



Jersey

COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – IRAN) (JERSEY) ORDER 2010

Arrangement

Article

1	Interpretation	3
2	Council Regulation given effect.....	3
3	Functions of Minister	4
4	Delegation	4
5	Provision of information upon the request of the Minister	4
6	Use and provision of information acquired under this Order.....	4
7	Offence not to provide information, etc. when required	5
8	Provision of information at harbours and airport	5
9	Offence to undertake activities prohibited by Council Regulation	5
10	Offence to undertake activities prohibited unless authorization granted pursuant to Council Regulation.....	6
11	Penalties	6
12	Application	7
13	Revocations	7
14	Citation and commencement.....	7



Jersey

COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – IRAN) (JERSEY) ORDER 2010

Made

Coming into force

THE CHIEF MINISTER, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, and having regard to Council Regulation (EU) No 961/2010 of 25th October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007, orders as follows –

1 Interpretation

(1) In this Order –

“1999 Law” means the Customs and Excise (Jersey) Law 1999;

“Council Regulation” means the Council Regulation (EU) No 961/2010 of 25th October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ L 281, 27.10.2010, p. 1).

(2) Expressions used in this Order and in the Council Regulation have the same meaning as in the Council Regulation.

2 Council Regulation given effect

The Council Regulation shall have effect as if it were an enactment, to any extent that it does not otherwise apply in Jersey, subject to the following modifications –

(a) in Articles 2(1)(a) and (b), 3(1), 3(2), 24(2)(a), 24(2)(b) and 26(2) “Union” shall be construed as to include Jersey;

(b) in Articles 3(2), 3(4), 3(5), 3(6), 3(7), 5(2), 5(3), 7(1), 10, 12(1), 12(2), 13, 14(b), 17, 18, 19(1), 19(2), 20(1), 21(1), 21(3), 21(4), 22(1), 22(2), 28(3), 30, 31(1) and 38, references to a competent authority or competent authorities shall be construed as to include the Minister; and

(c) in Articles 3(7), 3(8), 6, 7(2), 16(2)(d), 18(b) and (c), 19(1)(b), 19(2)(a) and (b), 19(3), 21(4), 27, 28(1), 28(2), 33(3), 34 and 37(2) references to a Member State or Member States shall be construed as to include Jersey.

3 Functions of Minister

The Minister, with a view to ensuring compliance with the Council Regulation, shall perform the functions required to be performed by a competent authority of a Member State under the Council Regulation as if the Minister were a competent authority.

4 Delegation

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

5 Provision of information upon the request of the Minister

- (1) The Minister (or any person authorized by the Minister for that purpose either generally or in a particular case) may request a person in or resident in Jersey to –
 - (a) provide 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 the purpose of facilitating compliance with the Council Regulation, as applied in Jersey by this Order.
- (2) Nothing in paragraph (2) shall require a person who has acted as legal adviser for a person to disclose a privileged communication made to the person in that capacity.
- (3) The power conferred by this Article to request a person to produce a document includes the power to take copies of or extracts from a document so produced and 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.
- (4) This Article is without prejudice to the effect of Article 31 of the Council Regulation, as applied in Jersey by this Order.

6 Use and provision of information acquired under this Order

- (1) Information provided 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 5(1) shall not be disclosed except –
 - (a) subject to paragraph (2), with the consent of the person by whom the information was provided or the document was produced;
 - (b) to a person who would have been empowered under this Article to request that it be provided or produced or a person holding or acting in an office under or in the service of the States;
 - (c) in accordance with any power or duty of the Minister under the Council Regulation; or

- (d) with a view to the institution of, or otherwise for the purposes of, proceedings for an offence under this Order.
- (2) A person who has obtained information or is in possession of a document only in the person's capacity as an employee or agent of another person may not give consent for the purposes of paragraph (1)(a) but such consent may instead be given by a person who is entitled to that information or to possession of that document in the person's own right.

7 Offence not to provide information, etc. when required

- (1) A person who, without reasonable excuse fails to comply with a request made under Article 5(1), or under Article 31 of the Council Regulation, within such time and in such manner as may be specified in the request, shall be guilty of an offence.
- (2) A person who –
 - (a) intentionally provides false information or a false explanation to any person exercising powers under Article 5(1), or under Article 31 of the Council Regulation; or
 - (b) with intent to evade Article 5(1), or Article 31 of the Council Regulation, destroys, mutilates, defaces, secretes or removes any document,shall be guilty of an offence.
- (3) If a person is convicted of an offence under this Article the court may make an order requiring the person, within the period that may be specified in the order, to provide the information or produce the document.

8 Provision of information at harbours and airport

- (1) The Agent of the Impôts shall issue directions under Articles 24 and 34 of the 1999 Law in respect of the information to be provided for all goods brought into or going out of Jersey on cargo aircraft and merchant vessels owned or operated by Iran Air Cargo or the Islamic Republic of Iran Shipping Line, or any other cargo aircraft or merchant vessel known to carry goods from and to Iran.
- (2) For the purposes of paragraph (1), the powers to issue directions under Articles 24 and 34 of the 1999 Law shall include the power to require the information to be given at specified times, before arrival and before departure.

9 Offence to undertake activities prohibited by Council Regulation

- (1) It shall be an offence to contravene Article 4, 8(1), 9, 11(4), 15(a) or (b), 25, 26 or 28 of the Council Regulation.
- (2) It shall be an offence for a credit or financial institution to contravene Article 22, 23 or 24 of the Council Regulation.

10 Offence to undertake activities prohibited unless authorization granted pursuant to Council Regulation

- (1) It shall be an offence to do an act under any provision to which paragraph (2) applies where –
 - (a) an authorisation is required under the Council Regulation in respect of that act; and
 - (b) the act is done otherwise than in accordance with the required authorisation.
- (2) This Article applies to the following provisions of the Council Regulation –
 - (a) Article 2(1)(a) or 2(1)(b) (as read with Article 7);
 - (b) Article 3(1);
 - (c) Article 5(1)(a), (b), (c) or (d) (as read with Article 7);
 - (d) Article 5(2);
 - (e) Article 11(1)(a), (b) or (c) (as read with Articles 12 and 13); and
 - (f) Article 16(1), 16(2) or 16(3) (as read with Articles 17, 18, 19, 20 and 21).

11 Penalties

- (1) A person guilty of an offence under Article 7(1) shall be liable to imprisonment for a term of 3 months and to a fine.
- (2) A person guilty of an offence under Article 7(2), 9 or 10 shall be liable to imprisonment for a term of 2 years and to a fine.
- (3) If an offence under this Order committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (5) Article 48 of the 1999 Law shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the 1999 Law.
- (6) Articles 64 to 67 of the 1999 Law shall apply in relation to offences under this Order and penalties for such offences, and proceedings for such offences, as those Articles apply in relation to offences, penalties, and proceedings for offences, under that Law.

12 Application

This Order shall apply –

- (a) to Jersey, including its air space and on board any aircraft or vessel under the jurisdiction of Jersey;
- (b) to any body incorporated or constituted under the law of Jersey; and
- (c) to any person in respect of any business done in whole or in part in Jersey.

13 Revocations

The following Orders shall be revoked –

- (a) Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2009;
- (b) Community Provisions (Restrictive Measures – Iran) (Amendment) (Jersey) Order 2009;
- (c) Community Provisions (Restrictive Measures – Iran) (Amendment No. 2) (Jersey) Order 2010; and
- (d) Community Provisions (Restrictive Measures – Iran) (Amendment No. 3) (Jersey) Order 2010.

14 Citation and commencement

This Order may be cited as the Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2010 and shall come into force on the day after the day that it is made.

Signed.....

Date.....

Chief Minister

