

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 2008

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Jersey

PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 2008

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PROCEEDS OF CRIME (SUPERVISORY BODIES) (JERSEY) LAW 2008

A LAW to make provision for the supervision of compliance by certain businesses with anti-money laundering and anti-terrorist financing requirements

Commencement [see endnotes]

PART 1

INTERPRETATION

1 Interpretation

(1) In this Law, unless the context otherwise requires –

"anti-money laundering and counter-terrorism legislation" has the meaning in Article 3;

"anti-money laundering services provider" has the meaning given to that expression in Article 1(1) of the Proceeds of Crime (Jersey) Law 1999;

"applicant" has the meaning in Article 11(1);

"associate", in relation to a person, means –

(a) the person's husband, wife, child or stepchild;

(b) the person's partner;

(c) any company of which the person is a director;

(d) where the person is a company, any director or employee of the company, any company in the same group as the company, and any director or employee of such a company; and

(e) any person with whom the first mentioned person has an agreement, arrangement or other obligation –

(i) to act together in exercising voting power,

(ii) with respect to the acquisition, holding or disposal of shares or other interests in a company, partnership or other association;

"auditor" means a person qualified under Article 113 of the Companies (Jersey) Law 1991 for appointment as an auditor of a company under Article 109 of that Law;

"body" in the term "supervisory body" includes any legal structure, whether incorporated or not, other than an individual;

"Code of Practice" means a Code of Practice issued under Article 22;

"Commission" means the Jersey Financial Services Commission;

"compliance officer" means a person designated as such by a registered person under any regulatory law;

"Court" means the Royal Court;

"deemed registration" and "deemed registered person" shall be construed in accordance with Article 11;

"documents" includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;

"ESAs" means the European Supervisory Authorities comprising –

(a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);

(b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and

(c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

"formerly registered person" means a person who has been a registered person but is no longer a registered person;

"formerly regulated person" means a person who has been a regulated person but is no longer a regulated person;

"formerly supervised person" means a formerly registered person, a formerly regulated person or a person who has been a prescribed NPO but is no longer a prescribed NPO;

"key person" means a person employed or otherwise engaged by a supervised person as an officer of any one or more of the following classes in relation to the conduct of the supervised business by that supervised person –

(a) compliance officer;

(b) money laundering compliance officer;

(c) money laundering reporting officer;

"Minister" means the Chief Minister;

"money laundering" means –

(a) conduct which is an offence under any provision of Articles 30 and 31 of the Proceeds of Crime (Jersey) Law 1999 or Articles 15 and 16 of the Terrorism (Jersey) Law 2002; or

(b) conduct outside Jersey which, if occurring in Jersey, would be an offence specified in sub-paragraph (a);

"money laundering compliance officer" means a person employed or otherwise engaged by a supervised person to be in charge of monitoring whether the law of Jersey relating to money laundering is being complied with in the conduct of the supervised business of the supervised person;

"money laundering reporting officer" means a person employed or otherwise engaged by a supervised person to receive reports from employees of the supervised person in relation to activities that may constitute money laundering and come to the attention of the employees in the conduct of the supervised business of the supervised person;

"NPO" means a non-profit organization, as defined in Article 1 of the Non-Profit Organizations (Jersey) Law 2008;

"overseas supervisory function" means a function of a relevant overseas supervisory authority that is the same as, or similar to, a function of a supervisory body in relation to a country or territory outside Jersey;

"pension supervisor" means any entity (whether in Jersey or elsewhere) responsible in whole or in part for the supervision of pension funds, plans, schemes or arrangements;

"prescribed" means prescribed by Order;

"prescribed NPO" means an NPO prescribed, or that belongs to a class of NPOs prescribed, in an Order under Article 13A of that Law;

"prescribed person" means the person or the class of person prescribed in an Order under Article 6(1);

"principal person" means –

(a) in relation to a person being a sole trader, the proprietor;

(b) in relation to a person being a company –

(i) a person who, either alone or with any associate or associates –

(A) directly or indirectly holds 10% or more of the share capital issued by the company,

(B) is entitled to exercise or control the exercise of not less than 10% of the voting power in general meeting of the company or of any other company of which it is a subsidiary, or

(C) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company,

other than a person holding shares only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means),

(ii) a director,

(iii) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity);

(c) in relation to a person being a partnership –

(i) a partner,

(ii) where a partner is a company, any person who, in relation to that company, falls within sub-paragraph (b),

and includes –

(i) in relation to a person whose registered office and principal place of business is outside Jersey, a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person's supervised business in Jersey, and

(ii) a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs;

"publish" means publish in a manner that is likely to bring it to the attention of those affected;

"registered person" means a deemed registered person or a person who is registered under Article 14;

"regulated business" means –

(a) the business of a recognized fund, or of an unclassified fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988, or

(b) a Schedule 2 business for which a person must –

(i) be registered under the Banking Business (Jersey) Law 1991,

(ii) hold a permit under the Collective Investment Funds (Jersey) Law 1988,

(iii) be registered under the Financial Services (Jersey) Law 1998, or

(iv) be authorized by a permit under the Insurance Business (Jersey) Law 1996;

"regulated person" means a person who carries on a regulated business;

"regulatory law" means any of the following –

(a) the Banking Business (Jersey) Law 1991;

(b) the Collective Investment Funds (Jersey) Law 1988;

(c) the Financial Services (Jersey) Law 1998;

(d) Insurance Business (Jersey) Law 1996;

(e) the Alternative Investment Funds (Jersey) Regulations 2012;

"relevant overseas supervisory authority" means a body discharging any function that is the same as, or similar to, a function of a supervisory body in relation to a country or territory outside Jersey;

"relevant supervisory body" means any of the following –

(a) the Commission in accordance with Article 5;

(b) the body described as such in Article 12(1), (2)(a), (5) or (7);

"Schedule 2 business" means a business described in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 except a business described in Part 5 of that Schedule;

"shareholder controller" has the meaning given by sub-paragraph (b)(i) of the definition of "principal person";

"subsidiary" has the same meaning as in Article 2 of the Companies (Jersey) Law 1991;

"suitable supervisory body" in relation to a person or business means a supervisory body that has functions or powers under this Law in relation to a category, class or description of person or business within which that person or business falls;

"supervised business" means –

(a) Schedule 2 business; and

(b) business carried on by a prescribed NPO;

"supervised person" means a registered person, a regulated person or a prescribed NPO;

"supervisor of a securities market" has the meaning given in Article 1(1) of the Financial Services (Jersey) Law 1998, but in reading that definition in the context of this Law the reference in that definition to a relevant supervisory authority within the meaning of the Financial Services (Jersey) Law 1998 is to be taken to be a reference to a relevant overseas supervisory authority within the meaning of this Law;

"supervisory body" means –

(a) the Commission in accordance with Article 5; or

(b) a body designated for the time being under Article 6;

"supervisory functions" means the functions described in Article 2.[1]

(2) The States may by Regulations amend any definition in Article 1 or 2.

2 Meaning of "supervisory functions"[2]

"Supervisory functions" shall mean any of the following –

(a) monitoring compliance by a supervised person with any of the following –

(i) any requirement to which that person is subject under this Law,

(ii) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999,

(iii) the Community Provisions (Wire Transfers) (Jersey) Regulations 2007,

(iv) any direction under Article 6 of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012,

(v) any Code of Practice that applies to that person or the supervised business carried on by that person,

(vi) any requirement to which that person is subject under the Non-Profit Organizations (Jersey) Law 2008 or an Order made under Article 13A of that Law;

(b) carrying out the functions, powers and duties conferred under this Law for the purpose of compliance by a supervised person with the things described in sub-paragraph (a).

3 Meaning of "anti-money laundering and counter-terrorism legislation"

(1) In this Law, "anti-money laundering and counter-terrorism legislation" means any of the following enactments –

(a) the Proceeds of Crime (Jersey) Law 1999;

(b) the Terrorism (Jersey) Law 2002;

(c) the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012;

(d) the Sanctions and Asset-Freezing (Jersey) Law 2019, other than Article 8;

(e) any Regulations or Order made under an enactment falling within any of sub-paragraphs (a) to (d);

(f) the EU Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017. [3]

(2) The Minister may by Order amend the list of enactments in paragraph (1).

4 [4]

PART 2

SUPERVISORY BODIES

5 Commission to be supervisory body for all supervised business carried on by any person carrying on a regulated business[5]

(1) The Commission shall be the supervisory body to exercise supervisory functions in respect of any regulated person.

(2) The Commission shall exercise its supervisory functions in respect of any supervised business carried on by such a person.[6]

6 Designation of supervisory bodies

(1) The Minister may, by Order, on the recommendation of the Commission, designate one or more supervisory bodies to exercise supervisory functions in respect of –

(a) any person, other than a person mentioned in Article 5, carrying on a Schedule 2 business; or

(b) a prescribed NPO.[7]

(2) For the avoidance of doubt, the Minister may designate the Commission under paragraph (1).

(3) The Minister shall not designate a supervisory body under paragraph (1) unless he or she is satisfied that the body –

(a) has the appropriate governance, skills and resources to exercise its functions under this Law; and

(b) is not prevented under its constitution (in whatever form that takes) or under any enactment (whether of Jersey or a country or territory outside Jersey) to exercise such functions.

(4) An Order under paragraph (1) –

(a) shall prescribe –

(i) the person or class of person, and

(ii) the supervised business carried on by such a person,

in respect of whom or which the designated supervisory body shall exercise supervisory functions;

(b) shall prescribe one or more supervisory functions which the designated supervisory body shall have in relation to that prescribed person or class of person;

(c) may make such other provision as is reasonably necessary for or incidental to the purposes of the Order.[8]

(5) The States may make Regulations modifying any enactment to the extent necessary to enable any body to meet the criteria in paragraph (3) and to exercise any supervisory functions.

7 Guidance, directions and accountability

(1) The Minister may, after consulting the appropriate supervisory body and where the Minister considers that it is expedient in the public interest to do so, give to any supervisory body written guidance and written general directions in respect of policies in relation to the supervision of supervised business in Jersey and the manner in which supervisory functions of that body are to be exercised.[9]

(2) For the purposes of paragraph (1) the appropriate supervisory body is the supervisory body to which such guidance or general directions would apply, and, where there is more than one such body, each of them.

(3) The Minister shall make public any guidance or directions he gives under paragraph (1) whether through the internet or otherwise.

(4) When exercising its functions a supervisory body shall –

(a) take into account any guidance; and

(b) follow any directions,

given to it under this Article.

(5) Each supervisory body shall make a report to the Minister on its activities under this Law in each of its financial years.

(6) Such report shall be provided to the Minister as soon as practicable after the end of the financial year to which it relates, but in any event shall be provided no later than 7 months after the end of that year.

(7) The Minister shall lay before the States a copy of each report provided to him or her under paragraph (5) as soon as practicable after having received it.

8 General powers of supervisory bodies

(1) A supervisory body shall have the power to do anything –

(a) that is calculated to facilitate; or

(b) that is incidental or conducive to,

the performance of any of its functions under this Law.

(2) That power includes a general power to conduct reasonable routine examinations of a supervised person in relation to whom the supervisory body exercises supervisory functions.

(3) A supervisory body may, as part of its general power under paragraph (2) –

(a) require a supervised person to supply information in a format and at times specified by that body;

(b) require the supervised person to provide answers to questions; and

(c) require the supervised person to allow officers or agents of the supervised body to enter the supervised person's premises.

(4) Nothing in this Article shall require the disclosure or production by a person to a supervisory body of information or documents which he or she would in an action in the Court be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.

8A Duty of supervisory body to use a risk-based approach[10]

(1) In performing its obligations under this Law, a supervisory body must use a risk-based approach.

(2) In this Article, "risk-based approach" means determining the scrutiny that a supervised person or supervised business requires on the basis of the following –

(a) the money laundering and terrorist financing risks associated with the supervised person or supervised business, as identified under paragraph (3) by the supervisory body's assessment of the supervised person's or supervised business's risk profile;

(b) the policies, internal controls and procedures associated with the supervised person or supervised business, as identified under paragraph (3) by the supervisory body's assessment of the supervised person's or supervised business's risk profile;

(c) the money laundering or terrorist financing risks present in the jurisdiction in which the supervised person or supervised business is based;

(d) any other characteristic of the supervised person or supervised business that the supervisory body reasonably considers to be relevant.[11]

(3) In devising a risk profile for a supervised person or a supervised business, the supervisory body must take account of the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation as published from time to time by the international body known as the Financial Action Task Force.[12]

9 Limitation of liability

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.[13]

(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.[14]

(2) This Article applies to –

(a) each supervisory body, any member of that body or any person who is, or is acting as, an officer, servant or agent of that body or who is performing any duty or exercising any power on behalf of that body; and

(b) the States or any Minister in respect of any delegation of functions to that body.

PART 3

REGISTRATION

10 Prohibition of carrying on unauthorized Schedule 2 business[15]

(1) Subject to paragraph (2) –

(a) a person shall not carry on a Schedule 2 business in or from within Jersey; and

(b) a person being –

(i) a company incorporated in Jersey, or

(ii) a person (other than a natural person or company) whose registered office is in Jersey,

shall not carry on such business in any part of the world,

unless the person is for the time being a registered person under this Law in respect of that Schedule 2 business, and acting in accordance with the terms of his or her registration.[16]

(2) This Law shall not apply to –

(a) the doing of anything by or on behalf of –

(i) the States, the Attorney General, the Solicitor General, the Viscount, the Judicial Greffier or a Jurat of the Royal Court when acting in such capacity, or

(ii) any person, or institution, prescribed for the purposes of this paragraph, subject to such conditions or restrictions as may be so prescribed;

(b) any prescribed transaction subject to such conditions or restrictions as may be prescribed.[17]

(3) Any person who holds himself or herself out as carrying on a Schedule 2 business in or from within Jersey, and any person mentioned in paragraph (1)(b) which holds itself out as carrying on Schedule 2 business shall, for the purposes of this Article, be treated as carrying on such business.[18]

(4) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 7 years and a fine.

11 Application for registration and deemed registration[19]

(1) Subject to paragraph (4), a person who intends to carry on a Schedule 2 business (an "applicant") must make an application under Article 13 to the relevant supervisory body to be registered in respect of the Schedule 2 business.[20]

(2) [21]

(3) A person carrying on a regulated business who intends to carry on a Schedule 2 business is not required to make an application under paragraph (1) provided that person has previously notified the Commission that he or she intends to carry on that Schedule 2 business.[22]

(4) A notification under paragraph (3) must be in such form as the Commission may determine and must include –

(a) the person's name;

(b) the description of the Schedule 2 business that the person intends to carry on;

(c) the principal address (stating that it is the principal address) and any other address from which the person intends to carry on that business;

(d) such other particulars as the Commission may require.[23]

(5) A notification under paragraph (3) must be accompanied by a fee determined in accordance with Article 21.

(6) Upon receiving a notification under paragraph (3) from a person, the Commission must give that person written notice that the person is deemed to be registered with or without conditions under Article 17(3), in respect of the Schedule 2 business that is the subject of the notification.[24]

(7) In this Law such registration under paragraph (6) is referred to as "deemed registration" and such a person is referred to as a "deemed registered person".

12 Determination of relevant supervisory body

(1) Where the applicant does not fall within paragraph (2) and there is only one supervisory body exercising supervisory functions in respect of the Schedule 2

business that an applicant intends to carry on the relevant supervisory body shall be that body.[25]

(2) Where a registered person who is not a deemed registered person intends to carry on an additional Schedule 2 business –

(a) if there is only one supervisory body exercising supervisory functions in respect of all the Schedule 2 business that the person intends to carry on and is carrying on, the relevant supervisory body shall be that body; or

(b) if the supervisory body exercising supervisory functions in respect of the Schedule 2 business that the registered person intends to carry on is different from the supervisory body exercising supervisory functions in respect of the Schedule 2 business that the registered person carries on, the registered person shall notify each supervisory body in writing of that fact before making an application under Article 13.[26]

(3) Where there is more than one supervisory body exercising supervisory functions in respect of the Schedule 2 business that a person intends to carry on (whether or not that person falls within paragraph (2)), that person shall notify each supervisory body in writing of each Schedule 2 business that he or she intends to carry on before making an application under Article 13.[27]

(4) Upon receipt of a notice under paragraph (2)(b) or (3) or both, the supervisory bodies shall seek to agree with each other which body shall be the relevant supervisory body in respect of all of the applicant's Schedule 2 business for the purpose of this Law.[28]

(5) If the supervisory bodies reach agreement under paragraph (4), the relevant supervisory body shall notify the applicant in writing that it is the relevant supervisory body.

(6) If no agreement can be reached under paragraph (4), one or more of the supervisory bodies shall notify the Minister.

(7) Upon receiving notification under paragraph (6), the Minister shall decide which of the supervisory bodies shall be the relevant supervisory body and shall notify those supervisory bodies of that fact.

(8) Upon receiving notification under paragraph (7), the relevant supervisory body shall notify the applicant in writing that it is the relevant supervisory body in respect of all of the Schedule 2 business that the applicant intends to carry on.[29]

13 Application for registration[30]

(1) An application for registration shall –

(a) be in such form as the relevant supervisory body may from time to time determine;

(b) contain or be accompanied by such information and documents as the relevant supervisory body may require, relating to any of the following –

(i) the applicant,

(ii) the applicant's business,

(iii) any person employed by the applicant,

(iv) any person who is an associate of the applicant to the extent relevant to the applicant's business,

(v) any person who is a principal person or key person in relation to the applicant,

verified in such manner as the relevant supervisory body may require; and

(c) be accompanied by the fee for the application, determined in accordance with Article 21.[31]

(2) Without prejudice to the generality of paragraph (1)(b) such information and documents may relate to whether or not any of the persons mentioned in Article 14(3) has been convicted of any of the offences mentioned in sub-paragraphs (a) and (b) of Article 14(4).

(3) At any time after receiving an application and before determining it the relevant supervisory body may, at its discretion, by written notice direct the applicant or any person who is or is to be a principal person or key person in relation to the applicant to provide such additional information or documents as the relevant supervisory body reasonably requires for the determination of the application, verified in such manner as the relevant supervisory body may require, and such requirements may differ as between different applications.

(4) The relevant supervisory body may by written notice require the applicant or any person who is to be a principal person or key person in relation to the applicant to provide a report by an auditor or accountant, or other qualified person approved by the relevant supervisory body, on such aspects of any information and documents required by or under paragraph (1) or (2) as the relevant supervisory body may specify.

(5) An applicant who, while his or her application is awaiting determination by the relevant supervisory body under Article 14 –

(a) determines to bring about any alteration in; or

(b) becomes aware of any event which may affect in any material respect,

any information or documents supplied by the applicant to the relevant supervisory body in connection with the application, shall forthwith give written notice of that matter to that body.

(6) An applicant may, by written notice to the relevant supervisory body, withdraw his or her application under this Article at any time before it is granted or refused.

14 Grant or refusal of application for registration[32]

(1) On an application under Article 13 for registration the relevant supervisory body may either register the applicant, with or without attaching conditions under Article 17(3), or refuse to register the applicant.[33]

(2) Whenever a relevant supervisory body registers an applicant it shall issue to that applicant a registration certificate.

(3) The relevant supervisory body may refuse to register an applicant on the ground that –

(a) the applicant;

(b) a principal person in relation to that applicant; or

(c) a key person in relation to that applicant,

is not a fit and proper person.[34]

(4) For the purposes of paragraph (3), a person is not a fit and proper person if that person –

(a) has been convicted of an offence under anti-money laundering and counter-terrorism legislation or any offence under the law of a country or territory outside Jersey similar to one that falls within that legislation;

(b) has been convicted of –

(i) an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty,

(ia) an offence under –

(A) this Law,

(B) the Banking Business (Jersey) Law 1991,

(C) the Collective Investment Funds (Jersey) Law 1988,

(D) the Financial Services (Jersey) Law 1998,

(E) the Insurance Business (Jersey) Law 1996, or

(F) any Regulation or Order made under any of those Laws,

(ib) an offence, similar to one referred to in clause (ia), under the law of a country or territory outside Jersey,

(ii) an offence, not referred to in clause (ia) or (ib), under any enactment (whether of Jersey or of a country or territory outside Jersey) relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing; or

(iii) an offence (whether under the law of Jersey or of a country or territory outside Jersey) of perjury or conspiracy to pervert the course of justice;

(c) is otherwise considered not to be fit and proper by the relevant supervisory body for reasons related to the risk of money laundering or the financing of terrorism.[35]

(5) The relevant supervisory body may refuse to register a person if the application is not made in accordance with Article 13.[36]

15 [37]

16 Notice of refusal to register

(1) If a supervisory body refuses to register an applicant under Article 14, it shall give notice to the applicant with reasons.[38]

(2) The requirement to give reasons under paragraph (1) shall not require the supervisory body to specify any reason that would, in the supervisory body's

opinion, involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party.

(3) Where paragraph (2) applies, the supervisory body shall include in its reasons a statement of the fact that it relied upon such information when coming to its decision.

17 Conditions of registration

(1) The Minister may, on the recommendation of the appropriate supervisory body, prescribe conditions which shall apply to registered persons and to the carrying on of Schedule 2 business by registered persons.[39]

(2) For the purposes of paragraph (1), the appropriate supervisory body is the supervisory body carrying out supervisory functions in respect of persons or businesses to whom or to which the prescribed conditions would apply, and, if there is more than one such body, each of them.

(3) A supervisory body may attach conditions to any particular grant of registration under Article 14 or, in the case of the Commission, to a deemed registration, and the supervisory body may from time to time amend, vary, substitute or revoke any such condition or attach new conditions.[40]

(4) Where, under paragraph (3), a supervisory body attaches a condition to a registration, amends, varies, substitutes or revokes a condition attached to a registration, or attaches a new condition, it shall give notice in writing to the registered person concerned with reasons.

(5) The requirement to give reasons under paragraph (4) shall not require the supervisory body to specify any reason that would, in the supervisory body's opinion, involve the disclosure of confidential information to a third party.

(6) Where paragraph (5) applies, the supervisory body shall include in its reasons a statement of the fact that it relied upon such information when coming to its decision.

(7) If any registered person fails to comply with any condition prescribed under paragraph (1) or attached under paragraph (3), the registered person shall be liable to imprisonment for a term of 2 years and a fine.

(8) The record of the conviction of any person for an offence under paragraph (7) shall be admissible in any civil proceedings as evidence of the fact of the breach of a condition prescribed or attached under this Article.

(9) Conditions prescribed under paragraph (1) or attached under paragraph (3) may indicate that a Code of Practice is to be wholly or partly disregarded for the purposes of Article 22(6).

18 Revocation of registration

(1) A supervisory body may revoke a registration that it has granted under Article 14 of this Law on any of the following grounds –

(a) at the request of the registered person;

(b) if the registered person has not commenced any Schedule 2 business in respect of which that person was registered in or from within Jersey within one year of the date of the person's registration;

(c) if the registered person ceases to conduct a Schedule 2 business in respect of which that person was registered in or from within Jersey;

(d) on one or more of the grounds set out in Article 14(3) with the substitution for references to the applicant of references to a registered person;

(e) if it comes to the attention of the supervisory body after granting registration that an application was not made in accordance with Article 13(1) or that the applicant failed to comply with Article 13(5);

(f) if the registered person has contravened any Code of Practice that applies to that person;

(fa) if the registered person has failed to pay any part of a penalty imposed by the Commission under Article 21A of the Financial Services Commission (Jersey) Law 1998 (including any surcharge imposed under Article 21E(1) of that Law);

(g) if the registered person fails to pay any fee for which that person is liable under Article 20.[41]

(2) If a supervisory body revokes a registration under this Article it shall give notice in writing with reasons to the registered person concerned.

(3) The requirement to give reasons under paragraph (2) shall not require the supervisory body to specify any reason that would, in the supervisory body's opinion, involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party.

(4) Where paragraph (3) applies, the supervisory body shall include in its reasons a statement of the fact that it relied upon such information when coming to its decision.

19 Procedure on refusal or revocation, or new or varied condition

(1) Where a supervisory body acting under Article 17 attaches a new condition to the registration of a particular person or amends, varies, substitutes or revokes any condition so attached, or under Article 18, revokes a registration, such revocation, new condition or amendment, variation, substitution or revocation of a condition shall not take effect, subject to paragraph (3), before the expiration of –

(a) a period of one month from the date on which notice in writing was given to the registered person under Article 17(4) or Article 18(2), as the case may be;

(b) the date on which any appeal against the revocation, new condition or amendment, variation, substitution or revocation of a condition is determined by the Court or withdrawn,

whichever is later, unless the registered person requests that it should take effect at an earlier date.

(2) Any person aggrieved by a refusal to register an applicant under Article 14 or by revocation of a registration or by the conditions attached to the person's registration, or by any new condition so attached or by any amendment, variation,

substitution or revocation of such conditions, may appeal to the Court within one month from the date on which notice in writing has been given to the person under Article 16(1), Article 17(4) or Article 18(2), as the case may be, on the ground that the decision of the supervisory body was unreasonable having regard to all the circumstances of the case.[42]

(3) If, on the application of a supervisory body, the Court is satisfied that it is desirable in the best interests of persons with whom a registered person has transacted or may transact a Schedule 2 business that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period suggested in paragraph (1)(a) should be reduced, the Court may so order.[43]

(4) An order under paragraph (3) may be made without prior notice to and without hearing the registered person concerned.

(5) An order under paragraph (3) shall have immediate effect but any person aggrieved by the order may apply to the Court to vary or set aside the order on the ground only that the order was unreasonable having regard to all the circumstances of the case.

(6) In respect of an application under paragraph (3), the Court may make such order as it thinks fit and in respect of an application under paragraph (5), the Court may make such order in respect of the relevant order under paragraph (3) as it thinks fit.

(7) Nothing in paragraph (1) or (2) derogates from or otherwise affects a condition prescribed under Article 17(1).

PART 4

FEES

20 Fees[44]

(1) A supervisory body may charge a fee payable by each person registered by it under this Law at such intervals and upon the occurrence of such events as the Commission may determine.[45]

(2) The Commission may charge a fee payable by each deemed registered person and each regulated person at such intervals and upon the occurrence of such events as the Commission may determine.[46]

(3) If a registered person fails to pay any fee charged under paragraph (1) or (2) there shall be payable by that person a late payment fee of such amount as the supervisory body may determine.

21 Determination of fees and late payment

(1) The fee for each of the following shall be the fee for the time being published and in effect in accordance with this Article –

(a) notification under Article 11(3);

(b) an application under Article 13;

(c) a fee under Article 20.[47]

(2) The fees mentioned in paragraph (1) shall be retained by the supervisory body to whom they are paid and shall be set at such a level as is necessary that, in aggregate they –

(a) raise sufficient income to enable the supervisory body to carry out its functions under this Law; and

(b) provide a reserve of such amount as the supervisory body considers necessary for carrying out such functions.

(3) A supervisory body may set different fees for –

(a)

(b) each of the things mentioned in paragraph (1); and

(c) specified cases falling within sub-paragraph (a), (b) or (c) of paragraph (1) as the case requires.[48]

(4) Supervisory bodies may set different fees from each other.

(5) A supervisory body may determine that no fee shall be charged for any of the things mentioned in paragraph (3).

(6) Before publishing a fee mentioned in paragraph (1), other than where the supervisory body proposes to charge no fee, the supervisory body shall publish a report that includes –

(a) details of the proposed fee;

(b) a request for comments on the level of the proposed fee; and

(c) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the supervisory body.

(7) If, by that date or any later date agreed by the supervisory body, a body that appears to the supervisory body to be representative of the interests of those who would be required to pay the fee, is unable to agree with the supervisory body –

(a) a fee for anything mentioned in paragraph (3) for which there is no published fee under this Article; or

(b) an increase in an existing fee where the percentage increase in the fee is greater than the percentage increase in the RPI since the fee last took effect in accordance with paragraph (8),

the supervisory body shall request the Bailiff to appoint 3 Jurats to consider if the fee proposed by the supervisory body is unreasonable having regard to all the circumstances of the case and, in particular, the requirement of paragraph (2).

(8) Where –

(a) paragraph (7) does not apply to a proposed fee; or

(b) Jurats appointed under that paragraph have agreed a fee proposed by the supervisory body or have proposed some other fee,

the supervisory body shall publish a notice giving details of the fee proposed by it or, in the case where some other fee has been proposed by the Jurats, that fee, which shall have effect from the date specified in the notice.

(9) In this Article "RPI" means the Retail Prices Index published by Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 2018).[49]

(10) Except as provided by this Article, nothing in this Article otherwise limits any right or power the relevant supervisory body has to charge, recover and receive any fees, charges, costs, proceeds and other amounts.

PART 5[50]

SUPERVISION OF SUPERVISED BUSINESSES
POWERS AND CONTROLS

21A Application of Part 5 to anti-money laundering services provider[51]

Despite anything in this Law, this Part, except Article 34, applies to an anti-money laundering services provider as if when carrying on their functions as an anti-money laundering services provider they were a supervised person carrying on a Schedule 2 business.

22 Codes of practice

(1) A supervisory body may, after consultation with such persons or bodies as appear to be representative of the interests concerned –

(a) prepare and issue a Code of Practice setting out the principles and detailed requirements that must be complied with in order to meet certain requirements of this Law and anti-money laundering and counter-terrorism legislation (and, if applicable, requirements of the Non-Profit Organizations (Jersey) Law 2008 or of an Order made under Article 13A of that Law), by persons in relation to whom that body has supervisory functions, including an anti-money laundering services provider;

(b) revise any such Code of Practice by revoking, varying, amending or adding to its provisions; and

(c) indicate in any such Code of Practice if and to what extent it is or is not to apply to any class or description of supervised business carried on by persons in relation to whom that body has supervisory functions.[52]

(2) A supervisory body shall cause any Code of Practice issued under this Article to be published, and may make such arrangements as it thinks fit for such distribution, including causing copies of the Code of Practice to be put on sale to the public at such price as that body considers to be reasonable.

(3) A supervisory body may issue different Codes of Practice for different categories or descriptions of person in respect of whom that supervisory body has supervisory functions.

(4) The contravention of a Code of Practice –

(a) may lead the Commission to exercise its powers under this Law or any other enactment applicable to such contravention; but

(b) otherwise does not of itself render a person liable to proceedings of any kind or invalidate any transaction.[53]

(5) In determining whether a person's conduct amounts to a contravention of any requirement in this Law –

(a) non-compliance by the person with any requirement of a Code issued under this Article may be relied on as tending to establish liability; and

(b) compliance by the person with any requirement of such a Code may be relied on as tending to negative liability.[54]

(6) In any proceedings under this Law or otherwise, any Code of Practice issued under this Article shall be admissible in evidence if it appears to the court conducting the proceedings to be relevant to any question arising in the proceedings, and shall be taken into account in determining any such question.

(7) A copy, certified in writing on behalf of a supervisory body to be an accurate copy –

(a) of a Code; or

(b) of any part of such a Code,

shall be admissible in evidence in all legal proceedings as of equal validity with the original and as evidence of any fact stated in it of which direct oral evidence would be admissible.

(8) Where a document purports on its face to be a copy of a Code or part of a Code, certified in accordance with paragraph (7), it shall be unnecessary for the purposes of paragraph (7) to prove the official position or handwriting of the person signing on behalf of the relevant supervisory body that issued that Code.

23 Power to issue directions

(1) If it appears to a suitable supervisory body in relation to a supervised business that –

(a) any requirements in relation to the registration, including deemed registration, of a registered person are no longer satisfied;

(b) a person has contravened –

(i) any requirement of this Law,

(ii) any requirement of any Order made under Article 37 of the Proceeds of Crime (Jersey) Law 1999,

(iia) any requirement of an Order under Article 13A of the Non-Profit Organizations (Jersey) Law 2008, or

(iii) any Code of Practice that applies to that person;

(c) it is in the best interests of –

(i) creditors of a person carrying on a supervised business, or

(ii) persons with whom a person has transacted or may transact a supervised business;

(d) it is desirable in order to protect the reputation and integrity of Jersey in financial and commercial matters; or

(e) it is in the best economic interests of Jersey,

that body may, whenever it considers it necessary, give, by notice in writing, such directions as it may consider appropriate in the circumstances.[55]

(2) Without prejudice to the generality of paragraph (1), a direction under this Article may –

(a) require anything to be done or not done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;

(b) require that any principal person, key person, or person having functions, in relation to a person carrying on a supervised business be removed or removed and replaced by another person acceptable to the supervisory body;

(c) require that any individual –

(i) not perform a specified function (or any function at all) for,

(ii) not engage in specified employment (or any employment at all) by, or

(iii) not hold a specified position (or any position at all) in the business of,

a person carrying on a supervised business;

(d) require a person carrying on a supervised business to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the direction, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the person carrying on a supervised business.[56]

(3) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.

(4) The power to give directions under this Article shall include the power by direction to vary or withdraw any direction, as well as the power to issue further directions.

(5) A notice of a direction under this Article shall –

(a) specify the reasons for the giving of the direction;

(b) specify when the direction is to have effect;

(c) give particulars of the provisions of paragraphs (6) and (7); and

(d) give particulars of the rights of appeal conferred by paragraph (8).

(6) Any person to whom a direction is given under paragraph (1) may apply to the supervisory body that issued the direction to have it withdrawn or varied and that body shall withdraw or vary the direction in whole or in part if it considers that there are no longer any grounds under paragraph (1) which justify the direction or part of the direction concerned.

(7) If the supervisory body refuses an application under paragraph (6), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.

(8) Any person aggrieved by a direction given to the person under paragraph (1), or a refusal to grant an application under paragraph (6), or the granting of such an application only in part, may appeal to the Court.

(9) Such an appeal may be made only on the ground that the decision to give the direction, to make the refusal or to grant the application only in part (as the case requires) was unreasonable having regard to all the circumstances of the case.

(10) A person's appeal under paragraph (8) shall be lodged with the Court no later than the day that is one month after the day on which notice was served on the person of the direction, refusal or grant (as the case requires).

(11) On the appeal, the Court may make such interim or final order as it thinks fit.

(12) If a direction makes a requirement referred to in paragraph (2)(c) or (d), the requirement shall not take effect until the latest of the following –

(a) when one month has passed since the notice of the direction was given;

(b) such date as is specified in the notice of the direction;

(c) if an appeal is lodged under paragraph (8) against the giving of the direction, when the appeal is determined by the Court or withdrawn.[57]

(13) Paragraph (12) shall not have effect if –

(a) the person on whom the requirement is imposed agrees with the supervisory body that gave the direction that the requirement take effect at a time earlier than the time that would apply under paragraph (12); or

(b) the Court so orders under paragraph (13A).[58]

(13A) If, on the application of the supervisory body that gave the direction, the Court is satisfied that it is in the best interests of –

(a) persons who transacted or may transact supervised business with the person on whom the relevant requirement was imposed; or

(b) the public,

that paragraph (12) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (12) should be reduced, the Court may so order.[59]

(13B) Except where paragraph (12)(c) has effect, an appeal made under paragraph (8) shall not suspend the operation of the direction.[60]

(14) An appeal made under paragraph (8) in relation to an application under paragraph (6) shall not suspend the operation of the direction in connection with which the application was made.

(15) A person who fails to comply with any of the provisions of a direction given under this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

(16) The record of the conviction of any person for an offence under paragraph (15) shall be admissible in any civil proceedings as evidence of the facts constituting the offence.

24 Injunctions and remedial Orders

(1) Where, on the application of a suitable supervisory body, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) –

(a) Article 10;

(b) any condition prescribed or attached under Article 17;

(c) any direction given under Article 23;

(d) any provision of Article 34;

(e) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999;

(f) any Order under Article 13A of the Non-Profit Organizations (Jersey) Law 2008,

the Court may if it thinks fit issue an injunction restraining that person from committing (or, as the case may be, continuing or repeating) the contravention.[61]

(2) Where, on the application of a suitable supervisory body, the Court is satisfied that there are steps which could be taken to remedy the contravention, the Court may make an order requiring that person, or any other person who appears to the Court to have been knowingly concerned, to take such steps as the Court may direct to remedy the contravention.

25 Powers of intervention

(1) Where, on the application of a suitable supervisory body, the Court is satisfied that –

(a) a supervised person –

(i) is not, in terms of Article 14(4), a fit and proper person to carry on the supervised business that the supervised person is purporting to carry on,

(ii) is not fit to carry on the supervised business to the extent to which the supervised person is purporting to do, or

(iii) has committed or is likely to commit a contravention of a type referred to in Article 24(1); and

(b) it is desirable for the Court to act under this paragraph for the protection of persons with whom the supervised person has transacted or may transact supervised business,

the Court may, as it thinks just, make an order making the supervised person subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.[62]

(2) For the purposes of this Article, references to a supervised person include a formerly supervised person.[63]

(3) If, on an application made under paragraph (1), the Court is satisfied that a supervised person has –

(a) by entering into any transaction with another person, contravened Article 10; or

(b) by entering into any transaction with another person, contravened any condition applicable to the supervised person (whether attached to the supervised person's registration or prescribed by Order) or any direction given to the supervised person under Article 23,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.[64]

(4) Without prejudice to the generality of paragraph (1) or (3), an order made under either of those paragraphs may include a requirement that all assets, or all assets of a specified description which, at any time while the requirement is in force –

(a) belong to the supervised person; or

(b) belong to persons with whom the supervised person is transacting supervised business and are held by or to the order of that person carrying on the supervised business,

shall be transferred to and held by a person whose appointment is approved by the Court (in this Article referred to as an "appointed person").[65]

(5) Where a requirement of a type referred to in paragraph (4) is imposed under this Article, it shall be the duty of the supervised person to transfer the assets to the appointed person and to give the appointed person all such other assistance as may be required to enable the appointed person to discharge his or her functions in accordance with the requirement.

(6) Assets held by an appointed person in accordance with a requirement of a type referred to in paragraph (4) shall not be released or dealt with except in accordance with directions given by the Court or in such circumstances as may be specified by it.

(7) An order including a requirement of a type referred to in paragraph (4) may relate to assets outside Jersey.

(8) The provisions of this Article shall be without prejudice to any right of any aggrieved person to bring proceedings directly in respect of any right such person may otherwise have independently of a supervisory body.

26 Public statements[66]

A suitable supervisory body may issue –

(a) a public statement with respect to, or setting out, any direction that that body has given under Article 23;

(b) a public statement concerning a person if that person appears to the body to have committed a contravention of any of the following –

(i) Article 10,

(ii) any condition prescribed or attached under Article 17,

(iii) any direction given under Article 23,

(iv) any provision of Article 34,

(v) any Code of Practice that applies to that person,

(vi) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999,

(vii) any Order under Article 13A of the Non-Profit Organizations (Jersey) Law 2008;

(ba) a public statement with respect to the serving of a final notice on a person under Article 21C(3) of the Financial Services Commission (Jersey) Law 1998 imposing a penalty following the contravention of a Code of Practice;

(c) a public statement concerning a person if it appears to the body that the person is carrying on, or formerly carried on, a supervised business, whether in Jersey or in a country or territory outside Jersey, and it appears to that body to be desirable to issue the statement –

(i) in the best interests of persons who transacted or may transact supervised business with the person, or

(ii) in the best interests of the public.

27 Notice of public statement

(1) If a public statement identifies any supervised person, the supervisory body responsible for issuing that statement shall serve notice on the person.

(2) If a public statement identifies any person who is not a supervised person and at any time before the supervisory body issues the public statement it is reasonably practicable for that body to serve notice on the person, that body shall do so.

(3) A notice under paragraph (1) or (2) shall –

(a) give the reasons for issuing the statement;

(b) give the proposed or actual date of issue of the statement;

(c) contain a copy of the statement;

(d) give particulars of the right of appeal under Article 29 in respect of the statement; and

(e) if the statement is issued, in accordance with a decision under Article 28(3), before the day specified in Article 28(1) in relation to the statement, give the reasons for issuing it before that day.

(4) Paragraph (3) shall not require the relevant supervisory body –

(a) to specify any reason that would in that body's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or

(b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.

(5) In this Article and Articles 28 and 29 a reference to the identification of a person in a public statement does not include the identification, in the statement, of a supervisory body or of any other person in their capacity of exercising functions or powers under this Law.

28 Notice period for public statements

(1) If service is required under Article 27(1) or (2) in relation to a public statement, the relevant supervisory body shall not issue the public statement earlier than the expiration of one month from the date of that service.

(2) Paragraph (1) shall not apply if –

(a) each of the persons identified (within the meaning of Article 27) in the relevant public statement agrees with the supervisory body that the statement may be issued on a date earlier than the date that would apply under that paragraph; and

(b) the statement is in fact issued on or after the earlier date.

(3) Paragraph (1) shall not apply if –

(a) the supervisory body decides on reasonable grounds that the interest of the public in the issue of the relevant public statement on a date earlier than the date that would apply under that paragraph outweighs the detriment to the persons identified in the statement, being the detriment attributable to that earliness; and

(b) the statement is in fact issued on or after the earlier date.

(4) In making a decision under paragraph (3), the supervisory body is not prevented from choosing as the date of issue of a public statement the date of service (if any) of notice of the statement.

(5) Despite this Article, if an appeal is made to the Court under Article 29(1), and the Court orders that the statement not be issued before any specified date or event, the supervisory body shall not issue the statement before the date or event so specified.

(6) In a case to which paragraph (1) applies, if an appeal is made under Article 29(2) to the Court against a decision to issue a public statement, the supervisory body shall not issue the statement before the day on which that appeal is determined by the Court or withdrawn.

29 Appeals about public statements

(1) A person aggrieved by a decision of the supervisory body under Article 28(3) may appeal to the Court, in accordance with this Article, against the decision.

(2) A person aggrieved by a decision of the supervisory body to issue a public statement that identifies the person may appeal to the Court, in accordance with this Article, against the decision.

(3) An appeal under paragraph (2) may be made only on the ground that the decision of the relevant supervisory body was unreasonable having regard to all the circumstances of the case.

(4) A person's appeal under this Article shall be lodged with the Court no later than –

(a) if notice is served on the person under Article 27 in relation to the public statement, the day that is one month after the date of such service; or

(b) if no such notice is served on the person, the day that is one month after the issue of the public statement.

(5) Nothing in paragraph (4) prevents the lodging of an appeal before a notice is served or a public statement is issued.

(6) On an appeal under this Article, the Court may make such interim or final order as it thinks fit, including an order that the supervisory body not issue the relevant public statement or, if the public statement has been issued, that the supervisory body issue a further public statement to the effect set out in the order or stop making the statement available to the public.

INFORMATION AND INVESTIGATIONS

30 General power to require information and documents[67]

(1) A suitable supervisory body, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –

(a) to provide that body, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the body, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the body's functions under this Law;

(b) to attend at such times and places as may be specified in the notice and answer such questions as that body, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the body's functions under this Law.

(2) If a suitable supervisory body has reasonable grounds to suspect that a person has contravened Article 10, that body, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –

(a) to provide the body, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the body, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;

(b) to attend at such times and places as are specified in the notice and answer such questions as the body, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.

(3) In a case where a suitable supervisory body, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the body, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the body, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.

(4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.

(5) If the suitable supervisory body, an officer or an agent serves notice on a person under paragraph (1) or (2), the suitable supervisory body, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).

(6) The suitable supervisory body, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a

report, by an accountant, or other person with relevant professional skill, nominated or approved by the suitable supervisory body and appointed by the person served with the notice under this paragraph, being a report –

(a) on, or on any aspect of, any information, documents, or questions, that the suitable supervisory body, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and

(b) in such form (if any) as the notice under this paragraph may specify.

(7) If, under this Article, a person provides documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.

(8) The power under this Article to require documents to be provided includes power –

(a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or

(b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.

(9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –

(a) for a period of one year; or

(b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings,

whichever is the later.[68]

(10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the relevant suitable supervisory body, the body shall supply the person with a copy of the document as soon as practicable.

(11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or an agent, exercising powers under paragraph (4), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.

(12) Nothing in this Article shall require the disclosure or provision by a person to a suitable supervisory body, an officer, or an agent, of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.

(13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or Article 33.

(14) In this Article –

"agent" means an agent of a suitable supervisory body, being an agent who has been authorized by the body to perform the functions set out or referred to in that provision;

"defined person" means any of the following persons –

(a) a person who is carrying on a supervised business;

(b) a person who carried on a supervised business at any time;

(c) a person who is a principal person, or key person, in relation to another person who is carrying on a supervised business or carried on a supervised business at any time;

(d) a person who was at any time a principal person, or key person, in relation to another person who is carrying on a supervised business or carried on a supervised business at, before or after that time;

(e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);

(f) a person who is an employee of, or party to a contract for services with, another person who is carrying on a supervised business or carried on a supervised business at any time;

(g) a person who was at any time an employee of, or party to a contract for services with, another person who is carrying on a supervised business or carried on a supervised business at, before or after that time;

(h) a person who is an employee of a person who is a party to a contract for services with another person who is carrying on a supervised business;

(i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who carried on a supervised business at that time;

"officer" means an officer of a suitable supervisory body, being an officer who has been authorized by the body to perform the functions set out or referred to in that provision.[69]

(15) For the purposes of paragraph (6), the following persons are specified –

(a) a person within sub-paragraph (a) or (b) of the definition of "defined person" in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);

(b) a person who the suitable supervisory body has reasonable grounds to suspect has contravened Article 10.

(16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of "defined person" in paragraph (14), the reference to a person who carried on a supervised business includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.[70]

(17) For the avoidance of doubt –

(a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and

(b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.

(18) Nothing in this Article affects the operation of Article 8.

31 Investigations on behalf of a supervisory body

(1) If it appears to a suitable supervisory body desirable to do so for the purpose of its supervisory functions that body may appoint one or more competent persons to investigate and report to it on –

(a) the compliance by a person with any of the following –

(i) Article 10,

(ii) any condition prescribed or attached under Article 17,

(iii) any direction given under Article 23,

(iv) any provision of Article 34,

(v) any Code of Practice that applies to that person,

(vi) any Order under Article 37 of the Proceeds of Crime (Jersey) Law 1999,

(vii) any direction given under Article 6 of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012,

(viii) the Community Provisions (Wire Transfers) (Jersey) Regulations 2007,

(ix) any Order under Article 13A of the Non-Profit Organizations (Jersey) Law 2008;

(b) any other matter that might impact on whether a person who is registered or who, prior to the commencement of the Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022, had a level 1 registration is or was a fit and proper person with respect to that registration.[71]

(2) A person appointed under paragraph (1) may include, without prejudice to the generality of that paragraph, a member of the supervisory body's staff or that body's agent.

(3) The supervisory body shall give written notice of any such appointment to the person concerned.

(4) This paragraph applies to –

(a) a person who is under investigation under paragraph (1);

(b) any of the following who is or was at any material time –

(i) a principal person or key person in relation to that person,

(ii) an officer, employee, banker or auditor of that person,

(iii) subject to paragraph (11), a legal adviser of that person,

(iv) any person appointed to make a report under Article 30(6),

(v) any other person who appears to be in possession of relevant information.[72]

(5) It shall be the duty of every person to whom paragraph (4) applies –

(a) to provide to any person appointed under paragraph (1) ("appointed person"), within such time and at such place as the appointed person may require, all documents relating to that person which are in his or her custody or power;

(b) to attend before any appointed person at such time and place as the appointed person may require and to answer questions which the appointed person may reasonably require the person to answer for the purposes of the investigation; and

(c) otherwise to give the appointed person all assistance in connection with the investigation which the person is reasonably able to give,

and any appointed person may retain or take copies of or extracts from any documents provided to him or her under sub-paragraph (a).

(6) For the purpose of exercising the person's power under this Article an appointed person may enter any premises occupied by a supervised person or formerly supervised person or a person who is or was a principal person in relation to him or her or any associate of such a principal person being investigated by the person under this Article or any other premises where information is kept by such a person.

(7) For the purposes of paragraph (6), "supervised person" includes any person who appears to a suitable supervisory body to have acted in contravention of the provisions of Article 10.

(8) A person may not enter premises under paragraph (6) without prior notice in writing unless he or she has reasonable cause to believe that if such notice were given any documents whose provision might be required under this Article would be removed, tampered with or destroyed.

(9) A person exercising powers by virtue of an appointment under this Article shall, if so required, produce evidence of his or her authority.

(10) Any person who –

(a) without reasonable excuse fails to provide any document which it is his or her duty to provide under paragraph (5);

(b) without reasonable excuse fails to assist or attend before an appointed person when required to do so;

(c) without reasonable excuse fails to answer any question which is put to him or her by a person so appointed with respect to a person under investigation; or

(d) obstructs a person in the exercise of the powers conferred by paragraph (6),

shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.

(11) Nothing in this Article shall require the disclosure or production by a person of information or documents which the person would in any action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.

(12) Where any person by whom documents are required to be provided under paragraph (5) claims a lien on any such document, the provision shall be without prejudice to the lien.

(13) A person who is convicted on a prosecution instituted following an investigation under this Article may in the same proceedings be ordered to pay the expenses of the investigation to such extent as may be specified by the Court.

(14) For the purposes of paragraph (13) the expenses of the investigation shall include such sums as the supervisory body on whose behalf the investigation is carried out may determine in respect of the cost of staff and overheads.

(15) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (10) or Article 33.

32 Entry and search of premises

(1) If the Bailiff is satisfied by information on oath that there is reasonable cause to suspect that –

(a) there has been a contravention of a type referred to in Article 30(2) and that –

(i) a specified person has failed in any respect to comply with a notice served on him or her under that paragraph,

(ii) there are reasonable grounds for suspecting the completeness of any information or documents provided by him or her in response to such a notice,

(iii) if a notice were served under that paragraph, it would not be complied with, or

(iv) documents to which such a notice might relate would be likely to be removed, tampered with or destroyed;

(b) if notice were served under Article 30(1) it would not be complied with;

(c) documents to which a notice under Article 30(1) might relate would be likely to be removed, tampered with or destroyed;

(d) a person to whom a notice has been served under Article 30(1) has failed in any respect to comply with that notice;

(e) a person on whom a notice has been served under Article 30(1) has failed to provide complete information or documents in response to that notice;

(f) a notice served under Article 23(1) has not been complied with in any respect; or

(g) any officer or agent of the supervisory body or person appointed under Article 31(1) has been or may be obstructed in exercising a power of entry under Article 30(4) or 31(6), as the case may be,

the Bailiff may grant a warrant under this paragraph.[73]

(2) A warrant under paragraph (1) may authorize any police officer, together with any other person named in the warrant –

(a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search the premises and obtain information or take possession of any documents appearing to be information or documents of a type referred to in any of the Articles referred to in paragraph (1) or information in relation to matters referred to therein or which otherwise appear to be relevant to the investigation of an offence under this Law, or to take, in relation to any such

information or documents, any other steps which may appear to be necessary to preserve them or prevent interference with them;

(c) to take copies of, or extracts from such documents and to require the person who had possession of them, or any person who appears to be in possession of relevant information, or is or has been an officer, shareholder controller or auditor or employee of the supervised person, or other person concerned, as the case may be, to provide an explanation of them;

(d) to require any person named in the warrant to answer questions relevant for determining any matter arising in connection with this Law; and

(e) if the information or documents are not provided, to require any person appearing to be in possession of relevant information, to state, to the best of the person's knowledge and belief, where they are and how they may be retrieved.

(3) A warrant under paragraph (1) shall continue in force until the end of the period of one month beginning with the date on which it was issued.

(4) Any documents of which possession is taken under paragraph (2) may be retained –

(a) for a period of one year; or

(b) if, within that period, proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.

(5) A person who requires any documents of which possession is taken under paragraph (2) for the purpose of his or her business and who requests such documents shall be supplied with copies as soon as practicable.

(6) Any person who obstructs the exercise of any power conferred by a warrant issued under this Article or fails to comply with a requirement imposed on him or her by virtue of paragraph (2)(c) to (e) shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine.

(7) Where any person from whose premises documents are taken under paragraph (2) claims a lien on any such documents, the possession of such documents by the officer or person concerned and by anyone to whom he or she passes them shall be without prejudice to the lien.

(8) Nothing in this Article shall require the disclosure or production by a person of information or documents which the person would in an action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.

(9) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (6) or Article 34.

33 Obstruction of investigations

(1) A person who knows or suspects that an investigation is being or is likely to be carried out under Article 31 or that information or documents are being or are likely to be required under Article 30 shall be guilty of an offence if he or she falsifies, conceals, destroys or otherwise disposes of, or causes or permits the

falsification, concealment, destruction of or disposal of, information or documents which he or she knows or suspects are or would be relevant to such an investigation or are or would be required, unless the person proves that he or she had no intention of concealing facts disclosed by the information or documents from persons carrying out such an investigation or requiring such information or documents.

(2) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 2 years and a fine.

33A Communication with supervisory body by auditors and approved professionals[74]

(1) No duty to which an auditor of a person carrying on a supervised business or an approved professional may be subject is contravened by reason of his or her communicating in good faith to a suitable supervisory body, whether or not in response to a request made by it, any information or opinion on a matter to which this Article applies and which is relevant to any function of the suitable supervisory body under this Law.[75]

(2) In relation to an auditor of a person carrying on a supervised business, this Article applies to any matter of which the auditor becomes aware in his or her capacity as auditor and which relates to the business or affairs of –

(a) a person who is or was carrying on a supervised business;

(b) a principal person or former principal person of a person who is or was carrying on a supervised business; or

(c) a company that is a holding company or subsidiary in relation to a person who is or was carrying on a supervised business.[76]

(3) In relation to an approved professional, this Article relates to any matter of which that person becomes aware in his or her capacity as the person making the report and which relates to the business or affairs of –

(a) an applicant for registration;

(b) a person who is or was carrying on a supervised business;

(c) a principal person or proposed principal person of that applicant or a person carrying on a supervised business; or

(d) a former principal person of a person who is or was carrying on a supervised business; or

(e) a company that is a holding company or subsidiary in relation to a person mentioned in sub-paragraphs (a) or (b),

in relation to whom the report is made.[77]

(4) The Minister may by Order specify circumstances in which an auditor or an approved professional is required to communicate any information or opinion to a suitable supervisory body on a matter to which this Article applies, and which is relevant to any function of the suitable supervisory body under this Law.

(5) Orders under this Article may be made only –

(a) on the recommendation of the relevant supervisory body; and

(b) after consultation with such bodies as appear to the relevant supervisory body to represent the interests of auditors, approved professionals and persons carrying on supervised business.[78]

(6) A person who contravenes an Order made under this Article is guilty of an offence and liable to imprisonment for a term of 6 months and a fine.

(7) In this Article –

"approved professional" means a person appointed to make a report as referred to in Article 13(4) or 30(6);

"auditor" includes a person who was an auditor of a person who is or was carrying on a supervised business at any time during the time such business was carried on.[79]

34 Supply of information

(1) A registered person shall notify the supervisory body exercising functions in respect of that person as soon as possible –

(a) of any change in the information given to that body under Article 13;

(b) if that person has stopped carrying on a Schedule 2 business in respect of which that supervisory body registered that person;

(c) of any change in any information given to that body under sub-paragraph (a).[80]

(2) Subject to paragraph (2A), a person who is registered shall notify the supervisory body exercising functions in respect of that person as soon as possible –

(a) of any changes in the identity of any key person or principal person (including where a person ceases to be a key person or principal person);

(b) whether that key person or principal person has been convicted of any offence described in Article 14(4) (a) and (b).[81]

(2A) Paragraph (2) does not apply in respect of a key person who is appointed by an anti-money laundering services provider.[82]

(3) A person who has notified the Commission under Article 11(3) shall notify the Commission as soon as possible if that person ceases to carry on the business in respect of which that notification was made.[83]

(4) A person who fails to give a notice required under paragraph (1)(a) or (c) or paragraph (2) without reasonable excuse shall be guilty of an offence and liable to imprisonment for a term of two years and a fine.

(5) A person who fails to give a notice required under paragraph (1)(b) or (3) without reasonable excuse shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

(6) Upon receiving a notification from a person under paragraph (3), the Commission shall give that person written notice that the person is no longer a deemed registered person under this Law and the person shall cease to be such a person from the date such notice is given.

(7) A person who knowingly or recklessly provides a supervisory body or its duly authorized officer or agent entitled to information under this Law with information

that is false or misleading in a material particular shall be guilty of an offence if the information is provided –

(a) in purported compliance with a requirement imposed under this Law;

(b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the supervisory body for the purpose of exercising its functions under this Law.

(8) A person who knowingly or recklessly provides the supervisory body or any other person with information which is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application for registration under this Law.

(9) A person shall be guilty of an offence if he or she fails to provide a supervisory body or its duly authorized officer or agent with any information in his or her possession, knowing or having reasonable cause to believe that or being reckless as to whether –

(a) the information is relevant to the exercise by the supervisory body or its duly authorized officer or agent of that body or person's functions under this Law; and

(b) the withholding of the information is likely to result in the supervisory body or its duly authorized officer or agent being misled as to any matter which is relevant to and of material significance for the exercise of those functions.

(10) A person guilty of an offence under paragraph (7) or (8) shall be liable to imprisonment for a term of 5 years and a fine.

(11) A person guilty of an offence under paragraph (9) shall be liable to imprisonment for a term of 2 years and a fine.

(12) [84]

35 Restricted information

(1) Subject to paragraph (2) and to Article 36, a person who receives information relating to the business or other affairs of any person –

(a) under or for the purposes of this Law; or

(b) directly or indirectly from a person who has so received it,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine if he or she discloses the information without the consent of the person to whom it relates and (where sub-paragraph (b) applies) the person from whom it was received.

(2) This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

36 Permitted disclosures[85]

(1) Article 35 does not preclude the disclosure of information –

(a) by a supervisory body –

(i) to the Viscount,

(ii) to any person for the purpose of enabling or assisting that person to exercise that person's statutory functions in relation to any person or class of person in respect of whom the supervisory body has or had statutory functions,

(iii) to the Comptroller and Auditor General for the purpose of enabling or assisting the exercise of any of his or her functions in relation to the supervisory body,

(iv) to a relevant overseas supervisory authority pursuant to Article 39, or

(v) to any person for the purposes of enabling or assisting that person to exercise that person's statutory control functions in relation to any person or class of person in respect of whom the supervisory body does not have statutory functions;

(b) by or to any person in any case in which disclosure is for the purpose of –

(i) enabling or assisting any supervisory body, or any person acting on its behalf, to exercise that body's, or that person's, functions, or

(ii) enabling or assisting any person appointed, under an enactment, by –

(A) a supervisory body,

(B) the Court, on the application of a supervisory body, or

(C) a Minister,

to exercise the functions of the person so appointed, or the functions of the supervisory body, under this Law or under any other enactment;

(c) to a person by a supervisory body showing whether or not any person is registered or was formerly registered under this Law, including any conditions which are attached or were formerly attached to the registration of that person under Article 17;

(d) with a view to the investigation of a suspected offence, or to the institution of, or for the purposes of, any criminal proceedings, whether under this Law or not;

(e) in connection with any other proceedings arising under this Law;

(f) subject to paragraph (2), by –

(i) a supervisory body, or

(ii) a person appointed under an enactment by –

(A) a supervisory body,

(B) the Court, on the application of a supervisory body, or

(C) a Minister, where that enactment prescribes that the Minister and a supervisory body each have power to appoint that person,

to any person or body (whether in Jersey or elsewhere) responsible for setting standards of conduct for any profession and having powers to discipline persons who fail to meet those standards for the purpose of

enabling or assisting that person or body to exercise any of its supervisory functions;

(g) by a supervisory body to the Attorney General or to a police officer, if the information –

(i) has been obtained under Article 30, 31 or 32, or

(ii) is in the possession of the supervisory body and relates to any matter in relation to which a power under Article 30, 31 or 32 is exercisable;

(h) by a supervisory body to the auditor of –

(i) a supervised person or formerly supervised person, or

(ii) a person who appears to the supervisory body to have acted in contravention of Article 10,

where it appears to the supervisory body that disclosing the information would be in the interests of persons who transacted or may transact supervised business with such a person;

(i) by a supervisory body to any person acting on behalf of an international body or international organization where the body's or organization's functions include the assessment of Jersey's compliance with international standards relating to measures against money-laundering or the financing of terrorism and the disclosure is for the purpose of enabling or assisting that body or organization to discharge those functions; or

(j) subject to paragraphs (6) to (8), by a supervisory body to any of the following organizations or persons –

(i) the ESAs, or

(ii) a supervisor of a securities market.[86]

(2) Paragraph (1)(f) shall have effect only if it appears to the supervisory body or to the appointed person (as the case requires) that disclosing the information (as referred to in that sub-paragraph) would enable or assist the person or body responsible for setting standards to exercise his, her or its functions in relation to a person who fails, or is alleged to have failed, to meet those standards.

(2A) Without prejudice to the generality of paragraph (1)(a), Article 35 does not preclude the disclosure of information by a supervisory body to the Office of the Financial Services Ombudsman or to an Ombudsman, within the meaning of the Financial Services Ombudsman (Jersey) Law 2014 –

(a) where the supervisory body is the Commission, to comply with a duty of the Commission under Article 20 of that Law; or

(b) for the purpose of enabling or assisting that Office or Ombudsman to exercise any function under that Law (including the raising of a levy).[87]

(2B) Article 35 does not preclude the disclosure of information by the Commission to the Society of Lloyd's (being organs constituted by or under the Lloyd's Act 1982 of the United Kingdom) for the purpose of enabling or assisting that Society to exercise any of its supervisory functions.[88]

(2C) Article 35 does not preclude the disclosure of information by the Commission to a pension supervisor for the purpose of enabling or assisting a pension supervisor to exercise any of its supervisory functions.[89]

(3) Article 35 does not preclude the Attorney General from further disclosing the information already disclosed to him or her as referred to in paragraph (1)(g) if he or she makes the further disclosure –

(a) for the purposes of an investigation into a suspected offence, or of a prosecution, in Jersey; or

(b) for the purposes of an investigation into a suspected offence, or of a prosecution, in a country or territory outside Jersey.

(4) Article 35 does not preclude a police officer from further disclosing the information already disclosed to him or her as referred to in paragraph (1)(g) if he or she makes the further disclosure –

(a) for the purposes of an investigation into a suspected offence, or of a prosecution, in Jersey; or

(b) with the permission of the Attorney General and for the purposes of an investigation into a suspected offence, or of a prosecution, in a country or territory outside Jersey.

(5) A party shall not make a disclosure under or by virtue of paragraph (1)(a)(ii), (iii), (iv) or (v) or (b), (f), (i) (j), (2B) or (2C) or Article 39(1)(g) unless satisfied that the party to whom disclosure is made complies with or will comply with any conditions to which the party making the disclosure may, in its discretion, subject the disclosure.[90]

(6) The supervisory body shall not disclose information under paragraph (1)(j) unless satisfied that –

(a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and

(b) that organization or person will treat the disclosed information with appropriate confidentiality.

(7) In deciding whether to disclose information under paragraph (1)(j), the supervisory body may take the following factors (among others) into account –

(a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the supervisory body;

(b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;

(c) the seriousness of the case and its importance in Jersey;

(d) whether the information could be obtained by other means; and

(e) whether it is otherwise appropriate in the public interest to disclose the information.

(8) The supervisory body may refuse to disclose information under paragraph (1)(j) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the supervisory body considers appropriate.

(9) The States may by Regulations amend this Article by –

(a) adding further parties to or by whom disclosure may be made and specifying in each case the purpose for which disclosure may be made; or

(b) amending the circumstances of disclosure, including the purposes for which and conditions under which disclosure may be made.

(10) In paragraph (1)(a)(v), "statutory control functions" means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.

37 Requirement to report certain matters to a supervisory body

(1) If an auditor knows or becomes aware of prescribed matters in, or in connection with, discharging any of his or her functions whether under this Law or otherwise in relation to a supervised person the auditor shall report those matters to the appropriate supervisory body.

(2) The Minister may make an Order for the purpose of prescribing matters mentioned in paragraph (1) on the recommendation of the appropriate supervisory body and after consultation with such other body or bodies as appear to the Minister to represent the interests of auditors in Jersey.

(3) The appropriate supervisory body for the purposes of paragraph (1) is the body carrying out supervisory functions in relation to the supervised person in respect of whom the auditor is appointed.

(4) The appropriate supervisory body for the purposes of paragraph (2) is the supervisory body carrying out supervisory functions in relation to those supervised persons in respect of whom auditors are appointed who would be affected by the Order, and, if there is more than one such body, each of them.

38 Publication of information about supervised businesses [91]

(1) A supervisory body may publish the following information about each supervised person in relation to whom it exercises supervisory functions –

(a) that person's name;

(b) the description of the supervised business that person carries on;

(c) the principal address in Jersey from which the person carries on that business.[92]

(2) A supervisory body may offer for sale copies of information published under this Article at a reasonable charge.

39 Co-operation with relevant overseas supervisory authority

(1) The following powers may be exercised (by the officer or person specified in the relevant provision) in order to assist a relevant overseas supervisory authority –

(a) the power to refuse or revoke a registration under Article 14 or 18;

(b) the power to attach, amend, vary, substitute or revoke any condition pursuant to Article 17;

(ba) the power to give a direction under Article 23;

(c) on the application of a suitable supervisory body, the powers under Article 25;

(d) the powers relating to information and documents under Article 30;

(e) the powers under Article 31;

(f) the powers under Article 32;

(g) communication by a supervisory body to the relevant overseas supervisory authority of information that is in the possession of that body, whether or not as a result of the exercise of any of the above powers.[93]

(2) The supervisory body shall not exercise the power referred to in paragraph (1)(g) unless it is satisfied that the relevant overseas supervisory authority will treat the information communicated with appropriate confidentiality and that –

(a) the power is exercised in order to assist the relevant overseas supervisory authority in the exercise of its overseas supervisory functions; or

(b) the exercise of the power has been requested by the relevant overseas supervisory authority and requested only for the purposes of obtaining assistance for that authority in the exercise of one or more of its overseas supervisory functions.

(3) The other powers referred to in paragraph (1) shall not be exercised by virtue of this Article unless the supervisory body is satisfied that the exercise has been requested by the relevant overseas supervisory authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its overseas supervisory functions.

(4) In deciding whether to exercise a power by virtue of this Article, the following factors (among others) may be taken into account –

(a) whether corresponding assistance would be given in that country or territory to a supervisory body;

(b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;

(c) the seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means;

(d) whether it is otherwise appropriate in the public interest to give the assistance.

(5) The exercise of powers by virtue of this Article may be refused unless the relevant overseas supervisory authority undertakes to make such contribution towards the costs of its exercise as the supervisory body considers appropriate.

(6) For the purposes of this Article –

(a) a reference –

(i) in Article 30(2) or Article 31(7) to a contravention of Article 10, or

(ii) in Article 32(1) to a contravention of a type referred to in Article 30(2),

shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or

territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 10 as in force at the latter time; and

(b) a reference in Article 30(9) or 32(4) to proceedings shall include a reference to proceedings outside Jersey.[94]

(7) For the purposes of this Article, a reference (however expressed or implied) in Article 10 (or in any provision necessary for the interpretation of that Article) to Jersey, or to any class of person, any qualification or any provision, shall be construed, in the application of that Article to a contravention of a law of a country or territory outside Jersey, as a reference to that country or territory, or to an equivalent class of person, qualification or provision, in terms of the law of that country or territory.

(8) The exercise of a power under any provision shall be no less an exercise of that power under that provision because it is exercised by virtue of this Article, and this Law (and any other law that applies when a power is exercised directly under that provision) applies also when that power is exercised by virtue of this Article.

PART 6

SUPPLEMENTARY

40 Service of notices

(1) No notice or other document required by this Law to be given to a supervisory body shall be regarded as so given until it is received.

(2) Subject to paragraph (1), any notice or other document required or authorized by or under this Law to be given to a supervisory body may be given by facsimile, electronic transmission or by any similar means that produces a document containing the text of the communication in legible form or is capable of doing so.

(3) Any notice, direction or other document required or authorized by or under this Law to be given to or served on any person other than a supervisory body may be given to or served on the person in question –

(a) by delivering it to the person;

(b) by leaving it at the person's proper address;

(c) by sending it by post to the person at that address; or

(d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document containing the text of the communication in legible form or is capable of doing so.

(4) Any such notice, direction or other document may –

(a) in the case of a company incorporated in Jersey, be served by being delivered to its registered or principal office;

(b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on a person who is a principal person in relation to it, or on the secretary or other similar officer

of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the partnership business, as the case may be, or by being served on the person or delivered to the person's registered or administrative office.

(5) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954 in its application to this Article, the proper address of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –

(a) in the case of a company incorporated in Jersey, or its secretary, clerk or other similar officer or person, it shall be the address of the registered or principal office of the company in Jersey; and

(b) in the case of a partnership, or a person who is a principal person in relation to a partnership, it shall be that of its principal office in Jersey.

(6) If the person to or on whom any notice, direction or other document referred to in paragraph (3) is to be given or served has notified a supervisory body of an address within Jersey other than the person's proper address within the meaning of paragraph (5), as the one at which the person or someone on the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person's proper address.

41 Legal proceedings

(1) In any proceedings, a certificate purporting to be signed on behalf a supervisory body and certifying any of the following –

(a) that a particular person is or is not an applicant or a supervised person or was or was not an applicant or a supervised person at a particular time;

(b) the date on which a particular applicant or supervised person or formerly supervised person made an application or became a supervised person or ceased to be a supervised person, as the case may be;

(c) the scope of a particular person's application or nature of that person's supervised business;

(d) that conditions set out in the certificate were, at the relevant time, prescribed under Article 17 in relation to any registered persons, or attached under that Article to a particular person's registration,

shall be admissible in evidence in all legal proceedings as evidence of any fact stated in it of which direct oral evidence would be admissible.[95]

(2) In any proceedings, a certificate purporting to be signed on behalf of the Commission and certifying any of the following –

(a) that a particular person is or is not a deemed registered person or was or was not a deemed registered person at a particular time;

(b) the date on which a particular person notified the Commission under Article 11(3) or Article 34(3),

shall be admissible in evidence in all legal proceedings as evidence of any fact stated in it of which direct oral evidence would be admissible.[96]

(3) A certificate purporting to be signed in accordance with paragraph (1) or (2) shall be deemed to have been duly signed unless the contrary is shown.

42 Offences generally

(1) Where an offence under this Law committed by a person is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a person who is or was, a principal person in relation to that person, that principal person shall be guilty of the offence and liable in the same manner to the penalty provided for that offence.

(2) Where an offence under this Law committed by a limited liability partnership or company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the company; or

(b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence.

(3) Where the affairs of a company are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the company.

(4) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(5) No proceedings for an offence under this Law shall be instituted except by or with the consent of the Attorney General.

43 Transitional provisions

(1) Notwithstanding anything in this Law, a person who carried on a Schedule 2 business immediately before 19th September 2008 ("the commencement day") shall not be taken to have committed any offence against this Law by virtue of any action that is taken, or not taken, by the person in the course of carrying on that business during the period –

(a) on and from the commencement day until the day 3 months after that day;

(b) on and from the commencement day until an application for registration under this Law is finally determined (including as a result of an appeal to the Court under Article 19) or is withdrawn if –

(i) the person applies, before 3 months after the commencement day for registration under this Law, or

(ii) the person notifies each supervisory body in accordance with Article 12 before 3 months after the commencement day and makes an application for registration under this Law within the period ending 1 month after that person is notified by a supervisory body that it is the relevant supervisory body; or

(c) if the person notifies the Commission before 3 months after the commencement day that he or she is carrying on a Schedule 2 business, on and from the commencement day until the date of that notification.[97]

(2) In relation to the period for which, in accordance with paragraph (1), a person is to be taken not to have committed any offence against this Law, the provisions of this Law shall apply (with the necessary modifications) to and in relation to the person as they apply to a supervised person.

(3) A person who has notified the Commission in accordance with Article 43(1)(c) shall be a deemed registered person under this Law.

(3A) Despite anything in this Law –

(a) a person who holds a registration that was a level 2 registration before the commencement of the Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022 continues to be a registered person as if registered under Article 14 and must, within 6 months after the commencement of that Law, provide the information required under Article 13(1)(b)(v) to the supervisory body exercising functions in respect of that person;

(b) Articles 18(1)(d) and 34(2) do not apply in respect of a registration that was a level 2 registration that occurred prior to the commencement of the Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022 until the expiry of 6 months after the date of commencement of that Law.[98]

(4) The Minister may by Order make such transitional provision as he thinks fit consequential upon or incidental to the coming into force of any provision of this Law.

(5) Despite anything in this Law, the Minister may by Order make such transitional provisions as the Minister thinks fit in connection with the coming into force of the Proceeds of Crime (Consequential and Miscellaneous) (Jersey) Regulations 2023.[99]

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.

45 Citation

This Law may be cited as the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

SCHEDULE[100]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008	L.32/2008	19 September 2008 (R&O.115/2008)	P.29/2008
Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Regulations 2008	R&O.114/2008	19 September 2008	P.121/2008
Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (No. 2) (Jersey) Regulations 2009	R&O.120/2009	25 November 2009	P.167/2009
Terrorist Asset-Freezing (Jersey) Law 2011	L.8/2011	1 April 2011	P.191/2010
Money Laundering and Weapons Development (Directions) (Jersey) Law 2012	L.1/2012	13 January 2012	P.128/2011
Alternative Investment Funds (Jersey) Regulations 2012	R&O.142/2012	2 April 2013	P.109/2012
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	R&O.107/2013	19 July 2013	P.75/2013
Financial Services Ombudsman (Jersey) Law 2014	L.14/2014	25 July 2014	P.9/2014
Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014	L.7/2014	4 August 2014 (R&O.102/2014)	P.163/2013
Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 2014	L.40/2014	21 November 2014	P.47/2014
Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Order 2015	R&O.4/2015	16 January 2015	
Financial Services Commission (Amendment No. 6) (Jersey) Law 2015	L.1/2015	20 March 2015	P.151/2014
Financial Regulation (Miscellaneous Provisions No. 3) (Jersey) Law 2016	L.8/2016	22 April 2016	P.162/2015
Financial Regulation (Miscellaneous Provisions No. 4) (Jersey) Law 2016	L.14/2016	22 August 2016	P.30/2016

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Proceeds of Crime (Miscellaneous Amendments) (Jersey) Regulations 2016	R&O.63/2016	26 September 2016 * (R&O.99/2016)	P.44/2016
Statistics and Census (Jersey) Law 2018	L.8/2018	23 February 2018	P.106/2017
Financial Services Commission (Amendment No. 7) (Jersey) Law 2018	L.28/2018	26 October 2018	P.74/2018
Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 2019	R&O.3/2019	22 January 2019	P.139/2018
EU Legislation (Sanctions – Guinea-Bissau) (Jersey) Order 2019	R&O.17/2019	7 March 2019	
EU Legislation (Sanctions – Guinea) (Jersey) Order 2019	R&O.17/2019	21 March 2019	
Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 2019	L.7/2019	26 May 2019	P.138/2018
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to External Relations) Order 2019	R&O.40/2019	31 May 2019	
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	R&O.29/2021	2 March 2021	
Proceeds of Crime (Supervisory Bodies) (Amendment) (Jersey) Law 2021	L.13/2021	8 October 2021	P.49/2021
Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (No. 2) (Jersey) Order 2021	R&O.126/2021	13 October 2021	
Proceeds of Crime (Supervisory Bodies) (Amendment No. 2) (Jersey) Law 2022	L.6/2022	25 March 2022	P.109/2021
Non-Profit Organisations (Miscellaneous Amendments) (Jersey) Law 2022	L.29/2022	1 January 2023 (R&O.109/2022)	P.56/2022
Proceeds of Crime (Consequential and Miscellaneous) (Jersey) Regulations 2023	R&O.2/2023	30 January 2023	P.113/2022

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Proceeds of Crime (Supervisory Bodies) (Supervised Business – Amendment) (Jersey) Regulations 2023	R&O.15/2023	8 February 2023	P.3/2023
States of Jersey (Transfer of Financial Services Functions – External Relations to Chief Minister) Order 2023	R&O.28/2023	12 April 2023	

◦Projets available at statesassembly.gov.je

*** Regulation 4 of the Proceeds of Crime (Miscellaneous Amendments) (Jersey) Regulations 2016 makes a transitional provision.**

Table of Renumbered Provisions

Original	Current
45	Spent, omitted
46(1)	45
46(2)	Spent, omitted

Table of Endnote References

[1] *Article 1(1)* — *amended by R&O.114/2008, R&O.142/2012, R&O.107/2013, L.7/2014, L.40/2014, L.8/2016, R&O.63/2016, R&O.3/2019, L.7/2019, R&O.40/2019, R&O.29/2021, L.6/2022, editorial change in definition "deemed registration" and "deemed registered person", "11(9)" deleted, "11" inserted instead, amended by L.29/2022, R&O.2/2023, R&O.15/2023, R&O.28/2023*

[2] *Article 2* — *amended by L.1/2012, L.40/2014, L.29/2022, R&O.2/2023, R&O.15/2023*

[3] *Article 3(1)* — *amended by L.8/2011, L.1/2012, L.7/2014, R&O.4/2015, R&O.17/2019, R&O.24/2019, substituted by R&O.126/2021*

[4] *Article 4* — *deleted by L.6/2022*

[5] *Article 5* — *heading amended by R&O.2/2023, R&O.15/2023*

[6] *Article 5(2)* — *amended by R&O.2/2023, R&O.15/2023*

[7] *Article 6(1)* — *substituted by L.29/2022, amended by R&O.2/2023*

[8] *Article 6(4)* — *amended by L.29/2022, R&O.2/2023, R&O.15/2023*

[9] *Article 7(1)* — *amended by R&O.2/2023, R&O.15/2023*

[10] *Article 8A* — *inserted by L.13/2021*

[11] *Article 8A(2)* — *amended by R&O.2/2023, R&O.15/2023*

[12] *Article 8A(3)* — *amended by R&O.2/2023, R&O.15/2023*

[13] *Article 9(1)* — *substituted by L.7/2019*

[14] *Article 9(1A)* — *inserted by L.7/2019*

[15] *Article 10* — *heading amended by R&O.2/2023*

[16] *Article 10(1)* — *amended by L.14/2016, R&O.2/2023*

[17] *Article 10(2)* *amended by L.40/2014*
[18] *Article 10(3)* *amended by L.14/2016, R&O.2/2023*
[19] *Article 11* *substituted by L.6/2022*
[20] *Article 11(1)* *amended by R&O.2/2023*
[21] *Article 11(2)* *deleted by R&O.2/2023*
[22] *Article 11(3)* *amended by R&O.2/2023*
[23] *Article 11(4)* *amended by R&O.2/2023*
[24] *Article 11(6)* *amended by R&O.2/2023*
[25] *Article 12(1)* *amended by R&O.2/2023*
[26] *Article 12(2)* *amended by L.6/2022, R&O.2/2023*
[27] *Article 12(3)* *amended by L.6/2022, R&O.2/2023*
[28] *Article 12(4)* *amended by R&O.2/2023*
[29] *Article 12(8)* *amended by R&O.2/2023*
[30] *Article 13* *heading amended by L.6/2022*
[31] *Article 13(1)* *amended by L.6/2022*
[32] *Article 14* *heading amended by L.6/2022*
[33] *Article 14(1)* *amended by L.6/2022*
[34] *Article 14(3)* *amended by L.6/2022*
[35] *Article 14(4)* *amended by L.40/2014*
[36] *Article 14(5)* *amended by L.6/2022*
[37] *Article 15* *deleted by L.6/2022*
[38] *Article 16(1)* *amended by L.6/2022*
[39] *Article 17(1)* *amended by R&O.2/2023*
[40] *Article 17(3)* *amended by L.6/2022*
[41] *Article 18(1)* *amended by L.1/2015, L.6/2022, R&O.2/2023*
[42] *Article 19(2)* *amended by L.6/2022*
[43] *Article 19(3)* *amended by R&O.2/2023*
[44] *Article 20* *heading amended by L.14/2016*
[45] *Article 20(1)* *substituted by L.14/2016*
[46] *Article 20(2)* *substituted by L.14/2016*
[47] *Article 21(1)* *amended by L.14/2016, L.6/2022*
[48] *Article 21(3)* *amended by L.6/2022*
[49] *Article 21(9)* *amended by L.8/2018*
[50] *Part 5* *sub-heading amended by L.29/2022, R&O.2/2023, R&O.15/2023*
[51] *Article 21A* *inserted by R&O.2/2023*
[52] *Article 22(1)* *amended by L.1/2015, L.29/2022, R&O.2/2023, R&O.15/2023*
[53] *Article 22(4)* *substituted by L.1/2015*
[54] *Article 22(5)* *amended by L.1/2015*
[55] *Article 23(1)* *amended by L.1/2015, L.29/2022, R&O.2/2023, R&O.15/2023*
[56] *Article 23(2)* *amended by R&O.2/2023, R&O.15/2023*
[57] *Article 23(12)* *substituted by L.40/2014*
[58] *Article 23(13)* *substituted by L.40/2014*
[59] *Article 23(13A)* *inserted by L.40/2014, amended by R&O.2/2023, R&O.15/2023*
[60] *Article 23(13B)* *inserted by L.40/2014*
[61] *Article 24(1)* *amended by L.29/2022*
[62] *Article 25(1)* *substituted by L.40/2014, amended by R&O.2/2023, R&O.15/2023*
[63] *Article 25(2)* *substituted by L.40/2014*
[64] *Article 25(3)* *substituted by L.40/2014*
[65] *Article 25(4)* *amended by R&O.2/2023, R&O.15/2023*
[66] *Article 26* *amended by L.40/2014, L.1/2015, L.28/2018, L.29/2022, R&O.2/2023, R&O.15/2023*

[67] *Article 30*	*substituted by L.40/2014*
[68] *Article 30(9)*	*amended by L.7/2019*
[69] *Article 30(14)*	*amended by L.7/2019, R&O.2/2023, R&O.15/2023*
[70] *Article 30(16)*	*amended by R&O.2/2023, R&O.15/2023*
[71] *Article 31(1)*	*amended by L.1/2012, L.40/2014, L.6/2022, L.29/2022*
[72] *Article 31(4)*	*amended by L.40/2014*
[73] *Article 32(1)*	*amended by L.40/2014*
[74] *Article 33A*	*inserted by L.8/2016*
[75] *Article 33A(1)*	*amended by R&O.2/2023, R&O.15/2023*
[76] *Article 33A(2)*	*amended by R&O.2/2023, R&O.15/2023*
[77] *Article 33A(3)*	*amended by L.6/2022, R&O.2/2023, R&O.15/2023*
[78] *Article 33A(5)*	*amended by R&O.2/2023, R&O.15/2023*
[79] *Article 33A(7)*	*amended by R&O.2/2023, R&O.15/2023*
[80] *Article 34(1)*	*amended by L.6/2022, R&O.2/2023*
[81] *Article 34(2)*	*amended by L.6/2022, R&O.2/2023*
[82] *Article 34(2A)*	*inserted by R&O.2/2023*
[83] *Article 34(3)*	*amended by L.6/2022*
[84] *Article 34(12)*	*deleted by L.7/2019*
[85] *Article 36*	*substituted by L.40/2014*
[86] *Article 36(1)*	*amended by R&O.3/2019, R&O.2/2023, R&O.15/2023*
[87] *Article 36(2A)*	*inserted by L.14/2014*
[88] *Article 36(2B)*	*inserted by R&O.3/2019*
[89] *Article 36(2C)*	*inserted by R&O.3/2019*
[90] *Article 36(5)*	*amended by R&O.3/2019*
[91] *Article 38*	*heading amended by R&O.2/2023, R&O.15/2023*
[92] *Article 38(1)*	*amended by R&O.2/2023, R&O.15/2023*
[93] *Article 39(1)*	*amended by L.40/2014, L.6/2022*
[94] *Article 39(6)*	*amended by L.40/2014*
[95] *Article 41(1)*	*amended by R&O.2/2023, R&O.15/2023*
[96] *Article 41(2)*	*amended by L.6/2022*
[97] *Article 43(1)*	*amended by R&O.2/2023*
[98] *Article 43(3A)*	*inserted by L.6/2022*
[99] *Article 43(5)*	*inserted by R&O.2/2023*
[100] *Schedule*	*amended by R&O.114/2008, R&O.120/2009, R&O.63/2016, editorial change, ")" inserted after "No. 3" in item 5, amended by L.6/2022, deleted by R&O.2/2023*