

STATES OF JERSEY ORDER PAPER

Tuesday 29th January 2008

SECOND SUPPLEMENTARY

B. TABLING OF SUBORDINATE ENACTMENTS (Explanatory note attached)

Money Laundering (Jersey) Order 2008. R&O.20/2008.
Minister for Treasury and Resources.

C. DOCUMENTS PRESENTED OR LAID

Land Transactions under Standing Order 168(3) – R.5/2008.
(a) Thorp House Internal Store, Rouge Bouillon, St. Helier– new lease to Mr. David Crabtree;
(b) Thorp House Warehouse, Rouge Bouillon, St. Helier– new lease to Style Shopfitting Limited (trading as Style Office).
Presented: 29th January 2008.
Minister for Treasury and Resources.

Lord Portsea Gift Fund: report and accounts for 2006. R.6/2008.
Presented: 29th January 2008.
Minister for Education, Sport and Culture.

D. NOTIFICATION OF LODGED PROPOSITIONS

Draft Harbours (Amendment No. 41) (Jersey) Regulations 200-. P.15/2008.
Lodged: 29th January 2008.
Minister for Economic Development.

Draft Boats and Surf-Riding (Control) (Amendment No. 27) (Jersey) Regulations 200-. P.16/2008.
Lodged: 29th January 2008.
Minister for Economic Development.

Draft Goods and Services Tax (Amendment) (Jersey) Law 200-. P.17/2008.
Lodged: 29th January 2008.
Minister for Treasury and Resources.

Draft Civil Aviation (Jersey) Law 200-. P.18/2008.
Lodged: 29th January 2008.
Minister for Home Affairs.

E. WITHDRAWAL OF LODGED PROPOSITIONS

In accordance with Standing Order 34(1), the proposer of the following propositions lodged “au Greffe” has informed the Greffier of the States that they are to be withdrawn –

Draft Harbours (Amendment No. 41) (Jersey) Regulations 200-. P.4/2008.
Lodged: 8th January 2008.
Minister for Economic Development.

Draft Boats and Surf-Riding (Control) (Amendment No. 27) (Jersey)
Regulations 200-.
Lodged: 8th January 2008.
Minister for Economic Development.

P.5/2008.

F. APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

Appointment of a Member of the Education and Home Affairs Scrutiny Panel.

I. QUESTIONS

(b) - Oral questions

Deputy D.W. Mezbourian of St. Lawrence has requested that, in accordance with Standing Order 63 (2) her oral question to the Minister for Planning and Environment be moved from its current seventh place position to the end of the list.

K. STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

Chief Minister will make a statement regarding the introduction of additional Retail Price Indices for Jersey.

The Minister for Treasury and Resources will make a statement regarding the proposed sale of Jersey Telecom.

The Chairman of the Economic Affairs Scrutiny Panel will make a statement regarding the proposed sale of Jersey Telecom.

M.N. DE LA HAYE
Greffier of the States

28th January 2008

Explanatory Note regarding subordinate legislation tabled at this meeting.

(See Item B)

R&O.20/2008.

This Order replaces the Money Laundering (Jersey) Order 1999. It sets out more detailed and extensive requirements on persons carrying on financial services business to forestall and prevent money laundering than in the 1999 Order. Financial services businesses are specified in Schedule 2 to the Proceeds of Crime (Jersey) Law 1999. Persons carrying on financial services businesses are referred to in this Order as “relevant persons”. Relevant persons are required to apply identification procedures in respect of their customers. Specified identification procedures must be applied – (a) when a person first becomes a customer of a relevant person and (b) subsequently to ensure that transactions are consistent with the information obtained and that such information is kept up to date. Procedures falling within the former category are referred to in this Order as “identification procedures”; procedures falling within the latter category are referred to as “on-going identification procedures”. These two categories of procedure are referred to collectively in this Order as “customer due diligence procedures”. The Order also requires a relevant person to apply record keeping procedures and to have procedures for reporting knowledge, suspicion or reasonable ground for knowledge or suspicion of money laundering to specified persons.

PART 1 – INTRODUCTORY PROVISIONS

Part 1 defines various terms used in the Order.

Article 1 interprets certain words and phrases.

Article 2 defines “beneficial ownership and control”. The identification described in *Article 3* requires a person to identify the beneficial owners and controllers of customers and any third party for whom the customer is acting.

Article 3 defines “identification procedures” and “on-going identification procedures”: referred to collectively in the Order as “customer due diligence procedures”. Such procedures must include a requirement for a relevant person to do a risk assessment as to whether any business will involve money laundering.

Article 4 defines “one-off transaction”. Generally speaking the Order bites on any “business relationship”, defined as a relationship that is expected to have an element of duration and any “one-off transaction”. The latter is defined to mean any transaction involving payment of at least 15,000 euros or, in the case of a money service business, 1,000 euros.

Article 5 defines “equivalent business”. This is defined as business carried on outside Jersey that is equivalent to any category of financial services business that is subject to anti-money laundering requirements and supervised for compliance with those requirements by an overseas regulatory authority.

Article 6 defines “designated police” and “customs officer”.

Article 7 requires a relevant person to appoint a compliance officer to monitor whether the relevant person’s financial services business complies with money laundering legislation.

Article 8 requires a relevant person to appoint a reporting officer. The reporting officer’s function is to receive reports about suspicion of money laundering from persons handling financial services business.

Article 9 defines a “designated person”. Such a person may be designated by a relevant person to receive reports for onward transmission to the reporting officer.

Article 10 enables the Jersey Financial Services Commission to exempt a relevant person carrying on any class of financial services business from the requirement to notify the Commission of the appointment of a reporting officer or a compliance officer.

PART 2 – PREVENTION OF MONEY LAUNDERING

Article 11 requires a relevant person to have appropriate policies in place for the application of the procedures required under this Order to forestall and prevent money laundering. In particular such policies must cover unusually large transactions; transactions with countries that do not adequately apply anti-money laundering measures and transactions with politically exposed persons. A relevant person must ensure that each branch under

that person's control and each subsidiary of the relevant person maintains such policies and applies the procedures required under the Order.

Article 12 sets out various exemptions from Article 11. In particular Article 12 exempts a relevant person from ensuring that branches and subsidiaries outside Jersey comply with policies and procedures where the law of the territory or country in which that branch or subsidiary is situated prevents such compliance.

Article 13 sets out the times when a relevant person must apply customer due diligence procedures. Generally identification procedures must be completed prior to the establishment of a business relationship or one-off transaction. However certain identification procedures may be completed after a business relationship is established where there is little risk of money laundering and this is necessary not to interrupt the normal conduct of business.

Article 14 sets out the circumstances in which a relevant person must not establish a business relationship or carry out or complete a transaction (including a one-off transaction) and the circumstances in which a relevant person must terminate a business relationship. Broadly speaking these circumstances arise where a relevant person is unable to apply the procedures specified by, and at the times required under, Article 13. The relevant person must also consider whether to make a report under procedures required by Part 5 of the Order. Where the relevant person suspects money laundering, that person need not apply identification procedures but may terminate a business relationship or one-off transaction with the consent of a designated police officer or a designated customs officer.

Article 15 requires a relevant person to apply enhanced customer due diligence procedures in certain specified situations. These situations include where the customer is not physically present for identification purposes and where the customer is a politically exposed person or a family member or close associate of such a person.

Article 16 enables a relevant person to rely on an introducer or intermediary to apply certain specified identification procedures in order to meet the relevant person's own obligations under this Order to apply those procedures. The relevant person remains liable for any failure to apply such procedures. An intermediary is defined in this Article as a person who becomes a customer of the relevant person on behalf of the intermediary's own customers. An introducer is defined to mean a person who introduces the introducer's customer to the relevant person so that the introducer's customer also becomes a customer of the relevant person.

Article 17 exempts a relevant person from the obligation to comply with certain specified identification procedure where an intermediary carries on any of certain specified businesses regulated by the Commission.

Article 18 exempts a relevant person from applying identification procedures or certain specified identification procedures in specified circumstances.

PART 4 – RECORD-KEEPING PROCEDURES

Article 19 requires a relevant person to keep records of identity and all supporting documents, data or information collected under customer due diligence procedures.

Article 20 requires such records to be kept for 5 years after the date a business relationship has ended or a one off transaction is completed.

PART 5 – REPORTING PROCEDURES AND REQUIREMENTS

Article 21 sets out the requirements for internal reporting procedures. These include procedures for providing reports to a reporting officer or designated officer for onward transmission to a reporting officer. The reporting officer must consider whether a report contains grounds for suspecting that money laundering is taking place.

Article 22 provides that if a designated person considers that a report does or does not give rise to a suspicion of money laundering then it need not forward it to the reporting officer.

Article 23 sets out the circumstances in which suspicion of money laundering must be reported to the appropriate authorities. In particular it sets out the circumstances in which specified persons must report suspicion of money laundering to a designated police officer or a designated customs officer and to the Commission. Such specified persons include persons required to produce reports or authorized to require the production of information or to carry out investigations or inspections under Jersey financial and companies legislation.

PART 6 – MISCELLANEOUS AND CLOSING

Article 24 revokes the Money Laundering Order 1999.

Article 25 sets out the title to this Order and provides that it comes into force 7 days after it is made.

The Order was made on 28th January 2008 and comes into force on 4th February 2008.