

GUERNSEY STATUTORY INSTRUMENT

2010 No. 113

**The Criminal Justice (Proceeds of Crime) (Legal
Professionals, Accountants and Estate Agents)
(Bailiwick of Guernsey) (Amendment) (No. 3) Regulations,
2010**

<i>Made</i>	<i>6th December, 2010</i>
<i>Coming into operation</i>	<i>1st January, 2011</i>
<i>Laid before the States</i>	<i>2011</i>

THE POLICY COUNCIL, in exercise of the powers conferred upon it by sections 49A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^a, hereby makes the following Regulations:-

Insertion of regulation 1A.

1. Immediately after regulation 1 of the Principal Regulations, insert the following regulation -

"Application of Regulations.

1A. These Regulations do not apply to a prescribed business where

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^a Order in Council No. VIII of 1999, as amended by Order in Council No. II of 2005 and No. XV of 2007, Ordinance No. XXVIII of 1999, No. XII of 2002, No. XXXIII of 2003 and No. XLVII of 2007; G.S.I. No. 27 of 2002, G.S.I. No. 33 of 2007 and G.S.I. No. 48 of 2008; and certain sections of the Law are modified in their application to external confiscation orders by Ordinance No. XXXIII of 1999.

- (a) the total turnover of the person carrying on the prescribed business in respect of the prescribed business does not exceed £50,000 per annum,
- (b) the prescribed business -
 - (i) if it is an estate agent, does not hold deposits, or
 - (ii) if it is a prescribed business other than an estate agent, does not carry out occasional transactions, that is to say any transactions involving more than £10,000 carried out by the prescribed business in question in the course of that business, where no business relationship has been proposed or established, including such transactions carried out in a single operation or two or more operations that appear to be linked,
- (c) the services of the prescribed business are provided only to customers resident in the Bailiwick, and
- (d) the funds received by the prescribed business are drawn on a bank operating from or within the Bailiwick."

Amendment of regulation 16 of the Principal Regulations.

2. In regulation 16 of the Principal Regulations -

(a) in paragraph (1) for "Subject to subsection (5), a", substitute "A",

(b) for paragraph (2)(b), substitute -

"(b) subject to paragraph (3), a non-refundable registration fee of £590 plus, where the business has more than 5 full time (or full time equivalent) members of staff (including executive directors and partners), whichever is the lesser of -

(i) an amount calculated on the basis of £90 for each full time (or full time equivalent) member of staff (including executive directors and partners), less £450, or

(ii) £1,800,

provided that where the statement referred to in subparagraph (a) is submitted on or after 1 February in any year the fee, and any additional amount due under the preceding provisions of this subparagraph, payable upon registration, shall be reduced by one twelfth and by a further twelfth for each complete calendar month which has elapsed during the period commencing upon the 1 February in question and ending on the

day of that year in which the statement is submitted.",

(c) for paragraph (3), substitute -

"(3) Any fee payable under paragraph (2)(b) or regulation 17(2) shall be reduced as follows -

(a) by 50 per centum where the registration relates to a business -

(i) which holds or is deemed to hold a licence, consent, registration, permission or authorisation from the Commission under any of the regulatory Laws, or

(ii) which is a member of a group of bodies corporate where one or more other members of that group are also under an obligation to pay a registration fee to the Commission under this regulation, or

(b) by 75 per centum where the registration relates to a business -

(i) which holds or is deemed to hold a licence, consent, registration, permission or authorisation from the Commission under any of the regulatory Laws, and

(ii) which is a member of a group of bodies

corporate where one or more other members of that group are also under an obligation to pay a registration fee to the Commission under this regulation.", and

(d) paragraph (5) is revoked.

Amendment of regulation 17(2) of Principal Regulations.

3. For regulation 17(2) of the Principal Regulations, substitute -

"(2) An annual fee calculated in the same manner as provided for under regulation 16(2)(b) (subject to any reduction applicable under regulation 16(3)) shall be payable, on, or within 30 days following 1 January in each calendar year following the year of registration, in respect of each prescribed business registered under this Part."

Amendment of regulation 29(2) of Principal Regulations.

4. In regulation 29(2) of the Principal Regulations for "Subsection", substitute "Paragraph".

Amendment of regulation 30 of Principal Regulations.

5. In regulation 30(1) of the Principal Regulations, immediately after the definition "**registered prescribed business**", insert -

"**regulatory Laws**" has the meaning given in section 24 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987."

Interpretation.

6. (1) In these Regulations -

"**the Law**" means the Criminal Justice (Proceeds of Crime) (Bailiwick

of Guernsey) Law, 1999, and

"the Principal Regulations" means the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008^b.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

Citation.

7. These Regulations may be cited as the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) (No. 3) Regulations, 2010.

Commencement.

8. These Regulations come into force on the 1st January 2011.

Dated this 6th day of December, 2010



DEPUTY L.S.TROTT

Chief Minister

For and on behalf of the Policy Council

^b G.S.I. Nos. 49 and 72 of 2008; No. 31 of 2009 and Nos. 14 and 57 of 2010.

^c Ordres en Conseil Vol. XIII, p. 355.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and amend the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 ("the 2008 Regulations").

Regulation 1 inserts a new regulation 1A (application of regulations) into the 2008 Regulations to clarify that the provisions of the 2008 Regulations do not apply to certain small prescribed businesses.

Regulations 2 and 3 amend regulations 16 and 17 of the 2008 Regulations in order to make revised provision relating to the registration fee and annual registration fee payable by prescribed businesses.

Regulation 4 corrects an erroneous reference in regulation 29 of the 2008 Regulations.

Regulation 5 inserts an additional definition in regulation 30 of the 2008 Regulations.

Regulations 6, 7 and 8 are the interpretation, citation and commencement clauses.