

Jersey Law 40/1998

**BANKING BUSINESS (AMENDMENT No. 2) (JERSEY) LAW
1998**

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

17th day of NOVEMBER 1998

(Registered on the 11th day of December 1998)

STATES OF JERSEY

The 2nd day of June 1998

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

ARTICLE 1

In sub-paragraph (b) of paragraph (4) of Article 4 of the
Banking Business (Jersey) Law 1991¹ (hereinafter referred to as “the
principal Law”) for the words “the following two-sub-paragraphs” there
shall be substituted the words “sub-paragraph (c)”.

ARTICLE 2

In Article 8 of the principal Law², in paragraph (1), for the
words “sum of seven thousand five hundred pounds” there shall be
substituted the words “fee prescribed by the Committee, on the
recommendation of the Commission,”

¹ Volume 1990–1991, page 491.

² Volume 1990–1991, page 495, and Volume 1994–1995, page 375.

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ARTICLE 3

For Article 11 of the principal Law there shall be substituted the following Article –

“ARTICLE 11

Certificates of registration

Whenever the Commission registers a person it shall issue to that person, free of charge, a registration certificate.”.

ARTICLE 4

In Article 23 of the principal Law –

- (a) immediately before paragraph (1) there shall be inserted the following paragraph –

“(A1) No person shall become a director, controller or manager of a registered person unless he has notified the Commission in writing of his intention to become such a director, controller or manager and the Commission has notified him in writing that there is no objection to his becoming such a director, controller or manager but, where the intended director, controller or manager is to be a full time employee of the registered person, the notification to the Commission may be made by the registered person.”; and

- (b) in paragraph (4) the word “registered” shall be deleted.

ARTICLE 5

For paragraph (14) of Article 25 of the principal Law there shall be substituted the following paragraph –

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“(14) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal proceedings except proceedings under paragraph (13) or Article 21.”.

ARTICLE 6

For paragraph (10) of Article 27 of the principal Law there shall be substituted the following paragraph –

“(10) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal proceedings except proceedings under paragraph (9) or Article 21.”.

ARTICLE 7

For paragraph (5) of Article 28 of the principal Law there shall be substituted the following paragraph –

“(5) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal proceedings except proceedings under paragraph (4) or Article 21.”.

ARTICLE 8

In Article 29 of the principal Law –

- (a) in sub-paragraph (a) of paragraph (4) for the words “three months” there shall be substituted the words “one year”;
- (b) after paragraph (4) there shall be inserted the following paragraph –

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“(4A) A person who requires any documents of which possession is taken under paragraph (2) for the purpose of his business and who requests such documents shall be supplied with copies as soon as practicable.”; and

- (c) after paragraph (5) there shall be added the following paragraph –

“(6) The power to obtain information conferred by sub-paragraph (b) of paragraph (2) includes a power to require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible.”.

ARTICLE 9

In Article 40, for the words “Judicial Greffier”, wherever they occur, there shall be substituted the word “registrar”.

ARTICLE 10

After Article 45 of the principal Law there shall be inserted the following two Articles –

“ARTICLE 45A

Co-operation with relevant supervisory authority

(1) The Commission may exercise the following powers at the request of or for the purpose of assisting a relevant supervisory authority –

- (a) the power to impose or vary conditions pursuant to paragraph (1) of Article 10;
- (b) the power to refuse or revoke a registration under paragraph (1) of Article 9;

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- (c) the powers relating to information and documents under Article 25;
- (d) the powers of investigation under Articles 27 and 28;
- (e) the powers of entry under Article 29;
- (f) the power to communicate to the relevant supervisory authority information which is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers, other than information relating to the persons who have transacted banking and other categories of deposit-taking business with a registered or formerly registered person unless the persons concerned have consented to such disclosure.

(2) The Commission shall not exercise powers by virtue of this Article unless it is satisfied that the assistance is requested by the relevant supervisory authority only for the purposes of the exercise of one or more of its supervisory functions.

(3) No information shall be disclosed under subparagraph (c) or (f) of paragraph (1) unless the Commission is satisfied that the relevant supervisory authority complies with or will comply with any conditions to which the Commission may, in its discretion, subject such disclosure.

(4) In deciding whether to exercise its powers by virtue of this Article, the Commission may take into account, in particular –

- (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

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in the Island or involves the assertion of a jurisdiction not recognised 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 sought.

(5) The Commission may decline to exercise powers under this Article unless the relevant supervisory authority undertakes to make such contribution towards the costs of its exercise as the Commission considers appropriate.

ARTICLE 45B

Public statements

(1) The Commission may issue a public statement concerning a person if that person appears to the Commission to have committed a contravention of the type referred to in –

- (a) paragraph (1) of Article 7;
- (b) Article 10;
- (c) Article 19;
- (d) Article 20;
- (e) Article 21;
- (f) Article 22; or
- (g) any Order made under this Law.

(2) The Commission may issue a public statement concerning a person who it believes to be carrying on deposit-taking business, whether in the Island or elsewhere, if it appears to the Commission to be desirable to do so in the interests of depositors or potential depositors.

(3) Where a public statement, issued under this Article, concerns a registered person the Commission shall, at least seven days prior to the publication of the statement, give written notice to the person concerned of the proposed statement and of the reasons for which it intends to act.”.

ARTICLE 11

In Article 46 of the principal Law –

- (a) in paragraph (2) –
 - (i) the words “telex or” shall be deleted;
 - (ii) after the word “facsimile” there shall be inserted the words “or electronic”; and
 - (iii) there shall be inserted at the end the words “in legible form or is capable of doing so”; and
- (b) in sub-paragraph (d) of paragraph (3) –
 - (i) the word “telex” shall be deleted;
 - (ii) after the word “facsimile” there shall be inserted the words “or electronic transmission”; and
 - (iii) there shall be inserted at the end the words “in legible form or is capable of doing so”.

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ARTICLE 12

This Law may be cited as the Banking Business (Amendment No. 2) (Jersey) Law 1998.

C.M. NEWCOMBE

Deputy Greffier of the States.