

STATES OF JERSEY



DRAFT CORRUPTION (AMENDMENT OF DEFINITIONS) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 24th September 2007
by the Minister for Home Affairs**

STATES GREFFE



Jersey

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REPORT

The main purpose of the draft Regulations is to amend the Corruption (Jersey) Law 2006 so as to enable Jersey to ask for extension of the United Kingdom's ratification of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ("the OECD Convention").

As was mentioned in the Report accompanying the draft Appointed Day Act for the 2006 Law, during correspondence between the Law Officers' Department and the Department for Constitutional Affairs, it became apparent that, for the purposes of implementing the OECD Convention in Jersey, it would be necessary to make some adjustments to the scope of the definitions of "agent", "public body" and "public official" in the 2006 Law as enacted.

The definition of a "foreign public official" in the OECD Convention is –

'any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country including for a public agency or public enterprise; and any agent or official of a public international organisation.' (Article 1.4 (a))

Under the draft Regulations the definition of "agent" would be widened to cover elected or appointed officers in an administration in foreign countries, as well as other public functionaries at a regional or national level overseas, and officials of public international organisation, such as the UN, working overseas.

The opportunity is also taken to include in the definition of public body any company in which the States are the principal shareholder and a subsidiary of such a company. In the definition of "public body", the Comptroller and Auditor General, Data Protection Commissioner and as a sweeping-up measure any other person performing a public function in Jersey.

There are no financial or manpower implications for the States arising from these draft Regulations.

Explanatory Note

These Regulations would amend three definitions in the Corruption (Jersey) Law 2006 (the “Law”).

Article 1 defines the Law.

Article 2 amends the definition “agent” in the Law. It adds to the descriptions of appointees, public functionaries, officials and agents in or of another country or territory who are to be “agents” for the purposes of the Law, so as to comply with the obligation in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to establish the liability of persons for the bribery of a foreign public official as defined in that Convention.

Article 3 amends the definition “public body” in the Law so that it would include any company in which the States of Jersey are the principal shareholder, and any subsidiary of such a company.

Article 4 amends the definition “public official” in the Law so as to add the Comptroller and Auditor General, the Data Protection Commissioner and any other person who exercises a public function in Jersey, or for a public agency or public enterprise which is in Jersey.

Article 5 provides for the citation and commencement of the Regulations.



Jersey

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Arrangement

Regulation

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 2 amended</u>
<u>3</u>	<u>Article 3 amended</u>
<u>4</u>	<u>Article 4 amended</u>
<u>5</u>	<u>Citation and commencement</u>



Jersey

DRAFT CORRUPTION (AMENDMENT OF DEFINITIONS) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 2(2), 3(2) and 4(2) of the Corruption (Jersey) Law 2006^[1], have made the following Regulations –

1 Interpretation

In these Regulations “Law” means the Corruption (Jersey) Law 2006^[2].

2 Article 2 amended

At the end of Article 2(1)(e) of the Law there shall be added the following clauses–

- “(xi) a person appointed or elected to hold an administrative office, whether regional or national, in any other country or territory,
- (xii) a person exercising a public function, whether regional or national, for another country or territory or for any public agency or public enterprise belonging to another country or territory,
- (xiii) an official or agent of a public international organization.”.

3 Article 3 amended

After Article 3(1)(f) there shall be inserted the following sub-paragraph –

- “(g) any company in which the States of Jersey are the principal shareholder, and any subsidiary of such a company,”.

4 Article 4 amended

At the end of Article 4(1) there shall be added the following sub-paragraphs –

- “(r) the Comptroller and Auditor General appointed under Article 41 of the Public Finances (Jersey) Law 2005^[3];
- (s) the Data Protection Commissioner appointed under Article 6 of the Data Protection (Jersey) Law 2005^[4];
- (t) any other person exercising a public function for Jersey or for any public agency or public enterprise belonging to Jersey.”.

5 Citation and commencement

These Regulations may be cited as the Corruption (Amendment of Definitions) (Jersey) Regulations 200- and shall come into force 7 days after they are made.

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- [1] *L.12/2006*
- [2] *L.12/2006*
- [3] *chapter 24.900*
- [4] *chapter 15.240*