

Laws and Orders brought into force in 2008

The Banking Business (Amendment No. 6) (Jersey) Law 2008 came into force on 4 April 2008. The Law amends the Banking Business (Jersey) Law 1991 to make the Jersey Financial Services Commission's supervisory powers and the associated procedural safeguards more comprehensive.

The Collective Investment Funds (Amendment No. 4) (Jersey) Law 2008 came into force on 4 April 2008. The Law amends the Collective Investment Funds (Jersey) Law 1988 to introduce provisions relating to unclassified funds and recognized funds. The Amendment also makes a number of changes relating to permits and certificates, "key persons" (that is officers responsible for compliance with requirements relating to collective investment business), notice requirements and rights of appeal.

The Collective Investment Funds (Unclassified Funds) (Prospectuses) (Amendment No. 3) (Jersey) Order 2008 came into force on 4 April 2008. The Order extends the requirements of the Collective Investment Funds (Unclassified Funds) (Prospectuses) (Jersey) Order 1995 to the holders of fund certificates issued under the Collective Investment Funds (Jersey) Law 1988.

The Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008 came into force on 19 February 2008. The Order allows Unregulated Funds to be set up in the Island for qualifying investors.

The Companies (Amendment No. 2) (Jersey) Regulations 2008 came into force on 22 January 2008. The Regulations make a number of significant amendments to the Companies (Jersey) Law 1991, including the introduction of "treasury shares" and corporate directors, new provisions concerning cell companies and the abolition of rules concerning financial assistance in connection with the acquisition of shares.

The Companies (Amendment No. 9) (Jersey) Law 2008 came into force on 27 June 2008, with the exception of Articles 17 to 22, which will come into force on a day/days to be appointed by the States of Jersey. The Law amends the Companies (Jersey) Law 1991 to allow Jersey companies to make distributions provided the directors make a statement in relation to the company's solvency, as well as introducing a number of minor changes designed to make Jersey's Companies Law more flexible.

The Companies (General Provisions) (Amendment No. 2) (Jersey) Order 2008 came into force on 19 February 2008. The Order exempts the Jersey Financial Services Commission from the need to provide consent on offer documents for Unregulated Funds.

The Companies (General Provisions) (Amendment No. 3) (Jersey) Order 2008 came into force on 4 April 2008. The Order exempts open-ended investment companies which hold fund certificates issued under the Collective Investment Funds (Jersey) Law 1988 from the provisions of the Companies (General Provisions) (Jersey) Order 2002. This amendment is consequential to the change from permits to certificates.

The Control of Borrowing (Amendment No. 12) (Jersey) Order 2008 came into force on 19 February 2008. The Order exempts the Jersey Financial Services Commission from the need to approve non-Jersey unit trusts circulating prospectuses for Unregulated Funds.

The Control of Borrowing (Amendment No. 13) (Jersey) Order 2008 came into force on 4 April 2008. The Order exempts the holders of fund certificates issued under the Collective Investment Funds (Jersey) Law 1988 from the requirement to obtain control of borrowing consent.

The Employment Relations (Jersey) Law 2007 came into force on 21 January 2008. The Law covers: (i) the registration and legal status of trade unions and employers' associations; (ii) the resolution of collective employment disputes, and (iii) provision for Codes of Practice setting out best practice to supplement the Law.

The Employment Relations (Amendment No. 2) (Jersey) Law 2007 came into force on 21 January 2008. The Law widens the definition of "collective employment dispute" to include a "recognition dispute" which may be referred to the Jersey Employment Tribunal.

The Financial Services (Advertising) (Jersey) Order 2008 came into force on 13 June 2008. The Order sets out certain requirements relating to advertisements for financial service business, including requirements relating to full and frank disclosure, record keeping and the sending of unsolicited material.

The Financial Services (Amendment No. 3) (Jersey) Law 2008 came into force on 9 April 2008. The Law amends the Financial Services (Jersey) Law 1998 to insert a new Part 3A, dealing with insider dealing, misleading information and market manipulation. The Amendment also expands the scope of the offences in respect of which the Jersey Financial Services Commission may provide assistance to overseas regulators and harmonises the threshold tests which must be passed in order for the Commission to use its investigatory powers in market abuse cases.

The Financial Services (Amendment No. 4) (Jersey) Law 2008 came into force on 23 May 2008. The Law amends the Financial Services (Jersey) Law 1998 to make the Jersey Financial Services Commission's supervisory powers and the associated procedural safeguards more comprehensive.

The Financial Services (Amendment of Law) (No. 3) (Jersey) Regulations 2008 came into force on 6 May 2008. The Regulations amend the Financial Services (Jersey) Law 1998 to provide for the regulation of the functionaries of unregulated collective investment funds.

The Financial Services (Amendment of Schedule 2 to Law) (Jersey) Order 2008 came into force on 4 April 2008. The Order amends Schedule 2 of the Financial Services (Jersey) Law 1998 to exempt the holders of fund certificates issued under the Collective Investment Funds (Jersey) Law 1988 from the requirement to register in order to conduct investment business. This amendment is consequential to the change from permits, whose holders were previously exempt from this requirement, to certificates.

The Financial Services (Trust Company Business (Exemptions)) (Amendment No. 3) (Jersey) Order 2008 came into force on 4 April 2008. The Order exempts the holders of fund certificates issued under the Collective Investment Funds (Jersey) Law 1988 from the requirement to register under the Financial Services (Jersey) Law 1998 in order to conduct trust company business. This amendment is consequential to the change from permits, whose holders were previously exempt from this requirement, to certificates.

The Financial Services (Trust Company Business (Exemptions No. 2)) (Amendment) (Jersey) Order 2008 came into force on 4 April 2008. The Order extends the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000 to apply to the holders of fund certificates issued under the Collective Investment Funds (Jersey) Law 1988 in respect of unclassified funds.

The Goods and Services Tax (Jersey) Law 2007. The provisions of this Law relating to registration and other procedural matters came into force on 1 January 2008. The remaining provisions, including the imposition of the goods and services tax, came into force on 6 May 2008. The Law provides for the introduction of a goods and services tax in Jersey at the rate of 3%.

The Goods and Services Tax (Amendment) (Jersey) Law 200- came into force on 12 March 2008. The Law amends the Goods and Services Tax (Jersey) Law 2007 to provide for a graduated fee scheme for international services entities. This replaces the partial refund scheme set out in the original Law. The Amendment also makes a number of other changes relating to international services entities and clarifies sections of the Law.

The Goods and Services Tax (International Services Entities) (Jersey) Regulations 2008 came into force on 12 March 2008. The Regulations set out measures for the treatment of international services entities under the goods and services tax scheme.

The Insurance Business (Amendment No. 6) (Jersey) Law 2008 came into force on 4 April 2008. The Law amends the Insurance Business (Jersey) Law 1996 to make the Jersey Financial Services Commission's supervisory powers and the associated procedural safeguards more comprehensive.

The Money Laundering (Jersey) Order 2008 came into force on 4 February 2008. The Order replaces the Money Laundering (Jersey) Order 1999 and prescribes updated procedures required to be maintained by financial services businesses to forestall and prevent money laundering.

The Money Laundering (Amendment) (Jersey) Order 2008 came into force on 19 February 2008. The Order amends the Money Laundering (Jersey) Order 2008 to make provision for certain additional business sectors which became subject to anti-money laundering requirements by virtue of the Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 2008.

The Non-Profit Organizations (Jersey) Law 2008 came into force on 8 August 2008, with the exception of Article 24, which comes into force on 8 November 2008 in order to give non-profit organizations three months in which to register before they become liable to a fine. The Law provides for the regulation by the Jersey Financial Services Commission (the "Commission") of non-profit organizations, which are defined as being organizations established solely or primarily for charitable, religious, cultural, educational, social or fraternal purposes with the intention of benefiting the public or a section of the public and which raise or disburse funds in pursuance of such purposes. Any such organization is obliged to register with the Commission unless it raises less than a prescribed amount of money per year or is a regulated non-profit organization (i.e. one to which a prescribed service is provided in the course of trust company business under the Financial Services (Jersey) Law 1998). Trust company businesses are required to supply certain summary information in relation to regulated non-profit organisations to which they provide a prescribed service. On registering with the Commission, non-profit organizations are obliged to provide certain information, including name, contact details, purpose, objectives, activities, structure and an estimate of the funds to be raised and disbursed. They are then required to keep this information up to date and to keep and maintain records relating to the utilisation of their funds. Certain prescribed non-profit organizations can also be required to prepare and file an annual financial statement and/or to provide the Commission with certain other prescribed information where this is necessary to assess the terrorist risk. The Commission has significantly narrower functions and powers under this Law than under the regulatory legislation relating to financial institutions, being solely concerned with determining whether a non-profit organization is assisting or being used to assist terrorism.

The Non-Profit Organizations (Jersey) Order 2008 came into force on 8 August 2008. The Order sets out certain details in relation to non-profit organizations, including the information which prescribed organizations or organizations belonging to a prescribed class of non-profit organization, as set out in the Order's Schedules, must supply on request and the scope of the exemption from registration which applies to regulated non-profit organizations.

The Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 2008 came into force on 19 February 2008. The Regulations bring a number of new sectors, including lawyers, estate agents and "high value dealers", within the ambit of the Money Laundering (Jersey) Order 2008 for the first time, requiring them to maintain certain prescribed procedures to forestall and prevent money laundering.

This note is intended to highlight key Laws and Orders which were brought into force in 2008. It is not intended to be comprehensive nor to provide legal advice and should not be acted or relied upon as so doing. Professional advice appropriate to the specific situation should always be obtained. If further information or specific advice is required, please liaise with your usual Bedell Group contact.

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