

Jersey Law 3/2002

**BANKING BUSINESS (AMENDMENT No. 3) (JERSEY) LAW
2002**

A LAW to amend further the Banking Business (Jersey) Law 1991,
sanctioned by Order of Her Majesty in Council of the

11th day of DECEMBER 2001

(Registered on the 4th day of January 2002)

STATES OF JERSEY

The 30th day of October 2001

THE STATES, subject to the sanction of Her Most Excellent
Majesty in Council, have adopted the following Law -

ARTICLE 1

In this Law, “the principal Law” means the Banking Business
(Jersey) Law 1991,¹ as amended.²

ARTICLE 2

For Article 45A of the principal Law³ there shall be substituted
the following Article -

¹ Volume 1990-1991, page 477.

² Volume 1992-1993, page 93, Volume 1996-1997, page 551, Volume 1998, pages 265 and 685 and
Volume 1999, pages 420 and 525.

³ Volume 1990-1991, page 537 and Volume 1998, page 688.

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“ARTICLE 45A

Co-operation with relevant 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 supervisory authority -

- (a) the power to refuse or revoke a registration under paragraph (1) of Article 9;
- (b) the power to impose or vary conditions pursuant to paragraph (1) of Article 10;
- (c) the powers relating to information and documents under Articles 25 and 26;
- (d) the powers under Article 27 (Investigations on behalf of the Commission) and Article 28 (Investigation of suspected contraventions);
- (e) the powers under Article 29 (Powers of entry in cases of suspected contraventions);
- (f) communication by the Commission to the relevant supervisory authority of information that is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers.

(2) The Commission shall not exercise the power referred to in sub-paragraph (f) of paragraph (1) unless satisfied that the relevant supervisory authority will treat the information communicated with appropriate confidentiality and that -

- (a) the power is exercised in order to assist the authority in the exercise of its supervisory functions; or
- (b) the exercise of the power has been requested by the authority and requested only for the purposes of

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obtaining assistance for the authority in the exercise of one or more of its supervisory functions.

(3) The other powers referred to in paragraph (1) shall not be exercised by virtue of this Article unless the Commission is satisfied that the exercise has been requested by the relevant supervisory authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its 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 the Commission;
- (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in the Island or involves the assertion of a jurisdiction not recognized by the Island;
- (c) the seriousness of the case and its importance in the Island 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 supervisory authority undertakes to make such contribution towards the costs of its exercise as the Commission considers appropriate.

(6) The Commission shall not disclose to a relevant supervisory authority or to any other person any information obtained in the exercise of a power by virtue of this Article unless the Commission is satisfied that any conditions imposed on the disclosure will be complied with.

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(7) For the purposes of this Article -

- (a) a reference in paragraph (1) of Article 28 or in Article 30 to a contravention of Article 7 or 22, or in Article 29 to such a contravention as is mentioned in Article 28, 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 the Island constituted by an act, or omission, that, if it arose in the Island, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 7 or 22, or such a contravention as is mentioned in Article 28, as in force at the latter time; and
- (b) a reference in paragraph (4) of Article 29 to proceedings shall include a reference to proceedings outside the Island.

(8) For the purposes of this Article, a reference (however expressed or implied) in Article 7 or 22 (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 the Island, 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.

(9) 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.”.

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ARTICLE 3

(1) This Law may be cited as the Banking Business (Amendment No. 3) (Jersey) Law 2002.

(2) This Law shall come into force on such day as the States may by Act appoint.

(3) Anything that could have been done, or completed, under a provision of the principal Law before its amendment or substitution by this Law may be done, or completed, under the provision as so amended or under the substitute provision.

A.H. HARRIS

Assistant Greffier of the States.