

# STATES OF JERSEY



## **DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 6) (ECONOMIC DEVELOPMENT AND TREASURY AND RESOURCES TO CHIEF MINISTER) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 6th June 2013  
by Chief Minister**

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**STATES GREFFE**





Jersey

## **DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 6) (ECONOMIC DEVELOPMENT AND TREASURY AND RESOURCES TO CHIEF MINISTER) (JERSEY) REGULATIONS 201-**

### **REPORT**

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The Chief Minister, Minister for Treasury and Resources and the Minister for Economic Development are of the view that overall accountability and responsibility for financial services should reside with the Chief Minister. These draft Regulations would, if enacted, carry out this aim by transferring legal responsibility for the Laws relating to financial services to the Chief Minister where a Minister is given the power to take action whether by Order or otherwise, and by transferring all rights and liabilities.

The Regulations replace each reference to the Minister for Economic Development or to the Minister for Treasury and Resources to the Chief Minister. These cover areas such as Bankruptcy, Anti-Money Laundering, Banking Regulation, Funds Regulation, Financial Services Regulation, Insurance Regulation, and product Laws relating to such products as Companies, Foundations, Separate Limited Partnerships, Incorporated Limited Partnerships, Limited Liability Partnerships, Limited Partnerships, Registration of Business Names, and Security Interests. They also ensure that all previous acts of the Minister for Economic Development or the Minister for Treasury and Resources continue to be valid and binding as appropriate.

#### **Financial and manpower implications**

There are no resource implications involved with this Ministerial Decision other than departmental budget and staffing transfers.

## Explanatory Note

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These Regulations transfer functions from the Minister for Economic Development and the Minister for Treasury and Resources to the Chief Minister.

*Regulation 1* is the interpretation provision. A reference in these Regulations to the “receiving Minister” is a reference to the Chief Minister. A reference in these Regulations to the “transferring Minister” is a reference to the Minister for Economic Development or the Minister for Treasury and Resources.

*Regulation 2* transfers from the Minister for Economic Development to the Chief Minister the Ministerial functions under the enactments referred to in Schedule 1.

*Regulation 3* transfers from the Minister for Treasury and Resources to the Chief Minister the Ministerial functions under the enactments referred to in Schedule 2.

*Regulation 4* transfers to the Chief Minister any rights and liabilities associated with the functions transferred by Regulations 2 and 3. It further provides that a provision in a contract or other instrument that would otherwise prevent the transfer of the rights and liabilities is of no effect, and that the transfer of rights and liabilities under these Regulations does not breach any contract or otherwise give rise to any remedy under a contract.

*Regulation 5* provides for continuity of action, so that things done prior to the commencement of these Regulations by the Minister for Economic Development or the Minister for Treasury and Resources in the discharge of the functions being transferred are treated as done and if progress may be completed by, the Chief Minister. In the event that there are any legal proceedings under way when these Regulations commence that involve the Minister for Economic Development or the Minister for Treasury and Resources in the discharge of that Minister’s functions that are being transferred, the proceedings continue with the Chief Minister being substituted in them.

*Regulation 6* provides for the citation and commencement of these Regulations.

*Schedule 1* lists the enactments for which responsibility is being transferred from the Minister for Economic Development to the Chief Minister.

*Schedule 2* provides for the Ministerial functions under the Proceeds of Crime (Jersey) Law 1999 and the Money Laundering (Jersey) Order 2008 to be transferred to the Chief Minister. However the functions associated with the management and use of the Criminal Offences Confiscations Fund remain with the Minister for Treasury and Resources.



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### **Arrangement**

#### **Regulation**

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**DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 6) (ECONOMIC DEVELOPMENT AND TREASURY AND RESOURCES TO CHIEF MINISTER) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 29 and 50 of the States of Jersey Law 2005<sup>1</sup>, have made the following Regulations –

**1 Interpretation**

In these Regulations –

“receiving Minister” means the Chief Minister;

“transferring Minister” means the Minister for Economic Development or the Minister for Treasury and Resources.

**2 Functions of Minister for Economic Development transferred**

There shall be transferred to the receiving Minister the functions of the Minister for Economic Development under the enactments referred to in Schedule 1.

**3 Functions of Minister for Treasury and Resources transferred**

There shall be transferred to the receiving Minister the functions of the Minister for Treasury and Resources under the enactments referred to in Schedule 2.

**4 Connected rights and liabilities transferred**

- (1) All rights enjoyed and liabilities incurred by a transferring Minister in connection with the functions transferred by Regulation 2 or 3 shall be transferred to the receiving Minister and become the rights and liabilities of the receiving Minister.
- (2) A provision of a contract or other instrument that specifies that a right or liability of a transferring Minister is incapable of transfer shall, to the

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extent that it applies to a right or liability transferred by paragraph (1), be of no effect.

- (3) The operation of paragraph (1) shall not be regarded –
  - (a) as a breach of contract or confidence or otherwise as a civil wrong;
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
  - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

## **5 Transitional provisions**

- (1) A transfer effected by Regulation 2 or 3 shall not prejudice the operation of any appointment, approval, authorization, consent, delegation, determination, direction, instruction, requirement or other thing that is, before these Regulations come into force, made, given or done by a transferring Minister in relation to the functions, rights and liabilities so transferred, but such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (2) Anything commenced, before these Regulations come into force, by or under the authority of a transferring Minister may, so far as it relates to any of the functions, rights and liabilities transferred by Regulations 2, 3 and 4, be carried on and completed by or under the authority of the receiving Minister.
- (3) Where, at the coming into force of these Regulations, any legal proceeding is pending to which a transferring Minister is a party and the proceeding has reference to any of the functions, rights and liabilities transferred by Regulations 2, 3 and 4, the receiving Minister shall be substituted in the proceeding for the transferring Minister and the proceeding shall not abate by reason of the substitution.

## **6 Citation and commencement**

These Regulations may be cited as the States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 201- and shall come into force on the day after the day they are made.



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**SCHEDULE 1**

(Regulation 2)

**ENACTMENTS AMENDED – MINISTER FOR ECONOMIC  
DEVELOPMENT**

In the following enactments, and in any subordinate enactment made under any of the following enactments, for each reference to the Minister for Economic Development or to the Minister of Economic Development there shall be substituted a reference to the Chief Minister –

- (a) Bankruptcy (Désastre) (Jersey) Law 1990<sup>2</sup>;
- (b) Money Laundering (Jersey) Order 2008<sup>3</sup>;
- (c) Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008<sup>4</sup>;
- (d) Banking Business (Jersey) Law 1991<sup>5</sup>;
- (e) Collective Investment Funds (Jersey) Law 1988<sup>6</sup>;
- (f) Collective Investment Funds (Amendment and Validation) (Jersey) Law 2012<sup>7</sup>;
- (g) Companies (Jersey) Law 1991<sup>8</sup>;
- (h) Companies (Takeovers and Mergers Panel) (Jersey) Law 2009<sup>9</sup>;
- (i) Financial Services (Jersey) Law 1998<sup>10</sup>;
- (j) Financial Services Commission (Jersey) Law 1998<sup>11</sup>;
- (k) Foundations (Jersey) Law 2009<sup>12</sup>;
- (l) Incorporated Limited Partnerships (Jersey) Law 2011<sup>13</sup>;
- (m) Insurance Business (Jersey) Law 1996<sup>14</sup>;
- (n) Limited Liability Partnerships (Jersey) Law 1997<sup>15</sup>;
- (o) Limited Partnerships (Jersey) Law 1994<sup>16</sup>;
- (p) Registration of Business Names (Jersey) Law 1956<sup>17</sup>;
- (q) Separate Limited Partnerships (Jersey) Law 2011<sup>18</sup>;
- (r) Non-Profit Organizations (Jersey) Law 2008<sup>19</sup>;
- (s) Community Provisions (Wire Transfers) (Jersey) Regulations 2007<sup>20</sup>;
- (t) Control of Borrowing (Jersey) Law 1947<sup>21</sup>;
- (u) Alternative Investment Funds (Jersey) Regulations 2012<sup>22</sup>;
- (v) Security Interests (Jersey) Law 2012<sup>23</sup>.

**SCHEDULE 2**

(Regulation 3)

**ENACTMENTS AMENDED – MINISTER FOR TREASURY AND  
RESOURCES**

**1 Proceeds of Crime (Jersey) Law 1999 amended**

In the Proceeds of Crime (Jersey) Law 1999<sup>24</sup> –

- (a) in Article 1(1) the definition “Minister” shall be deleted;
- (b) in Article 24, for the words “the Minister” there shall be substituted the words “the Minister for Treasury and Resources”;
- (c) in Articles 37(1) and 43(1), for the words “the Minister” there shall be substituted the words “the Chief Minister”.

**2 Money Laundering (Jersey) Order 2008 amended**

In Article 23C(1) of the Money Laundering (Jersey) Order 2008<sup>25</sup> for the words “The Minister” there shall be substituted the words “The Chief Minister”.

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- 1 *chapter 16.800*
  - 2 *chapter 04.160*
  - 3 *chapter 08.780.30*
  - 4 *chapter 08.785*
  - 5 *chapter 13.075*
  - 6 *chapter 13.100*
  - 7 *chapter 13.101*
  - 8 *chapter 13.125*
  - 9 *chapter 13.145*
  - 10 *chapter 13.225*
  - 11 *chapter 13.250*
  - 12 *chapter 13.265*
  - 13 *chapter 13.370*
  - 14 *chapter 13.425*
  - 15 *chapter 13.475*
  - 16 *chapter 13.500*
  - 17 *chapter 13.650*
  - 18 *chapter 13.780*
  - 19 *chapter 15.430*
  - 20 *chapter 17.245.57*
  - 21 *chapter 24.150*
  - 22 *R&O.142/2012*
  - 23 *chapter 13.775*
  - 24 *chapter 08.780*
  - 25 *chapter 08.780.30*