

STATES OF JERSEY



DRAFT REHABILITATION OF OFFENDERS (EXCEPTIONS) (AMENDMENT) (JERSEY) REGULATIONS 201-

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by the Minister for Home Affairs

STATES GREFFE



Jersey

DRAFT REHABILITATION OF OFFENDERS (EXCEPTIONS) (AMENDMENT) (JERSEY) REGULATIONS 201-

REPORT

The purpose of the Draft Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations 201- (“the draft Regulations”) is to make amendments to the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 (“the 2002 Regulations”) in relation to Immigration and Nationality procedures, Financial Services exceptions and the swearing-in at Court of prospective members of the Honorary Police.

The 2002 Regulations are made pursuant to the Rehabilitation of Offenders (Jersey) Law 2001 (“the Law”), which provides that, after a period of time, a person can put their criminal behaviour behind them. It recognises that people change, and that as a general rule others do not have a right to discriminate against them, providing there has been a time free from convictions. In general terms, after the rehabilitation period for their particular sentence, i.e. when the conviction becomes ‘spent’, an ex-offender is not normally obliged to disclose their conviction when applying for employment, obtaining insurance, or involved in legal proceedings. It should be noted that a conviction for which a custodial sentence of 30 months or more was imposed can never become spent. Moreover, the Law recognises that, in some cases, the needs of an employer or others to know about a person’s past are greater than the individual’s right to put the past behind them. Obvious examples are where a person will be working with children or vulnerable adults, or as a Police Officer, where it is clearly in the public interest to have a full picture of someone’s background.

The 2002 Regulations set out the offices and occupations in which people are expected to declare their convictions, even if they are ‘spent’.

Regulation 3 of the draft Regulations amends the 2002 Regulations by inserting a paragraph into Regulation 6 of the 2002 Regulations, which has the effect of providing that Article 7(2) of the Law shall not apply to any proceedings before the Royal Court relating to the swearing-in of a member of the Honorary Police. Article 7(2) of the Law reads as follows –

- (2) *Subject to Articles 8 and 9, but notwithstanding any enactment or rule of customary law to the contrary –*
 - (a) *no evidence shall be admissible in any proceedings before a judicial authority to prove that a person who has become a rehabilitated person has committed or been charged with or*

prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and

- (b) *a person shall not, in any such proceedings, be asked and, if asked, shall not be required to answer, any question relating to his or her past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary to such convictions.*

Thus, a person who is being sworn in as a member of the Honorary Police may be asked about their spent convictions or have their spent convictions produced to the Court.

The draft Regulations also insert a new Regulation, Regulation 15A, into the 2002 Regulations to enable all convictions, both spent and unspent, to be considered by the Lieutenant Governor and officers of the Jersey Customs and Immigration Service when deciding immigration and nationality applications in Jersey. Regulation 4 of the draft Regulations refers.

The United Kingdom has recently inserted a new section into the UK Borders Act 2007 which has the same effect in the UK, and the amendment to the 2002 Regulations will afford the Lieutenant Governor and officers of Jersey Customs and Immigration Service the same level of discretion, when dealing with immigration and nationality matters, as Immigration Officers and the Secretary of State in the UK.

The United Kingdom's Immigration Act 1971 is extended to Jersey by Order in Council. UK Immigration Rules, regulating the entry into the Island and stay of persons not having the right of abode, are extended to Jersey by the Directions of the Lieutenant Governor, and have the effect of maintaining the same standard of immigration control in Jersey as in the United Kingdom. Jersey also forms an external border to the Common Travel Area, together with the United Kingdom, Guernsey, the Isle of Man and the Republic of Ireland. The British Nationality Act 1981 gives authority to the Lieutenant Governor to act in the same capacity as the Secretary of State in respect of the grant of British nationality in Jersey.

When a decision is being reached as to whether or not a person is suitable to be granted British citizenship, or to be granted permission to enter or remain in the United Kingdom, that individual's character and conduct is taken into account. The amendment in the UK to the 1974 Act means that both spent and unspent convictions can be considered when such decisions are being made, and it is desirable that Jersey should align with the UK in this respect.

Regulations 20 and 21 of the 2002 Regulations provide certain exceptions from provisions of the Law, so that the Jersey Financial Services Commission ("JFSC") and regulated financial services firms, respectively, may have access to, and take into account for decision-making purposes, spent convictions for certain categories of offence. These offences are described in the 2002 Regulations as "relevant offences". Relevant offences are currently defined in Regulation 1, the Interpretation Regulation, as –

- (a) *an offence involving fraud or other dishonesty;*
- (b) *an offence under any enactment (whether or not of Jersey) relating to banking or other financial services, building societies, collective investment funds, companies (including insider dealing), consumer credit, consumer protection, credit unions, friendly societies,*

industrial and provident societies, insurance, insolvency or money laundering;

- (c) an offence of perjury or conspiracy to pervert the course of justice;*
- (d) an offence committed (whether under the law of Jersey or elsewhere) in connection with, or in relation to taxation, for which a person aged 21 or more.*

Regulation 2 of the draft Regulations amends the list of offences included within the definition of “relevant offence” so that they align with the offences which the JFSC can take into account when deciding whether or not it would be appropriate to grant (or continue) a licence.

Regulation 20 of the 2002 Regulations is amended by Regulation 5 of the draft Regulations. The scope of Regulation 20 will be extended to include 2 more ‘principal person’-type positions – namely individuals who hold the position of “senior officer” of a bank or as the “actuary” of an insurance company; and persons who are business associates of the financial services firm, and whose fitness and propriety can be taken into account for the purpose of licensing decisions under the regulatory Laws that the JFSC administers.

Presently the definition of “finance employee” in Regulation 20 of the 2002 Regulations covers employees who have control over property belonging to a client of the financial services firm that they work for. This definition is refined by Regulation 5 of the draft Regulations so that it also includes employees who have control over property of the financial services firm itself (given that, if a person is dishonest, the potential risk to property of the firm is no less than that to the property of a client). The definition of “finance employee” is further refined to make it explicit that an employee of a firm includes an individual whether employed under a contract of service or a contract for services.

Individuals who occupy a “key person” position within a financial services firm are now explicitly provided for within the exceptions in Regulation 20 of the 2002 Regulations. A “key person” position is a: compliance officer; money laundering compliance officer, or; money laundering reporting officer. Presently such positions are excepted by virtue of being included with the existing definition of “relevant employee” in Regulation 20, but on a descriptive, undefined, basis.

Consequential amendments are made to Regulation 20 to reflect the introduction, since enactment of the 2002 Regulations, of a new category of regulated entity – namely, a “certificate-holder” under the Collective Investment Funds (Jersey) Law 1988; and of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, under which the JFSC supervises relevant businesses for compliance with their anti-money laundering and counter-terrorist financing obligations.

Regulation 20 is amended so that Article 7 of the Law shall not apply to a spent conviction for a relevant offence in proceedings under all relevant Articles of the regulatory Laws that the Commission administers. At present, Article 7 is disappplied for only some of the relevant Articles.

Regulation 20 now disapplies Article 10(2)(a) of the Law so that there is no potential for conflict between the provisions of that Article and the powers that the JFSC has under the regulatory Laws that it administers, to require the provision of relevant information relating to criminal convictions.

Article 11(1) of the Law will be disapplied where the JFSC is co-operating with a “supervisor of a securities market”, such as the London Stock Exchange. This is a consequential amendment following the enactment of the Financial Regulation

(Disclosure of Information) (Amendments) (Jersey) Regulations 2013 [R&O.31/2013].

Regulation 6 of the draft Regulations makes amendments of the same nature described above to Regulation 21 of the 2002 Regulations, which concerns work in supervised financial services.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from these draft Regulations.

Explanatory Note

Articles 7 to 10 of the Rehabilitation of Offenders (Jersey) Law 2001 (the “Law”) state the effect of rehabilitation in respect of a person convicted of an offence.

Article 7 of the Law states the general rule that, once a person is rehabilitated in respect of a criminal conviction (“a spent conviction”) no evidence regarding that conviction may be admitted in judicial proceedings and the person is not required to disclose the conviction in judicial proceedings. Article 10 states the effect of rehabilitation in circumstances other than judicial proceedings. The general rule is that a person is not required to disclose a spent conviction and may not be dismissed or excluded from any occupation by reason only of a spent conviction. Power is given to the States to make Regulations disapplying the rule in specified cases, those Regulations being the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 (the “principal Regulations”).

These Regulations, if adopted, would amend the principal Regulations in relation to –

- (a) the swearing-in of a prospective member of the Honorary Police in court;
- (b) immigration and nationality decisions; and
- (c) the supervision by the Jersey Financial Services Commission (“JFSC”) of financial services under the Collective Investment Funds (Jersey) Law 1988, the Banking Business (Jersey) Law 1991, the Insurance Business (Jersey) Law 1996, the Financial Services (Jersey) Law 1998 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (the “2008 Law”).

Regulation 6 of the principal Regulations sets out the exceptions to the rule in the Law against the disclosure of spent convictions in subsequent judicial proceedings (Article 7) or in other circumstances (Article 10), that apply in relation to specified law enforcement officers.

Regulations 20 and 21 of the principal Regulations set out the exceptions to the rule in Articles 7 and 10 of the Law against the disclosure of spent convictions, that apply in relation to the financial services industry.

Regulation 20, in particular requires disclosure of spent convictions for relevant offences (defined in Regulation 1) when a question is asked by or on behalf of the JFSC in the discharge of its regulatory functions in respect of collective investment funds, banking business, insurance business, financial services business and its supervisory and enforcement functions under the 2008 Law. The Regulation also makes a spent conviction for a relevant offence or non-disclosure of it a proper ground for the exercise of certain regulatory powers of the JFSC and requires the disclosure of spent convictions for relevant offences in proceedings arising from the exercise of such powers. In addition, the JFSC is authorized, in the exercise of its powers to co-operate with supervisory authorities in other jurisdictions, to pass on details of a spent conviction for a relevant offence which has been disclosed to it.

Regulation 21 in particular requires disclosure of a spent conviction for a relevant offence when a question is put to assess a person’s suitability to hold or seek to hold a position of control or responsibility in regulated financial institutions. It also makes it possible for a spent conviction for a relevant offence or non-disclosure of it to be a proper ground for dismissal or exclusion from such an employment or post.

The main effects of the amending Regulations are as follows –

Regulation 1 is an interpretation provision.

Regulation 2 amends Regulation 1 of the principal Regulations by substituting an updated definition for “relevant offence” which includes the removal of tax offences.

Regulation 3 amends Regulation 6 of the principal Regulations to provide that Article 7 of the Law shall not apply to proceedings before the Royal Court relating to the swearing-in of a member of the Honorary Police.

Regulation 4 inserts new *Regulation 15A* into the principal Regulations which provides for the exclusion of initial immigration and nationality decisions and subsequent proceedings, from the operation of Article 7 and Article 10(1) and (2) of the Law.

Regulations 5 and *6* amend Regulations 20 and 21 of the principal Regulations in the following ways –

- (a) the exceptions will apply in respect of all persons who seek to become “principal persons” (however described) in the financial institutions concerned;
- (b) the exceptions will apply in respect of independent contractors who are business associates of regulated institutions;
- (c) consequential amendments are made following the enactment of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 under which the JFSC supervises and enforces compliance by certain businesses in relation to their obligations under anti-money laundering and counter terrorism provisions.

The opportunity is also taken to make other minor changes, for further consistency in the general scheme of Regulations 20 and 21.

Regulation 7 provides for the title of the Regulations and for their coming into force 7 days after they are made.



Jersey

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Arrangement

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Jersey

DRAFT REHABILITATION OF OFFENDERS (EXCEPTIONS) (AMENDMENT) (JERSEY) REGULATIONS 201-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 8(5), 10(3) and 11(4) of the Rehabilitation of Offenders (Jersey) Law 2001¹, have made the following Regulations –

1 Interpretation

In these Regulations, “principal Regulations” means the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002².

2 Regulation 1 amended

In Regulation 1(1) of the principal Regulations, for the definition “relevant offence” there shall be substituted the following definition –

“ ‘relevant offence’ means –

- (a) an offence whether under the law of Jersey or of a country or territory outside Jersey –
 - (i) involving fraud, or other dishonesty,
 - (ii) involving perjury or conspiracy to pervert the course of justice;
- (b) an offence under –
 - (i) the Collective Investment Funds (Jersey) Law 1988³,
 - (ii) the Banking Business (Jersey) Law 1991⁴,
 - (iii) the Insurance Business (Jersey) Law 1996⁵,
 - (iv) the Financial Services (Jersey) Law 1998⁶,
 - (v) the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008⁷,
 - (vi) the Alternative Investment Funds (Jersey) Regulations 2012⁸,

- (vii) any Regulations or Order made under any of the enactments listed in clauses (i) to (v);
- (c) any offence under the law of a country or territory outside Jersey similar to those listed in sub-paragraph (b);
- (d) If sub-paragraph (b) or (c) does not apply, an offence under any enactment (whether or not of Jersey), relating to banking or other financial services, building societies, collective investment funds, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing.”.

3 Regulation 6 amended

In Regulation 6 of the principal Regulations, after paragraph (3), there shall be added the following paragraph –

- “(4) Article 7 of the Law shall not apply to proceedings before the Royal Court relating to the swearing-in of a person as a member of the Honorary Police.”.

4 Regulation 15A inserted

After Regulation 15 of the principal Regulations there shall be inserted the following Regulation –

“15A Immigration and nationality

- (1) Article 7 and Article 10(1) and (2) of the Law shall not apply –
 - (a) in relation to any proceedings in respect of an immigration decision or a nationality decision; or
 - (b) otherwise for the purposes of, or in connection with, any such decision.
- (2) In this Regulation –
 - ‘immigration decision’ means any decision, or proposed decision, of the Lieutenant-Governor, an immigration officer or the Minister for Home Affairs under –
 - (a) the Immigration Act 1971 (c. 77) (the ‘1971 Act’) and the Immigration Act 1988 (c. 14) as extended to Jersey by the Immigration (Jersey) Order 1993⁹ (the ‘1993 Order’);
 - (b) the Asylum and Immigration Act 1996 (c. 49) as extended to Jersey by the Asylum and Immigration Act 1996 (Jersey) Order 1998¹⁰;
 - (c) the Immigration and Asylum Act 1999 (c. 33) as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003¹¹;
 - (d) the Immigration, Asylum and Nationality Act 2006 (c. 13) as extended to Jersey by the Immigration (Jersey) Order 2012¹²;

- (e) any Regulations or Orders made under Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996¹³ (the ‘1996 Law’) relating to immigration control;
- (f) any Community provision within the meaning of the 1996 Law, that is directly applicable to Jersey and relates to immigration control; or
- (g) any immigration rules or directions made under any enactment or provision listed under sub-paragraphs (a) to (f),

in relation to the entitlement of a person to enter or remain in Jersey (including, in particular, the granting of a work permit, or the removal of a person from Jersey, whether by deportation or otherwise);

‘nationality decision’ means any decision, or proposed decision of the Lieutenant-Governor under, or by virtue of the following Acts of the United Kingdom (as amended), namely –

- (a) the British Nationality Act 1981 (c. 61);
- (b) the British Nationality (Hong Kong) Act 1990 (c. 34); or
- (c) the Hong Kong (War Wives and Widows) Act 1996 (c. 41),

in relation to the good character of a person; and

‘immigration officer’ means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the 1971 Act as extended to Jersey by the 1993 Order.”.

5 Regulation 20 amended

- (1) In Regulation 20(1) of the principal Regulations –
 - (a) after the definition “1998 Law” there shall be inserted the following definition –
 - “ ‘2008 Law’ means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁴;”;
 - (b) the definition “controller” shall be deleted;
 - (c) for the definition “finance employee” there shall be substituted the following definition –
 - “ ‘finance employee’ means an employee whose duties include having control of property of any description and ‘employee’ includes a person whether employed under a contract of service or a contract for services;”;
 - (d) after the definition “finance employee” there shall be added the following definition –
 - “ ‘senior officer’ means a person appointed as such in connection with Article 11 of the Banking Business (General Provisions) (Jersey) Order 2002¹⁵.”.
- (2) For paragraphs (2) to (6) of Regulation 20 of the principal Regulations there shall be substituted the following paragraphs –

- “(2) In this Regulation –
- (a) the expressions ‘functionary’, ‘fund service provider’, ‘relevant supervisory authority’, ‘relevant overseas supervisory authority’, ‘supervisory body’ or ‘supervisor of a securities market’, when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law;
 - (b) a reference to a person as being associated with a person for the purposes of the latter person’s business, when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law; and
 - (c) ‘relevant person’ means a person who has applied for, or been granted level 1 registration under Article 14 of the 2008 Law.
- (3) In this Regulation and Regulation 21 the expressions ‘chief executive’, ‘controller’, ‘director’, ‘key person’, ‘manager’, ‘principal person’, and ‘shareholder controller’ when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law.
- (4) For the purposes of this Regulation and Regulation 21, a person is a prospective –
- (a) actuary;
 - (b) chief executive;
 - (c) controller;
 - (d) director;
 - (e) finance employee;
 - (f) key person;
 - (g) manager;
 - (h) principal person;
 - (i) senior officer; or
 - (j) shareholder controller,
- if the person is proposed as, or is seeking or intending to become or is about to become, the holder of such a position.
- (5) Article 7 of the Law shall not apply to a spent conviction for a relevant offence in any proceedings under –
- (a) Article 8E, 8F, 12D, 17C, 24, 34 and 34A of the 1988 Law;
 - (b) Article 17, 18, 18A, 19, 30, 35, 36, 37A, 37B, 48C and 48D of the 1991 Law;
 - (c) Article 8A, 9, 9A, 13, 24, 27, 36A, 36B and 43C of the 1996 Law;
 - (d) Article 11, 12, 13, 16, 23, 24, 25C, 26 and 34 of the 1998 Law; or
 - (e) Article 19, 23, 24, 25, 29 and 32 of the 2008 Law.

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- (6) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1988 Law, in respect of –
- (a) a holder of or applicant for a permit or certificate under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers;
 - (e) any other functionary or fund service provider of the collective investment fund to which the application, certificate or permit (as the case may be) relates; or
 - (f) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (7) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1991 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers;
 - (c) a prospective controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (8) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1996 Law, in respect of –
- (a) a holder of or applicant for a permit under that Law;
 - (b) an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers;
 - (c) a prospective actuary, chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers; or

-
- (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (9) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1998 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers; or
 - (e) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (10) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission, or a supervisory body, in the discharge of their functions under the 2008 Law, in respect of –
- (a) a relevant person;
 - (b) a key person or prospective key person, in relation to a relevant person;
 - (c) a principal person or prospective principal person, in relation to a relevant person;
 - (d) a finance employee, or prospective finance employee, of a relevant person; or
 - (e) any person who is associated with a relevant person for the purposes of the relevant person's business.
- (11) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1988 Law, in respect of –
- (a) a holder of or applicant for a permit or certificate under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers;
 - (e) any other functionary or fund service provider of the collective investment fund to which the application, certificate or permit (as the case may be) relates; or

- (f) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (12) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1991 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers;
 - (c) a prospective controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (13) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1996 Law, in respect of –
- (a) a holder of, or applicant for a permit under that Law;
 - (b) an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers;
 - (c) a prospective actuary, chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (14) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1998 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers; or

- (e) any person who is associated with a person to whom subparagraph (a) refers for the purposes of the latter person's business.
- (15) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose such matters to the Commission or a supervisory body under the 2008 Law, in respect of –
- (a) a relevant person;
 - (b) a key person or prospective key person, in relation to a relevant person;
 - (c) a principal person or prospective principal person, in relation to a relevant person;
 - (d) a finance employee, or prospective finance employee of a relevant person; or
 - (e) any person who is associated with a relevant person for the purposes of the relevant person's business.
- (16) Article 10(2)(b) of the Law shall not apply in relation to a spent conviction for a relevant offence, to any decision or proposed decision, or act of –
- (a) the Commission in the discharge of its functions under any of the Laws listed in paragraph (1); or
 - (b) a supervisory body in the discharge of its functions under the 2008 Law.
- (17) Article 11(1) of the Law shall not apply to the disclosure of specified information by –
- (a) the Commission in the discharge of any power of co-operation with a relevant supervisory authority (including a relevant overseas supervisory authority), or a supervisor of a securities market under any of the Laws listed in paragraph (1); or
 - (b) a supervisory body in the discharge of any power of co-operation with a relevant overseas supervisory authority under the 2008 Law,
- to such an authority or supervisor of any spent conviction for a relevant offence, disclosed to the Commission or a supervisory body in the course of their official duties.”.

6 Regulation 21 substituted

For Regulation 21 of the principal Regulations there shall be substituted the following Regulation –

“21 Work in supervised financial services

- (1) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a holder of a permit or certificate under the 1988 Law; or
 - (b) a person who has applied, or intends to apply for a permit or a certificate under the 1988 Law,
- and relates to an individual to whom paragraph (2) refers.

(2) This paragraph refers to –

- (a) a key person, or prospective key person, in relation to the person by whom or on whose behalf the question is put;
- (b) a principal person, or prospective principal person, in relation to the person by whom or on whose behalf the question is put;
- (c) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put.

(3) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a person registered under the 1991 Law; or
- (b) a person who has applied, or intends to apply for registration under that Law,

and relates to an individual to whom paragraph (4) refers.

(4) This paragraph refers to –

- (a) a controller, director, finance employee, key person, manager or senior officer of the person by whom or on whose behalf the question is put;
- (b) a prospective controller, director, finance employee, key person, manager or senior officer of the person by whom or on whose behalf the question is put.

(5) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) the holder of a permit under the 1996 Law; or
- (b) a person who has applied, or intends to apply for a permit under the 1996 Law,

and relates to a person to whom paragraph (6) refers.

(6) This paragraph refers to –

- (a) an actuary, a chief executive, director, finance employee, key person, or shareholder controller of the person by whom or on whose behalf the question is put;
- (b) a prospective actuary, chief executive, director, finance employee, key person, or shareholder controller of the person by whom or on whose behalf the question is put.

(7) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a person who is registered under the 1998 Law; or
- (b) a person who has applied, or intends to apply for registration under the 1998 Law,

and relates to an individual to whom paragraph (8) refers.

- (8) This paragraph refers to –
- (a) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put;
 - (b) a key person, or principal person, in relation to the person by whom or on whose behalf the question is put;
 - (c) a prospective key person, or principal person, in relation to the person by whom or on whose behalf the question is put.
- (9) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of a relevant person, being a person who –
- (a) has been granted level 1 registration under Article 14 of the 2008 Law; or
 - (b) has applied or intends to apply for level 1 registration under Article 14 of the 2008 Law,

and relates to an individual to whom paragraph (10) refers.

- (10) This paragraph refers to –
- (a) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put;
 - (b) a key person or principal person, in relation to the person by whom or on whose behalf the question is put;
 - (c) a prospective key person, or principal person, in relation to the person by whom or on whose behalf the question is put.
- (11) Article 10(2)(b) of the Law shall not apply, in relation to a spent conviction for a relevant offence, to –
- (a) the dismissal or exclusion of an individual from being or becoming a key person, or principal person in relation to a person mentioned in paragraph (1)(a) or (b);
 - (b) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (1)(a) or (b);
 - (c) the dismissal or exclusion of an individual from being or becoming a controller, director, finance employee, key person, manager or senior officer of a person mentioned in paragraph (3)(a) or (b);
 - (d) the dismissal or exclusion of an individual from being or becoming an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person mentioned in paragraph (5)(a) or (b);
 - (e) the dismissal or exclusion of an individual from being or becoming a key person or principal person in relation to a person mentioned in paragraph (7)(a) or (b);
 - (f) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (7)(a) or (b);

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- (g) the dismissal or exclusion of an individual from being or becoming a key person, or principal person in relation to a person mentioned in paragraph (9);
 - (h) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (9).”.

7 Citation and commencement

These Regulations may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- 1 *chapter 08.840*
 - 2 *chapter 08.840.50*
 - 3 *chapter 13.100*
 - 4 *chapter 13.075*
 - 5 *chapter 13.425*
 - 6 *chapter 13.225*
 - 7 *chapter 08.785*
 - 8 *chapter 17.245.51*
 - 9 *chapter 21.700*
 - 10 *chapter 21.035*
 - 11 *chapter 21.770*
 - 12 *chapter 21.771*
 - 13 *chapter 17.245*
 - 14 *chapter 08.785*
 - 15 *chapter 13.075.50*