

STATES OF JERSEY



Jersey

DRAFT PROCEEDS OF CRIME (AMENDMENT No. 4) (JERSEY) LAW 202-

**Lodged au Greffe on 18th May 2021
by the Minister for External Relations and Financial Services
Earliest date for debate: 29th June 2021**

STATES GREFFE



Jersey

DRAFT PROCEEDS OF CRIME (AMENDMENT No. 4) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for External Relations and Financial Services has made the following statement –

In the view of the Minister for External Relations and Financial Services, the provisions of the Draft Proceeds of Crime (Amendment No. 4) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

Minister for External Relations and Financial Services

Dated: 17th May 2021

REPORT

Jersey has a long-term policy of compliance with International Standards on anti-money laundering and countering the financing of terrorism (“AML/CFT”) as set out by the Financial Action Task Force (the “FATF”) – the international standard setter on financial crime. The Government remains absolutely committed to that policy in furtherance of the worldwide fight against financial crime.

Criterion 25.4 of the FATF Recommendation requires that *“Trustees should not be prevented by law or enforceable means from providing competent authorities with any information relating to the trusts, or from providing financial institutions and DNFBPs, upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship”*.

As Article 37 (Procedures to Prevent and Detect Money Laundering) of the [Proceeds of Crime \(Jersey\) Law 1999](#) currently reads, it only applies to persons, acting as trustees who fall within the financial services business definition. The FATF Recommendations require criterion 25.4 to apply to all express trusts which extends beyond the current provision in Article 37. Therefore, this amendment would allow for the Minister to make an Order which would then require all express trusts to provide competent authorities with any information relating to the trusts or from providing financial institutions and DNFBPs (lawyers, accountants, estate agents, high value dealers, casinos), upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

Financial and manpower implications

There are no other resource implications for the Government of Jersey that would arise as a consequence of adopting this draft Law.

Human Rights

No human rights notes are included in this proposition as the Law Officers’ Department have confirmed that the Draft Law raises no issues of compliance with the European Convention on Human Rights.

EXPLANATORY NOTE

The Draft Proceeds of Crime (Amendment No. 4) (Jersey) Law 202-, if passed, will amend Article 37(1) of the Proceeds of Crime (Jersey) Law 1999. The amendment will, at 37(1)(a) re-state the Minister's existing mandatory Order-making power, and at 37(1)(b) grant a new discretionary Order-making power to the Minister for External Relations and Financial Services. This new power will allow the Minister to prescribe measures for preventing and detecting money laundering to be taken by persons, acting as trustees, who do not carry on financial services business. The Law will come into force 7 days after it is registered.



Jersey

DRAFT PROCEEDS OF CRIME (AMENDMENT No. 4) (JERSEY) LAW 202-

A **LAW** to amend further the Proceeds of Crime (Jersey) Law 1999.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

1 **Article 37 (procedures to prevent and detect money laundering) of the Proceeds of Crime (Jersey) Law 1999 amended**

In Article 37 of the Proceeds of Crime (Jersey) Law 1999¹ –

- (a) for paragraph (1) there is substituted –
 - “(1) The Minister for External Relations and Financial Services, by Order, for the purposes of preventing and detecting money laundering –
 - (a) must prescribe measures to be taken (including measures not to be taken) by persons who carry on financial services business; and
 - (b) may prescribe measures to be taken (including measures not to be taken) by persons, acting as trustees, who do not fall under sub-paragraph (a)”;
 - (b) in paragraph (1A), for “persons who carry on financial services business”, there is substituted “persons subject to the measures mentioned in paragraph (1)(a) or (b)”;
 - (c) in paragraph (4) –
 - (i) for “person carrying on a financial services business” there is substituted “person subject to the measures mentioned in paragraph (1)(a) or (b)”,
 - (ii) for “that business” there is substituted “that person”.

2 Citation and commencement

This Law may be cited as the Proceeds of Crime (Amendment No. 4) (Jersey) Law 202- and comes into force 7 days after it is registered.

ENDNOTES

Table of Endnote References

[1](#) *chapter 08.780*