



Jersey

PROCEEDS OF CRIME (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 2016

Arrangement

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Made

15th June 2016

Coming into force

in accordance with Regulation 5

THE STATES, in pursuance of Articles 1(9), 36(2) and 42A of the Proceeds of Crime (Jersey) Law 1999¹ and Articles 1(2), 11(4) and 44 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008², have made the following Regulations –

1 Interpretation

In these Regulations –

“1999 Law” means the Proceeds of Crime (Jersey) Law 1999³; and

“2008 Law” means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008⁴.

2 1999 Law amended

(1) In Article 1(1) of the 1999 Law, at the end for the full stop there shall be substituted a semi-colon and after the definition “value of property” there shall be added the following definition –

“ ‘virtual currency’ has the meaning given in Schedule 2, Part B, paragraph 4(4).”.

(2) In Part B of Schedule 2 to the 1999 Law –

(a) for paragraph 4 there shall be substituted the following paragraph –

“4 High value dealers

(1) The business of providing services as a high value dealer.

(2) A high value dealer is a person who, by way of business, trades in goods and receives in respect of any transaction (whether executed in a single operation, or in several operations which appear to be linked) payment of at least €15,000 in total.

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- (3) For the purposes of this paragraph, payment refers to payment in or by means of –
- (a) cash, including notes, coins, travellers' cheques, and bearer negotiable instruments; and
 - (b) any virtual currency.
- (4) 'Virtual currency' means any currency which (whilst not itself being issued by, or legal tender in, any jurisdiction) –
- (a) digitally represents value;
 - (b) is a unit of account;
 - (c) functions as a medium of exchange; and
 - (d) is capable of being digitally exchanged for money in any form.
- (5) For the avoidance of doubt, virtual currency does not include any instrument which represents or stores (whether digitally or otherwise) value that can be used only to acquire goods and services in or on the premises of, or under a commercial agreement with, the issuer of the instrument.”;
- (b) in paragraph 5(1) for the words “For the purposes of this Law,” there shall be substituted the words “The business of operating a casino, and for the purposes of this Law,”;
 - (c) in paragraph 7(1), clause (d) shall be deleted;
 - (d) for paragraph 7(2) there shall be substituted the following subparagraph –
 - “(2) A reference in this paragraph to providing services to third parties shall not include –
 - (a) the provision of the services of collecting, administering and disbursing service or maintenance charges (however described) in connection with immovable property situated in Jersey (including such property when it is occupied under a contractual lease or licence); nor
 - (b) the provision of a service by a company to a connected company.”;
 - (e) in paragraph 7(3) for the words “this paragraph” there shall be substituted the words “this Part of this Schedule”;
 - (f) after paragraph 8 there shall be added the following paragraphs –

“9 Virtual currency exchange

- (1) The business of providing, to third parties, the service of virtual currency exchange, where the business is not otherwise included in this Schedule.
- (2) In this paragraph –
 - (a) 'virtual currency exchange' means the exchange of virtual currency for money in any form, or vice versa; and

- (b) a reference to providing a service to third parties shall not include a company's providing that service to a connected company.

10 Express trusts

- (1) Acting, otherwise than by way of business, as trustee of an express trust.
- (2) In this paragraph, "express trust" has the same meaning as is given to that expression by Article 1(1) of the Financial Services (Jersey) Law 1998⁵.

3 2008 Law amended

- (1) In Article 1(1) of the 2008 Law, for the definition "money laundering" there shall be substituted the following definition –
 - “ ‘money laundering’ means –
 - (a) conduct which is an offence under any provision of Articles 30 and 31 of the Proceeds of Crime (Jersey) Law 1999⁶ or Articles 15 and 16 of the Terrorism (Jersey) Law 2002⁷; or
 - (b) conduct outside Jersey which, if occurring in Jersey, would be an offence specified in sub-paragraph (a).”.
- (2) In the table in the Schedule to the 2008 Law, in the entries in the column headed "Description of specified Schedule 2 business" corresponding to item 1 –
 - (a) in the first entry the word "(d)," shall be deleted;
 - (b) in the last entry for the word "8" there shall be substituted the words "8 or 9".

4 Transitional provision

- (1) This Regulation applies in respect of any person who, immediately before the day on which this Regulation comes into effect (the "appointed day"), is carrying on the business of virtual currency exchange described in paragraph 9 of Part B of Schedule 2 to the 1999 Law, as added to that Schedule by Regulation 2(2)(f).
- (2) Notwithstanding any provision of the 2008 Law to the contrary, a person in respect of whom this Regulation applies shall not be taken to have committed any offence under Article 10(4) of that Law by reason of anything done or not done by the person in the course of carrying out that business –
 - (a) on and from the appointed day until the day 3 months after that day;
 - (b) on and from the appointed day until the day on which an application for registration under the 2008 Law is finally

determined (including as a result of an appeal to the Court under Article 19 of the 2008 Law) or is withdrawn, provided that the person applies for registration –

- (i) to the relevant supervisory body,
 - (ii) within the period of 3 months beginning with the appointed day; or
- (c) if the person notifies the Commission within the period of 3 months beginning with the appointed day that the person is carrying on a specified Schedule 2 business, on and from the appointed day until the date of that notification.
- (3) During the period for which, in accordance with paragraph (2), a person is to be taken not to have committed any offence, the provisions of the 2008 Law shall apply (with the necessary modifications) to and in relation to that person as they apply to and in relation to a registered or a supervised person.
- (4) A person who has notified the Commission in accordance with paragraph (2)(c) shall be a deemed registered person under the 2008 Law.
- (5) In this Regulation, “Commission”, “specified Schedule 2 business”, “registered person” and “supervised person” have the meanings given to those expressions by Article 1(1) of the 2008 Law.

5 Citation and commencement

These Regulations may be cited as the Proceeds of Crime (Miscellaneous Amendments) (Jersey) Regulations 2016 and shall come into force on such day or days as the States may by Act appoint.

L.-M. HART

Deputy Greffier of the States

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- 1* chapter 08.780
2 chapter 08.785
3 chapter 08.780
4 chapter 08.785
5 chapter 13.225
6 chapter 08.780
7 chapter 17.860