) preventing terrorism (whether in Jersey or elsewhere), or
    - (iii) otherwise complying with resolution 1373 (2001) of the UN Security Council.<sup>33</sup>
- (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 –
  - (a) the Minister reasonably believes that the person is an involved person; and
  - (b) the Minister considers that it is appropriate that financial restrictions should be applied in relation to the person for purposes connected with –
    - (i) protecting members of the public (whether in Jersey or elsewhere) from terrorism,
    - (ii) preventing terrorism (whether in Jersey or elsewhere), or
    - (iii) otherwise complying with resolution 1373 (2001) of the UN Security Council.<sup>34</sup>
- (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](#).
- (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.
- (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)
  - (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.<sup>35</sup>

### **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 and statutory authorities<sup>36</sup>**

- (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, is committing or intends to commit 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.<sup>37</sup>
- (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.
- (4) A relevant statutory authority must give information, held by that authority, to the Minister as soon as practicable if –
  - (a) the information came to the relevant statutory authority in the course of carrying out a function conferred on it under an enactment; and
  - (b) the relevant statutory authority believes that giving the information would facilitate –

- (i) the performance of a function of the Minister under this Law, or
  - (ii) the investigation or prosecution of an offence under this Law.<sup>38</sup>
- (5) For the purpose of paragraph (4) a relevant statutory authority is –
  - (a) the Jersey Financial Services Commission, established by the [Financial Services Commission \(Jersey\) Law 1998](#); and
  - (b) any other person specified in an Order under paragraph (6).<sup>39</sup>
- (6) The Minister may by Order specify a person if –
  - (a) the person is established by an enactment; and
  - (b) the Minister is satisfied, after consulting that person, that the person has a function that is likely to result in the person holding information that could facilitate –
    - (i) the performance of a function of the Minister under this Law, or
    - (ii) the investigation or prosecution of an offence under this Law.<sup>40</sup>

### 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 sub-paragraph (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, limited liability company, 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 the case of a limited liability company, a present or past member, manager or employee of the limited liability company,
    - (iii) in any other case, a present or past officer or employee of the association or body corporate,to give an explanation of the document.<sup>41</sup>
- (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 subparagraph (h);
  - (j) for the purpose of giving assistance or co-operation, under a UN sanctions resolution or in connection with a function under Article 43A, 45A or 45B or otherwise for the purpose of countering terrorism, 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.<sup>42</sup>
- (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.

### **37A Publication of procedures and memorandum of understanding<sup>43</sup>**

- (1) The Minister must publish a statement of the Minister’s procedures for the performance of the Minister’s functions under Articles 43A, 45A and 45B.
- (2) The first statement for each of those Articles must be published no later than the end of 2022, and the Minister must publish any subsequent change to the statement.
- (3) The Minister must seek to agree a memorandum of understanding with Her Majesty’s Government in the UK as to the coordination of the performance of the Minister’s functions under Articles 43A, 45A and 45B with the performance of the equivalent functions of that Government.
- (4) The Minister must publish the memorandum of understanding, if any, agreed from time to time under paragraph (3).

### 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](#); or
  - (b) is prohibited by Part 2 of the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#).
- (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.
- (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)
  - (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.<sup>44</sup>
- (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) Schedule 1 makes provision as to the procedure on an appeal and on a review.<sup>45</sup>
- (2) The States may by Regulations amend Schedule 1 to make alternative or supplementary provision as to the procedure on an appeal or review.<sup>46</sup>

#### **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.

#### **43A Requests for assistance with UN de-listing<sup>47</sup>**

- (1) If the Minister receives a request falling within paragraph (2), the Minister must consider the request and decide whether or not to comply with it.
- (2) A request falls within this paragraph if it –
- (a) is from a UN-listed person who is a designated person;
  - (b) is for the Minister to request Her Majesty’s Government in the UK to use its best endeavours to secure that the person ceases to be a UN-listed person; and
  - (c) it does not fall within paragraph (3).
- (3) A request falls within this paragraph if –
- (a) the designated UN-listed person has made a previous request under this Article or under section 25 of the Sanctions and Anti-Money Laundering Act 2018 of the UK; and
  - (b) the grounds on which the current request is made do not include a significant matter that has not previously been considered by the Minister or by Her Majesty’s Government in the UK.

## **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 sub-paragraphs (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.

#### **45A Request from or to another country for terrorism designation<sup>48</sup>**

- (1) Paragraph (2) applies if the Minister receives a request from a territory or country other than Jersey (an “overseas country”) for a person to be designated under Part 4.
- (2) The Minister must promptly, and in any event within 7 days of receiving the request –
  - (a) consult the financial intelligence unit established under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#);
  - (b) make a decision as to whether it appears appropriate to designate the person under Part 4; and
  - (c) inform the overseas country of the decision.
- (3) Paragraph (4) applies if the Minister makes a request to an overseas country for that overseas country to take a measure that corresponds to designation under Part 4.
- (4) The Minister must give to the overseas country –
  - (a) a reason for the request; and
  - (b) any information that the Minister is able to disclose to support the request.

#### **45B Request to UN for terrorism designation<sup>49</sup>**

- (1) This Article applies if the Minister reasonably believes that a person, who is not a UN-listed person, should be a UN-listed person in relation to, or should otherwise be subject to measures under, any one or more of the following (the “relevant resolution”) –
  - (a) any of the UN Security Council resolutions mentioned in Article 19(1)(c);
  - (b) UN Security Council resolution 1373 (2001);
  - (c) any other UN sanctions resolution, as adopted from time to time, that states that its purposes include countering terrorism.
- (2) The Minister must request Her Majesty’s Government in the UK to use its best endeavours to secure that the person becomes a UN-listed person under the relevant resolution.
- (3) For the purpose of paragraph (1), in considering whether a person should be a UN-listed person, the Minister must in particular –
  - (a) have regard to any designation criterion or procedure established by any organ of the United Nations for the purpose of the relevant resolution;
  - (b) have regard to any recommendation adopted by FATF in relation to the relevant resolution; and
  - (c) consult the financial intelligence unit established under Article 41B of the [Proceeds of Crime \(Jersey\) Law 1999](#).

- (4) When making a request under paragraph (2), the Minister must give to Her Majesty's Government in the UK –
  - (a) the reason for the request; and
  - (b) any information that the Minister is able to disclose to support the request.
- (5) Paragraph (2) applies –
  - (a) whether or not any criminal proceedings have been taken against the person; and
  - (b) whether or not the Minister decides to designate the person under this Law.

#### **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](#), 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.

#### **46A Civil immunity<sup>50</sup>**

- (1) A person is not liable to any civil proceedings to which that person would, in the absence of this Article, have been liable in respect of an act, if at the time of the act the person reasonably believed that the act was necessary to comply with an obligation or prohibition imposed –
  - (a) by this Law;
  - (b) by an enactment under this Law; or
  - (c) by a direction or other instruction given under this Law or under an enactment under this Law.
- (2) Nothing in paragraph (1) limits any other ground on which, in the absence of this Article, the person may claim not to be liable for an act.

#### **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](#);
  - (b) the [Money Laundering and Weapons Development \(Directions\) \(Jersey\) Law 2012](#);
  - (c) the [Proceeds of Crime \(Jersey\) Law 1999](#);
  - (d) the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#);
  - (e) the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#);
  - (f) the [EU Legislation \(Information Accompanying Transfers of Funds\) \(Jersey\) Regulations 2017](#);
  - (g) the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#);
  - (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) <sup>51</sup>
- (2) <sup>52</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.

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**52 Citation**

This Law may be cited as the Sanctions and Asset-Freezing (Jersey) Law 2019.

**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](#) comes into force.

**SCHEDULE 1<sup>56</sup>**

(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](#) and Article 19 of the [Court of Appeal \(Jersey\) Law 1961](#) 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](#).
- (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.

**SCHEDULE 2<sup>57</sup>**

(Article 2A(8))

**RULES FOR INTERPRETATION OF ARTICLE 2A(6)****1 Application of Schedule 2**

- (1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting Article 2A(6).
- (2) They also apply –
  - (a) for the purpose of interpreting this Schedule; and
  - (b) as mentioned in Article 2A(3)(b).

**2 Joint interests**

If 2 or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

**3 Joint arrangements**

- (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 12.

**4 Calculating shareholdings**

- (1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.
- (2) In relation to a person who does not have a share capital –
  - (a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person; and
  - (b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

**5 Voting rights**

- (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.
- (2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights –

- (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company; and
- (b) a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

## **6 Rights held by person itself**

In applying Article 2A(6) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

## **7 Rights to appoint or remove members of the board**

A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

## **8 Board of directors**

A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

## **9 Shares or rights held “indirectly”**

- (1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person –
  - (a) holds the share in question; or
  - (b) is part of a chain of persons –
    - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of whom holds the share.
- (2) A person holds a right “indirectly” if the person has a majority stake in another person and that other person –
  - (a) holds that right; or
  - (b) is part of a chain of persons –
    - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
    - (ii) the last of whom holds that right.
- (3) For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if –
  - (a) A holds a majority of the voting rights in B;
  - (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B;
  - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B; or

- (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if –
  - (a) any person’s appointment as director follows necessarily from that person’s appointment as director of A; or
  - (b) the directorship is held by A itself.

## **10 Shares held by nominees**

A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

## **11 Rights treated as held by person who controls their exercise**

- (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only –
  - (a) by that person;
  - (b) in accordance with that person’s directions or instructions; or
  - (c) with that person’s consent or concurrence.

## **12 “Arrangement”**

“Arrangement” includes –

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable; and
- (b) any convention, custom or practice of any kind.

## **13 Rights exercisable only in certain circumstances**

- (1) Rights that are exercisable only in certain circumstances are to be taken into account only –
  - (a) when the circumstances have arisen, and for so long as they continue to obtain; or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.
- (3) “Relevant insolvency proceedings” means –
  - (a) proceedings for bankruptcy;
  - (b) proceedings under the insolvency law of another country or territory during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.

- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

#### **14 Rights attached to shares held by way of security**

Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person –

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions; and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Sanctions and Asset-Freezing (Jersey) Law 2019	<a href="#">L.2/2019</a>	19 July 2019 ( <a href="#">R&amp;O.54/2019</a> )	<a href="#">P.119/2018</a>
Sanctions and Asset-Freezing (Transitional Provisions) (Jersey) Regulations 2019	<a href="#">R&amp;O.28/2019</a>	19 July 2019 ( <a href="#">R&amp;O.54/2019</a> )	<a href="#">P.35/2019</a>
Sanctions and Asset-Freezing (Amendment of Law – Reporting Obligations) (Jersey) Regulations 2019	<a href="#">R&amp;O.82/2019</a>	24 September 2019	<a href="#">P.74/2019</a>
Sanctions and Asset-Freezing (Amendment) (Jersey) Law 2019	<a href="#">L.14/2019</a>	19 October 2019	<a href="#">P.58/2019</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	
Sanctions and Asset-Freezing (Amendment No. 2) (Jersey) Law 2022	<a href="#">L.13/2022</a>	8 June 2022 ( <a href="#">R&amp;O.71/2022</a> )	<a href="#">P.53/2022</a>
Limited Liability Companies (Consequential Amendments) (Jersey) Regulations 2022	<a href="#">R&amp;O.38/2022</a>	1 September 2022	<a href="#">P.33/2022</a>

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

### Table of Endnote References

<sup>1</sup> Article 1(1)	<i>amended by R&amp;O.28/2019, R&amp;O.29/2021, L.13/2022</i>
<sup>2</sup> Article 1(2)	<i>substituted by L.13/2022</i>
<sup>3</sup> Article 1(3)	<i>amended by L.13/2022</i>
<sup>4</sup> Article 1(5)	<i>inserted by R&amp;O.28/2019, deleted by L.13/2022</i>
<sup>5</sup> Article 1(6)	<i>inserted by R&amp;O.28/2019, deleted by L.13/2022</i>
<sup>6</sup> Article 2(5)	<i>deleted by L.13/2022</i>
<sup>7</sup> Article 2(6)	<i>deleted by L.13/2022</i>
<sup>8</sup> Article 2(7)	<i>deleted by L.13/2022</i>
<sup>9</sup> Article 2(8)	<i>substituted by L.13/2022</i>
<sup>10</sup> Article 2A	<i>inserted by L.13/2022</i>
<sup>11</sup> Article 3(4)	<i>amended by L.14/2019, L.13/2022</i>
<sup>12</sup> Article 3(5)	<i>amended by L.13/2022</i>
<sup>13</sup> Article 3(6)	<i>inserted by L.14/2019, amended by L.13/2022</i>
<sup>14</sup> Article 3(7)	<i>inserted by L.13/2022</i>

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- <sup>15</sup> Article 3(8) inserted by L.13/2022
- <sup>16</sup> Article 3(9) inserted by L.13/2022
- <sup>17</sup> Article 3(10) inserted by L.13/2022
- <sup>18</sup> Article 3(11) inserted by L.13/2022
- <sup>19</sup> Article 5(5) inserted by L.13/2022
- <sup>20</sup> Article 15(3A) inserted by L.13/2022
- <sup>21</sup> Article 15(4) amended by L.13/2022
- <sup>22</sup> Article 16(3A) inserted by L.13/2022
- <sup>23</sup> Article 18(1) amended by L.13/2022
- <sup>24</sup> Article 18(1A) inserted by L.13/2022
- <sup>25</sup> Article 18(1B) inserted by L.13/2022
- <sup>26</sup> Article 18(1C) inserted by L.13/2022
- <sup>27</sup> Article 18(1D) inserted by L.13/2022
- <sup>28</sup> Article 18(1E) inserted by L.13/2022
- <sup>29</sup> Article 18(1F) inserted by L.13/2022
- <sup>30</sup> Article 18(1G) inserted by L.13/2022
- <sup>31</sup> Article 19(1) amended by R&O.28/2019, L13/2022
- <sup>32</sup> Article 19(4) amended by L.13/2022
- <sup>33</sup> Article 20(2) substituted by L.13/2022
- <sup>34</sup> Article 22(2) substituted by L.13/2022
- <sup>35</sup> Article 29(2) amended by L.13/2022
- <sup>36</sup> Article 32 heading amended by R&O.82/2019
- <sup>37</sup> Article 32(1) amended by L.13/2022
- <sup>38</sup> Article 32(4) inserted by R&O.82/2019
- <sup>39</sup> Article 32(5) inserted by R&O.82/2019
- <sup>40</sup> Article 32(6) inserted by R&O.82/2019
- <sup>41</sup> Article 34(2) amended by R&O.32/2022
- <sup>42</sup> Article 36(1) amended by L.13/2022
- <sup>43</sup> Article 37A inserted by L.13/2022
- <sup>44</sup> Article 40(1) amended by L.13/2022
- <sup>45</sup> Article 42(1) amended by L.13/2022
- <sup>46</sup> Article 42(2) amended by L.13/2022
- <sup>47</sup> Article 43A inserted by L.13/2022
- <sup>48</sup> Article 45A inserted by L.13/2022
- <sup>49</sup> Article 45B inserted by L.13/2022
- <sup>50</sup> Article 46A inserted by L.13/2022
- <sup>51</sup> Article 48(1) deleted by L.13/2022
- <sup>52</sup> Article 48(2) deleted by L.13/2022
- <sup>53</sup> Article 49 spent, omitted
- <sup>54</sup> Article 50 spent, omitted
- <sup>55</sup> Article 51 spent, omitted
- <sup>56</sup> Schedule 1 renumbered by L.13/2022
- <sup>57</sup> Schedule 2 inserted by L.13/2022