

STATES OF JERSEY



DRAFT BANKING BUSINESS (AMENDMENT No. 4) (JERSEY) LAW 200

**Lodged au Greffe on 8th June 2004
by the Economic Development Committee**

STATES GREFFE



Jersey

DRAFT BANKING BUSINESS (AMENDMENT No. 4) (JERSEY) LAW 200

European Convention on Human Rights

The President of the Economic Development Committee has made the following statement –

In the view of the Economic Development Committee the provisions of the Draft Banking Business (Amendment No. 4) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Deputy F.G. Voisin of St. Lawrence**

REPORT

Introduction

The Banking Business (Amendment No. 4)(Jersey) Law 200- introduces the power for the Committee to set a variable tariff for annual fees imposed on deposit-taking licence-holders.

Background

The Banking Business (Jersey) Law 1991 is the primary Law governing banking activities in Jersey, including the setting of regulatory licence fees. In that respect, the Law allows only for fees to be charged in like manner for all entities.

Consolidation across the banking industry has resulted in a substantial fall in Jersey deposit-taking licences in issue. Business levels have not, though, fallen and savings in connected regulatory costs have therefore not resulted from the reduced licence numbers.

The licence fee tariff therefore requires amendment to address the associated operating loss now suffered by the Jersey Financial Services Commission of some £200,000 per annum.

Consultation with the banking industry has established a clear preference for a graduating tariff, in order that the smaller banks, which will tend to be those not benefiting from cost savings through consolidation, are not disproportionately affected. A tariff involving fees which graduate upwards in line with certain levels of income has therefore been provisionally agreed with the Jersey Bankers Association, subject to the Law being amended appropriately.

Provisions of the Law

The Law will permit fees to be set in a variable manner, in line with existing provisions in the Financial Services (Jersey) Law 1998 and Collective Investment Funds (Jersey) Law 1988.

Conclusion

A substantial shortfall has arisen from the income generated by bank licence fees compared to related regulatory costs, which the proposed revised tariff will address. The Jersey Bankers Association has been consulted and confirmed its agreement to a revised sliding scale tariff.

The relevant primary law, the Banking Business (Jersey) Law 1991, does not permit a variable tariff and a simple enabling amendment to that Law is therefore proposed.

The Law has no implications for the financial or manpower resources of the States of Jersey.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 1st June 2004 the Economic Development Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Economic Development Committee the provisions of the Draft Banking Business (Amendment No. 4) (Jersey) Law 200 are compatible with the Convention Rights.

Explanatory Note

The object of this Law is to amend the Banking Business (Jersey) Law 1991 –

- (a) to make it clear that Orders may be made about the manner of making applications for registration under that Law and that the Jersey Financial Services Commission may specify the form of those applications; and
- (b) to insert a standard provision allowing Orders to be made under that Law with differential application.



Jersey

DRAFT BANKING BUSINESS (AMENDMENT No. 4) (JERSEY) LAW 200

A LAW to amend further the Banking Business (Jersey) Law 1991^[1] with respect to the making of applications and Orders.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Article 8 amended

In Article 8 of the Banking Business (Jersey) Law 1991^[2] –

(a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Subject to the provisions of this Law, on application by any person in the prescribed manner and on payment of the prescribed fee, the Commission shall register the person.”;

(b) in paragraph (8) for the words “information or statement to be provided” there shall be substituted the words “application, information, or statement, provided”.

2 Article 48 amended

After Article 48(1A) of the Banking Business (Jersey) Law 1991^[3] there shall be inserted the following paragraph –

“(1B) The power to make Orders under this Law may be exercised –

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of the enactment,

- (iii) any such provision either unconditionally or subject to any specified condition.”.

3 Citation and commencement

This Law may be cited as the Banking Business (Amendment No. 4) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

[1] *Volume 1990-1991, page 477, Volume 1992-1993, page 93, Volume 1996-1997, page 551, Volume 1998, pages 265 and 685, Volume 1999, pages 420 and 525 and Volume 2002, page 95.*

[2] *Volume 1990-1991, page 495, Volume 1998, pages 267 and 685.*

[3] *Volume 1990-1991, page 540 and Volume 1999, page 525.*