



Jersey

EU LEGISLATION (SANCTIONS) (GENERAL PROVISIONS) (JERSEY) ORDER 2014

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EU LEGISLATION (SANCTIONS) (GENERAL PROVISIONS) (JERSEY) ORDER 2014

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THE MINISTER FOR EXTERNAL RELATIONS, in pursuance of Article 4 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), orders as follows –

Commencement [[see endnotes](#)]

PART 1

INTERPRETATION AND APPLICATION

1 Interpretation

In this Order, unless the context otherwise requires –

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

“relevant special Order” means a special Order that –

- (a) is made –
 - (i) at any time, to give effect to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network (OJ L 139, 29.5.2002, p. 9) as amended¹, or to Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan (OJ L 199, 2.8.2011, p. 1) as amended², or
 - (ii) after the commencement of this Order;
- (b) is made under Article 2(1)(b) of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), whether or not also under Article 2(1)(c) of that Law; and
- (c) includes express provision that the special Order is a relevant special Order for the purpose of this Order.

2 Articles applicable to relevant special Orders

- (1) Each of Articles 3 to 14 is to be read, subject to paragraph (2), as forming part of a relevant special Order.

- (2) A relevant special Order may include any one or more of the following –
- (a) express provision that one or more of Articles 3 to 14 is not to be read as forming part of the relevant special Order;
 - (b) provision that any or all of those Articles are to be read, when read as part of the relevant special Order –
 - (i) as being subject to any reservation or condition specified in the relevant special Order,
 - (ii) as applying only in relation to provisions of the relevant special Order that are specified for that purpose by that Order, or
 - (iii) as otherwise modified by the relevant special Order.

PART 2

GENERAL PROVISIONS READ AS PART OF RELEVANT SPECIAL ORDERS UNLESS EXCLUDED

3 Construction of references to include Jersey

- (1) A reference in the relevant EU provision to member States or the EU (however expressed) is to be construed as including Jersey.
- (2) A reference in the relevant EU provision to the competent authorities is to be construed as including the Minister.

4 Construction of references to include Guernsey

- (1) A reference in the relevant EU provision to member States or the EU (however expressed) is to be construed as including Guernsey.
- (2) A reference in the 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 the 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 the relevant EU provision is implemented in the Isle of Man.

6 Application: scope in relation to Jersey

The relevant EU provision applies by virtue of the relevant special Order as if, for any provision of the EU provision specifying the scope of its application in relation to the EU, there were substituted a provision applying the 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.

7 Application: registrable trust company business

- (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 3(3) of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), 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.

8 Functions of Minister: as competent authority

The Minister, with a view to ensuring compliance with the relevant EU provision, must perform the functions required to be performed by a competent authority of a member State under that EU provision, as if the Minister were a competent authority for the purpose of that EU provision.

9 Functions of Minister: delegation

The Minister may, to such extent and subject to such restrictions as he or she may think proper, delegate or authorize the delegation of any of his or her functions under the relevant special Order to any person, or class or description of person, approved by the Minister.

10 Information: power to obtain

- (1) The Minister, or any person authorized 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 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 relevant special Order.
- (3) A person to whom a request is made under paragraph (1), or under that paragraph as read with 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 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 relevant 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 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.

11 Information: restrictions on disclosure

- (1) The relevant EU provision does not have effect in so far as it would otherwise –
 - (a) impose a duty on the Minister to supply any information to a member State or to the European Commission; or
 - (b) be inconsistent with paragraph (2) in any other respect.
- (2) 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 relevant special Order;
 - (b) information disclosable under paragraph (3)(a) or (c); and
 - (c) subject to paragraph (3), any other information at his or her disposal in connection with the implementation of the relevant EU provision or otherwise in connection with the relevant special Order.
- (3) 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 Article 10 must not be disclosed except –
 - (a) subject to paragraph (4), with the consent of the person by whom the information was furnished or the document was produced;
 - (b) to –
 - (i) a person empowered under Article 10(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 the relevant special Order.
- (4) Consent for the purposes of paragraph (3)(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.

12 Offences: liability in connection with body corporate or partnership

- (1) In this Article –

“relevant offence” means an offence under the relevant special Order that is 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.

13 Offences: consent of Attorney General

A prosecution for an offence under the relevant special Order must not be instituted without the consent of the Attorney General.

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

- (1) If the relevant 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 relevant 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 relevant 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).

14A United Nations sanctions: interim listing³

- (1) Paragraphs (2) to (3) are to be read as forming part of a relevant special Order if that Order includes provision specifying a UN financial sanctions resolution for the purpose of this Article as a resolution implemented by the relevant EU provision.
- (2) If, after the making of the relevant special Order, a person becomes a UN-listed person in relation to a resolution specified in that Order as described in paragraph (1), that person is to be treated, for the purpose of that Order, as if that person were already listed by the relevant EU provision as an EU-listed person.
- (3) Paragraph (2) ceases to have effect in relation to each UN-listed person on whichever is the soonest of –
 - (a) the end of a period of 30 days starting when that person becomes a UN-listed person;
 - (b) the coming into force of an amendment to the relevant EU provision, by virtue of which that person becomes an EU-listed person (under the relevant EU provision as it has effect in the EU, rather than as it is implemented in Jersey by the relevant special Order); and
 - (c) the date (if any) on which that person ceases to be a UN-listed person.

PART 3

FINAL

15 Citation

This Order may be cited as the EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014	R&O.175/2014	31 October 2014
EU Legislation (Sanctions) (Miscellaneous Amendments United Nations) (Jersey) Order 2017	R&O.52/2017	4 May 2017

Table of Endnote References

¹ Available, with subsequent amendments, on EUR-Lex at <http://eur-lex.europa.eu/> - searchable by Regulation number and year, or by Official Journal publication details.

² Available, with subsequent amendments, on EUR-Lex at <http://eur-lex.europa.eu/> - searchable by Regulation number and year, or by Official Journal publication details.

³ Article 14A inserted by R&O.52/2017