



Jersey

# **SANCTIONS AND ASSET-FREEZING (GENERAL PROVISIONS) (JERSEY) ORDER 2019<sup>1</sup>**

## **Official Consolidated Version**

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Jersey

# SANCTIONS AND ASSET-FREEZING (GENERAL PROVISIONS) (JERSEY) ORDER 2019

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Jersey

## **SANCTIONS AND ASSET-FREEZING (GENERAL PROVISIONS) (JERSEY) ORDER 2019**

**THE MINISTER FOR EXTERNAL RELATIONS** makes this Order under Article 5 of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#) –

Commencement [[see endnotes](#)]

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### **1 Interpretation**

In this Order –

“Law” means the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#);

“relevant EU provision”, in relation to a special Order means an EU provision implemented by that special Order;

“special Order” has the meaning given by Article 5 of the Law, but does not include an Order made before the commencement of this Order.

### **2 Articles applicable to special Orders**

- (1) Each of Articles 3 to 8 is to be read, subject to paragraph (2), as forming part of a special Order.
- (2) A special Order may include any one or more of the following –
  - (a) express provision that one or more of Articles 3 to 8 is not to be read as forming part of the special Order;
  - (b) provision that any or all of those Articles are to be read, when read as part of the special Order –
    - (i) as being subject to any reservation or condition specified in the special Order,
    - (ii) as applying only in relation to provisions of the special Order that are specified for that purpose by that Order, or
    - (iii) as otherwise modified by the special Order.

### **3 Application in relation to Jersey**

- (1) The Minister is the competent authority for Jersey in relation to a relevant EU provision.

- (2) A reference in a relevant EU provision to member States or the EU (however expressed) is to be read as including Jersey.
- (3) A relevant EU provision is to be read in its application to Jersey as if, for any EU provision specifying the scope of the application of the relevant EU provision in relation to the EU, there were substituted a provision applying the relevant EU provision –
  - (a) to Jersey, including its airspace;
  - (b) on board any aircraft or any vessel under the jurisdiction of Jersey;
  - (c) to any legal person, entity or body which is incorporated or constituted under the law of Jersey;
  - (d) to any legal person, entity or body in respect of any business done in whole or in part in Jersey.
- (4) For the purpose of a reference in the Law to compliance with or evasion of the Law, or to an offence or function under the Law, a relevant EU provision is to be treated as if it were a provision of the Law.
- (5) Paragraph (4) –
  - (a) applies in particular to Articles 32(1)(b)(ii), 32(4)(b), 32(6)(b), 33(5)(b), 33(5)(c), 41(1), 44(1), 45(1) and 46(2) of the Law; and
  - (b) does not limit the application of Article 1(3) of the Law to a special Order.

#### **4 Construction of references to include Guernsey**

- (1) A reference in a relevant EU provision to member States or the EU (however expressed) is to be construed as including Guernsey.
- (2) A reference in a relevant EU provision to the competent authorities is to be construed as including the person in Guernsey who for the purposes of the law of Guernsey is to be treated as a competent authority in so far as that relevant EU provision is implemented in Guernsey.

#### **5 Construction of references to include Isle of Man**

- (1) A reference in the relevant EU provision to member States or the EU (however expressed) is to be construed as including the Isle of Man.
- (2) A reference in the relevant EU provision to the competent authorities is to be construed as including the person in the Isle of Man who for the purposes of the law of the Isle of Man is to be treated as a competent authority in so far as that relevant EU provision is implemented in the Isle of Man.

#### **6 Disapplication of duty to supply information to EU**

A relevant EU provision does not have effect in so far as it would otherwise impose a duty on the Minister to supply any information to another competent authority, to a member State or to the European Commission.

#### **7 Offences: application of [Customs and Excise \(Jersey\) Law 1999](#)**

- (1) If a special Order includes a customs-related offence provision –

- (a) Article 48 of the [Customs and Excise \(Jersey\) Law 1999](#) (the “1999 Law”) applies to the arrest of a person for the customs-related offence as it applies to the arrest of a person for an offence under the 1999 Law; and
  - (b) Articles 64 to 67 of the 1999 Law apply in relation to the customs-related offence, and to proceedings and penalties for the customs-related offence, as they apply in relation to an offence under the 1999 Law and to proceedings and penalties for such an offence.
- (2) For the purpose of paragraph (1) –
- (a) a special Order includes a customs-related offence provision if –
    - (i) the relevant EU provision prohibits or restricts an act that constitutes the importation or exportation, or attempted importation or exportation, of goods for the purpose of the 1999 Law, and
    - (ii) the special Order provides that contravention of that prohibition or restriction is an offence; and
  - (b) a reference to the “customs-related offence” is a reference to the offence described in sub-paragraph (a)(ii), to the extent that that offence is constituted by an act described in sub-paragraph (a)(i).

## **8 Application of provisions to relevant financial institutions**

- (1) Paragraph (2) applies to any obligation or prohibition that is imposed by the relevant EU provision on an EU-defined financial service provider in respect of –
  - (a) that provider’s dealings with the finances of another person; or
  - (b) the provision, by that provider to another person, of a service by way of business, being the business by virtue of which that provider is an EU-defined financial service provider.
- (2) The obligation or prohibition applies to a person carrying on relevant trust company business as it applies to the EU-defined financial service provider.
- (3) For the purpose of paragraphs (1) and (2) –
  - (a) a person carries on relevant trust company business if the person –
    - (i) falls within Article 4(3) of the Law, and
    - (ii) carries on trust company business within the meaning of the [Financial Services \(Jersey\) Law 1998](#), for which the person is required by Article 7 of that Law to be a registered person; and
  - (b) a person is an EU-defined financial service provider if the person –
    - (i) is a credit institution or a financial institution, within the meaning of the relevant EU provision, or
    - (ii) carries on any other description of business specified in the relevant EU provision, being business that would, if carried on in Jersey, be financial services business within the meaning of the [Proceeds of Crime \(Jersey\) Law 1999](#).
- (4) Paragraph (5) applies if the relevant EU provision –
  - (a) contains –
    - (i) a requirement to freeze the funds or economic resources (within the meaning of that EU provision) of a person, or not to make such funds or economic resources available to a person, and

- (ii) an exception (whether general or by way of licence or otherwise) to that requirement;
  - (b) imposes the requirement –
    - (i) on all persons generally, or
    - (ii) on a description of persons that includes both EU-defined financial service providers and persons falling within paragraph (6), whether or not also including other persons of any description; and
  - (c) makes the exception available only to EU-defined financial service providers.
- (5) The exception is to be read as applying also to a person falling within paragraph (6), as it applies to an EU-defined financial service provider.
- (6) A person falls within this paragraph if the person –
- (a) is a registered person, within the meaning of the [Financial Services \(Jersey\) Law 1998](#);
  - (b) carries on trust company business within the meaning of that Law; and
  - (c) is not an EU-defined financial service provider.

## **9 General provisions for prior EU sanctions Orders**

- (1) In this Article, and in the Schedule, “prior EU sanctions Order” has the meaning given by Article 48(2) of the Law.
- (2) The following provisions are to be read as forming part of a prior EU sanctions Order, as if that Order were a special Order, unless that Order expressly provides otherwise –
  - (a) those set out in Articles 3 to 8; and
  - (b) those set out in the Schedule.

## **10 <sup>2</sup>**

## **11 Citation and commencement**

This Order may be cited as the Sanctions and Asset-Freezing (General Provisions) (Jersey) Order 2019 and comes into force on the day after it is made.

## SCHEDULE

(Article 9)

### ADDITIONAL PROVISIONS APPLIED TO PRIOR EU SANCTIONS ORDERS

#### 1 Information: power to obtain

- (1) The Minister, or any person authorised by the Minister for the purpose (either generally or in a particular case), may request a person in or resident in Jersey to –
  - (a) furnish to the Minister information; or
  - (b) produce to the Minister a document,in the person's possession or control, that the Minister may require for a purpose described in sub-paragraph (2).
- (2) That purpose is to assist the Minister –
  - (a) in the implementation of the relevant EU provision; or
  - (b) otherwise in ensuring compliance with the special Order.
- (3) A person to whom a request is made under sub-paragraph (1), or under that sub-paragraph as read with sub-paragraph (6)(b), must comply with the request within such time and in such manner as may be specified in the request.
- (4) Nothing in sub-paragraph (3) requires a person who has acted as legal adviser for a person to disclose a privileged communication made to the person in that capacity.
- (5) If a person is convicted of an offence under the special Order of failing to furnish information or to produce a document, the court may make an order requiring the person, within such period as may be specified in the order, to furnish the information or produce the document.
- (6) The power conferred by sub-paragraph (1) to request a person to produce a document includes the power –
  - (a) to take copies of or extracts from a document so produced; and
  - (b) to request the person (or, if the person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate) to provide an explanation of any such document, to the extent of that person's knowledge.

#### 2 Information: duty to provide

- (1) Nothing in Article 32(1)(b)(ii) of the Law is to be read as limiting any provision as to information made by the relevant EU provision, including any provision imposing a duty to supply information to the Minister without being asked for it.
- (2) Nothing in Article 32(3) of the Law is to be read as limiting any provision of a special Order creating an offence of contravention of a duty mentioned in sub-paragraph (1).
- (3) Nothing in any of Articles 33(5)(b), 33(5)(c) and 35(1) of the Law is to be read as limiting any provision of paragraph 2.
- (4) Sub-paragraphs (1), (2) and (3) do not limit the application to a special Order of –
  - (a) Articles 1(3) and 48(1) of the Law; and

- (b) Article 12 of the [Interpretation \(Jersey\) Law 1954](#).

### 3 Information: restrictions on disclosure

- (1) The Minister may supply to a member State or to the European Commission –
- (a) information as to any measure he or she proposes to take, or has taken, under the special Order;
  - (b) information disclosable under sub-paragraph (2)(a) or (c); and
  - (c) subject to sub-paragraph (2), any other information at his or her disposal in connection with the implementation of the relevant EU provision or otherwise in connection with the special Order.
- (2) Information furnished or a document produced (including any copy or extract made of a document produced) by a person in pursuance of a request made under paragraph 1 must not be disclosed except –
- (a) subject to sub-paragraph (3), with the consent of the person by whom the information was furnished or the document was produced;
  - (b) to –
    - (i) a person empowered under paragraph 1(1) to request that it be furnished or produced, or
    - (ii) a person holding or acting in an office under or in the service of the States;
  - (c) on the authority of the Minister, to the European Commission or to any of the competent authorities of the member States, as identified in the relevant EU provision, for any purpose in connection with the relevant EU provision;
  - (d) on the authority of the Minister, to the Jersey Financial Services Commission, established by the [Financial Services Commission \(Jersey\) Law 1998](#), for the purpose of any of its functions, where the Minister believes that the exercise of such a function may assist in achieving compliance with the relevant EU provision; or
  - (e) with a view to the institution of, or otherwise for the purposes of, proceedings for an offence under a special Order.
- (3) Consent for the purposes of sub-paragraph (2)(a) may be given only by a person entitled to the information or to possession of the document in their own right, and not by a person having such information or document in the capacity of a servant or agent of the person so entitled.

### 4 Construction of references to repealed Order

- (1) No reference in the prior EU sanctions Order to the repealed EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014 (the “2014 Order”) is to be read as limiting the application of this Schedule, or of Article 8 of this Order, to the prior EU sanctions Order.
- (2) In the prior EU sanctions Order –
- (a) a reference to Article 8 of the 2014 Order is to be read as a reference to Article 3(1) of this Order;
  - (b) a reference to Article 9 of the 2014 Order is to be read as a reference to Article 46 of the Law;



- (c) a reference to Article 10 of the 2014 Order is to be read as a reference to paragraph 1 of this Schedule (and accordingly a reference to Article 10(3) of that Order is to be read as a reference to paragraph 1(3) of this Schedule);
- (d) a reference to Article 10A of the 2014 Order is to be read as a reference to paragraph 2 of this Schedule; and
- (e) a reference to Article 14A of the 2014 Order is to be disregarded.

## ENDNOTES

### Table of Legislation History

| Legislation   | Year and No                      | Commencement     | Project No<br>(where applicable) |
|---|----------------------------------|------------------|----------------------------------|
| Sanctions and Asset-Freezing (General Provisions) (Jersey) Order 2019 | <a href="#">R&amp;O.139/2019</a> | 12 December 2019 |                                  |

Project available at [statesassembly.gov.je](https://statesassembly.gov.je)

### Table of Endnote References

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<sup>1</sup> *This Order was repealed by the Sanctions and Asset-Freezing (Implementation of EU Regulations) (Jersey) Order 2020 on 22 October 2020.*

<sup>2</sup> *Article 10 spent, omitted*