



SANCTIONS BILL 2022

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SANCTIONS BILL 2022

A **BILL** to provide for the implementation in the Island of United Kingdom sanctions provisions; to amend the Terrorism and Other Crime (Financial Restrictions) Act 2014 so as to align certain provisions more closely with equivalent provisions of United Kingdom law; and for connected purposes.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

Introductory

1 Short title

The short title of this Act is the Sanctions Bill 2022.

2 Commencement

- (1) This Act, apart from section 1 and this section, comes into operation on such day or days as the Treasury may by order appoint.
Tynwald procedure – laying only.
- (2) An order under subsection (1) may make such supplemental, incidental, consequential and transitional provisions as the Treasury considers to be necessary or expedient.

3 Interpretation

- (1) In this Act —
 - “**Guernsey**” means the Bailiwick of Guernsey;
 - “**Jersey**” means the Bailiwick of Jersey;
 - “**SAMLA**” means the Sanctions and Anti-Money Laundering Act 2018¹ of Parliament, as amended from time to time;
 - “**UK**” means the United Kingdom;
 - “**UK blocking provision**” means —

¹ 2018 c.13

- (a) Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom², as that Regulation is given effect in the UK as retained EU law under the European Union (Withdrawal) Act 2018 of Parliament;
- (b) Commission Implementing Regulation (EU) 2018/1101 of 3 August 2018 laying down the criteria for the application of the second paragraph of Article 5 of Council Regulation (EC) No 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom³, as that Regulation is given effect in the UK as retained EU law under the European Union (Withdrawal) Act 2018 of Parliament;
- (c) the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996⁴ of Parliament;
- (d) any other UK legislation (whenever enacted) that the Treasury considers to serve a purpose similar to the instruments mentioned in paragraphs (a) to (c);

“UK financial sanctions provision” means, unless a UK sanctions provision otherwise provides, a UK sanctions provision that contains a prohibition or requirement imposed for a purpose mentioned in section 3(1) or (2) of SAMLA;

“UK sanctions provision” means a provision of UK legislation made by or under regulations made under Part 1 of SAMLA.

- (2) Unless the contrary intention appears, an expression used in regulations under this Act that implement a UK blocking provision or a UK sanctions provision is to be read, if that expression is not used in this Act but is used in the UK blocking provision or UK sanctions provision (as the case may be), as having the same meaning as in that provision.
- (3) The Treasury may by regulations amend, omit or add defined terms in subsection (1) where it considers it necessary or expedient to give better effect in the Island to a UK sanctions provision.
Tynwald procedure – affirmative.
- (4) Regulations under subsection (3) may modify, adapt or amend any provision of this Act to give effect to such a revision of defined terms.

² OJ L 309, 29.11.1996, p. 1

³ OJ L 199I, 7.8.2018, p.7

⁴ SI 1996/3171, as amended from time to time

*Implementation of UK sanctions***4 Implementation of UK sanctions provisions**

J2019/02/3 and drafting

- (1) The Treasury may by regulations make such provision as appears to it to be necessary or expedient for the purposes of —
 - (a) giving effect, either wholly or partly, to a UK sanctions provision; or
 - (b) dealing with matters arising out of or related to such provision.Tynwald procedure – affirmative.
- (2) Without limiting subsection (1), regulations under that subsection may —
 - (a) make provision by reference to (or by incorporation (by reference, annexation or otherwise) of) a UK sanctions provision, or of any class or description of such provisions;
 - (b) when making the provision described in paragraph (a) —
 - (i) do so to such extent and subject to such exceptions, adaptations and modifications to the UK sanctions provision as may be specified in the regulations;
 - (ii) make adaptations or modifications mentioned in subparagraph (i) by providing that any one or more of the Island, Jersey or Guernsey are to be treated as if they formed part of the UK, for the purpose of the provision;
 - (iii) provide that a reference to the UK sanctions provision is to be read as a reference to that provision as amended from time to time by any other UK sanctions provision;
 - (iv) provide that a reference to the UK sanctions provision is to be read as a reference to that provision as it otherwise has effect in the UK from time to time by virtue of any judgment of a court in the UK;
 - (c) include any provision which may be made under section 5.
- (3) The provision that may be made by regulations under subsection (1) includes an amendment of any enactment other than this Act or the *Human Rights Act 2001*, but does not include provision —
 - (a) imposing a penalty of custody for more than 10 years for a criminal offence;
 - (b) imposing or increasing taxation; or
 - (c) taking effect from a date earlier than that of the making of the regulations containing the provision.

5 Powers in relation to ships in Manx waters under UK sanctions provisions

J2019/02/7 and drafting

- (1) Subsection (2) applies if a UK sanctions provision confers, under UK legislation, a function falling within subsection (5) (the “relevant function”) on a person specified or otherwise described in that provision (the “specified person”) in relation to a ship.
- (2) The specified person may exercise the relevant function when the ship is in the territorial sea⁵, to enforce the UK sanctions provision.
- (3) Subsection (2) applies –
 - (a) regardless of any limitation under the UK legislation as to the sea in which the ship must be present for the relevant function to be exercised; and
 - (b) regardless of whether the UK sanctions provision is given effect by regulations under section 4(1).
- (4) The Treasury may, despite subsections (1) to (3) and without limiting section 4, by regulations –
 - (a) disapply or modify the effect of subsection (2) in relation to the UK sanctions provision;
 - (b) provide that any other person or description of persons may exercise the relevant function under subsection (2), in addition to the specified person;
 - (c) require the specified person, exercising the relevant function under subsection (2), to be accompanied by any other person or description of persons.

Tynwald procedure – affirmative.
- (5) A function falls within this subsection in relation to a ship if it is a power or duty to –
 - (a) stop or board the ship;
 - (b) search the ship or anything found on the ship;
 - (c) stop or search a person on the ship;
 - (d) seize goods found on such a search;
 - (e) require a person on the ship to provide information or produce documents;
 - (f) inspect or copy such information or documents;
 - (g) require the ship to be taken to a port or anchorage (whether in the Island or elsewhere); or

⁵ “Territorial sea” is defined in the Interpretation Act 2015 as meaning the territorial sea adjacent to the Island under section 1 of the *Territorial Sea (Consequential Provisions) Act 1991*

- (h) use reasonable force in the exercise of a function falling within any of the preceding paragraphs.
- (6) If Part 1 of SAMLA is amended in the UK, the Treasury may by regulations amend this section to make such provision as the Treasury considers necessary or expedient in relation to the amendment to that Act.
Tynwald procedure – approval required.

6 Implementation of UK blocking provisions

J2019/02/8 and drafting

The Treasury may by regulations make such provision as it considers to be necessary or expedient for the purposes of –

- (a) giving effect, either wholly or partly, to a UK blocking provision; or
- (b) dealing with matters arising out of or related to a UK blocking provision.

Tynwald procedure – affirmative.

Civil penalties for breaches of financial sanctions provisions

7 Power to impose monetary penalties

P2017/3/146 and drafting

- (1) The Treasury may impose a monetary penalty on a person if it is satisfied, on the balance of probabilities, that the person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under a UK financial sanctions provision that has effect in the Island.
- (2) In determining for the purposes of subsection (1) whether a person has breached a prohibition, or failed to comply with an obligation, imposed by or under a UK financial sanctions provision that has effect in the Island, any requirement imposed by or under that provision for the person to have known, suspected or believed any matter is to be ignored.
- (3) The amount of the penalty is to be such amount as the Treasury may determine but it may not exceed the permitted maximum.
- (4) In a case where the breach or failure relates to particular funds or economic resources and it is possible to estimate the value of the funds or economic resources, the permitted maximum is the greater of –
 - (a) £1,000,000; and
 - (b) 50% of the estimated value of the funds or resources.
- (5) In any other case, the permitted maximum is £1,000,000.
- (6) In subsection (4), “funds” and “economic resources” have the same meanings as they have in or in relation to the UK financial sanctions

provision that contains the prohibition or obligation in respect of which the monetary penalty is imposed.

- (7) The Treasury may by regulations amend subsection (4)(a) or (5) so as to substitute another amount for the amount for the time being specified in it.

Tynwald procedure – approval required.

- (8) Any monetary penalty payable under this section is recoverable by the Treasury as a civil debt.
- (9) Any monetary penalty received by the Treasury by virtue of this section is to be paid into General Revenue.

8 Monetary penalties: procedural rights

P2017/3/147(1) to (5) and drafting

- (1) Before imposing a monetary penalty on a person under section 7, the Treasury must inform the person of its intention to do so.
- (2) The Treasury must also –
- (a) explain the grounds for imposing the penalty;
 - (b) specify the amount of the penalty;
 - (c) explain that the person is entitled to make representations; and
 - (d) specify the period within which any such representations must be made.
- (3) If (having considered any representations), the Treasury decides to impose the penalty, the Treasury must –
- (a) inform the person of its decision;
 - (b) explain that the person is entitled to appeal the decision; and
 - (c) specify the period within which an appeal may be brought.
- (4) A person may appeal against a decision of the Treasury under this section to a court of summary jurisdiction.
- (5) The appeal must be brought within the period of 30 days beginning with the date on which the person was informed of the Treasury's decision to impose the penalty.
- (6) On appeal the court may –
- (a) uphold the decision to impose the penalty and its amount;
 - (b) uphold the decision to impose the penalty but substitute a different amount; or
 - (c) set aside the decision to impose the penalty.

9 Monetary penalties: bodies corporate and unincorporated associations

P2017/3/148 and drafting

- (1) If a monetary penalty is payable under section 7 by a body, the Treasury may also impose a monetary penalty on an officer of the body if it is satisfied, on the balance of probabilities, that the breach or failure in respect of which the monetary penalty is payable by the body —
 - (a) took place with the consent or connivance of the officer; or
 - (b) was attributable to any neglect on the part of the officer.
- (2) In subsection (1) —

“body” means a body corporate, a partnership or an unincorporated body other than a partnership;

“officer of a body” means —

 - (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity;
 - (b) in relation to a partnership, a partner or a person purporting to act as a partner;
 - (c) in relation to an unincorporated body other than a partnership, a person who is concerned in the management or control of the body or purports to act in the capacity of a person so concerned.
- (3) Sections 7(3) to (6), (8) and (9) and 8 apply in relation to a monetary penalty that may be imposed under subsection (1) as they apply in relation to a monetary penalty that may be imposed under section 7(1).

10 Monetary penalties: supplementary

P2017/3/149

- (1) The Treasury must issue guidance as to —
 - (a) the circumstances in which it may consider it appropriate to impose a monetary penalty under section 7 or 9; and
 - (b) how it will determine the amount of the penalty.
- (2) The Treasury must, at such intervals as it considers appropriate, publish reports about the imposition of monetary penalties under section 7 or 9.
- (3) The Treasury may also publish reports at such intervals as it considers appropriate in cases where —
 - (a) a monetary penalty has not been imposed under section 7 or 9; but
 - (b) the Treasury is satisfied, on the balance of probabilities, that a person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under a UK financial sanctions provision that has effect in the Island.

*Miscellaneous***11 Regulations: additional provisions**

- (1) Regulations under this Act may contain such supplemental, incidental, consequential, transitional or saving provisions as the Treasury considers to be necessary or expedient for the purposes of the regulations.
- (2) To avoid doubt, section 87(2) of the *Interpretation Act 2015* (additional powers implied by power to make public document) applies in relation to regulations under this Act.
- (3) In particular, regulations under section 4(1) may consequentially amend or repeal a provision of a statutory document which gives effect to a provision relating to sanctions made under the *European Union and Trade Act 2019*.

12 Data protection

- (1) Nothing in this Act or in regulations under this Act authorises the processing of personal data in contravention of any provisions of data protection legislation.
- (2) In this section “personal data” and “data protection legislation” each has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018⁶.

13 Protection for acts done for purposes of compliance

P2018/13/44

- (1) This section applies to an act done in the reasonable belief that the act is in compliance with regulations under this Act.
- (2) A person is not liable to any civil proceedings to which that person would, in the absence of this section, have been liable in respect of the act.
- (3) In this section “act” includes an omission.

14 Crown application

P2018/13/52

- (1) Regulations under this Act may make provision binding the Crown.
- (2) The regulations may not provide for the Crown to be criminally liable.
- (3) Nothing in this Act affects His Majesty in His private capacity (within the meaning of the Crown Proceedings Act 1947⁷ of Parliament).

⁶ SD 2018/0145

⁷ 1947 c.44

*Amendments***15 Manx legislation amended**

- (1) The *Terrorism and Other Crime (Financial Restrictions) Act 2014* is amended in accordance with the Schedule.
- (2) In section 184(1) of the *Customs and Excise Management Act 1986*, for paragraph (b) of the definition of “assigned matter” substitute —
 - (b) any other matter in relation to which the Treasury is for the time being required to perform any duties or empowered to perform any functions under or in relation to —
 - (i) the *Sanctions Act 2023*; or
 - (ii) an order under section 1 or 2 of the *Customs and Excise Act 1993*; ■.

SCHEDULE

[Section 15]

AMENDMENTS TO THE TERRORISM AND OTHER CRIME (FINANCIAL RESTRICTIONS) ACT 2014

1 Amendment of section 3

- (1) In subsection (1) —
- (a) in the definition of “business in the regulated sector” for “paragraph 1” substitute **“paragraph 2”**;
 - (b) in the definition of “designated person” omit paragraph (b);
 - (c) in the definition of “designation” omit “or section 19”;
 - (d) omit the definition of “final designation”;
 - (e) in the definition of “financial services” for “section (2)” substitute **“section 4”**;
 - (f) in the definition of “funds”, in paragraph (b) omit “with relevant institutions or other persons”;
 - (g) omit the definition of “interim designation”;
 - (h) after the definition of “radiological weapon” insert —
 - “relevant firm”** means —
 - (a) a business in the regulated sector;
 - (b) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging —
 - (i) articles made from gold, silver, platinum or palladium; or
 - (ii) precious stones or pearls; **“”**;
 - (i) for the definition of “relevant institution” substitute —
 - “relevant institution”** means —
 - (a) a person who is licensed under the *Financial Services Act 2008* to carry on a regulated activity within the meaning of section 3 of that Act;
 - (b) a person who is authorised or registered under the *Insurance Act 2008* or holds a permit under that Act;
 - (c) a person who is registered under the *Moneylenders Act 1991* to carry on the business of lending money;
 - (d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the *Retirement Benefits Schemes Act 2008*; **“”**.
- (2) For subsection (2) substitute —

▣(2) The Council of Ministers may by order amend the following definitions in subsection (1) –

- (a) the definition of “designated person” to reflect changes to United Nations sanctions measures;
- (b) the definition of “relevant firm” or “relevant institution” to give better effect in the Island to a provision of this Act.

Tynwald procedure – affirmative. ▣.

(3) Omit subsection (3).

2 Substitution of section 5A

For section 5A substitute –

▣5A Meaning of “owned or controlled directly or indirectly”: persons

(1) In this Act, a person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if either of the following two conditions is met (or both are met).

(2) The first condition is that P –

- (a) holds directly or indirectly more than 50% of the shares in C;
- (b) holds directly or indirectly more than 50% of the voting rights in C; or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(3) Schedule A1 contains provision applying for the purpose of interpreting subsection (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes. ▣.

3 Insertion of new section 5B

After section 5A insert –

▣5B Meaning of “owned, held or controlled”: funds or economic resources

In this Act, a reference to funds or economic resources that are “owned, held or controlled” by a person includes, in particular, a reference to –

- (a) funds or economic resources in which the person has any legal or equitable interest, regardless of –

- (i) whether the interest is held jointly with any other person;
 - (ii) whether any other person holds an interest in the funds or economic resources;
- (b) any tangible property (other than real property) or bearer security that is comprised in funds or economic resources and which is in the possession of the person. **22**.

4 Amendment of section 9

- (1) At the end of subsection (3) insert on a new line —
- 22** Tynwald procedure – affirmative. **22**.
- (2) Omit subsection (4).

5 Amendment of section 10

For the text of section 10 substitute —

- 22** A direction given to —
 - (a) a description of persons acting in the course of a business in the regulated sector; or
 - (b) all persons acting in the course of a business in the regulated sector,
 must be contained in an order made by the Treasury.
 Tynwald procedure (if the order contains requirements of a kind mentioned in paragraph 6 of Schedule 1) – affirmative.
 Tynwald procedure (if the order does not contain any such requirements) – laying only. **22**.

6 Amendment of section 12

For subsection (3) substitute —

- 22** (3) The Treasury may by order —
 - (a) revoke an order made under section 10; or
 - (b) vary such an order so as to make its provisions less onerous.
 Tynwald procedure – laying only. **22**.

7 Amendment of section 13

Omit subsection (6).

8 Amendment of section 17

For the text of section 17 substitute —

66 A power to make a freezing order is exercisable by order made by the Treasury.

Tynwald procedure – negative. 62.

9 Amendment of section 18

(1) In the heading omit “final”.

(2) For subsections (1) and (2) substitute –

66(1) The Treasury may make a designation of a named person if –

(a) it reasonably believes that the person –

- (i) is or has been involved in terrorist activity;
- (ii) is owned or controlled directly or indirectly by a person to whom sub-paragraph (i) applies;
- (iii) is acting on behalf of or at the direction of a person to whom sub-paragraph (i) applies; or
- (iv) is a member of, or associated with, a person to whom sub-paragraph (i) applies; and

(b) it considers that it is necessary for –

- (i) compliance with the relevant UN obligations;
- (ii) the prevention of terrorism in the Island or elsewhere otherwise than by compliance with the relevant UN obligations; and
- (iii) the interests of national security.

(2) For this purpose involvement in terrorist activity includes being so involved in whatever way and wherever any actions constituting the involvement take place, and in particular includes –

- (a) being responsible for, engaging in, or providing support for, the commission, preparation or instigation of acts of terrorism;
- (b) providing financial services, or making available funds or economic resources, for the purposes of terrorism;
- (c) facilitating, promoting or encouraging terrorism;
- (d) providing or receiving training for the purposes of terrorism;
- (e) travelling or attempting to travel from or into the relevant territory for the purposes of terrorism;
- (f) carrying out recruitment activities for a person who is involved in terrorism;
- (g) being involved in the sale, supply or transfer of arms or material related to arms to a person who is involved in terrorism;

- (h) engaging in trade of whatever description with a person who is involved in terrorism;
- (i) being responsible for, engaging in, being complicit in, providing support for, or promoting, the abduction, enslavement, forced marriage or rape of, or sexual violence against, persons outside the relevant territory on behalf of, or in the name of, a person who is involved in terrorism;
- (j) supporting or assisting any person who is known or believed by the person concerned to be involved in any activity as mentioned in paragraphs (a) to (i); or
- (k) being involved in assisting the contravention or circumvention of any relevant provision.

(2A) In this section “recruitment activities” means —

- (a) soliciting another person to —
 - (i) become a member of a person, other than an individual, involved in terrorism; or
 - (ii) participate in any act by, in conjunction with, in the name of, on behalf of or in support of a person involved in terrorism;
- (b) soliciting or otherwise procuring funds for the purpose of financing the travel of a person solicited as mentioned in paragraph (a);
- (c) organising, providing support for or otherwise facilitating the travel of a person solicited as mentioned in paragraph (a).

(2B) In this section —

being “associated with” a person includes pledging allegiance in whatever way to that person;

“promoting or encouraging” terrorism includes a reference to a person who promotes or encourages terrorism within the meaning of section 3 of the Terrorism Act 2000 (of Parliament)⁸;

“relevant provision” means —

- (a) any provision of sections 44 to 49;
- (b) any provision of the law of a country other than the Island made for purposes corresponding to a purpose of a provision of sections 44 to 49;

“relevant territory” means —

- (a) the British Islands; and
- (b) the territory of the member States of the European Union.

⁸ 2000 c.11

(2C) Nothing in any paragraph of subsection (2) is to be taken to limit the meaning of any of the other paragraphs of that subsection. **22**.

(3) For subsection (4) substitute —

66(4) In subsection (1)(b) “relevant UN obligations” means the obligations the Island has by virtue of paragraphs 1 and 2 of the United Nations Security Council Resolution 1373 (2001), adopted by the Security Council on 28 September 2001.

(5) The Treasury may by order amend the definition of “relevant UN obligations” in subsection (4) so as to add further relevant Security Council resolutions or remove any that are superseded.

Tynwald procedure – negative. **22**.

10 Repeal of section 19

Omit section 19.

11 Repeal of sections 21 and 22

Omit sections 21 and 22.

12 Amendment of section 24

(1) At the end of subsection (4) insert on a new line —

66Tynwald procedure – approval required. **22**.

(2) Omit subsection (5).

13 Amendment of section 25

(1) After subsection (2) insert —

66(2A) For the purposes of subsection (2), expenditure for the benefit of a financially restricted person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the financially restricted person is wholly or partly responsible. **22**.

(2) Omit subsection (6).

14 Amendment of section 27

In subsection (3), for “£5,000” substitute **66**level 5 on the standard scale **22**.

15 Amendment of section 28

In subsection (1) for “financially restricted person” substitute **66**directed person **22**.

16 Amendment of section 29

- (1) In subsection (1) for “the first, second or third set of conditions is satisfied” substitute **63** condition A and any one or more of conditions B, C or D are satisfied **62**.
- (2) After subsection (1) insert —
 - 63**(1A) Condition A is that the person is a directed person. **62**.
- (3) In subsection (2) for “The first set of conditions” substitute **63** Condition B **62**.
- (4) In subsection (3) for “The second set of conditions” substitute **63** Condition C **62**.
- (5) In subsection (4) for “The third set of conditions” substitute **63** Condition D **62**.
- (6) In subsection (5)(a) for “financially restricted person” substitute **63** directed person **62**.

17 Amendment of section 30

- (1) In the heading for “relevant institutions” substitute **63** relevant firms **62**.
- (2) In the section for “relevant institution” (wherever occurring) substitute **63** relevant firm **62**.
- (3) In subsection (5), for “£5,000” substitute **63** level 5 on the standard scale **62**.

18 Amendment of section 31

For the text of section 31 substitute —

- 63**(1) The Treasury may disclose in accordance with this section any information or evidence obtained by it in exercise of its powers under this Act (including any document so obtained and any copy or extract made of any document so obtained).
- (2) Information or evidence referred to in subsection (1) may be disclosed for, or in connection with, any of the following purposes —
 - (a) the exercise of functions under this Act;
 - (b) facilitating, monitoring or ensuring compliance with this Act;
 - (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Island for an offence under this Act;
 - (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the United Kingdom, the Channel Islands or any British overseas

- territory, for an offence under a provision in any such jurisdiction that is similar to a provision of this Act;
- (e) compliance with an international obligation;
 - (f) facilitating the exercise by an authority outside the Island or by an international organisation of functions which correspond to functions under this Act.
- (3) Information or evidence referred to in subsection (1) may be disclosed to the following persons –
- (a) a constable;
 - (b) any person holding or acting in any office under or in the service of—
 - (i) the Government of the Island;
 - (ii) the Crown in right of the Government of the United Kingdom;
 - (iii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;
 - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or
 - (v) the Government of any British overseas territory;
 - (c) any law officer of the Crown in any of the British Islands;
 - (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board and the Legal Services Agency Northern Ireland;
 - (e) the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;
 - (f) any other regulatory body (whether or not in the Island);
 - (g) any organ of the United Nations;
 - (h) the Council of the European Union, the European Commission or the European External Action Service;
 - (i) the Government of any country;
 - (j) any other person where the Treasury considers that it is appropriate to disclose the information or evidence.
- (4) Information or evidence referred to in subsection (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.
- (5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

- (6) In this section “international obligation” means an obligation of the United Kingdom and the Island created by or arising under any international agreement. ²².

19 Repeal of section 32

Omit section 32.

20 Amendment of section 33

In subsection (6)(b), for “£5,000” substitute ⁶³level 5 on the standard scale ²².

21 Amendment of section 35

- (1) In subsection (2)(a) for “Data Protection Act 2002” substitute ⁶³data protection legislation ²².
- (2) In subsection (6), before the entry relating to “information” insert the following entry —
- ⁶³“the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018⁹; ²².

22 Amendment of section 36

For subsection (7) substitute —

- ⁶³(7) Any penalty under this section received by the Treasury is to be paid into General Revenue. ²².

23 Amendment of section 38

After subsection (1) insert —

- ⁶³(1A) The appeal must be brought within the period of 30 days beginning with the date of the notice issued under section 37(3). ²².

24 Amendment of section 39

- (1) In subsection (4)(a) for “2 years” substitute ⁶³7 years ²².
- (2) In subsection (4)(b) for “to a fine not exceeding £5,000” substitute ⁶³to custody for not more than 12 months or to a fine or to both ²².

25 Amendment of section 40

- (1) In subsection (2)(a) for “2 years” substitute ⁶³7 years ²².
- (2) In subsection (2)(b) for “to a fine not exceeding £5,000” substitute ⁶³to custody for not more than 12 months or to a fine or to both ²².

⁹ SD 2018/0145

26 Amendment of section 41

In subsection (2)(b) for “to a fine not exceeding £5,000” substitute **63** to custody for not more than 12 months or to a fine or to both **62**.

27 Amendment of section 42

- (1) In subsection (2)(a) for “2 years” substitute **63** 7 years **62**.
- (2) In subsection (2)(b) for “to a fine not exceeding £5,000” substitute **63** to custody for not more than 12 months or to a fine or to both **62**.

28 Amendment of section 44

After subsection (4) insert —

- 63** (5) For the purposes of subsection (1) funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of section 5A) by the designated person. **62**.

29 Amendment of section 45

After subsection (3) insert —

- 63** (4) The reference in subsection (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of section 5A) by the designated person. **62**.

30 Amendment of section 47

After subsection (3) insert —

- 63** (4) The reference in subsection (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of section 5A) by the designated person. **62**.

31 Amendment of section 50

For the text of section 50 substitute —

- 63** (1) The prohibition in section 44 is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest —
- (a) is held by P; and

- (b) is not held jointly with the designated person.
- (2) In subsection (1) “independent person” means a person who —
 - (a) is not the designated person; and
 - (b) is not owned or controlled directly or indirectly (within the meaning of section 5A) by the designated person.
- (3) The prohibitions in sections 44 to 46 are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.
- (4) The prohibitions in sections 45 and 46 are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.
- (5) The prohibitions in sections 45 and 46 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.
- (6) The prohibition in section 46 is not contravened by the making of a payment which —
 - (a) is a benefit under or by virtue of an enactment relating to social security (irrespective of the name or nature of the benefit); and
 - (b) is made to a person who is not a designated person, whether or not the payment is made in respect of a designated person.
- (7) In this section “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person. ²²

32 Amendment of section 51

Omit subsection (2).

33 Amendment of section 52

For the text of section 52 substitute —

- ²³ A person guilty of an offence under this subdivision is liable —
 - (a) on conviction on information, to custody for a term not exceeding 7 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale or to both. ²⁴

34 Amendment of section 55

For the text of section 55 substitute —

- █(1) An offence under this Part may be committed by conduct wholly or partly outside the Island.
- █(2) In such a case —
 - (a) the conduct constitutes the offence;
 - (b) proceedings for the offence may be taken in the Island; and
 - (c) the offence may for all incidental purposes be treated as having been committed in the Island. █.

35 Amendment of section 57

- (1) Omit subsection (1)(a).
- (2) Omit subsections (10) and (11).

36 Amendment of section 63

For the text of section 63 substitute —

- █ The Treasury may, by order, delegate any of its functions under this Act, other than any power to make orders, to any organisation in the Island responsible for the prevention of, or investigation into, financial crime and the financing of terrorism.
- Tynwald procedure – negative. █.

37 Amendment of section 68

- (1) At the end of subsection (1) insert on a new line —
 - █ Tynwald procedure – negative. █.
- (2) In subsection (2)(d)(ii) for “£5,000” substitute █ level 5 on the standard scale █.
- (3) Omit subsection (5).

38 Repeal of section 69

Omit section 69.

39 Amendment of section 69A

- (1) At the end of subsection (1) insert on a new line —
 - █ Tynwald procedure – affirmative. █.
- (2) Omit subsections (5) and (6).

40 Insertion of Schedule A1

Before Schedule 1 insert the following Schedule —

SCHEDULE A1

[Section 5A(3)]

RULES FOR INTERPRETATION OF SECTION 5A(2)**1 Application of Schedule**

- (1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting section 5A(2).
- (2) They also apply for the purpose of interpreting this Schedule.

2 Joint interests

If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

3 Joint arrangements

- (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 10.

4 Calculating shareholdings

- (1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.
- (2) In relation to a person who does not have a share capital —
 - (a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;
 - (b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

5 Voting rights

- (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.
- (2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights —
 - (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;
 - (b) a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.
- (3) In applying section 5A(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

6 Rights to appoint or remove members of the board

- (1) A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.
- (2) A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

7 Shares or rights held “indirectly”

- (1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person —
 - (a) holds the share in question, or
 - (b) is part of a chain of persons —
 - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain; and
 - (ii) the last of whom holds the share.
- (2) A person holds a right “indirectly” if the person has a majority stake in another person and that other person —
 - (a) holds that right, or
 - (b) is part of a chain of persons —

- (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain; and
 - (ii) the last of whom holds that right.
- (3) For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if —
- (a) A holds a majority of the voting rights in B;
 - (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B;
 - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B; or
 - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if —
- (a) any person’s appointment as director follows necessarily from that person’s appointment as director of A; or
 - (b) the directorship is held by A itself.

8 Shares held by nominees

A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

9 Rights treated as held by person who controls their exercise

- (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only —
- (a) by that person;
 - (b) in accordance with that person’s directions or instructions; or
 - (c) with that person’s consent or concurrence.

10 Meaning of “arrangement”

“Arrangement” includes —

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable; and

- (b) any convention, custom or practice of any kind.

11 Rights exercisable only in certain circumstances etc.

- (1) Rights that are exercisable only in certain circumstances are to be taken into account only –
 - (a) when the circumstances have arisen, and for so long as they continue to obtain; or
 - (b) when the circumstances are within the control of the person having the rights.
- (2) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

12 Rights attached to shares held by way of security

- Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person –
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions; and
 - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests. **22**.