

Supply of Goods and Services (Jersey) Law 2009

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On a date yet to be determined, but probably within the next few months, the Supply of Goods and Services (Jersey) Law 2009 (the “Law”) will come into force. It is described by the Minister for Economic Development as “probably the most significant advancement in providing clarity of consumer contractual rights in Jersey’s history”. However, although it provides extra protections for consumers, the Law will apply not just to consumer contracts, but to all contracts for the sale of goods or the supply of services, including business to business contracts, entered into after the Law comes into force.

The Law deals primarily with the sale of goods, setting out among other things certain automatically implied warranties as to satisfactory quality, title, description, and disclosure of defects, as well as certain additional protections for consumers.

However, there are also provisions dealing with the supply of services, which will be of greater relevance to banks, trust companies, and other providers of financial services.

In particular, the Law provides that certain warranties will automatically apply in contracts for the supply of services entered into after the Law comes into force, unless they are excluded or varied by the parties to the contract. Those warranties are:

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Prior to the Law coming into force, and depending on the circumstances, such terms would often

be implied as a result of the operation of the customary law of Jersey. However, these warranties are now statutory and to the extent that they are not excluded or varied, they will automatically apply. These warranties can only be excluded or varied as follows:

- a) By express agreement between the parties to the contract. An express term will only negative a warranty under the Law if it is inconsistent with it;
- b) By the “course of dealing” between the parties. “Course of dealing” is not defined within the Law. However, we would expect it to be interpreted as referring to a practice which the parties to a contract have consistently adopted on former and similar occasions; or
- c) By such “usage” as binds both parties to the contract. “Usage” is not defined in the Law. However, we would expect “usage” to be interpreted as referring to a particular course of dealing or line of conduct which is so generally known in a particular market or trade that unless expressly or impliedly excluded, it must be considered as forming part of the contract.

Businesses which are concerned as to the implications of the Law may therefore wish to review their standard contracts. Ogier would be happy to assist with this.

Suppliers of goods and services should also be aware that the Law empowers the States to introduce Regulations in the future which could:

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It will therefore be important to continue to monitor developments in relation to this Law.

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