

GUERNSEY STATUTORY INSTRUMENT

2010 No.

**The Criminal Justice (Proceeds of Crime) (Legal
Professionals, Accountants and Estate Agents)
(Bailiwick of Guernsey) (Amendment) (No. 2) Regulations,
2010**

<i>Made</i>	<i>21st June, 2010</i>
<i>Coming into operation</i>	<i>21st June, 2010</i>
<i>Laid before the States</i>	<i>2010</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:-

Amendment of regulation 10.

1. In regulation 10 -
 - (a) in paragraph (1)(b) the phrase ", subject to limited exceptions provided for in chapter 4 of the Handbook," is revoked,
 - (b) for paragraph (2) substitute -

^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.

"(2) The circumstances referred to in paragraph (1) are that the introducer -

- (a) is an Appendix C business, or
- (b) is either an overseas branch of, or a member of the same group of bodies corporate as, the prescribed business with which it is entering into the business relationship ("**receiving prescribed business**"), and -
 - (i) the ultimate parent body corporate of the group of bodies corporate of which both the introducer and the receiving prescribed business are members, falls within paragraph (2)(a),
 - (ii) the conduct of the introducer is subject to requirements to forestall, prevent and detect money laundering and terrorist financing that are consistent with those in the Financial Action Task Force Recommendations on Money Laundering in respect of such a business, and
 - (iii) the conduct of which is supervised for compliance with the requirements referred to in subparagraph (ii), by the

Commission or an overseas regulatory authority.".

Amendment of regulation 14.

2. For regulation 14(4)(b) substitute -

"(b) must be made available promptly -

(i) to an auditor, and

(ii) to any police officer, the Financial Intelligence Service, the Commission or any other person, where such documents or customer due diligence information are requested pursuant to these Regulations or any relevant enactment.".

Insertion of Part IIIA.

3. Immediately after Part III of the Principal Regulations, insert the following Part -

"PART IIIA

DESIGNATION OF SUPERVISORY AUTHORITY

Guernsey Financial Services Commission.

15A. (1) The Commission is prescribed as the supervisory authority with responsibility for monitoring and enforcing compliance by prescribed businesses with regulations and other measures made or issued under the Law, or any other enactment, for the purpose of forestalling, preventing or detecting money laundering and terrorist financing.

(2) The Commission is also designated as the competent authority to register prescribed businesses under Part IV.

(3) For the purpose of paragraph (1), "measures" includes rules, guidance, instructions, notices and other similar instruments."

Amendment of regulation 30(1) of the Principal Regulations.

4. In regulation 30(1) -

(a) for the definition of "**Financial Intelligence Service**", substitute -

"**Financial Intelligence Service**" means the division of the Financial Investigation Unit, comprising those police officers and other persons assigned to the division for the purpose of the receipt, analysis and dissemination within the Bailiwick, and elsewhere, of disclosures which are more commonly known or referred to as suspicious transaction reports or suspicious activity reports,"

(b) immediately after the definition of "**Financial Intelligence Service**", as substituted by subparagraph (a), insert -

"**Financial Investigation Unit**" means that branch of the Customs and Immigration Service responsible for the investigation of financial and economic crime," and

(c) subparagraphs (a), (b) and (e) of the definition of "**relevant enactments**" are revoked.

Interpretation.

5. (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.

6. These Regulations may be cited as the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) (No. 2) Regulations, 2010.

Commencement.

7. (1) Other than regulation 1(b), these Regulations come into force on the 21st June 2010.

(2) Regulation 1(b) comes into force on 30th July 2010.

Dated this 21st day of June, 2010

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

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

.....
DEPUTY L.S.TROTT

Chief Minister

For and on behalf of the Policy Council

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").

Regulations 1 and 2 make amendments to regulations 10 and 14 respectively of the 2008 Regulations. The amendments refine obligations upon prescribed businesses (i.e. lawyers, accountants and estate agents) under the 2008 Regulations concerning the measures they must put in place and the actions they must take for the purposes of forestalling, preventing or detecting money laundering and terrorist financing.

Regulation 3 inserts a new provision (Part IIIA, regulation 15A) into the 2008 Regulations designating the Guernsey Financial Services Commission as supervisory authority with responsibility for monitoring and enforcing compliance by prescribed businesses with regulations and other measures made or issued under the Criminal Justice (Proceeds of Crime) Law, 1999, or any other enactment, for the purpose of forestalling, preventing or detecting money laundering and terrorist financing. The inserted Part also formally designates the Commission as the competent authority to register prescribed businesses under Part IV of the 2008 Regulations.

Regulation 4 amends the definitions of "Financial Intelligence Service" and "relevant enactments" by, in the latter case, revoking the references to the Money Laundering (Disclosure of Information) (Guernsey) Law, 1995, the Money Laundering (Disclosure of Information) (Alderney) Law, 1998 and the Money Laundering (Disclosure of Information) (Sark) Law, 2001 all of which were repealed on 28th April, 2010 by the Disclosure (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010.

With the exception of regulation 1(b), these Regulations come into force on

21st June 2010. Regulation 1(b) (which amends regulation 10 of the 2008 Regulations dealing with introducers of business) comes into force on 30th July 2010.