

STATES OF JERSEY



DRAFT PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 200- (P.29/2008): AMENDMENTS

**Lodged au Greffe on 14th March 2008
by the Minister for Economic Development**

STATES GREFFE

1 PAGE 18, ARTICLE 1(1) –

For the definition of “regulated person” substitute the following definition –

“ ‘regulated person’ means a person –

- (a) who is not a registered person; and
- (b) who carries on –
 - (i) a regulated business; or
 - (ii) a business which is not a regulated business by virtue of –
 - (A) Article 4 or 5 of the Financial Services (Money Service Business (Exemptions)) (Jersey) Order 2007, or
 - (B) paragraph 4 of the Schedule to the Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000.”.

2 PAGE 20, ARTICLE 5 –

In Article 5(1) for the words “person carrying on a regulated business” substitute the words “regulated person”.

3 PAGE 54, NEW ARTICLE 44 –

(a) after Article 43 insert the following Article –

“44 Regulations and Orders

- (1) The Minister may by Order prescribe any matter which is to be, or may be, prescribed under any provision of this Law.
- (2) An Order or Regulations under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister or the States, as the case may be, to be necessary or expedient for the purposes of the Order or Regulations.”;

(b) renumber the remaining Articles accordingly.

4 PAGE 56, ITEM 5 OF THE SCHEDULE –

For paragraph (d) in column 3 of item 5 in the Schedule substitute the following paragraph –

- “(d) Financial Services (Trust Company Business (Exemptions No. 2)) (Jersey) Order 2000 other than business carried on in the circumstances described in paragraph 4 of the Schedule to that Order (experienced personal advisers);”.

REPORT

The primary purpose of this amendment to *Projet P.29/2008* is to rectify two particular anomalies that have come to light since the *Projet* was lodged.

The Draft Proceeds of Crime (Supervisory Bodies) (Jersey) Law 200- (the “**draft Law**”) is designed (amongst other things) to ensure that persons who are granted an exemption from having to register under the Financial Services (Jersey) Law 1998 – but who are nonetheless required to meet anti-money laundering/countering the financing of terrorism (“**AML/CFT**”) legislation – can be supervised by the Jersey Financial Services Commission for compliance with their AML/CFT obligations.

However, anomalies have been noted in relation to how two particular exemptions under the Financial Services (Jersey) Law 1998 would be treated under the current text of the draft Law. The particular exemptions are for persons carrying on money service business in certain circumstances, and a category of exempted persons known as ‘experienced personal advisors’. These exemptions work slightly differently to others under the Financial Services (Jersey) Law 1998 and, under the current text of the draft Law, an anomalous situation would arise whereby persons that benefit from these exemptions would not fall within the population of persons to be supervised by the Jersey Financial Services Commission under Article 5 of the Law, when they should do. The proposed amendments to Articles 1 and 5 will rectify this. The proposed amendment to Item 5 of the Schedule to the Law is a connected consequential change.

This amendment to the *Projet* also proposes a new Article 44 so that the Law contains an Order-making power. This had previously been overlooked. The opportunity has also been taken to include in the new Article 44 the usual provision to enable Regulations and Orders made under a Law to include transitional, consequential, incidental or supplementary provisions as may be necessary or expedient.

There are no measurable financial or manpower implications arising for the Commission, the States or industry from the adoption of these amendments.