
EXPLANATORY NOTE

This Order repeals and replaces the Sanctions and Asset-Freezing (Implementation of EU Regulations) (Jersey) Order 2020 (the “EU Order”), and the 2 other Orders made under the Sanctions and Asset-Freezing (Jersey) Law 2019 (the “Law”). Whereas the EU Order implemented sanctions contained in EU Regulations, this Order implements equivalent sanctions contained in UK Regulations after Brexit (but still implements 4 EU Regulations that have been retained in UK law).

This Order gives effect to the whole of each UK sanctions Regulation specified in Schedule 1, including future amendments, but subject to modifications similar to those in the replaced EU Order. Those modifications are more extensive, to cater for the fact that EU Regulations are designed to be implemented in different countries whereas UK Regulations are not. In particular, the Minister for External Relations (the “Minister”) generally acts in place of the UK Secretary of State (except in making initial designations of persons who are subject to the sanctions).

Where any of the UK Regulations requires an asset-freeze, this Order imposes the standard asset-freeze in Part 3 of the Law, in the same way as the EU Order did, instead of imposing the slightly varying versions set out in different UK Regulations at different times.

This Order also relies, as did the EU Order, on the offences in the Law relating to asset-freezes and provision of information, and supplements them with just one offence of contravening or circumventing other provisions specified in column 5 of the table in Schedule 1 (carrying the same maximum penalty of up to 7 years of imprisonment, an unlimited fine, or both, which matches the penalty for the offences of breaching an asset-freeze under the Law). The Order also provides for licences to be granted in relation to the provisions specified in column 5 of that table, to match those that can be granted under the Law in relation to asset-freezes (instead of relying on implementing individual licence provisions from each implemented regime, as the EU Order did). Licences granted under (or in relation to) the EU Order are kept in effect for 6 months after the commencement of this Order (after which licences will have effect only if granted or renewed under or in relation to this Order). This Order also includes new provision to recognise equivalent licences and other authorisations granted by the UK, Guernsey, Isle of Man and British overseas territories. As in the EU Order, and as provided for by Article 4 of the Law, the relevant obligations and prohibitions that apply to types of financial services business are applied to trust company business in Jersey, even if they would not apply to the equivalent business in the UK (or EU).

Under the UK Regulations, but not the EU Regulations, designations can be made on a confidential basis (where the designated person is aged under 18, or in the interests of justice, national security or international relations, or for reasons connected with serious crime). This Order provides that the designation is to be treated as confidential in Jersey law only if the Minister (at the request of the UK Secretary of State) specifies to those who are informed of the designation that they must keep it confidential. It is an offence, carrying up to 2 years of imprisonment, an unlimited fine, or both, to disclose the confidential information.

Alongside the UK Regulations, this Order also implements 4 EU Regulations that prohibit the satisfaction of claims affected by UN Security Council resolutions passed between 1990 and 1994 in relation to Iraq, Libya, Haiti, Serbia and Montenegro. Those EU Regulations have not been implemented by the UK under its own sanctions legislation, but have instead been kept as retained EU legislation.

This Order implements, with adaptations for Jersey, provisions of UK Regulations that enable shipping and aviation to be controlled for sanctions purposes. In relation to enforcement against ships in Jersey waters, the Order applies Article 7 of the Law, to permit UK officials to exercise their enforcement powers. The Order also provides that people designated under the UK Regulations as “excluded persons” for the purpose of UK immigration legislation are to be treated as so designated for the purpose of that legislation as it is extended to and modified for Jersey.

Like the EU Order, this Order also includes general provisions to adapt all of the UK Regulations for their application in Jersey. But it also includes special provisions in relation to 4 of the UK Regulations whose application does not fit under the general provisions.

The Order comes into force on 12th February 2021.

