

STATES OF JERSEY



DRAFT EU LEGISLATION (CONSUMER PROTECTION – UNFAIR PRACTICES) (JERSEY) REGULATIONS 201- (P.134/2015): AMENDMENT

**Lodged au Greffe on 29th December 2015
by the Minister for Economic Development**

STATES GREFFE

1 PAGE 15, REGULATION 2(5) –

At the end delete the full stop and add the words –

“, but as though reference in that Article to a contract also includes reference to a contract for the supply of a service.”.

2 PAGE 21, REGULATION 12 –

For paragraphs (3) to (5) substitute the following paragraph –

“(3) The power conferred by paragraph (1) includes –

- (a) power to inspect any product; and
- (b) the same powers of seizure, access and copying, and retention, as are conferred on a police officer by Articles 21 to 24 (except Article 24(3)) of the Police Procedures and Criminal Evidence (Jersey) Law 2003, and in the application of those provisions for the purposes of these Regulations –
 - (i) for any reference to a police officer there shall be substituted reference to an authorized officer,
 - (ii) for the reference in Article 23(3) to the Force or the Honorary Police there shall be substituted reference to the Chief Inspector, and
 - (iii) for the reference in Article 24(5) to the police there shall be substituted reference to the Chief Inspector.”.

MINISTER FOR ECONOMIC DEVELOPMENT

REPORT

This short amendment has been lodged to clarify 2 provisions in the Draft EU Legislation (Consumer Protection – Unfair Practices) (Jersey) Regulations 201- (P.134/2015, lodged *au Greffe* on 26th October 2015). The first relates to an aspect of consumer contracts, and the second to powers of authorized officers.

- (1) The Regulations will apply to any unfair commercial practice which takes place before, during or after a transaction in which one person deals as a consumer in relation to any product.

“Product”, as defined in the Unfair Commercial Practices Directive, includes not just goods but also services. An amendment has been made to Regulation 2(5) which references a person “dealing as a consumer” to explicitly cover contracts for the supply of a service.

- (2) Regulation 12(3)(a) allows authorized officers to inspect any goods to ascertain whether or not an offence under these Regulations is being or has been committed. The word “goods” is replaced with “product”, which has the wider definition to include services.

This amendment will provide that authorized officers may, for example, inspect to determine if a service has been carried out in accordance with a contract as well as the requirements of professional diligence.

The opportunity has also been taken to reference powers of authorized officers to some of those already established under Part 3 of the Police Procedures and Criminal Evidence (Jersey) Law 2003. This Law provides checks and balances, will ensure consistency in enforcement and includes –

- general powers of seizure (Article 21)
- seizure of computerised information (Article 22)
- rules to be followed if a business wishes to have access to seized material for the purposes of copying it (Article 23)
- rules under which an authorized officer may retain material lawfully seized (Article 24).

Whilst it is important that officers have the powers necessary to properly enforce the Regulations, it is anticipated that the need to use such powers will be a relatively rare occurrence.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this amendment to the draft Regulations.