



Jersey

## EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 2014

### Arrangement

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Jersey

## **EUROPEAN UNION LEGISLATION (IMPLEMENTATION) (JERSEY) LAW 2014**

**A LAW** to enable the States or the Minister for External Relations to give effect in Jersey to legislation of the European Union and to make supplementary provision in relation to that legislation, to make amendments and other provision in connection with the Treaty of Lisbon, and for related purposes

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<i>Adopted by the States</i>	<i>13th May 2014</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>8th October 2014</i>
<i>Registered by the Royal Court</i>	<i>17th October 2014</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Interpretation**

- (1) In this Law, unless the context otherwise requires –
- “1973 Law” means the European Union (Jersey) Law 1973<sup>1</sup> (as so renamed by paragraph 5 of Schedule 1);
- “Minister” means the Minister for External Relations;
- “Treaty on European Union” means the treaty of that name signed at Maastricht on 7th February 1992, as amended from time to time by the EU Treaties;
- “Treaty on the Functioning of the European Union” means the treaty of that name signed (as the Treaty Establishing the European Economic Community) at Rome on the 25th March 1957, as amended from time to time by the EU Treaties.
- (2) An expression defined in the 1973 Law (including in particular “EU instrument” and “EU Treaties”) has, when used in this Law, the same meaning as in that Law.

- (3) For the purposes of this Law an “EU provision” is any provision, whether or not directly applicable in or binding upon Jersey, that –
- (a) is contained in or arises under any one or more of the following –
    - (i) the Treaty on European Union,
    - (ii) the Treaty on the Functioning of the European Union,
    - (iii) any of the EU Treaties; or
  - (b) comprises or is contained in an EU instrument.

## **2 Implementation of EU provisions through Orders or Regulations**

- (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 further effect to any EU provision that is directly applicable in or binding upon Jersey;
  - (b) giving effect, either wholly or partly, to any other EU provision 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 that Treaty;
  - (c) dealing with matters arising out of or related to any EU provision falling within sub-paragraph (a) or (b).
- (2) The States may by Regulations make such provision as appears to them to be necessary or expedient for the purposes of –
- (a) giving effect, either wholly or partly, to any EU provision, whether or not one in respect of which the Minister may make an Order under paragraph (1);
  - (b) dealing with matters arising out of or related to any such provision.
- (3) Subject to paragraphs (5) and (6), the provision that may be made under paragraph (1) or (2) includes any such provision (of any such extent) as might be made by a Law passed by the States.
- (4) Without prejudice to the generality of paragraphs (1) to (3), an Order or Regulations under this Article may –
- (a) make provision by reference to or by incorporation (by reference, annexation or otherwise) of any EU provision, or of any class or description of EU 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 EU provision as may be specified in the Order or Regulations,
    - (ii) make adaptations or modifications mentioned in clause (i) by providing that any one or more of Jersey, Guernsey and the Isle of Man are to be treated as if they were a member State, or formed part of any member State, for the purpose of the provision,

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- (iii) provide that a reference to the EU provision is to be read as a reference to that EU provision as amended, substituted, extended or applied from time to time by any other EU provision, or as that provision otherwise has effect in the EU from time to time by virtue of any judgment of the European Court;
    - (c) amend any Law or other enactment that may be amended by a Law;
    - (d) contain such incidental, supplemental or transitional provisions or savings as the Minister or States consider expedient.
  - (5) The provision that may be made by Regulations under paragraph (2) does not include provision –
    - (a) imposing or increasing taxation;
    - (b) taking effect from a date earlier than that of the making of the Order or Regulations containing the provision; or
    - (c) amending this Law or the 1973 Law.
  - (6) The provision that may be made by Order under paragraph (1) does not include provision –
    - (a) imposing a penalty of imprisonment for more than 2 years for a criminal offence;
    - (b) falling within any of paragraphs (5)(a), (b) and (c); or
    - (c) amending Regulations made under paragraph (2), or making any provision inconsistent with any such Regulations.

### **3 Implementation of EU provisions: financial services**

- (1) Paragraph (2) applies if an EU provision –
  - (a) 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; and
  - (b) falls within Article 2(1)(b), or includes any restrictive measure similar to those that may be included in EU provisions falling within that Article.
- (2) An Order or Regulations under Article 2 may, if the Minister or the States consider it necessary or expedient in the interests of Jersey or for the better implementation of the EU 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 EU provision would not otherwise impose the obligation or prohibition on persons of that description in the EU; and
  - (b) the person –

- (i) whether or not an individual, carries on financial services business, within the meaning of the Proceeds of Crime (Jersey) Law 1999<sup>2</sup>, in or from within Jersey, or
- (ii) not being an individual, is incorporated or constituted under the law of Jersey and carries on such financial services business in any part of the world.

#### **4 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 2(1) in relation to one or more particular EU provisions;
  - (b) a general provision is any provision that, although not relating to a particular EU 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<sup>3</sup>, 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 Interpretation of EU provisions, Regulations and Orders**

- (1) In this Article “implemented EU provision” means an EU provision in respect of which Regulations or an Order purport –
  - (a) to give effect, wholly or partly, to that EU provision, or to deal with matters arising out of or related to it, under Article 2; or
  - (b) to impose or adapt it under Article 3(2).
- (2) Unless the contrary intention appears, an expression used in Regulations or an Order under Article 2 is to be read –
  - (a) if that expression is used in the implemented EU 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 1973 Law or in this Law, as having the meaning so assigned.

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- (3) Article 3 of the 1973 Law applies to any question as to the validity, meaning or effect of an implemented EU provision that does not have effect in Jersey by virtue of the arrangements for the Channel Islands contained in the EU Treaties, as that Article applies to such a question in relation to a provision or instrument that does have effect in Jersey by virtue of those arrangements.
  - (4) Regulations or an Order under Article 2 may provide that paragraph (3) does not apply, at all or to any specified extent, to the EU provision implemented by those Regulations or that Order.

**6 Repeal of European Communities Legislation (Implementation) (Jersey) Law 1996**

- (1) The European Communities Legislation (Implementation) (Jersey) Law 1996<sup>4</sup> is repealed.
- (2) For the purpose of paragraph (3) a “relevant enactment” is an enactment that was –
  - (a) made under the European Communities Legislation (Implementation) (Jersey) Law 1996; and
  - (b) in force immediately before the commencement of this Law.
- (3) A relevant enactment –
  - (a) continues in force and is to be treated as if made under this Law; and
  - (b) is to be construed as if any reference in the relevant enactment to the European Community or Communities were a reference to the European Union, and any reference to a Community instrument were to an EU instrument.

**7 Amendments of 1973 Law and other enactments**

- (1) Schedule 1 has effect to amend the 1973 Law (which is renamed as the European Union (Jersey) Law 1973 by paragraph 5 of that Schedule).
- (2) Schedule 2 has effect to amend other Laws.

**8 Citation and commencement**

This Law may be cited as the European Union Legislation (Implementation) (Jersey) Law 2014 and comes into force 14 days after it is registered.

**M.N. DE LA HAYE**

*Greffier of the States*

**SCHEDULE 1**

(Article 7)

**RENAMING AND AMENDMENTS OF EUROPEAN COMMUNITIES  
(JERSEY) LAW 1973****1 Article 1 amended**

- (1) In Article 1(1) of the 1973 Law –
- (a) for the definition “Communities” there are substituted the following definitions –
- “ ‘Communities’ means the European Atomic Energy Community, the former European Economic Community, the former European Community and the former European Coal and Steel Community;
- ‘EU’ means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7th February 1992 (as amended by any later Treaty), and includes, if and in so far as the context permits or requires, the European Atomic Energy Community;”;
- (b) for the definition “Community institution” there is substituted the following definition –
- “ ‘EU institution’ means any institution of the EU;”;
- (c) in the definition “Community instrument” for the word “Community”, in both places where it occurs, there is substituted the word “EU”;
- (d) in the definition “European Court” for the words “European Communities or any court attached thereto” there are substituted the words “European Union”;
- (e) in the definition “member” for the word “Communities” there is substituted the word “EU”;
- (f) in the definition “Treaties” or “Community Treaties” –
- (i) for the words “Community Treaties” there are substituted the words “EU Treaties”;
- (ii) after sub-paragraph (k) there is inserted the following sub-paragraph –
- “(ka) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts –
- (i) Articles 2 to 10, and
- (ii) the other provisions of the Treaty so far as they relate to those Articles,
- and the Protocols adopted on that occasion;”;



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- (iii) after sub-paragraph (m) there are inserted the following sub-paragraphs –
- “(n) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy;
  - (o) the Protocol amending the Protocol (No 36) on transitional provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, signed at Brussels on 23rd June 2010;
  - (p) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9th December 2011;
  - (q) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16th May 2012,”
- (iv) in the full-out at the end of the definition, for the words “entered into by any of the Communities” there are substituted the words “entered into by the EU (except in so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy)”.
- (2) In Article 1(2) of the 1973 Law for the words “Community Treaties”, in each place where they occur, there are substituted the words “EU Treaties”.
- (3) In Article 1(4) of the 1973 Law for the words “Community Treaties”, in both places where they occur, there are substituted the words “EU Treaties”.
- (4) After Article 1(4) of the 1973 Law there is inserted the following paragraph –
- “(4A) The Minister may by Order –
- (a) amend any enactment (including this Law) to reflect changes in terminology or numbering arising out of –
    - (i) the Treaty of Lisbon, described in sub-paragraph (n) in the definition ‘Treaties’ in paragraph (1), or
    - (ii) any other treaty becoming, at any time after the signing of the Treaty of Lisbon, one of the Treaties as defined in paragraph (1); and
  - (b) to make any provision incidental or consequential on such an amendment.”.
- (5) For Article 1(5) there is substituted the following sub-paragraph –
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“(5) The reference in paragraph (2) to section 1(3) of the European Communities Act 1972 of the United Kingdom shall be construed as a reference to that section as amended from time to time.”.

(6) Article 1(6) is deleted.

## **2 Article 2 amended**

Paragraphs (3) and (4) of Article 2 of the 1973 Law are deleted.

## **3 Article 3 amended**

In Article 3 of the 1973 Law –

- (a) in the heading for the words “Community instruments” there are substituted the words “EU instruments”;
- (b) in paragraph (1) for the words “Community instrument” there are substituted the words “EU instrument”;
- (c) in paragraph (2) –
  - (i) for the words “Official Journal of the Communities” there are substituted the words “Official Journal of the EU”,
  - (ii) for the words “of any of the Communities or of any Community institution” there are substituted the words “of the EU or of any EU institution”;
- (d) in paragraph (3) for the words “a Community institution”, in both places where they occur, there are substituted the words “an EU institution”;
- (e) in paragraph (4) for the words “Community instrument” there are substituted the words “EU instrument”.

## **4 Article 4 amended**

In the heading to Article 4 of the 1973 Law, for the words “Community offences” there are substituted the words “EU offences”.

## **5 Article 5 amended**

In Article 5 of the 1973 Law, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973”.

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**SCHEDULE 2**

(Article 7)

**AMENDMENTS OF OTHER LAWS**

**1 Amendment of European Economic Area (Jersey) Law 1995**

In the European Economic Area (Jersey) Law 1995<sup>5</sup> –

(a) for Article 1 there is substituted the following Article –

**“1 Interpretation**

(1) In this Law –

‘Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993;

‘EU obligation’ means any obligation created by or arising by or under the Treaties;

‘1973 Law’ means the European Union (Jersey) Law 1973<sup>6</sup>.

(2) In this Law, unless the context otherwise requires, expressions defined in Article 1 of the 1973 Law (including ‘Communities’, ‘EU’ and ‘Treaties’) have the meanings assigned to them by that Law.”

(b) in Article 2 –

(i) in paragraph (1)(a), for the words “by reference to the Communities or by reference to some connection with the Communities” there are substituted the words “by reference to the Communities or the EU or by reference to some connection with the Communities or the EU”,

(ii) in the full-out after paragraph (1)(b), for the words “both the Communities and the European Economic Area” there are substituted the words “both the EU and the European Economic Area”,

(iii) in paragraph (2)(a), for the words “a Community instrument” there are substituted the words “an EU instrument”,

(iv) in paragraph (2)(b), for the words “a Community institution” there are substituted the words “an EU institution”;

(c) in Article 3 for the words “a Community obligation” there are substituted the words “an EU obligation”;

- (d) in Article 4(b) for the words “a Community institution” there are substituted the words “an EU institution”.

## 2 Amendment of other Laws

- (1) In the Banking Business (Jersey) Law 1991<sup>7</sup>, in the definition “institution” in Article 1, and in Articles 8(2)(b), 38(1) and 38(2), for the words “European Community” there are substituted the words “European Union”.
- (2) In Article 60 of the Competition (Jersey) Law 2005<sup>8</sup> –
- (a) in the heading and the body, for the words “European Community” there are substituted the words “European Union”;
- (b) for the words “Community law” there are substituted the words “European Union law”.
- (3) In Article 4(3)(a) of the Consumer Safety (Jersey) Law 2006<sup>9</sup> for the words “European Communities” there are substituted the words “European Union”.
- (4) In Articles 2(1)(e)(iv) and (v) of the Corruption (Jersey) Law 2006<sup>10</sup> for the words “European Communities” there are substituted the words “European Union”.
- (5) In the Customs and Excise (Jersey) Law 1999<sup>11</sup> –
- (a) in Article 1(1) –
- (i) the definitions “Communities” and “Community customs duty” are deleted,
- (ii) after the definition “enactment” there are inserted the following definitions –
- “ ‘EU’ has the same meaning as in the European Union (Jersey) Law 1973<sup>12</sup>;
- ‘EU customs duty’ means any customs duty payable in respect of goods pursuant to a requirement of the EU which is enforceable in Jersey;”,
- (iii) in the definition “Treaties”, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973<sup>13</sup>”;
- (b) in Article 6 –
- (i) in the heading and paragraph (1), for the word “Community” there is substituted the word “EU”,
- (ii) in paragraphs (2)(b), (3) and (3)(a) for the word “Communities” there is substituted the word “EU”;
- (c) in Articles 44(2) and 68(5)(d) for the word “Communities” there is substituted the word “EU”.
- (6) In the Data Protection (Jersey) Law 2005<sup>14</sup> –
- (a) in Article 51(6)(a) for the words “Community finding” there are substituted the words “EU finding”;

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- (b) in Article 59(2)(c) for the words “European Community” there is substituted the word “EU”;
- (c) in paragraph 15 of Part 2 of Schedule 1, in the heading and in subparagraphs (1) and (2), for the words “Community finding” there are substituted the words “EU finding”.
- (7) In Article 39A(1) of the Financial Services (Jersey) Law 1998<sup>15</sup>, in subparagraph (c) of the definition “public sector body”, for the words “European Economic Community” there is substituted the word “EU”.
- (8) In Article 1(1) of the Financial Services Commission (Jersey) Law 1998<sup>16</sup> for the words “Community instrument (within the meaning of Article 1 of the European Communities (Jersey) Law 1973)” there are substituted the words “EU instrument (within the meaning of Article 1 of the European Union (Jersey) Law 1973<sup>17</sup>)”.
- (9) In Articles 90B(1)(a)(i) and (b)(i) of the Income Tax (Jersey) Law 1961<sup>18</sup> for the words “European Communities” in each place where they occur there is substituted the word “EU”.
- (10) In Article 1(1) of the Insurance Business (Jersey) Law 1996<sup>19</sup>, in the definition “member State”, for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973<sup>20</sup>”.
- (11) In the Intellectual Property (Unregistered Rights) (Jersey) Law 2011<sup>21</sup> –
- (a) in Article 1(1) –
- (i) the definition “Community Treaties” is deleted,
- (ii) after the definition “employed” there is inserted the following definition –
- “ ‘EU Treaties’ has the same meaning as in the European Union (Jersey) Law 1973<sup>22</sup>;”;
- (b) in Articles 42(5) and 344(5) for the words “European Communities (Jersey) Law 1973” there are substituted the words “European Union (Jersey) Law 1973”;
- (c) in Article 401 –
- (i) in the heading and in paragraph (1)(b), for the words “Community Treaties” there are substituted the words “EU Treaties”,
- (ii) in paragraph (2) for the words “European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “European Union Legislation (Implementation) (Jersey) Law 2014<sup>23</sup>”.
- (12) In the Law Revision (Jersey) Law 2003<sup>24</sup> –
- (a) in Article 1 –
- (i) the definition “Community instrument” is deleted,
- (ii) after the definition “effective date” there is inserted the following definition –
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- “ ‘EU instrument’ has the same meaning as in the European Union (Jersey) Law 1973<sup>25</sup>;”;
- (b) in Article 3 –
- (i) in paragraph (1)(c) for the words “Community instruments” there are substituted the words “EU instruments”,
- (ii) in paragraph (2) for the words “Community instrument” in both places where they occur, there are substituted the words “EU instrument”.
- (13) In Article 4(3) of the Licensing (Jersey) Law 1974<sup>26</sup> for the words “European Economic Community” there are substituted the words “European Union”.
- (14) In the Medicines (Jersey) Law 1995<sup>27</sup> –
- (a) in Articles 25(2) and 29(3)(i) for the words “Community obligation” there are substituted the words “EU obligation”;
- (b) in Article 29(3)(j)(ii) for the words “Community obligations which bind” there are substituted the words “any EU obligation which binds”;
- (c) in Article 47(2) for the words “Community obligation” there are substituted the words “EU obligation”.
- (15) In Article 4 of the Plant Health (Jersey) Law 2003<sup>28</sup> –
- (a) in paragraph (2)(b) for the words “Community provision” there are substituted the words “EU provision”;
- (b) in paragraph (3) for the words “ ‘Community provision’ has the same meaning as it has in the European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “ ‘EU provision’ has the same meaning as it has in the European Union Legislation (Implementation) (Jersey) Law 2014<sup>29</sup>”.
- (16) In Article 10 of the Sea Fisheries (Jersey) Law 1994<sup>30</sup> –
- (a) in the heading of the Article, for the word “Community” there is substituted the word “Union”;
- (b) in paragraphs (1), (2) and (4) for the word “Community” there is substituted the word “EU”;
- (c) in paragraphs (1), (2) and (4) for the words “European Communities Legislation (Implementation) (Jersey) Law 1996” there are substituted the words “European Union Legislation (Implementation) (Jersey) Law 2014<sup>31</sup>”.
- (17) In Article 6(1) of the Service of Process and Taking of Evidence (Jersey) Law 1960<sup>32</sup> for the words “European Communities” there are substituted the words “European Union”.
- (18) In Article 1 of the Supply of Goods and Services (Jersey) Law 2009<sup>33</sup>, in the definition “producer”, for the words “European Community” there are substituted the words “European Union”.
- (19) In the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005<sup>34</sup> –
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- (a) in Regulations 5(1)(c)(iv) and (d)(iv) for the words “established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Jersey” there are substituted the words “established outside Jersey and outside the territory to which the Treaty on European Union applies by virtue of Article 52 of that Treaty and Article 355 of the Treaty on the Functioning of the European Union”;
- (b) in Schedule 2, in the list under the heading “B International entities”, for the item “European Community” there is substituted the item “European Union (formerly European Community)”.

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- 1 *chapter 17.210*  
2 *chapter 08.780*  
3 *chapter 15.360*  
4 *L.2/1996 (chapter 17.245)*  
5 *chapter 17.280*  
6 *chapter 17.210*  
7 *chapter 13.075*  
8 *chapter 05.070*  
9 *chapter 05.100*  
10 *chapter 08.090*  
11 *chapter 24.660*  
12 *chapter 17.210*  
13 *chapter 17.210*  
14 *chapter 15.240*  
15 *chapter 13.225*  
16 *chapter 13.250*  
17 *chapter 17.210*  
18 *chapter 24.750*  
19 *chapter 13.425*  
20 *chapter 17.210*  
21 *chapter 05.350*  
22 *chapter 17.210*  
23 *L.28/2014*  
24 *chapter 15.420*  
25 *chapter 17.210*  
26 *chapter 11.450*  
27 *chapter 20.625*  
28 *chapter 01.885*  
29 *L.28/2014*  
30 *chapter 14.825*  
31 *L.28/2014*  
32 *chapter 07.840*  
33 *chapter 05.800*  
34 *chapter 17.850.10*