

STATES OF JERSEY



DRAFT SANCTIONS AND ASSET-FREEZING (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 26th March 2019
by the Minister for External Relations**

STATES GREFFE



Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

1. Background

- 1.1 The [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#) was passed by the States Assembly on 6th December 2018 (“SAFL”). A key purpose of the new Law is to enable Jersey to implement UK sanctions measures, which will come into force under the Sanctions and Anti-Money Laundering Act (“SAMLA”) after the UK leaves the European Union, as well as to rationalise Jersey’s existing sanctions legislation by creating a single sanctions Law.
- 1.2 The Terrorist Asset-Freezing Act 2010 (“Tafa”) and Part 8 of the Policing and Crime Act 2017 (“PCA”) are directly referred to in the [Terrorist Asset-Freezing \(Jersey\) Law 2011](#) (“TAF1”) and the [United Nations Financial Sanctions \(Jersey\) Law 2017](#) (“UNFSL”), ensuring that UK terrorist asset-freezing designations are made effective immediately in Jersey and that the Island can meet its obligation to implement UN sanctions ‘without delay’.
- 1.3 However, SAMLA contains provisions to repeal large parts of both Tafa and Part 8 of PCA and replace their effects with Regulations made under SAMLA. This would have meant that TAF1 and UNFSL would cease to function effectively, which is why SAFL contains provisions that repeal both Laws and incorporate their effects by linking to SAMLA and Regulations made under it.
- 1.4 The political uncertainties of Brexit, however, have meant that the Tafa and PCA repeals and their SAMLA replacements may not happen in the immediate future. This outcome needs to be mitigated against by amending SAFL provisions, so that a link to both Tafa and PCA remains until such time as they are repealed and replaced by SAMLA. This will ensure that no gap arises in Jersey’s ability to continue to enforce UK terrorist asset-freezing designations and to continue meet its UN sanctions obligations, while accommodating Brexit uncertainties, which might otherwise have meant that TAF1 and UNFSL should be preserved.

2. Legislative provisions

Article 1(a)&(b):

- 2.1 The relevant Tafa and PCA provisions are added into the definition of “UK sanctions provision” at Article 1(1) of SAFL so that UK designations under

TAFa and PCA result in automatic designation under SAFL. This means, for example, that the Article 29(1)(b)(i) (Interim designation of UN-listed person when UNSCR is implemented by the UK or EU) reference to “UK sanctions provision” links to the PCA and ensures that the UNFSL can be successfully repealed. The provision expressly excludes affecting Article 3 to 6 of SAFL, however, because the references back to TAFa and PCA are intended to concern automatic designations only.

- 2.2 References to TAFa and PCA will cease to have effect on relevant commencement dates under SAMLA.

Article 1(c):

- 2.3 Article 19(1)(a) of SAFL is amended so that TAFa designations are automatic terrorism designations under the Law, meaning that TAFa can also be repealed.

3. Coming into force

- 3.1 In order to accommodate the nominal Brexit date of 29th March 2019, these Regulations require a truncated lodging period. The need for this shortened period is accounted for by the continuing uncertainty on dates for UK repeals (including the dates for the introduction of UK terrorist asset-freezing regulations under SAMLA) as well as the need to wait until SAFL was registered by the Royal Court before we could rely on the Regulation-making *vires*.

- 3.2 The Regulations are expressed to come into force on being made.

4. Financial and manpower implications

- 4.1 There are no financial or manpower implications arising from the adoption of these draft Regulations.

Explanatory Note

These Regulations make transitional provision in respect of the Sanctions and Asset-Freezing (Jersey) Law 2019.

That Law was adopted by the Assembly on 6th December 2018, sanctioned by Her Majesty in Council on 13th March 2019, and registered by the Royal Court on 22nd March 2019. It will repeal the Terrorist Asset-Freezing (Jersey) Law 2011 and the United Nations Financial Sanctions (Jersey) Law 2017. Those Laws give immediate effect in Jersey to any designations by the United Kingdom for asset-freezes under Part 1 of the Terrorist Asset-Freezing etc. Act 2010 and sections 152 to 156 of the Policing and Crime Act 2017. Those United Kingdom provisions will be repealed by the Sanctions and Anti-Money Laundering Act 2018 of the United Kingdom, and will be replaced by new Regulations under that Act to designate terrorists and persons subject to United Nations sanctions. But the United Kingdom has not yet brought those repeals or Regulations into force, and there is nothing in its legislation to require that to happen at the time of the United Kingdom's exit from the European Union.

These transitional Regulations ensure that designations by the United Kingdom under the Terrorist Asset-Freezing etc. Act 2010 and the Policing and Crime Act 2017 will continue to have immediate effect in Jersey when the Sanctions and Asset-Freezing (Jersey) Law 2019 is brought into force, if the United Kingdom has not brought into force its repeal and replacement of the relevant provisions by then.



Jersey

DRAFT SANCTIONS AND ASSET-FREEZING (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 1(4), 19(3) and 48(3) of the Sanctions and Asset-Freezing (Jersey) Law 2019¹, have made the following Regulations –

1 Amendment of Sanctions and Asset-Freezing (Jersey) Law 2019

In the Sanctions and Asset-Freezing (Jersey) Law 2019² –

- (a) in Article 1(1), in the definition “UK sanctions provision”, for “has the meaning” there is substituted “has, subject to paragraph (5), the meaning”;
- (b) after Article 1(4) there is inserted –
 - “(5) For the purposes of this Law, other than of Articles 3 to 6, a UK sanctions provision includes –
 - (a) a provision by virtue of which a person is a designated person under the Terrorist Asset-Freezing etc. Act 2010 of the UK; and
 - (b) a provision made by an enactment of the UK under section 152 or 153 of the Policing and Crime Act 2017 of the UK.
 - (6) Paragraph (5) ceases to have effect on whichever is the latest of the commencement of section 59(1) of the Sanctions and Anti-Money Laundering Act 2018 of the UK and the commencement of paragraph 8(4) of Schedule 3 to that Act.”;
- (c) in Article 19(1), after sub-paragraph (a), there is inserted –
 - “(aa) at any time before the commencement of section 59(1) of the Sanctions and Anti-Money Laundering Act 2018 of the UK, is a person designated under section 2 or 6 of the Terrorist Asset-Freezing etc. Act 2010 of the UK;”.

2 Citation and commencement

These Regulations may be cited as the Sanctions and Asset-Freezing (Transitional Provisions) (Jersey) Regulations 201- and come into force on the commencement of the Sanctions and Asset-Freezing (Jersey) Law 2019³.

-
- ¹ *L.2/2019*
² *L.2/2019*
³ *L.2/2019*