



Jersey

**REHABILITATION OF OFFENDERS
(EXCEPTIONS) (AMENDMENT) (JERSEY)
REGULATIONS 2014**

Arrangement

Regulation

1	Interpretation.....	3
2	Regulation 1 amended.....	3
3	Regulation 6 amended.....	4
4	Regulation 15A inserted	4
5	Regulation 20 amended.....	5
6	Regulation 21 substituted.....	10
7	Citation and commencement.....	13



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Made

17th June 2014

Coming into force

24th June 2014

THE STATES, in pursuance of Articles 8(5), 10(3) and 11(4) of the Rehabilitation of Offenders (Jersey) Law 2001¹, have made the following Regulations –

1 Interpretation

In these Regulations, “principal Regulations” means the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002².

2 Regulation 1 amended

In Regulation 1(1) of the principal Regulations, for the definition “relevant offence” there shall be substituted the following definition –

“ ‘relevant offence’ means –

- (a) an offence whether under the law of Jersey or of a country or territory outside Jersey –
 - (i) involving fraud, or other dishonesty,
 - (ii) involving perjury or conspiracy to pervert the course of justice;
- (b) an offence under –
 - (i) the Collective Investment Funds (Jersey) Law 1988³,
 - (ii) the Banking Business (Jersey) Law 1991⁴,
 - (iii) the Insurance Business (Jersey) Law 1996⁵,
 - (iv) the Financial Services (Jersey) Law 1998⁶,
 - (v) the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008⁷,
 - (vi) the Alternative Investment Funds (Jersey) Regulations 2012⁸,

- (vii) any Regulations or Order made under any of the enactments listed in clauses (i) to (v);
- (c) any offence under the law of a country or territory outside Jersey similar to those listed in sub-paragraph (b);
- (d) If sub-paragraph (b) or (c) does not apply, an offence under any enactment (whether or not of Jersey), relating to banking or other financial services, building societies, collective investment funds, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing.”.

3 Regulation 6 amended

In Regulation 6 of the principal Regulations, after paragraph (3), there shall be added the following paragraph –

- “(4) Article 7 of the Law shall not apply to proceedings before the Royal Court relating to the swearing-in of a person as a member of the Honorary Police.”.

4 Regulation 15A inserted

After Regulation 15 of the principal Regulations there shall be inserted the following Regulation –

“15A Immigration and nationality

- (1) Article 7 and Article 10(1) and (2) of the Law shall not apply –
 - (a) in relation to any proceedings in respect of an immigration decision or a nationality decision; or
 - (b) otherwise for the purposes of, or in connection with, any such decision.
- (2) In this Regulation –
 - ‘immigration decision’ means any decision, or proposed decision, of the Lieutenant-Governor, an immigration officer or the Minister for Home Affairs under –
 - (a) the Immigration Act 1971 (c. 77) (the ‘1971 Act’) and the Immigration Act 1988 (c. 14) as extended to Jersey by the Immigration (Jersey) Order 1993⁹ (the ‘1993 Order’);
 - (b) the Asylum and Immigration Act 1996 (c. 49) as extended to Jersey by the Asylum and Immigration Act 1996 (Jersey) Order 1998¹⁰;
 - (c) the Immigration and Asylum Act 1999 (c. 33) as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003¹¹;
 - (d) the Immigration, Asylum and Nationality Act 2006 (c. 13) as extended to Jersey by the Immigration (Jersey) Order 2012¹²;

- (e) any Regulations or Orders made under Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996¹³ (the ‘1996 Law’) relating to immigration control;
- (f) any Community provision within the meaning of the 1996 Law, that is directly applicable to Jersey and relates to immigration control; or
- (g) any immigration rules or directions made under any enactment or provision listed under sub-paragraphs (a) to (f),

in relation to the entitlement of a person to enter or remain in Jersey (including, in particular, the granting of a work permit, or the removal of a person from Jersey, whether by deportation or otherwise);

‘nationality decision’ means any decision, or proposed decision of the Lieutenant-Governor under, or by virtue of the following Acts of the United Kingdom (as amended), namely –

- (a) the British Nationality Act 1981 (c. 61);
- (b) the British Nationality (Hong Kong) Act 1990 (c. 34); or
- (c) the Hong Kong (War Wives and Widows) Act 1996 (c. 41),

in relation to the good character of a person; and

‘immigration officer’ means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the 1971 Act as extended to Jersey by the 1993 Order.”.

5 Regulation 20 amended

- (1) In Regulation 20(1) of the principal Regulations –
 - (a) after the definition “1998 Law” there shall be inserted the following definition –
 - “ ‘2008 Law’ means the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁴;”;
 - (b) the definition “controller” shall be deleted;
 - (c) for the definition “finance employee” there shall be substituted the following definition –
 - “ ‘finance employee’ means an employee whose duties include having control of property of any description and ‘employee’ includes a person whether employed under a contract of service or a contract for services;”;
 - (d) after the definition “finance employee” there shall be added the following definition –
 - “ ‘senior officer’ means a person appointed as such in connection with Article 11 of the Banking Business (General Provisions) (Jersey) Order 2002¹⁵.”.

- (2) For paragraphs (2) to (6) of Regulation 20 of the principal Regulations there shall be substituted the following paragraphs –

“(2) In this Regulation –

- (a) the expressions ‘functionary’, ‘fund service provider’, ‘relevant supervisory authority’, ‘relevant overseas supervisory authority’, ‘supervisory body’ or ‘supervisor of a securities market’, when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law;
- (b) a reference to a person as being associated with a person for the purposes of the latter person’s business, when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law; and
- (c) ‘relevant person’ means a person who has applied for, or been granted level 1 registration under Article 14 of the 2008 Law.

- (3) In this Regulation and Regulation 21 the expressions ‘chief executive’, ‘controller’, ‘director’, ‘key person’, ‘manager’, ‘principal person’, and ‘shareholder controller’ when used in relation to any of the Laws listed in paragraph (1), shall have the meaning given in that Law.

- (4) For the purposes of this Regulation and Regulation 21, a person is a prospective –

- (a) actuary;
- (b) chief executive;
- (c) controller;
- (d) director;
- (e) finance employee;
- (f) key person;
- (g) manager;
- (h) principal person;
- (i) senior officer; or
- (j) shareholder controller,

if the person is proposed as, or is seeking or intending to become or is about to become, the holder of such a position.

- (5) Article 7 of the Law shall not apply to a spent conviction for a relevant offence in any proceedings under –

- (a) Article 8E, 8F, 12D, 17C, 24, 34 and 34A of the 1988 Law;
- (b) Article 17, 18, 18A, 19, 30, 35, 36, 37A, 37B, 48C and 48D of the 1991 Law;
- (c) Article 8A, 9, 9A, 13, 24, 27, 36A, 36B and 43C of the 1996 Law;
- (d) Article 11, 12, 13, 16, 23, 24, 25C, 26 and 34 of the 1998 Law; or

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- (e) Article 19, 23, 24, 25, 29 and 32 of the 2008 Law.
- (6) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1988 Law, in respect of –
- (a) a holder of or applicant for a permit or certificate under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers;
 - (e) any other functionary or fund service provider of the collective investment fund to which the application, certificate or permit (as the case may be) relates; or
 - (f) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (7) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1991 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers;
 - (c) a prospective controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (8) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1996 Law, in respect of –
- (a) a holder of or applicant for a permit under that Law;
 - (b) an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers;
 - (c) a prospective actuary, chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers; or
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- (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (9) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission in the discharge of its functions under the 1998 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers; or
 - (e) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (10) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of the Commission, or a supervisory body, in the discharge of their functions under the 2008 Law, in respect of –
- (a) a relevant person;
 - (b) a key person or prospective key person, in relation to a relevant person;
 - (c) a principal person or prospective principal person, in relation to a relevant person;
 - (d) a finance employee, or prospective finance employee, of a relevant person; or
 - (e) any person who is associated with a relevant person for the purposes of the relevant person's business.
- (11) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1988 Law, in respect of –
- (a) a holder of or applicant for a permit or certificate under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers;
 - (e) any other functionary or fund service provider of the collective investment fund to which the application, certificate or permit (as the case may be) relates; or
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- (f) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (12) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1991 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers;
 - (c) a prospective controller, director, finance employee, key person, manager or senior officer of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (13) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1996 Law, in respect of –
- (a) a holder of, or applicant for a permit under that Law;
 - (b) an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers;
 - (c) a prospective actuary, chief executive, director, finance employee, key person or shareholder controller of a person to whom sub-paragraph (a) refers; or
 - (d) any person who is associated with a person to whom sub-paragraph (a) refers for the purposes of the latter person's business.
- (14) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose matters to the Commission under the 1998 Law, in respect of –
- (a) a person who is registered under, or has applied for registration under that Law;
 - (b) a key person, or prospective key person, in relation to a person to whom sub-paragraph (a) refers;
 - (c) a principal person, or prospective principal person, in relation to a person to whom sub-paragraph (a) refers;
 - (d) a finance employee, or prospective finance employee, of a person to whom sub-paragraph (a) refers; or
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(e) any person who is associated with a person to whom subparagraph (a) refers for the purposes of the latter person's business.

(15) Article 10(2)(a) of the Law shall not apply to a spent conviction for a relevant offence, or to any circumstances ancillary to such a conviction, in relation to any obligation to disclose such matters to the Commission or a supervisory body under the 2008 Law, in respect of –

- (a) a relevant person;
- (b) a key person or prospective key person, in relation to a relevant person;
- (c) a principal person or prospective principal person, in relation to a relevant person;
- (d) a finance employee, or prospective finance employee of a relevant person; or
- (e) any person who is associated with a relevant person for the purposes of the relevant person's business.

(16) Article 10(2)(b) of the Law shall not apply in relation to a spent conviction for a relevant offence, to any decision or proposed decision, or act of –

- (a) the Commission in the discharge of its functions under any of the Laws listed in paragraph (1); or
- (b) a supervisory body in the discharge of its functions under the 2008 Law.

(17) Article 11(1) of the Law shall not apply to the disclosure of specified information by –

- (a) the Commission in the discharge of any power of co-operation with a relevant supervisory authority (including a relevant overseas supervisory authority), or a supervisor of a securities market under any of the Laws listed in paragraph (1); or
- (b) a supervisory body in the discharge of any power of co-operation with a relevant overseas supervisory authority under the 2008 Law,

to such an authority or supervisor of any spent conviction for a relevant offence, disclosed to the Commission or a supervisory body in the course of their official duties.”.

6 Regulation 21 substituted

For Regulation 21 of the principal Regulations there shall be substituted the following Regulation –

“21 Work in supervised financial services

(1) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a holder of a permit or certificate under the 1988 Law; or
- (b) a person who has applied, or intends to apply for a permit or a certificate under the 1988 Law,

and relates to an individual to whom paragraph (2) refers.

(2) This paragraph refers to –

- (a) a key person, or prospective key person, in relation to the person by whom or on whose behalf the question is put;
- (b) a principal person, or prospective principal person, in relation to the person by whom or on whose behalf the question is put;
- (c) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put.

(3) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a person registered under the 1991 Law; or
- (b) a person who has applied, or intends to apply for registration under that Law,

and relates to an individual to whom paragraph (4) refers.

(4) This paragraph refers to –

- (a) a controller, director, finance employee, key person, manager or senior officer of the person by whom or on whose behalf the question is put;
- (b) a prospective controller, director, finance employee, key person, manager or senior officer of the person by whom or on whose behalf the question is put.

(5) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) the holder of a permit under the 1996 Law; or
- (b) a person who has applied, or intends to apply for a permit under the 1996 Law,

and relates to a person to whom paragraph (6) refers.

(6) This paragraph refers to –

- (a) an actuary, a chief executive, director, finance employee, key person, or shareholder controller of the person by whom or on whose behalf the question is put;
- (b) a prospective actuary, chief executive, director, finance employee, key person, or shareholder controller of the person by whom or on whose behalf the question is put.

(7) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of –

- (a) a person who is registered under the 1998 Law; or

- (b) a person who has applied, or intends to apply for registration under the 1998 Law,

and relates to an individual to whom paragraph (8) refers.

- (8) This paragraph refers to –

- (a) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put;
- (b) a key person, or principal person, in relation to the person by whom or on whose behalf the question is put;
- (c) a prospective key person, or principal person, in relation to the person by whom or on whose behalf the question is put.

- (9) Article 10(1) of the Law shall not apply to a spent conviction for a relevant offence when a question is put by or on behalf of a relevant person, being a person who –

- (a) has been granted level 1 registration under Article 14 of the 2008 Law; or
- (b) has applied or intends to apply for level 1 registration under Article 14 of the 2008 Law,

and relates to an individual to whom paragraph (10) refers.

- (10) This paragraph refers to –

- (a) a finance employee, or prospective finance employee, of the person by whom or on whose behalf the question is put;
- (b) a key person or principal person, in relation to the person by whom or on whose behalf the question is put;
- (c) a prospective key person, or principal person, in relation to the person by whom or on whose behalf the question is put.

- (11) Article 10(2)(b) of the Law shall not apply, in relation to a spent conviction for a relevant offence, to –

- (a) the dismissal or exclusion of an individual from being or becoming a key person, or principal person in relation to a person mentioned in paragraph (1)(a) or (b);
- (b) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (1)(a) or (b);
- (c) the dismissal or exclusion of an individual from being or becoming a controller, director, finance employee, key person, manager or senior officer of a person mentioned in paragraph (3)(a) or (b);
- (d) the dismissal or exclusion of an individual from being or becoming an actuary, a chief executive, director, finance employee, key person or shareholder controller of a person mentioned in paragraph (5)(a) or (b);
- (e) the dismissal or exclusion of an individual from being or becoming a key person or principal person in relation to a person mentioned in paragraph (7)(a) or (b);

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- (f) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (7)(a) or (b);
 - (g) the dismissal or exclusion of an individual from being or becoming a key person, or principal person in relation to a person mentioned in paragraph (9);
 - (h) the dismissal or exclusion of an individual from being or becoming a finance employee of a person mentioned in paragraph (9).”.

7 Citation and commencement

These Regulations may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations 2014 and shall come into force 7 days after they are made.

M.N. DE LA HAYE, O.B.E.

Greffier of the States

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- 1 *chapter 08.840*
 - 2 *chapter 08.840.50*
 - 3 *chapter 13.100*
 - 4 *chapter 13.075*
 - 5 *chapter 13.425*
 - 6 *chapter 13.225*
 - 7 *chapter 08.785*
 - 8 *chapter 17.245.51*
 - 9 *chapter 21.700*
 - 10 *chapter 21.035*
 - 11 *chapter 21.770*
 - 12 *chapter 21.771*
 - 13 *chapter 17.245*
 - 14 *chapter 08.785*
 - 15 *chapter 13.075.50*