



Jersey

# **INSURANCE BUSINESS (JERSEY) LAW 1996**

## **Official Consolidated Version**

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# INSURANCE BUSINESS (JERSEY) LAW 1996

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Jersey

## INSURANCE BUSINESS (JERSEY) LAW 1996<sup>1</sup>

**A LAW** to make provision for the authorization and supervision of insurance businesses, and generally to provide for purposes connected therewith and incidental thereto

Commencement [[see endnotes](#)]

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### PART 1

#### PRELIMINARY

#### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –

“associate”, in relation to a person, means –

- (a) the person’s husband, wife, civil partner, child or stepchild;
- (b) the person’s partner;
- (c) any company of which the person is a director;
- (d) where the person is a company, any director or employee of the company, any subsidiary of the company, and any director or employee of such a subsidiary; and
- (e) where the permit holder concerned is a company, any person with whom the person in question has an agreement or arrangement to act together in exercising voting power in relation to the permit holder;

“Category A permit” and “Category B Permit” have the meanings respectively given to them in Article 5(2);

“chief executive”, in relation to a permit holder, means an employee of the permit holder who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of its insurance business;

“code of practice” means a code of practice under Article 42;

“Commission” means the Jersey Financial Services Commission established by the [Financial Services Commission \(Jersey\) Law 1998](#);

“company” means a body corporate wherever incorporated;

“compliance officer” means a person so designated, under a code of practice, by a permit holder and having the function of monitoring whether the law of Jersey, and the codes of practice, are being complied with in the conduct of the business in respect of which the permit holder holds a permit;

“Court” means the Royal Court;

“documents” includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;

“ESAs” means the European Supervisory Authorities comprising –

- (a) the European Banking Authority established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.12);
- (b) the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.48); and
- (c) the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.84);

“ESRB” means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 (O.J. No. L 331, 15.12.2010, p.1);

“general business” means business which falls into a class set out in Part 2 of Schedule 1;

“holding company” has the meaning given in Article 2 of the [Companies \(Jersey\) Law 1991](#);

“insurance” includes reinsurance;

“insurance company” means the person carrying on insurance business;

“key person” means a person employed or otherwise engaged by a permit holder as an officer of any one or more of the following classes in relation to the conduct of the business in respect of which the permit holder holds a permit –

- (a) compliance officer;
- (b) money laundering compliance officer;
- (c) money laundering reporting officer;

“long-term business” means business which falls into a class set out in Part 1 of Schedule 1;



“long-term business fund” has the meaning given in Article 26(2);

“member State” has the meaning given in the [European Union \(Jersey\) Law 1973](#);

“Minister” means the Minister for External Relations and Financial Services;

“money laundering compliance officer” means a person appointed as “compliance officer” under the [Money Laundering \(Jersey\) Order 2008](#);

“money laundering reporting officer” means a person appointed as “reporting officer” under the [Money Laundering \(Jersey\) Order 2008](#);

“pension supervisor” means any entity (whether in Jersey or elsewhere) responsible in whole or in part for the supervision of pension funds, plans, schemes or arrangements;

“permit” means a permit granted under this Law;

“permit holder” means a person to whom a permit has been granted under Article 7(1);

“prescribed” means prescribed by Order of the Minister on the recommendation of the Commission;

“public statement” means a public statement issued under Article 43;

“relevant supervisory authority”, in relation to a country or territory outside Jersey, means an authority discharging in that country or territory any function that is the same as, or similar to, a function of the Commission;

“shareholder controller”, in relation to a permit holder, means a person who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of not less than 15% of the voting power in general meeting of the permit holder or of any company of which it is a subsidiary, other than a person holding shares giving rise to that voting power only as a custodian or its nominee and able to exercise the voting rights attached to the shares only under instructions given in writing (including by electronic means);

“subsidiary” has the meaning given in Article 2 of the [Companies \(Jersey\) Law 1991](#);

“supervisor of a securities market” has the meaning given in Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#);

“vary” includes amend, replace and revoke.<sup>2</sup>

- (2) Unless the context otherwise requires, where this Law refers to any enactment, and in this paragraph “enactment” includes an enactment of the United Kingdom, the reference is a reference to that enactment as amended, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

## 2 Amendment of definitions

- (1) The States may by Regulations amend –

- (a) a definition and an ancillary provision in Article 1;
  - (b) Schedule 1; and
  - (c) Schedule 2.<sup>3</sup>
- (2) Regulations made under this Article may include provisions that exclude or modify the effect of the Regulations on any other enactment which is expressed to have effect in relation to insurance business to which Article 5 applies.<sup>4</sup>

### **3 Functions of the Commission<sup>5</sup>**

The Commission shall have the powers conferred on it by this Law and the duty generally to supervise the persons registered by it in the exercise of those powers.

### **4 Limitation of liability<sup>6</sup>**

- (1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.
- (1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).<sup>7</sup>
- (2) This Article applies to –
- (a) the States;
  - (b) the Minister or any person who is, or is acting as, an officer, servant or agent in an administration of the States for which the Minister is assigned responsibility or who is performing any duty or exercising any power on behalf of the Minister; and
  - (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is a person appointed by the Commission to conduct an investigation under Article 11 or who is performing any duty or exercising any power on behalf of the Commission.

## **PART 2**

### **AUTHORIZATION AND SUPERVISION OF INSURANCE BUSINESS**

### **5 Prohibition of carrying on insurance business unless authorized**

- (1) This Article applies to long-term business and general business.
- (2) Subject to the provisions of this Law, no person shall carry on in or from within Jersey insurance business to which this Article applies unless that person is authorized by a permit granted under Article 7 (to be known as

- a “Category A permit” in the case of a permit holder which is granted a permit by virtue of its authorization by or under the law of a jurisdiction outside Jersey and a “Category B permit” in the case of any other permit holder) to carry on business of the description in question.
- (3) The carrying on of insurance business in or from within Jersey includes obtaining or seeking to obtain such business from a person incorporated, registered or resident in Jersey by means of a contract or other arrangement with another person where –
- (a) the sole or principal purpose of such contract or other arrangement is the obtaining of or seeking to obtain such business; and
  - (b) that other person gives effect to the contract or other arrangement in or from within Jersey.<sup>8</sup>
- (4) Any person who carries on business in contravention of the provisions of this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 5 years or a fine, or both.
- (5) Paragraphs (2) and (6) shall not apply to –
- (a) insurance business (other than industrial insurance business) carried on –
    - (i) by the association of underwriters known as Lloyd’s, or
    - (ii) by a trade union or employers’ association where the insurance business carried on by the union or association is limited to the provision for its members of provident benefits or strike benefits;
  - (b) general business of such of the classes specified in Part 2 of Schedule 1, as may be prescribed, if it is carried on solely in the course of carrying on, and for the purpose of, banking business;
  - (c) general business consisting in the effecting and carrying out, by an insurance company that carries on no other insurance business, of contracts of such descriptions as may be prescribed, being contracts under which the benefits provided by the insurer are exclusively or primarily benefits in kind;
  - (d)
  - (e) the carrying on, subject to any prescribed conditions or restrictions, of such insurance business as may be prescribed by any other person or institution as may be prescribed;
  - (f) any other class of persons which the Minister may from time to time prescribe.<sup>9</sup>
- (6) Subject to this Law, a company incorporated under the [Companies \(Jersey\) Law 1991](#) or a limited liability partnership registered under the [Limited Liability Partnerships \(Jersey\) Law 2017](#) shall not carry on insurance business in or from within a country or territory outside Jersey unless it is the holder of a Category B permit.<sup>10</sup>
- (7) Nothing in this Law shall derogate from the provisions of the [Motor Traffic \(Third-Party Insurance\) \(Jersey\) Law 1948](#).
- (8) In this Article –

- (a) “general business” and “industrial assurance business” have the same meanings as in Schedule 1;
- (b) “trade union” and “employers’ association” have the meanings assigned to them by sections 1 and 122 respectively of the Trade Union and Labour Relations (Consolidation) Act 1992 of the United Kingdom.

## 6 Application for permit

- (1) An application for a Category A or Category B permit shall –
  - (a) be in the form required from time to time by the Commission;
  - (b) contain or be accompanied by such particulars as the Commission may require;
  - (c) be verified in such manner and to such extent as the Commission may require; and
  - (d) be accompanied by the fee published by the Commission in accordance with Article 15(5)<sup>11</sup> of the [Financial Services Commission \(Jersey\) Law 1998](#).<sup>12</sup>
- (1A) Without limiting paragraph (1)(b) the Commission may –
  - (a) require an applicant to provide such information and documents as the Commission may require relating to the applicant and the applicant’s business, verified in such manner as the Commission may require for the purposes of considering whether to grant or refuse a permit under Article 7(1);
  - (b) by written notice require the applicant or any person who is, or is to be, the chief executive, a director or shareholder controller of the applicant to provide a report by an auditor or accountant, or other qualified person approved by the Commission, on such aspects of the particulars required by paragraph (1)(b), or the information and documents required by paragraph (1A)(a), as the Commission may specify.<sup>13</sup>
- (2) <sup>14</sup>
- (3) An applicant who, while his or her application is awaiting determination by the Commission under this Article –
  - (a) determines to bring about any alteration in; or
  - (b) becomes aware of any event which may affect in any material respect,any information or documents supplied by the applicant to the Commission in connection with the application shall forthwith give written notice of that matter to the Commission.<sup>15</sup>

**7 Grant or refusal of permit, imposition of conditions and cancellation of permit<sup>16</sup>**

- (1) On an application under Article 6, subject to paragraphs (2) and (3), the Commission may grant a permit to a person (referred to in this Law as the “applicant”), either unconditionally or subject to such conditions as it considers appropriate, or may refuse to grant a permit in accordance with paragraph (4).
- (2) The Commission may grant a Category A permit if, and only if –
  - (a) the applicant is authorized by or under the law of a jurisdiction outside Jersey to carry on business of the description in question in that jurisdiction;
  - (b) such business would be lawfully carried on if it were carried on in that jurisdiction; and
  - (c) the applicant has provided the Commission with confirmation from the relevant supervisory authority which satisfies it that the insurance business carried on in or from within Jersey is subject to the authority’s supervision.<sup>17</sup>
- (3) The Commission may grant a Category B permit in any other case.
- (4) The Commission may refuse to grant a permit on one or more of the following grounds –
  - (a) the applicant has failed to provide information required under Article 6 or has failed at any time to provide the Commission with such information as it may reasonably require;
  - (b) having regard to the information before the Commission as to the –
    - (i) integrity, competence, financial standing, structure and organisation of the applicant,
    - (ii) persons employed by or associated with the applicant for the purposes of his or her business or any shareholder controller of the business, and
    - (iii) description of the business which the applicant proposes to carry on,the Commission is not satisfied that the applicant is a fit and proper person to be a permit holder;
  - (c) it appears to the Commission that any circumstances exist which are likely to –
    - (i) lead to improper conduct of business by the applicant or by any other person employed by or associated with the applicant for the purposes of the applicant’s business, or
    - (ii) reflect discredit on the method of conducting business of the applicant or such another person;
  - (d) the applicant or any person employed by or associated with the applicant for the purposes of the applicant’s business has been convicted of –

- (i) an offence (whether under the law of Jersey or of a country or territory outside Jersey) involving fraud or other dishonesty,
  - (ii) an offence under –
    - (A) this Law,
    - (B) the [Banking Business \(Jersey\) Law 1991](#),
    - (C) the [Collective Investment Funds \(Jersey\) Law 1988](#),
    - (D) the [Financial Services \(Jersey\) Law 1998](#),
    - (E) any Regulation or Order made under any of those Laws,
    - (F) the [Alternative Investment Funds \(Jersey\) Regulations 2012](#),
  - (iii) any offence similar to those listed in clause (ii) under the law of a country or territory outside Jersey,
  - (iv) where clause (ii) or (iii) does not apply, an offence under any enactment (whether of Jersey or of a country or territory outside Jersey) relating to building societies, companies, consumer credit, consumer protection, credit unions, friendly societies, industrial and provident societies, insider dealing, insolvency, insurance, money laundering or terrorist financing, or
  - (v) an offence (whether under the law of Jersey or of a country or territory outside Jersey) of perjury or conspiracy to pervert the course of justice;
- (e) it appears to the Commission that it is not desirable that the applicant should have a permit –
- (i) in the best interests of persons who may transact insurance business with the applicant,
  - (ii) in the interests of protecting the reputation of Jersey in financial and commercial matters, and
  - (iii) in the best economic interests of Jersey;
- (f) without prejudice to sub-paragraph (c)(ii), the applicant has provided the Commission with information which is untrue or misleading in any material particular in connection with any application under Article 6;
- (g) in the case of a Category A permit, the Commission is not satisfied as to the adequacy of the supervision by the supervisory authority in the jurisdiction outside Jersey in which the applicant is authorized to carry on business in terms of paragraph (2)(a);
- (h) the person who is the applicant has failed to comply with a direction given to the person at any time under Article 28 or 36;
- (i) the Commission has reason to believe that the applicant has at some time contravened a code of practice;

- (j) the applicant has failed to pay any part of a penalty imposed by the Commission under Article 21A of the [Financial Services Commission \(Jersey\) Law 1998](#) (including any surcharge imposed under Article 21E(1) of that Law);
  - (k) if the applicant fails to pay any fee published under Article 43D that is payable.<sup>18</sup>
- (5) The Commission may from time to time vary any condition attached to the grant of a permit or attach a new condition.
- (6) Without prejudice to the generality of the provisions of paragraph (5), the Commission may attach to a permit a condition prohibiting the holder of the permit from effecting –
  - (a) any contract of insurance; or
  - (b) any contract of insurance of a specified class of insurance business to which Article 5 applies,after such condition is attached to a permit.
- (7) Subject to the provisions of this Law, a condition attached to a permit under paragraph (6) shall not prevent the holder of the permit from carrying out contracts of insurance effected before such condition was attached to the permit.
- (8) The Minister may prescribe conditions applicable to all permits or to all Category A permits or to all Category B permits or to any other class or category of permit holder which may be prescribed.
- (9) The Commission may cancel a permit on any of the grounds set out in paragraph (4) (with the substitution, for references to the applicant, of references to the holder of the permit, and with the substitution, for references to persons who may transact insurance business with the applicant, of references to persons who transacted or may transact insurance business with the holder of the permit) or –
  - (a) if the holder of the permit has not commenced insurance business in or from within Jersey within one year of the date of grant of the permit;
  - (b) if the holder of the permit ceases to carry on insurance business in or from within Jersey;
  - (c) at the request of the holder of the permit; or
  - (d) where the Commission has attached to a permit a condition of the kind referred to in paragraph (6)(a).<sup>19</sup>
- (10) <sup>20</sup>
- (11) Conditions attaching to a permit by virtue of this Article shall apply to a former permit holder as they apply to a permit holder.<sup>21</sup>
- (12) A person who fails to comply with a condition imposed under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.<sup>22</sup>
- (13) An offence under paragraph (12) may be charged by reference to a day or any longer period of time and a person may be convicted of a second or

subsequent offence under that paragraph by reference to any period of time following the preceding conviction for such an offence.<sup>23</sup>

- (14) A reference in paragraph (12) to a condition does not include any condition that applies a margin of solvency to a Category B permit holder as referred to in Article 24(12).<sup>24</sup>

## **7A Display of permit and conditions<sup>25</sup>**

- (1) When the Commission grants a permit to an applicant under Article 7(1) it may give that person notice in writing of the manner in which that person shall display or otherwise make available to members of the public –
- (a) that permit, or the information contained in the permit, or both; and
  - (b) a record of such conditions as the Commission may specify, being conditions –
    - (i) to which the person's permit is subject under Article 7(1), or
    - (ii) to which the person's permit is subject by virtue of an Order under Article 7(8).
- (2) Where the Commission varies or attaches any new condition to the grant of a permit under Article 7(5) it may give the holder of the permit notice in writing of the manner in which that person shall display or otherwise make available to members of the public a record of that condition as varied or the new condition, as the case may be.
- (3) The Commission may at any time vary any requirement in any notice it has given under paragraph (1) or (2) by further notice to the holder of the permit.
- (4) Without prejudice to the generality of paragraphs (1), (2) and (3), a notice under any of those paragraphs may require the permit, information or record of conditions, as the case may be, to be displayed at any address at which the holder of the permit carries on insurance business or to be published on the internet, or both.
- (5) A notice under paragraph (1) shall take effect on such date as is specified in the notice.
- (6) A notice under paragraph (2) or (3) shall take effect in accordance with Article 8A.
- (7) A holder of a permit who carries on insurance business in breach of any requirements in a notice given under this Article which have effect in relation to that business shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

## **8 Notice of acts and reasons<sup>26</sup>**

- (1) The Commission shall give notice as follows –
- (a) if under Article 7 it refuses to grant a permit, it shall give notice to the applicant for the permit;



- (b) if under Article 7 it cancels a permit, it shall give notice to the person named in the permit as the permit holder;
  - (c) if under Article 7, it attaches a condition to the grant of a person's permit or, at any time after the grant of a person's permit, it attaches an additional condition to the permit, or varies a condition attached to the permit, it shall give notice to the person;
  - (d) if under any Order under this Law it refuses consent, refuses approval, or imposes a requirement, it shall give notice to the relevant permit holder.
- (2) A notice required under this paragraph (1) shall –
  - (a) set out the terms of the refusal, cancellation, attachment of conditions, or variation of conditions, of which it is notice;
  - (b) in the case of the attachment of conditions, set out also the terms of the conditions;
  - (c) in the case of the variation of conditions, set out also the terms of the conditions as so varied;
  - (d) give the reasons for the refusal, cancellation, attachment or variation (except to the extent that the refusal, cancellation, attachment or variation is made on the application of the relevant permit holder); and
  - (e) give particulars of the rights of appeal conferred by Article 9.
- (3) A notice imposing a requirement under Article 7A or 25, a notice of an objection and direction under Article 23, or a notice under Article 36(6) of refusal of an application in whole or in part, shall –
  - (a) give the reasons for the imposition of the requirement, the objection and direction or the refusal; and
  - (b) give particulars of the rights of appeal conferred by Article 9.
- (4) A notice of a direction under Article 28 or 36 shall –
  - (a) give the reasons for the giving of the direction;
  - (b) specify when the direction is to have effect;
  - (c) give particulars of the provisions of Article 36(5) and (6); and
  - (d) give particulars of the rights of appeal conferred by Article 9.
- (5) If under this Article the Commission is required to give reasons in a notice, that requirement shall not require the Commission –
  - (a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or
  - (b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.

**8A Delay in taking effect<sup>27</sup>**

- (1) Any of the following acts of the Commission shall not take effect until one month after notice of them is given under this Law, such date as is specified in the notice, or, if an appeal under this Law is lodged against the act or the decision relating to the act, the appeal is determined by the Court or withdrawn, whichever is the latest time –
  - (a) the imposition of a requirement under Article 7A(2) or (3) or 25(4), 36(2)(c) or (d);
  - (b) the cancellation of a permit under Article 7;
  - (c) the attachment under Article 7 of an additional condition to a person's permit, or variation under that Article of the conditions attached to a person's permit, at any time after the grant of the permit;
  - (d) an objection and direction under Article 23.<sup>28</sup>
- (2) Paragraph (1) shall not however have effect if –
  - (a) the persons entitled to notice of the act agree with the Commission that the act take effect at a time earlier than the time that would apply under paragraph (1); or
  - (b) the Court orders otherwise under paragraph (3).
- (3) If, on the application of the Commission, the Court is satisfied that it is in the best interests of persons with whom a relevant person transacted or may transact insurance business, or of the public, that paragraph (1) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (1) should be reduced, the Court may so order.<sup>29</sup>
- (3A) In paragraph (3), “relevant person” means –
  - (a) in the case of a direction under Article 36(2)(c) in respect of functions for, employment by, or the business of, a specified permit holder, that permit holder;
  - (b) in the case of a direction under Article 36(2)(c) in respect of functions for, employment by, or the business of, any permit holder at all, any permit holder at all;
  - (c) in the case of an act under Article 7, 7A(2) or (3), 23 or 25(4), or of a direction under Article 36(2)(d), in respect of a permit holder, the permit holder; or
  - (d) in the case of a direction under Article 36(2)(d) in respect of a former permit holder, the former permit holder.<sup>30</sup>
- (4) An order under paragraph (3) may be made without prior notice to and without hearing the permit holder, or any other person, concerned.
- (5) An order under paragraph (3) shall have immediate effect, but any person aggrieved by the order may apply to the Court to vary or set aside the order.
- (6) In respect of an application under paragraph (3), the Court may make such order as it thinks fit, and in respect of an application under

paragraph (5), the Court may make such order in respect of the relevant order under paragraph (3) as it thinks fit.

## **9 Appeals<sup>31</sup>**

- (1) A person aggrieved by an act of the Commission, being –
  - (a) the imposition of a requirement under Article 7A or 25;
  - (b) a refusal, or cancellation, under Article 7 of a permit;
  - (c) the attachment under Article 7 of a condition to the grant of a person's permit or of an additional condition to a person's permit, or variation under that Article of the conditions attached to a person's permit;
  - (d) an objection and direction under Article 23;
  - (e) the giving of a direction under Article 28 or 36;
  - (f) the refusal of an application under Article 36(5) or granting of such an application only in part; or
  - (g) a refusal of consent, refusal of approval, or imposition of a requirement, under any Order under this Law,may appeal to the Court, in accordance with this Article, against that act.
- (2) An appeal under paragraph (1) may be made only on the ground that the act appealed against was unreasonable having regard to all the circumstances of the case.
- (3) A person's appeal under this Article shall be lodged with the Court no later than the day that is one month after the day on which notice was served on the person of the relevant act.
- (4) On an appeal under this Article, the Court may make such interim or final order as it thinks fit.
- (5) If an appeal is made under paragraph (1)(e) with respect to a direction that makes a requirement referred to in Article 36(2)(c) or (d), the direction shall have no effect until the appeal is determined by the Court or withdrawn.
- (6) In other cases, an appeal made under paragraph (1)(e) with respect to a direction shall not suspend the operation of the direction.
- (7) An appeal made under paragraph (1)(f) in relation to an application under Article 36(5) shall not suspend the operation of the direction in connection with which the application was made.

## **9A Commission may apply to Court for appointment of manager in prescribed circumstances<sup>32</sup>**

- (1) The Minister may, by Order on the recommendation of the Commission, prescribe circumstances in which the Commission may apply to the Court for the appointment by the Court of a person to manage the affairs, or any part of the affairs, of persons in so far as they relate to the carrying on of insurance business to which Article 5 applies.

- (2) An Order made under paragraph (1) may contain such incidental or supplementary provisions as the Minister thinks necessary or expedient.
- (3) The Court may, on an application made to it by the Commission in circumstances prescribed in an Order made under paragraph (1), appoint, on such terms as it considers to be appropriate, a person to manage the affairs, or any part of the affairs, of a person in so far as they relate to the carrying on of insurance business to which Article 5 applies.
- (4) Subject to the terms of his or her appointment, a person appointed under paragraph (3) shall have all the powers necessary to manage the affairs, or the part of the affairs, of the person in respect of whom the appointment was made in so far as they relate to the carrying on of insurance business to which Article 5 applies.

## **10 General power to require information and documents<sup>33</sup>**

- (1) The Commission, an officer or an agent may by notice in writing served on a defined person require the person to do either or both of the following –
  - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purposes of the performance of the Commission's functions under this Law;
  - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purposes of the performance of the Commission's functions under this Law.
- (2) If the Commission has reasonable grounds to suspect that a person has contravened Article 5 or 15, the Commission, an officer or an agent may, by notice in writing served on that person, require the person to do either or both of the following –
  - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires for the purposes of investigating the suspected contravention;
  - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of investigating the suspected contravention.
- (3) In a case where the Commission, an officer or an agent may, by notice in writing served on a person under paragraph (1) or (2), require the person to provide information or documents, the Commission, an officer or an agent may in addition or instead require any other person (by notice in writing served on the latter person) who appears to be in possession of some or all of the information or documents to do something that the

Commission, an officer or an agent could have required the first-mentioned person to do under sub-paragraph (a) or (b) of that paragraph.

- (4) An officer or an agent may, on producing if required evidence of his or her authority, enter, at a reasonable time, any premises occupied by a person on whom a notice has been served under paragraph (1), (2) or (3), or any other premises where information or documents are kept by such person, for the purpose of obtaining there the information or documents required by that notice, putting the questions referred to in paragraph (1)(b) or (2)(b) or of exercising the power conferred by paragraph (8), as the case may be.
- (5) If the Commission, an officer or an agent serves notice on a person under paragraph (1) or (2), the Commission, officer or agent may, by the same or another notice served on the person, require the person to provide verification, in accordance with the latter notice, of any information, or documents, required from the person under paragraph (1) or (2) (as the case may be).
- (6) The Commission, an officer or an agent may by notice in writing served on a person specified in paragraph (15) require the person to provide a report, by an accountant, or other person with relevant professional skill, nominated or approved by the Commission and appointed by the person served with the notice under this paragraph, being a report –
  - (a) on, or on any aspect of, any information, documents, or questions, that the Commission, an officer or an agent could require the person, by notice under paragraph (1) or (2), to provide or answer (whether or not notice has in fact been served on the person under paragraph (1) or (2)); and
  - (b) in such form (if any) as the notice under this paragraph may specify.
- (7) If a person provides, under this Article, documents in the person's possession but claims a lien on the documents so provided, the provision of the documents shall be without prejudice to the lien.
- (8) The power under this Article to require documents to be provided includes power –
  - (a) if the documents are provided, to retain them, to take copies of them or to take extracts from them, and to require the person providing the documents, or any person who appears to possess information relating to the documents, to provide an explanation of them; or
  - (b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.
- (9) If documents provided under this Article are retained under paragraph (8)(a) the documents may be so retained –
  - (a) for a period of one year; or

- (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings,

whichever is the later.<sup>34</sup>

- (10) If the person providing a document that is retained under paragraph (8)(a) requires the document for the purpose of the person's business and requests the document (or a copy of it) from the Commission, the Commission shall supply the person with a copy of the document as soon as practicable.
- (11) If a person fails without reasonable excuse to comply with a requirement imposed on the person under this Article or obstructs an officer, or agent, exercising powers under paragraph (4), the person shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (12) Nothing in this Article shall require the disclosure or provision by a person to the Commission, an officer or an agent of information, or documents, that the person would, in proceedings in the Court, be entitled to refuse to disclose or to provide on the grounds of legal professional privilege, except, if the person is a lawyer, the name and address of his or her client.
- (13) A statement made by a person in compliance with a requirement imposed under this Article shall not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (11) or Article 38.
- (14) In this Article –

“agent” means an agent of the Commission, being an agent who has been authorized by the Commission to perform the functions set out or referred to in that provision;

“defined person” means any of the following persons –

- (a) a permit holder;
- (b) a person who was a permit holder at any time;
- (c) a person who is a director, chief executive, shareholder controller, or key person, in relation to another person who is a permit holder or was a permit holder at any time;
- (d) a person who was at any time a director, chief executive, shareholder controller, or key person, in relation to another person who is a permit holder or was a permit holder at, before or after that time;
- (e) a person who is, or was at any time, an associate in relation to a defined person within the meaning of sub-paragraph (c) or (d);
- (f) a person who is an employee of, or party to a contract for services with, another person who is a permit holder or was a permit holder at any time;
- (g) a person who was at any time an employee of, or party to a contract for services with, another person who is a permit holder or was a permit holder at, before or after that time;

- (h) a person who is an employee of a person who is a party to a contract for services with another person who is a permit holder;
- (i) a person who was at any time an employee of a person who was at that time a party to a contract for services with another person who was a permit holder at that time;
- (j) a person who at any time has been appointed a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder's affairs;

"officer" means an officer of the Commission, being an officer who has been authorized by the Commission to perform the functions set out or referred to in that provision.<sup>35</sup>

- (15) For the purposes of paragraph (6), the following persons are specified –
  - (a) a person within sub-paragraph (a) or (b) of the definition of "defined person" in paragraph (14) or a person within sub-paragraph (c) or (d) of that definition (other than as a key person);
  - (b) a person who the Commission has reasonable grounds to suspect has contravened Article 5.
- (16) For the avoidance of doubt, in sub-paragraph (d), (g) or (i) of the definition of "defined person" in paragraph (14), the reference to a person who was a permit holder includes such a person who is no longer in existence at the time when the relevant function is exercised under this Article.
- (17) For the avoidance of doubt –
  - (a) a time that is specified for the purposes of any provision of this Article may be, but is not required to be, expressed in terms of times, dates, intervals, periods or time limits; and
  - (b) a document, or information, that is specified for the purposes of any provision of this Article may be, but is not required to be, specified in terms of one or more classes or descriptions.

## **11 Investigations on behalf of the Commission<sup>36</sup>**

- (1) If it appears to the Commission desirable to do so in the interests of persons transacting insurance business with a permit holder, the Commission may appoint one or more competent persons to investigate and report to the Commission on –
  - (a) the nature, conduct or state of the permit holder's insurance business or any particular aspect of it; or
  - (b) the integrity, competence, financial standing or organization of the permit holder.<sup>37</sup>
- (2) The Commission shall give written notice of any such appointment to the permit holder concerned.<sup>38</sup>
- (3) It shall be the duty of every person who is or was a director, shareholder controller, chief executive, employee, banker, liquidator (whether or not appointed under a bankruptcy), administrator of a bankrupt permit

holder's affairs, auditor or legal adviser (subject to paragraph (9)) of a permit holder who is under investigation under paragraph (1), or any person appointed to make a report in respect of that permit holder under Article 10(6) –

- (a) to produce to the persons appointed under paragraph (1), within such time and at such place as they may require, all documents relating to the permit holder which are in his or her custody or power;
- (b) to attend before them at such time and place as they may require; and
- (c) otherwise to give them all assistance in connection with the investigation which the person is reasonably able to give,

and the persons appointed under paragraph (1) may take copies of or extracts from any documents produced to them under sub-paragraph (a).<sup>39</sup>

- (4) This Article shall apply in respect of a former permit holder as it applies to a permit holder and to any person who appears to the Commission to be acting in contravention of Article 5 or 15.<sup>40</sup>
- (5) For the purpose of exercising a power under this Article a person appointed under paragraph (1) may enter any premises occupied by a permit holder being investigated by him or her under this Article, but shall not do so without prior notice in writing unless he or she has reasonable cause to believe that if such a notice were given any documents whose production could be required under this Article would be removed, tampered with or destroyed.
- (6) A person exercising powers by virtue of an appointment under this Article shall, if so required, produce evidence of his or her authority.
- (7) Any person who –
  - (a) without reasonable excuse fails to produce any documents which it is the person's duty to produce under paragraph (3);
  - (b) without reasonable excuse fails to attend before the persons appointed under paragraph (1) when required to do so;
  - (c) without reasonable excuse fails to answer any question which is put to him or her by persons so appointed with respect to a permit holder under investigation; or
  - (d) intentionally obstructs a person in the exercise of the rights conferred by paragraph (5),

shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.<sup>41</sup>

- (8) 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 the person in any criminal proceedings except proceedings under paragraph (7) or Article 38.<sup>42</sup>
- (9) A person shall not under this Article be required to disclose any information or produce any document which the person would be entitled to refuse to disclose or produce on grounds of legal professional privilege



in proceedings in the Court, except that a lawyer may be required to furnish the name and address of his or her client.

- (10) Where any person by whom documents are required to be provided under paragraph (3) claims a lien on any such document, the production shall be without prejudice to the lien.

## 12 <sup>43</sup>

### 13 Entry and search of premises<sup>44</sup>

- (1) The Bailiff may issue a warrant under this Article if satisfied by information on oath that there are reasonable grounds for believing that there are on any premises documents whose production has been required under Article 10 and which have not been produced in compliance with the requirement.<sup>45</sup>
- (2) The Bailiff may also issue a warrant under this Article in relation to the requirement for the production of documents under Article 10 if satisfied by information on oath that there are reasonable grounds for believing that if a notice requiring production of documents under Article 10 were served it would not be complied with or that any documents to which it would relate would be removed, tampered with or destroyed.
- (3) The Bailiff may also issue a warrant under this Article in relation to the requirement for the production of documents under Article 10 if satisfied by information on oath –
- (a) that there are reasonable grounds for believing that an offence has been committed for which the penalty is imprisonment for a term of not less than 2 years and that there are on any premises documents relating to whether the offence has been committed;
  - (b) that the Commission or, as the case may be, an officer or agent, has power to require the production of documents under Article 10; and
  - (c) that there are reasonable grounds for believing that if production was so required the documents would not be produced but would be removed from the premises, hidden, tampered with or destroyed.<sup>46</sup>
- (4) A warrant under this Article shall authorize any police officer, together with any other person named in it to –
- (a) enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;
  - (b) search the premises and take possession of any documents appearing to be such documents as are mentioned in paragraph (1), (2) or (3), as the case may be, or to take, in relation to any such documents, any other steps which may appear to be necessary for preserving them or preventing interference with them;
  - (c) take copies of any such documents; and

- (d) require any person named in the warrant to provide an explanation of them or to state where they may be found.
- (5) If in the case of a warrant under paragraph (3) the Bailiff is satisfied on information on oath that there are reasonable grounds for believing that there are also on the premises other documents relevant to the investigation, the warrant shall also authorize the actions mentioned in paragraph (4) to be taken in relation to such documents.
- (6) A warrant under this Article shall continue in force until the end of the period of one month beginning with the day on which it is issued.
- (7) Any person who intentionally obstructs the exercise of any right conferred by a warrant issued under this Article or fails to comply with a requirement imposed on the person by virtue of paragraph (4)(d) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.
- (8) A person shall not under this Article be required to produce any document which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the Court, except that a lawyer may be required to furnish the name and address of his or her client.
- (9) Where any person from whose premises documents are taken under paragraph (4) claims a lien on any such document, the possession of such documents by the officer concerned and by anyone to whom the person passes them shall be without prejudice to the lien.
- (10) The power to obtain information conferred by paragraph (4)(b) 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.<sup>47</sup>

#### **14 Obstruction of investigations**

- (1) A person who knows or suspects that an investigation is being or is likely to be carried out under Article 10 or 11 shall be guilty of an offence if the person falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which the person knows or suspects are or would be relevant to such an investigation, unless the person proves that he or she had no intention of concealing facts disclosed by the documents from persons carrying out such an investigation.<sup>48</sup>
- (2) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 2 years or a fine, or both.

#### **15 Misleading statements, etc. inducing persons to enter into contracts of insurance**

- (1) Any person who, by any statement, promise or forecast which he or she knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading,

false or deceptive, induces or attempts to induce another person to enter into or offer to enter into any contract of insurance with an insurance company or to exercise, or refrain from exercising, any rights conferred by such a contract, shall be guilty of an offence and liable to imprisonment for a term not exceeding 10 years or a fine, or both.

- (2) A permit holder shall be guilty of an offence if the permit holder fails to provide the Commission with any information in his or her possession knowing or having reasonable cause to believe –
  - (a) that the information is relevant to the exercise by the Commission of its functions under this Law in relation to the permit holder; and
  - (b) that the withholding of the information is likely to result in the Commission being misled as to any matter which is relevant to and of material significance for the exercise of those functions in relation to the permit holder.
- (3) A permit holder guilty of an offence under paragraph (2) shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) In paragraphs (2) and (3) a reference to a permit holder includes a reference to a former permit holder.<sup>49</sup>

## **16 Accounting records, and duty to prepare annual financial statements**

- (1) Every permit holder shall keep accounting records which are sufficient to show and explain the permit holder's transactions and are such as to disclose with reasonable accuracy, at any time, the financial position of the permit holder at that time and enable the permit holder to prepare annual financial statements in accordance with paragraphs (2) and (3).
- (2) Every permit holder shall, for each of its financial periods, prepare financial statements which shall consist of –
  - (a) a balance sheet as at the last day of the permit holder's financial period;
  - (b) a profit and loss account for the permit holder's financial period.
- (3) The balance sheet shall give a true and fair view of the state of affairs of the permit holder as at the last day of its financial period and the profit and loss account shall give a true and fair view of the profit and loss of the permit holder for the period to which it relates.
- (4) The Commission may, if it thinks fit, waive any of the requirements of this Article in the case of any class of permit holders or in the case of a particular permit holder.
- (5) A permit holder who contravenes this Article commits an offence and is liable to imprisonment for a term not exceeding 6 months or a fine, or both.<sup>50</sup>

## **17 Appointment and qualifications of auditors<sup>51</sup>**

- (1) Subject to paragraph (2), every permit holder shall have auditors holding office for the purposes of this Law throughout the period during which it

holds a permit under this Law, except for any reasonable period elapsing between the termination of the office of one auditor and the appointment of another.

- (2) The Commission may, if it thinks fit, waive any of the requirements of this Article in the case of any class of permit holders or in the case of a particular permit holder.
- (3) An auditor for the purposes of this Law shall be a person who is qualified in terms of Article 113 of the [Companies \(Jersey\) Law 1991](#) to be appointed as auditor of a company under Article 109 of the [Companies \(Jersey\) Law 1991](#).
- (4) An auditor of a permit holder who resigns or is removed before the expiration of the auditor's term of office, or who is not reappointed on the expiration of that term, shall, within 14 days of receiving notice of the termination of his or her office as auditor, send to the Commission –
  - (a) a statement to the effect that there are no circumstances connected with ceasing to be auditor which the auditor considers should be brought to the attention of the Commission; or
  - (b) a report of any such circumstances.
- (5) If a person ceasing to hold office as an auditor fails to comply with paragraph (4), he or she shall be guilty of an offence and liable to a fine.<sup>52</sup>

## 18 Auditor's Report<sup>53</sup>

- (1) A permit holder shall submit financial statements for the period to the permit holder's auditor for audit and shall obtain an auditor's report thereon which shall comply with the requirements set out in paragraphs (2) to (5).
- (2) The auditor's report shall be addressed to the Commission and shall state whether or not the financial statements of the permit holder have been audited in accordance with approved auditing standards.
- (3) The auditor's report shall also state whether in the opinion of the auditor the financial statements of the permit holder give a true and fair view –
  - (a) in the case of the balance sheet, of the state of affairs of the permit holder at the end of the permit holder's financial period; and
  - (b) in the case of the profit and loss account, of the permit holder's profit or loss for the period to which that account relates.<sup>54</sup>
- (4) If the auditors are of opinion that –
  - (a) the permit holder has not, throughout the financial period, kept accounting records in accordance with Article 16;
  - (b) the balance sheet and the profit and loss account are not in agreement with the permit holder's accounting records and returns; or

- (c) he or she has not obtained all the information and explanations which, to the best of the auditor's knowledge and belief, are necessary for the purposes of the audit,

the auditor shall state that fact in the auditor's report.

- (5) The Commission may by notice in writing and subject to such terms and conditions as may be expressed in the notice, waive the requirements of this Article in the case of any permit holder named in the notice.

## **19 Submission of auditor's report, etc. to the Commission<sup>55</sup>**

- (1) A Category A permit holder shall submit financial statements for the period together with the auditor's report to the Commission within 6 months after the end of the financial year to which the annual financial statements relate.
- (2) A Category B permit holder shall submit financial statements for the period together with the auditor's report to the Commission within 3 months after the end of the financial year to which the annual financial statements relate.
- (3) A permit holder who fails to comply with any provision of this Article shall be guilty of an offence and liable to a fine.<sup>56</sup>
- (4) An offence under paragraph (3) may be charged by reference to a day or any longer period of time and a permit holder may be convicted of a second or subsequent offence under that paragraph by reference to any period of time following the preceding conviction for such an offence.<sup>57</sup>

## **20 Powers and duties of auditors**

- (1) The auditor shall have –
  - (a) a right of access at all reasonable times to the accounting and other records of the permit holder or former permit holder and all other documents relating to its business; and
  - (b) a right to require from the permit holder or former permit holder such information and explanations as the auditor thinks necessary for the performance of his or her duties as auditor.
- (2) The auditor shall, in preparing the auditor's report for the Commission under Article 18, carry out such enquiries and procedures as will enable him or her to form an opinion on the matters required to be stated in the report.
- (3) Any person who is a director, chief executive or shareholder controller in relation to a permit holder or former permit holder shall be guilty of an offence if he or she knowingly or recklessly makes a statement to the auditors of the permit holder or former permit holder which is false or misleading in a material particular or which falsely or misleadingly conveys or purports to convey any material information which the auditors are entitled to require in the course of their duties under this Law and which would affect what the auditor would have otherwise stated in the auditor's report.

- (4) A person who commits an offence under paragraph (3) is liable to imprisonment for a term not exceeding 2 years or a fine, or both.<sup>58</sup>

## **21 Communication with Commission by auditors and approved professionals<sup>59</sup>**

- (1) No duty to which an auditor of a permit holder or an approved professional may be subject is contravened by reason of his or her communicating in good faith to the Commission, whether or not in response to a request made by it, any information or opinion on a matter to which this Article applies and which is relevant to any function of the Commission under this Law.
- (2) In relation to an auditor of a permit holder, this Article applies to any matter of which the auditor becomes aware in his or her capacity as auditor and which relates to the business or affairs of –
- (a) the permit holder or former permit holder, as the case may be;
  - (b) a director, chief executive or shareholder controller, or former director, chief executive or shareholder controller, of a permit holder or former permit holder;
  - (c) a company that is a holding company or subsidiary in relation to a permit holder or former permit holder; or
  - (d) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder's affairs.<sup>60</sup>
- (3) In relation to an approved professional, this Article applies to any matter of which that person becomes aware in his or her capacity as the person making the report and which relates to the business or affairs of –
- (a) an applicant for a permit;
  - (b) a permit holder;
  - (c) a former permit holder;
  - (d) a director, chief executive or shareholder controller, or a proposed director, chief executive or shareholder controller, of a permit holder or an applicant for a permit;
  - (e) a former director, chief executive or shareholder controller of a permit holder or former permit holder;
  - (f) a company that is a holding company or subsidiary in relation to a person mentioned in sub-paragraphs (a) to (c); or
  - (g) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder's affairs,
- in relation to whom the report is made.<sup>61</sup>
- (4) The Minister may by Order specify circumstances in which an auditor or an approved professional is required to communicate any information or opinion to the Commission on a matter to which this Article applies, and which is relevant to any function of the Commission under this Law.

- (5) Orders under this Article may be made only –
  - (a) on the recommendation of the Commission; and
  - (b) after consultation with such bodies as appear to the Commission to represent the interests of auditors, approved professionals and permit holders.
- (6) A person who contravenes an Order made under this Article is guilty of an offence and liable to imprisonment for a term of 6 months and a fine.
- (7) In this Article –
  - “approved professional” means a person appointed to make a report as referred to in Article 6(1A)(b) or Article 10(6);
  - “auditor” includes a person who was an auditor of a permit holder or former permit holder at any time during the period when the permit was held.

## **22 List of permit holders**

- (1) The Commission shall keep a register of persons to whom permits have been granted under this Law.
- (2) The register referred to in paragraph (1) shall be in such form and contain such particulars as the Commission may from time to time determine.
- (3) The register referred to in paragraph (1) shall be kept in such place as the Commission may determine, and any person shall be permitted to inspect the register during ordinary office hours, and to take copies of any entry therein.<sup>62</sup>

## **23 Approval of directors, etc. in relation to Category B permit holders<sup>63</sup>**

- (1) Subject to paragraph (2), a permit holder to which this Article applies shall, before the end of the period of 14 days beginning with the day on which he or she becomes aware that any person has become or is about to become, or has ceased to be, a director, chief executive, key person or shareholder controller in relation to the permit holder, liquidator of the permit holder (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs, give written notice to the Commission of that fact.<sup>64</sup>
- (2) This Article applies to a Category B permit holder.
- (3) Article 6(1)(a) to (d) shall apply to a notice under paragraph (1) as it applies to an application for a permit.
- (4) A notice under paragraph (1) that a person has ceased to be a director, chief executive, key person, or shareholder controller, in relation to a permit holder, or the permit holder’s liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs shall include a statement of the reasons for the change.<sup>65</sup>
- (5) The Commission may, by notice in writing, require a permit holder to provide, by a specified date, specified information or documents (or

information or documents within specified classes) about a person in respect of whom –

- (a) notice has been given under paragraph (1) that he or she has become or is about to become a director, chief executive, key person, or shareholder controller, in relation to the permit holder or liquidator (whether or not appointed under a bankruptcy) or, where the person is bankrupt, the administrator of the bankrupt permit holder's affairs; or
- (b) notice has been given under Article 25(3) or (5) that he or she has been appointed as the permit holder's actuary,

or about any other matter, in order for the Commission to decide whether to serve a notice of objection under paragraph (6).<sup>66</sup>

- (5A) Notice under paragraph (5) may include a requirement that the permit holder provide verification, in accordance with the notice, of any information or documents referred to in that paragraph.<sup>67</sup>
- (6) If it appears to the Commission at any time, on the information before it (and having regard particularly to the criteria for refusal of an application set out in Article 7(4)), that a person who –
  - (a) has become or is about to become a director, chief executive, key person of any particular class, or shareholder controller, in relation to the permit holder; or
  - (b) has been appointed as the permit holder's actuary or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder's affairs,

is not a fit and proper person to be (as the case requires) a director, chief executive, key person of that class, or shareholder controller, in relation to the permit holder, or the permit holder's actuary or liquidator (whether or not appointed under a bankruptcy), or the administrator of the bankrupt permit holder's affairs, the Commission shall serve on the person and on the permit holder a written notice of objection, directing that the person shall not, as the case requires –

- (i) continue to be, or become, a director, chief executive, key person of the particular class, or shareholder controller, in relation to the permit holder, or
  - (ii) continue to be the permit holder's actuary or liquidator or the administrator of the bankrupt permit holder's affairs.<sup>68</sup>
- (7) If a permit holder fails to give notice under paragraph (1) or Article 25(3) or (5) about a person or fails to comply with a notice under paragraph (5) about a person, the Commission may serve on the person, and on the permit holder, a written notice of objection, directing that the person in question shall not, as the case requires –
  - (a) continue to be, or become, such a director, chief executive, key person of the particular class, or shareholder controller in relation to the permit holder; or



- (b) continue to be the permit holder's actuary or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder's affairs.<sup>69</sup>
- (8) A permit holder who –
  - (a) fails to give notice in accordance with paragraph (1); or
  - (b) fails to comply with the requirements of a notice under paragraph (5),shall be guilty of an offence.
- (9) A person who –
  - (a) becomes (as the case requires) a director, chief executive, key person of a particular class, or shareholder controller, in relation to a permit holder; or
  - (b) continues to be (as the case requires) a director, chief executive, key person of a particular class, or shareholder controller, in relation to a permit holder or continues to be a permit holder's actuary or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder's affairs,following service on him or her of a notice of objection under paragraph (6) or (7) in that connection, shall be guilty of an offence.<sup>70</sup>
- (10) A person guilty of an offence under paragraph (8) or (9) shall be liable to imprisonment for a term of 6 months and to a fine.

## **24 Solvency margins<sup>71</sup>**

- (1) Every Category B permit holder shall maintain a margin of solvency of such amount as may be prescribed by or determined under, and in accordance with such provisions as may be contained in Orders made by the Minister, on the recommendation of the Commission, for the purposes of this Article.
- (2) Orders under paragraph (1) may make provision for different margins for long term and for general business, and for the purpose of paragraph (3) a permit holder's margin of solvency shall be the aggregate of the margins applicable to the permit holder.
- (3) A permit holder shall notify the Commission if the margin of solvency prescribed for it is not at any time maintained.
- (4) If the margin of solvency of a permit holder falls below such amount as is prescribed or determined for the purposes of paragraph (1), the Commission may give notice in writing to the permit holder, requiring the permit holder to submit a short term financial scheme for the purpose of remedying the shortfall within 30 days of the issue of the notice or such longer period as the Commission may permit.<sup>72</sup>
- (5) A scheme submitted in compliance with paragraph (4) may include proposals for –

- (a) the appointment of a special manager acceptable to the Commission;
  - (b) the discontinuance, in whole or in part, of the business of the permit holder.
- (6) The Commission may accept a scheme submitted in compliance with paragraph (4) or, if it considers that the scheme is inadequate, it may require modifications to be negotiated between the Commission and the permit holder until the Commission is satisfied with the scheme.
- (7) A permit holder shall give effect to any scheme accepted by the Commission.
- (8) If a permit holder –
  - (a) fails or is unable to submit a scheme which is accepted by the Commission;
  - (b) fails to maintain the prescribed margin of solvency; or
  - (c) contravenes paragraph (3),the Commission may apply to the court for a winding-up order pursuant to Article 155 of the [Companies \(Jersey\) Law 1991](#).
- (9) A special manager appointed pursuant to this Article shall not be liable in damages for anything done or omitted in the discharge or purported discharge of his or her functions under the scheme unless it is shown that the act or omission was in bad faith.
- (10) In this Article a reference to a permit holder includes a reference to a former permit holder.
- (11) The Commission may by notice in writing and subject to such terms and conditions as may be expressed in the notice, waive the requirements of this Article in the case of any permit holder named in the notice.
- (12) One or more conditions to which a Category B permit is subject by virtue of Article 7 may apply, to the holder of the permit, a margin of solvency different from that prescribed for (or otherwise applying to) the holder of the permit by Order made under paragraph (1).<sup>73</sup>
- (13) While one or more such conditions apply such a margin of solvency to a permit holder –
  - (a) any Order made under paragraph (1) shall not apply to the permit holder; and
  - (b) this Article shall apply to the permit holder as if any reference to the margin of solvency prescribed for (or otherwise applying to) the permit holder by Order made under paragraph (1) were a reference to the margin of solvency applying under the conditions.<sup>74</sup>

## 25 Appointment of actuary where Category B permits are held<sup>75</sup>

- (1) A holder of a Category B permit to undertake long term business under this Law shall appoint as the holder's actuary a person who is qualified in terms of paragraph (2).

- (2) A person shall be qualified for appointment under paragraph (1) if –
  - (a) the person is a Fellow of the Institute of Actuaries;
  - (b) the person is a Fellow of the Faculty of Actuaries in Scotland; or
  - (c) the person satisfies the Commission that he or she has such actuarial qualifications and experience as are appropriate for an actuary under this Law.
- (3) Within 2 weeks of making any appointment under paragraph (1), the permit holder shall notify the Commission in writing of the appointment.
- (4) A person appointed under paragraph (1) shall have such duties and responsibilities as may be prescribed and where such person contravenes or fails to comply with any Order made under this paragraph, the Commission may, by notice in writing, require the permit holder to terminate his or her appointment within such period as the Commission may specify in the notice.<sup>76</sup>
- (5) When any appointment under paragraph (1) comes to an end, the permit holder shall –
  - (a) within 2 weeks, notify the Commission in writing of the termination of the appointment and of the reasons for the termination; and
  - (b) within 4 weeks, make a new appointment under paragraph (1).
- (6) The Commission may, by notice in writing, require the permit holder to cause the person appointed under paragraph (1) to take such action as the Commission may specify in the notice within such period as the Commission may specify in the notice.<sup>77</sup>
- (7) If a permit holder fails to comply with a requirement specified in paragraph (4), (5)(b) or (6) within the relevant time period he or she shall not effect any contract which constitutes long term business until he or she has complied with it.<sup>78</sup>
- (8) A permit holder who contravenes paragraph (5) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.

## **26 Assets of Category B permit holders attributable to long term business**

- (1) Every holder of a Category B permit carrying on long term business shall keep the holder's accounts in respect of such business separately from accounts kept in respect of any other business and shall maintain books of accounts and other records sufficient to ensure that the assets in the holder's long term business fund and the liabilities of the holder's long term business can be readily identified at any time.
- (2) All receipts from such a permit holder's long term business shall –
  - (a) be kept separately from all other assets in the permit holder's possession or control;
  - (b) be lodged in a special fund, referred to in this Law as the permit holder's "long term business fund"; and

- (c) subject to paragraph (3), not be applied to any purpose other than the purposes of the permit holder's long term business.
- (3) Paragraph (2)(c) shall not apply to any portion of the assets which is for the time being certified by the permit holder's actuary as exceeding the liabilities (as so certified) of the permit holder's long term business, provided that the application of funds in question does not have the effect of contravening Article 24(1).
- (4) No transfer of assets in a permit holder's long term business fund, other than assets to which paragraph (2)(c) applies, shall take place without the authority of a resolution of the permit holder's directors and the written consent of its actuary.
- (5) Any mortgage, charge, lien or other right or security which would otherwise (or might otherwise) have the effect of bringing about a contravention of paragraph (2)(c) shall be void to the extent that it purports to have such effect.
- (6) A permit holder who contravenes any of paragraphs (1) to (4) shall be guilty of an offence and liable to a fine.

## **27 Transfer of insurance business**

Schedule 2 shall have effect to regulate any transfer of insurance business from a permit holder to –

- (a) an insurance company; or
- (b) another permit holder.<sup>79</sup>

## **28 Location of assets<sup>80</sup>**

- (1) The Commission may, in writing, direct a permit holder or former permit holder to maintain in Jersey, to the satisfaction of the Commission, or to transfer to and keep in the custody of a bank specified in the direction, assets of such value and description as may be specified in the direction.
- (1A) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.<sup>81</sup>
- (1B) The power to give directions under this Article shall include the power by direction to vary a direction given under this Article.<sup>82</sup>
- (2) Assets maintained in Jersey or kept in the custody of a bank pursuant to a direction under paragraph (1) shall not, so long as the direction is in force –
  - (a) cease to be so maintained in accordance with the direction;
  - (b) be removed from the bank; or
  - (c) be made the subject of any mortgage, charge or lien,except with the prior written authorization of the Commission.
- (3) Any person who fails to comply with a direction under paragraph (1) or who contravenes paragraph (2) shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.<sup>83</sup>

- (4) Any mortgage, charge or lien purportedly created by a permit holder in contravention of paragraph (2) shall be ineffective against any claim by the liquidator (whether or not appointed under a bankruptcy), by the administrator of the bankrupt permit holder's affairs or by any creditor of the permit holder.<sup>84</sup>

## **29 Restriction on disclosure of information**

- (1) Except as provided in paragraph (2) and in Articles 30, 31 and 32 –
  - (a) no person who under or for the purposes of this Law receives information relating to the business or other affairs of any person; and
  - (b) no person who obtains any such information directly or indirectly from a person who has received it as aforesaid,shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received as aforesaid.
- (2) This Article does not apply to information which –
  - (a) at the time of the disclosure, is or has already been made available to the public from other sources; or
  - (b) is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
- (3) Any person who discloses information in contravention of this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine or both.

## **30 Disclosure facilitating discharge of functions by Commission**

- (1) Article 29 does not preclude the disclosure of information by or to any person in any case in which disclosure is for the purpose of enabling or assisting any of the following –
  - (a) the Commission or any person acting on its behalf;
  - (b) any person appointed under an enactment by any of the following –
    - (i) the Commission,
    - (ii) the Court, on the application of the Commission,
    - (iii) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,to discharge the Commission's functions or that person's functions under this Law or under any other enactment.<sup>85</sup>
- (2) Article 29 does not preclude the disclosure of information by the Commission to the auditor of –
  - (a) a permit holder;

- (b) a former permit holder; or
  - (c) a person who appears to the Commission to be acting or to have acted in contravention of Article 5,
- if it appears to the Commission that disclosing the information would be in the interests of policy holders or potential policy holders.<sup>86</sup>
- (3) <sup>87</sup>

### **31 Disclosure facilitating discharge of functions by Viscount or others**

- (1) Article 29 does not preclude the disclosure of information by the Commission to –
  - (a) the Viscount;
  - (b) the Comptroller and Auditor General for the purpose of enabling or assisting the carrying out of any of the Comptroller and Auditor General's functions in relation to the Commission;
  - (c) any person for the purpose of enabling or assisting that person to exercise that person's statutory functions in relation to any person or class of person in respect of whom the Commission has or had statutory functions; or
  - (d) any person for the purpose of enabling or assisting that person to exercise that person's statutory control functions in relation to any person or class of person in respect of whom the Commission does not have statutory functions.<sup>88</sup>
- (1A) In paragraph (1)(d), "statutory control functions" means functions conferred by or under an enactment on any person which requires or enables that person to issue a licence, register, or give consent or any other form of authorization or permission to or in respect of any person or class of persons, including any ancillary functions related thereto, for such purposes as may be prescribed or specified (as the case may be) under that enactment.<sup>89</sup>
- (2) Article 29 does not preclude the disclosure of information for the purpose of enabling or assisting a relevant supervisory authority to exercise any of its supervisory functions.<sup>90</sup>
- (2A) Without prejudice to the generality of paragraph (1)(c), Article 29 does not preclude the disclosure of information by the Commission to the Office of the Financial Services Ombudsman or to an Ombudsman, within the meaning of the [Financial Services Ombudsman \(Jersey\) Law 2014](#) –
  - (a) to comply with a duty of the Commission under Article 20 of that Law; or
  - (b) for the purpose of enabling or assisting that Office or Ombudsman to exercise any function under that Law (including the raising of a levy).<sup>91</sup>
- (3) Subject to paragraphs (4) to (6), Article 29 does not preclude the disclosure of information by the Commission to any of the following organizations or persons –

- (a) the ESAs;
  - (b) the ESRB; or
  - (c) a supervisor of a securities market.<sup>92</sup>
- (3A) Article 29 does not preclude the disclosure of information by the Commission to a pension supervisor for the purpose of enabling or assisting a pension supervisor to exercise any of its supervisory functions.<sup>93</sup>
- (4) The Commission shall not disclose information under paragraph (3) unless satisfied that –
- (a) the purpose of the disclosure is in order to assist the relevant organization or person to whom it is disclosed, in the exercise of any of its functions; and
  - (b) that organization or person will treat the disclosed information with appropriate confidentiality.<sup>94</sup>
- (5) In deciding whether to disclose information under paragraph (3), the Commission may take the following factors (among others) into account –
- (a) whether corresponding disclosure of information would be given by the relevant organization or person, if such information were requested by the Commission;
  - (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in Jersey;
  - (c) the seriousness of the case and its importance in Jersey;
  - (d) whether the information could be obtained by other means; and
  - (e) whether it is otherwise appropriate in the public interest to disclose the information.<sup>95</sup>
- (6) The Commission may refuse to disclose information under paragraph (3) unless the relevant organization or person undertakes to make such contribution towards the costs of the disclosure as the Commission considers appropriate.<sup>96</sup>

## **32 Other permitted disclosures**

- (1) Article 29 does not preclude the disclosure of information –
- (a) with a view to the investigation of a suspected offence or the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Law or not;
  - (b) in connection with any other proceedings arising out of this Law;
  - (c)
  - (d) to a person by the Commission showing whether or not any person holds or formerly held a permit under this Law, including any conditions to which that permit is or was formerly subject under Article 7(1) or 7(5).<sup>97</sup>

- (2) Article 29 does not preclude the disclosure by the Commission to the Attorney General or to a police officer of –
- (a) information obtained by virtue of any of Articles 10 to 13; or
  - (b) information in the possession of the Commission as to any matter in relation to which the powers conferred by any of those Articles are exercisable.<sup>98</sup>
- (3) Information disclosed under paragraph (2) may only be disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence in Jersey or a prosecution in Jersey or, at the discretion of the Attorney General, a suspected offence or prosecution in a country or territory outside Jersey.<sup>99</sup>
- (4) Article 29 does not preclude the disclosure of information by the Commission to any person or body responsible for a compensation scheme in relation to one or more insurance businesses (whether in Jersey or in a country or territory outside Jersey) if –
- (a) it appears to the Commission that disclosing the information would enable or assist the recipient of the information or the Commission to discharge its functions; and
  - (b) the recipient of the information gives to the Commission prior to disclosure a written undertaking that the information will not be further disclosed without the prior consent of the Commission.<sup>100</sup>
- (4A) Subject to paragraph (5), Article 29 does not preclude the disclosure of information by the Commission to the Society of Lloyd's (being organs constituted by or under the Lloyd's Act 1982 of the United Kingdom) for the purpose of enabling or assisting that Society to exercise any of its supervisory functions.<sup>101</sup>
- (5) No information shall be disclosed under or by virtue of paragraph (4A), (6) or (7) or Articles 30(1)(a), 31(1)(b), (c) or (d), 31(2), 31(3), 31(3A) or 33(1)(f) unless the Commission or person, as the case requires, making the disclosure ("the disclosing party") is satisfied that the person or body to whom or which disclosure is made complies with or will comply with any conditions to which the disclosing party may, in its discretion, subject such disclosure.<sup>102</sup>
- (6) Article 29 does not preclude the disclosure of information by the Commission to any person acting on behalf of an international body or organization where that body's or organization's functions include the assessment of Jersey's compliance with international standards relating to regulation of the financial sector and the disclosure is for the purpose of enabling or assisting that body or organization to discharge those functions.<sup>103</sup>
- (7) Article 29 does not preclude the disclosure of information by any of the following –
- (a) the Commission;
  - (b) a person appointed under an enactment by any of the following –
    - (i) the Commission,
    - (ii) the Court, on the application of the Commission,



- (iii) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,

to any person or body (whether in Jersey or elsewhere) responsible for setting standards of conduct for any profession and having powers to discipline persons who fail to meet those standards for the purpose of enabling or assisting that person or body to exercise any of its supervisory functions.<sup>104</sup>

### **32A Regulation making power to amend disclosure provisions<sup>105</sup>**

The States may by Regulations amend Articles 30, 31 and 32 by –

- (a) adding further persons or bodies to or by whom disclosure may be made and specifying in each case the purpose for which disclosure of information may be made; and
- (b) amending the circumstances in which disclosure may be made to whom or by any person or body specified in those Articles, including the purposes for which and conditions in which such disclosure may be made.

### **33 Co-operation with relevant supervisory authority<sup>106</sup>**

- (1) The following powers may be exercised (by the officer or person specified in the relevant provision) in order to assist a relevant supervisory authority –
  - (a) the power to refuse to grant a permit under Article 7(1) or to cancel a permit under Article 7(9);
  - (b) the power to attach or vary conditions of a permit pursuant to Article 7(1) to (6);
  - (c) the powers relating to information and documents under Article 10;
  - (d) the powers under Article 11;
  - (e) the powers under Article 13;
  - (ea) the power to give a direction under Article 36;
  - (eb) on the application of the Commission, the powers under Article 36B;
  - (f) communication by the Commission to the relevant supervisory authority of information that is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers.<sup>107</sup>
- (2) The Commission shall not exercise the power referred to in paragraph (1)(f) unless satisfied that the relevant supervisory authority will treat the information communicated with appropriate confidentiality and that –
  - (a) the power is exercised in order to assist the authority in the exercise of its supervisory functions; or

- (b) the exercise of the power has been requested by the authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its supervisory functions.
- (3) The other powers referred to in paragraph (1) shall not be exercised by virtue of this Article unless the Commission is satisfied that the exercise has been requested by the relevant supervisory authority and requested only for the purposes of obtaining assistance for the authority in the exercise of one or more of its supervisory functions.
- (4) In deciding whether to exercise a power by virtue of this Article, the following factors (among others) may be taken into account –
  - (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 in Jersey or involves the assertion of a jurisdiction not recognized by Jersey;
  - (c) the seriousness of the case and its importance in Jersey and whether the assistance could be obtained by other means;
  - (d) whether it is otherwise appropriate in the public interest to give the assistance.
- (5) The exercise of powers by virtue of this Article may be refused unless the relevant supervisory authority undertakes to make such contribution towards the costs of its exercise as the Commission considers appropriate.
- (6) The Commission shall not disclose to a relevant supervisory authority or to any other person any information obtained in the exercise of a power by virtue of this Article unless the Commission is satisfied that any conditions imposed on the disclosure will be complied with.
- (7) For the purposes of this Article, a reference –
  - (a) in Article 10 or 11(4) to a contravention of Article 5 or 15; or
  - (b) in Article 13(3) to an offence for which the penalty is imprisonment for a term of not less than 2 years,shall include a reference to a contravention (committed at any time, including a time before the enactment of this Law) of a law of a country or territory outside Jersey constituted by an act, or omission, that, if it arose in Jersey, would constitute (at the time when the relevant request referred to in paragraph (3) was received) a contravention of Article 5 or 15 (as the case requires), as in force at the latter time, or (as the case requires) would constitute, at the latter time, an offence for which the penalty is imprisonment for a term of not less than 2 years.<sup>108</sup>
- (8) For the purposes of this Article, a reference (however expressed or implied) in Article 5 or 15 (or in any provision necessary for the interpretation of that Article) to Jersey, or to any class of person, any qualification or any provision, shall be construed, in the application of that Article to a contravention of a law of a country or territory outside Jersey, as a reference to that country or territory, or to an equivalent class

of person, qualification or provision, in terms of the law of that country or territory.

- (9) The exercise of a power under any provision shall be no less an exercise of that power under that provision because it is exercised by virtue of this Article, and this Law (and any other law that applies when a power is exercised directly under that provision) applies also when that power is exercised by virtue of this Article.

### **34 Information supplied to the Commission by relevant overseas authority<sup>109</sup>**

Articles 29 to 32 apply also to information supplied to the Commission for the purpose of its functions under this Law by a relevant supervisory authority, any of the ESAs, the ESRB or a supervisor of a securities market.

### **35 Control of advertising**

- (1) The Minister may, on the recommendation of the Commission, make Orders relating to the issue, form and content of advertisements for insurance.<sup>110</sup>
- (2) Orders made under this Article may make different provision for different cases and, without prejudice to the generality of paragraph (1), may in particular –
- (a) prohibit the issue of advertisements for insurance of any description (whether by reference to their contents, to the persons by whom they are issued or otherwise);
  - (b) make provision with respect to matters which must be, as well as matters which may not be, included in advertisements for insurance;
  - (c) provide for exemptions from any prohibition or requirement imposed by the Orders, including exemptions by reference to a person's membership of a class whose membership is determined otherwise than by the Minister or the Commission.<sup>111</sup>
- (3) Any permit holder who issues in Jersey or elsewhere, or, subject to paragraph (4), any other person who issues in Jersey, an advertisement for insurance, the issue of which is prohibited by an Order made under this Article or which does not comply with any requirements imposed by such an Order shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both.
- (4) A person whose business it is to publish or arrange for publication of advertisements shall not be guilty of an offence under this Article if he or she proves that he or she received the advertisement in question for publication in the ordinary course of his or her business, that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or her or by any person under his or her direction or control and that he or she did not know and had no reason for believing that publication of the advertisement would constitute an offence.

- (5) In this Article and in Article 36 –

“advertisement” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by the exhibition of photographs or cinematograph films or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly;

“advertisement for insurance” means an advertisement inviting persons to enter into or to offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly or indirectly to persons entering into or offering to enter into such contracts shall be treated as an advertisement inviting them to do so.

- (6) For the purposes of this Article –

(a) an advertisement for insurance issued or caused to be issued by any person by way of display or exhibition in a public place shall be treated as issued or caused to be issued by the person on every day on which he or she causes or permits it to be displayed or exhibited;

(b) an advertisement for insurance inviting the transaction of insurance business with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued to the order of that person.

- (7) For the purposes of this Article an advertisement for insurance issued outside Jersey shall be treated as issued in Jersey if it is directed to persons in Jersey or is made available to them otherwise than in a publication, broadcast or other means of communication that is principally directed or made available to persons outside Jersey.<sup>112</sup>

### **36 Power to issue directions<sup>113</sup>**

- (1) If it appears to the Commission that –

(a) any requirements in relation to a person’s holding of a permit are no longer satisfied;

(b) it is in the best interests of persons with whom a permit holder has transacted or may transact insurance business, or in the best interests of creditors of a permit holder;

(c) it is in the best interests of one or more permit holders;

(d) it is desirable in order to protect the reputation and integrity of Jersey in financial and commercial matters; or

(e) it is in the best economic interests of Jersey,

the Commission may, whenever it considers it necessary, give, by notice in writing, such directions as it may consider appropriate in the circumstances.

- (2) Without prejudice to the generality of paragraph (1), a direction under this Article may –

- (a) require anything to be done or not to be done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;
  - (b) require that a director, chief executive, shareholder controller, key person, or person having functions, in relation to a permit holder, the permit holder's liquidator (whether or not appointed under a bankruptcy) or the administrator of a bankrupt permit holder's affairs, be removed or removed and replaced by another person acceptable to the Commission;
  - (c) require that any individual –
    - (i) not perform a specified function (or any function at all) for,
    - (ii) not engage in specified employment (or any employment at all) by, or
    - (iii) not hold a specified position (or any position at all) in the business of,a specified permit holder (or any permit holder at all);
  - (d) require a permit holder or former permit holder to cease operations and to wind up his or her affairs, in accordance with such procedures and directions as may be specified in the direction, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the permit holder or former permit holder;
  - (e) prohibit the issue, re-issue or continuance of a particular advertisement for insurance;
  - (f) require that any particular advertisement for insurance be modified in a specified manner;
  - (g) prohibit the issue, re-issue or continuance of advertisements (for insurance) of any description; or
  - (h) require that advertisements (for insurance) of any description be modified in a specified manner.<sup>114</sup>
- (3) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.
  - (4) The power to give directions under this Article shall include the power by direction to vary or withdraw any direction, as well as the power to issue further directions.<sup>115</sup>
  - (5) Any person to whom a direction is given under this Article may apply to the Commission to have it withdrawn or varied and the Commission shall withdraw or vary the direction in whole or in part if it considers that there are no longer any grounds under paragraph (1)(a) to (e) that justify the direction or part of the direction concerned.
  - (6) If the Commission refuses an application under paragraph (5), or grants such an application only in part, it shall give notice in writing of that fact to the applicant.

- (7) A person who fails to comply with a direction in respect of which notice is given under paragraph (1) to the person shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (8) A person who allows an individual to perform a function, engage in employment or hold a position where the person knows that such performance, engagement or holding is in contravention of a direction that makes a requirement referred to in paragraph (2)(c) shall be guilty of an offence and liable to a term of imprisonment for 2 years and a fine.<sup>116</sup>
- (9) The record of the conviction of any person for an offence under paragraph (7) or (8) shall be admissible in any civil proceedings as evidence of the facts constituting the offence.<sup>117</sup>

### **36A Injunctions and remedial Orders<sup>118</sup>**

- (1) Where, on the application of the Commission, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) –
  - (a) Article 5;
  - (b) any condition prescribed or attached under Article 7;
  - (c) any provision of Article 15, 35 or 38;
  - (d) any direction given under Article 36; or
  - (e) any Regulations or Order made under this Law,the Court may if it thinks fit issue an injunction restraining that person from committing (or, as the case may be, continuing or repeating) the contravention.
- (2) Where, on the application of the Commission, the Court is satisfied that any person has committed a contravention of a type referred to in paragraph (1), and that there are steps which could be taken to remedy the contravention, the Court may make an order requiring that person, or any other person who appears to the Court to have been knowingly concerned, to take such steps as the Court may direct to remedy the contravention.

### **36B Powers of intervention<sup>119</sup>**

- (1) Where, on the application of the Commission, the Court is satisfied that –
  - (a) a permit holder –
    - (i) is not, in terms of Article 7(4)(b), a fit and proper person to carry on insurance business that the permit holder is purporting to carry on,
    - (ii) is not fit to carry on insurance business to the extent to which the permit holder is purporting to carry it on, or
    - (iii) has committed or is likely to commit a contravention of a type referred to in Article 36A(1); and

- (b) it is desirable for the Court to act under this paragraph for the protection of persons with whom the permit holder has transacted or may transact insurance business,

the Court may, as it thinks just, make an order making the permit holder's business subject to such supervision, restraint or conditions from such time and for such periods as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.<sup>120</sup>

- (2) If, on an application made under paragraph (1), the Court is satisfied that a permit holder has –
  - (a) by entering into any transaction with another person, contravened Article 5;
  - (b) by entering into any transaction with another person, contravened any condition applicable to the permit holder (whether attached to the permit holder's permit or prescribed by Order) or any direction given to the permit holder under Article 36;
  - (c) contravened Article 15 with the result that another person has been induced to enter into a transaction with the permit holder or with a third person; or
  - (d) entered into any transaction with another person who was induced to enter into the transaction as a result of the contravention of Article 15 by a third person,

the Court may order any one or more of those persons (and any other person who appears to the Court to have been knowingly concerned in the contravention) to take such steps as the Court may direct for restoring one or more of the persons to the position in which they were before the transaction was entered into.<sup>121</sup>

- (3) Without prejudice to the generality of paragraph (1) or (2), an order issued under either of those paragraphs may include a requirement that all assets, or all assets of a specified description, which, at any time while the requirement is in force when the permit holder carries on insurance business –
  - (a) belong to the permit holder concerned; or
  - (b) belong to persons with whom the permit holder is transacting insurance business and that are held by or to the holder's order,

shall be transferred to and held by a person whose appointment is approved by the Court (in this Article referred to as an "appointed person").

- (4) Where a requirement of a type referred to in paragraph (3) is imposed under this Article, it shall be the duty of the permit holder concerned to transfer the assets to the appointed person and to give the appointed person all such other assistance as may be required to enable the appointed person to discharge his or her functions in accordance with this requirement.
- (5) Assets held by an appointed person in accordance with a requirement of a type referred to in paragraph (3) shall not be released or dealt with except

in accordance with directions given by the Court or in such circumstances as may be specified by it.

- (6) An order including a requirement of a type referred to in paragraph (3) may relate to assets in a country or territory outside Jersey.
- (7) The provisions of this Article shall be without prejudice to any right of any aggrieved person to bring proceedings directly in respect of any right such person may otherwise have independently of the Commission.

### **37 Compensation schemes**

- (1) The States may by Regulations establish in relation to any insurance business activity, schemes for compensating policy holders in cases where permit holders or former permit holders are unable or likely to be unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their insurance business activities.<sup>122</sup>
- (2) Without prejudice to the generality of paragraph (1), Regulations may in particular make provision –
  - (a) for levies to be imposed on permit holders for the purpose of meeting expenses incurred, or expected to be incurred including expenses related to establishing the scheme and paying compensation;
  - (b) for the procedure to be followed in making a claim;
  - (c) for making interim payments before a claim is finally determined;
  - (d) limiting the amount payable on a claim to a specified maximum amount or a maximum amount calculated in a specified manner;
  - (e) for payment to be made, in specified circumstances, to a person other than the claimant;
  - (f) for the determination and regulation of matters relating to the scheme by any specified person;
  - (g) as to the effect of a payment of compensation under the scheme in relation to rights or obligations arising out of the claim against a permit holder or former permit holder in respect of which the payment was made;
  - (h) for conferring on any person managing the scheme a right of recovery against a permit holder or former permit holder.<sup>123</sup>

## **PART 3**

### **OFFENCES AND LEGAL PROCEEDINGS**

### **38 False information<sup>124</sup>**

- (1) Any person who knowingly or recklessly provides the Commission or any other person entitled to information under this Law with information



that is false or misleading in a material particular shall be guilty of an offence if the information is provided –

- (a) in purported compliance with a requirement imposed under this Law or any Order made thereunder; or
  - (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Commission for the purpose of carrying out its functions under this Law.
- (2) Any person who knowingly or recklessly provides the Commission or any other person with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application for a permit under this Law.
- (3) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term not exceeding 5 years or a fine, or both.

### **39 Legal proceedings<sup>125</sup>**

- (1) In any proceedings, a certificate purporting to be signed on behalf of the Commission and certifying –
- (a) that a particular person is or is not a permit holder or was or was not a permit holder at a particular time;
  - (b) the date on which a particular permit holder or former permit holder was granted a permit or ceased to hold a permit;
  - (c) whether or not a particular permit is or was granted subject to conditions,
- shall be admissible in evidence.
- (2) A certificate purporting to be signed as mentioned in paragraph (1) shall be deemed to have been duly signed unless the contrary is shown.
- (3) Where an offence under this Law committed by a limited liability partnership or company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the company;
  - (aa) a liquidator (whether or not appointed under a bankruptcy) of such a person or an administrator of such a bankrupt person's affairs; or
  - (b) any person purporting to act in any such capacity,
- the person shall also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence.<sup>126</sup>
- (4) Where the affairs of a company are managed by its members, paragraph (3) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the company.<sup>127</sup>

- (5) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.<sup>128</sup>
- (6) Nothing in paragraph (5) affects the operation of paragraph (3) or (4).<sup>129</sup>
- (7) For the purposes of this Article, a person shall be deemed to be a director of a company if he or she occupies in relation thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions the directors of the company or any of them act:  
  
Provided that a person shall not, by reason only that the directors of a company act on advice given by him or her in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.
- (8) No proceedings for an offence under this Law shall be instituted except by or with the consent of the Attorney General.

## PART 4

### MISCELLANEOUS AND SUPPLEMENTAL

#### **40 Insurance contracts effected in contravention of Article 5<sup>130</sup>**

- (1) Subject to paragraph (3), a contract of insurance entered into by a person in the course of carrying on insurance business in contravention of Article 5 shall be unenforceable against the other party and that party shall be entitled to recover any money or other property paid or transferred by him or her under the contract, together with compensation for the loss sustained by him or her as a result of having parted with it.
- (2) The compensation recoverable under paragraph (1) shall be such as the parties may agree or as a court may, on the application of either party, determine.
- (3) A court may allow a contract to which paragraph (1) applies to be enforced or money or property paid or transferred under it to be retained if it is satisfied –
  - (a) that the person carrying on insurance business reasonably believed that his or her entering into the contract did not constitute a contravention of Article 5; and
  - (b) that it is just and equitable for the contract to be enforced or, as the case may be, for the money or property paid or transferred under it to be retained.
- (4) Where a person elects not to perform a contract which by virtue of this Article is unenforceable against him or her or by virtue of this Article recovers money or property paid or transferred under a contract, the person shall not be entitled to any benefits under the contract and shall repay any money and return any other property received by him or her under the contract.

- (5) Where any property transferred under a contract to which this Article applies has passed to a third party the references to that property in this Article shall be construed as references to its value at the time of its transfer under the contract.
- (6) A contravention of Article 5 shall not make a contract of insurance illegal or invalid to any greater extent than is provided in this Article; and a contravention of that Article in respect of a contract of insurance shall not affect the validity of any re-insurance contract entered into in respect of that contract.

#### **41 Regulations and Orders<sup>131</sup>**

- (1) The Minister may, on the recommendation of the Commission, by Order make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for prescribing any matter which is to be prescribed under this Law.<sup>132</sup>
- (2) <sup>133</sup>
- (3) Regulations or an Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or Minister (as the case requires) to be necessary or expedient for the purposes of the Regulations or Order.<sup>134</sup>
- (4) The power to make Orders, or the power to make Regulations, under this Law may be exercised –
  - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
  - (b) so as to make, as respects the cases in relation to which it is exercised –
    - (i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of the Order or Regulations,
    - (iii) any such provision either unconditionally or subject to any specified condition.<sup>135</sup>

#### **42 Codes of Practice**

- (1) The Commission may, after consultation with such persons as appear to be representative of the interests concerned –
  - (a) prepare and issue a code of practice setting out the principles and detailed requirements that must be complied with in the conduct of insurance business;

- (b) revised any such code by revoking, varying, amending or adding to the provisions of the code.<sup>136</sup>
- (2) The Commission shall cause any code prepared under this Article to be printed and distributed, and may make such arrangements as it thinks fit for its distribution, including causing copies to be put on sale to the public at such price as the Commission considers reasonable.
- (3) The contravention of a code of practice –
  - (a) may lead the Commission to exercise its powers under this Law or any other enactment applicable to such contravention; but
  - (b) otherwise does not of itself render a person liable to proceedings of any kind or invalidate any transaction.<sup>137</sup>
- (4) In determining whether a person's conduct amounts to a contravention of any requirement in this Law or any Order or Regulations made under it –
  - (a) non-compliance by the person with any requirement of a code issued under this Article may be relied on as tending to establish liability; and
  - (b) compliance by the person with any requirement of such a code may be relied on as tending to negative liability.<sup>138</sup>
- (5) Any provision of a code issued under this Article which appears to a court conducting civil proceedings to be relevant to any question arising in those proceedings may be taken into account in determining that question.
- (6) In this Article, references to the Commission preparing a code include references to the Commission adopting, with or without modifications, a code prepared by any other person, whether within or outside Jersey.<sup>139</sup>

#### **43 Public statement<sup>140</sup>**

- (1) The Commission may issue a public statement concerning a person if that person appears to the Commission to have contravened any of the following –
  - (a) Article 5;
  - (b) Article 7;
  - (c) Article 15;
  - (d) Article 35;
  - (e) Article 36;
  - (f) Article 38;
  - (g) a Regulation, or an Order, made under this Law;
  - (h) a code of practice.<sup>141</sup>
- (2) The Commission may issue –
  - (a) a public statement with respect to, or setting out, any direction that the Commission has given under Article 28 or 36;

- (b) a public statement with respect to the serving of a final notice on a permit holder, or a person who is or was a chief executive, shareholder controller or an individual acting as a director of a permit holder, under Article 21C(3) of the [Financial Services Commission \(Jersey\) Law 1998](#) imposing a penalty following the contravention of a code of practice by that permit holder; or
- (c) a public statement concerning a person if it appears to the Commission that the person is, or has been, carrying on insurance business, whether in Jersey or in a country or territory outside Jersey, and it appears to the Commission to be desirable to issue the statement –
  - (i) in the best interests of persons who have transacted or may transact insurance business with the person, or
  - (ii) in the best interests of the public.<sup>142</sup>

#### **43A Notice of public statement<sup>143</sup>**

- (1) If a public statement identifies a permit holder, the Commission shall serve notice on the person.
- (2) If a public statement identifies any person who does not hold a permit, and at any time before the Commission issues the public statement it is reasonably practicable for the Commission to serve notice on the person, the Commission shall do so.
- (3) A notice under paragraph (1) or (2) shall –
  - (a) give the reasons for issuing the statement;
  - (b) give the proposed or actual date of issue of the statement;
  - (c) contain a copy of the statement;
  - (d) give particulars of the right of appeal under Article 43C in respect of the statement; and
  - (e) if the statement is issued, in accordance with a decision under Article 43B(3), before the day specified in Article 43B(1) in relation to the statement, give the reasons for issuing it before that day.
- (4) Paragraph (3) shall not require the Commission –
  - (a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party; or
  - (b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.
- (5) In this Article and Articles 43B and 43C, a reference to the identification of a person in a public statement does not include the identification, in the statement, of the Commission or of any other person in their capacity of exercising functions under this Law.

**43B Notice period<sup>144</sup>**

- (1) If service is required under Article 43A(1) or (2) in relation to a public statement, the Commission shall not issue the public statement earlier than the expiration of one month following the date of the last such service in relation to the public statement.
- (2) Paragraph (1) shall not apply if –
  - (a) each of the persons identified (within the meaning of Article 43A) in the relevant public statement agrees with the Commission that the statement may be issued on a date earlier than the date that would apply under that paragraph; and
  - (b) the statement is in fact issued on or after the earlier date.
- (3) Paragraph (1) shall not apply if –
  - (a) the Commission decides on reasonable grounds that the interests of –
    - (i) persons who have transacted or may transact insurance business with the person, or
    - (ii) the public,in the issue of the relevant public statement on a date earlier than the date that would apply under that paragraph outweighs the detriment to the persons identified in the statement, being the detriment attributable to that earliness;
  - (b) the statement is in fact issued on or after the earlier date.<sup>145</sup>
- (4) In making a decision under paragraph (3), the Commission is not prevented from choosing as the date of issue of a public statement the date of service (if any) of notice of the statement.
- (5) Despite this Article, if an appeal is made to the Court under Article 43C(1), and the Court orders that the statement not be issued before any specified date or event, the Commission shall not issue the statement before the date or event so specified.
- (6) In a case to which paragraph (1) applies, if an appeal is made under Article 43C(2) to the Court against a decision to issue a public statement, the Commission shall not issue the statement before the day on which that appeal is determined by the Court or withdrawn.

**43C Appeals and orders about public statements<sup>146</sup>**

- (1) A person aggrieved by a decision of the Commission under Article 43B(3) may appeal to the Court, in accordance with this Article, against the decision.
- (2) A person aggrieved by a decision of the Commission to issue a public statement that identifies the person may appeal to the Court, in accordance with this Article, against the decision.
- (3) An appeal under paragraph (2) may be made only on the ground that the decision of the Commission was unreasonable having regard to all the circumstances of the case.

- (4) A person's appeal under this Article shall be lodged with the Court, no later than –
  - (a) if notice is served on the person under Article 43A in relation to the public statement, the day that is one month after the date of the last such service on the person in relation to the public statement; or
  - (b) if no such notice is served on the person, the day that is one month after the issue of the public statement.
- (5) Nothing in paragraph (4) prevents the lodging of an appeal, before a notice is served or a public statement is issued.
- (6) On an appeal under this Article, the Court may make such interim or final order as it thinks fit, including an order that the Commission not issue the relevant public statement or, if the public statement has been issued, that the Commission issue a further public statement to the effect set out in the order or stop making the statement available to the public.

#### **43D Fees<sup>147</sup>**

The Commission may, in accordance with Article 15 of the [Financial Services Commission \(Jersey\) Law 1998](#), publish fees that shall be payable by permit holders at such intervals and upon the occurrence of such events as the Commission may determine.

#### **44 Service of notices<sup>148</sup>**

- (1) No notice or other document required by this Law to be given to the Commission shall be regarded as so given until it is received.
- (2) Subject to paragraph (1), any notice or other document required or authorized by or under this Law to be given to the Commission may be given by facsimile, electronic transmission or by any similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (3) Any notice, direction or other document required or authorized by or under this Law to be given to or served on any person other than the Commission may be given or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving it at the person's proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (4) Any such notice, direction or other document may –
  - (a) in the case of a company incorporated in Jersey, be served by being delivered to its registered or principal office;

- (b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on a person who is a principal person in relation to it, or on the secretary or other similar officer of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the partnership business, as the case may be, or by being served on the person or delivered to the person's registered or administrative office.
- (5) For the purposes of this Article and of Article 7 of the [Interpretation \(Jersey\) Law 1954](#) in its application to this Article, the proper address of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –
  - (a) in the case of a company incorporated in Jersey, or its secretary, clerk or other similar officer or person, it shall be the address of the registered or principal office of the company in Jersey; and
  - (b) in the case of a partnership, or a person who is a principal person in relation to a partnership, it shall be that of its principal office in Jersey.
- (6) If the person to or on whom any notice, direction or other document referred to in paragraph (3) is to be given or served has notified the Commission of an address within Jersey other than the person's proper address within the meaning of paragraph (5), as the one at which the person or someone on the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 7 of the [Interpretation \(Jersey\) Law 1954](#) as the person's proper address.

#### **44A Transitional provision<sup>149</sup>**

- (1) Despite anything in this Law, a person who, by virtue of the repealed provision, was exempt from the provisions of Article 5(2) and (6) at any time during the 6 months immediately before the commencement day shall not be taken to have committed an offence under Article 5(4) by virtue of carrying on insurance business without a permit during the period –
  - (a) on and from the commencement day until the day that is 6 months after the commencement day, or, if a day is specified under paragraph (4) in relation to the person, until that day; or
  - (b) if the person applies, before 6 months after the commencement day, for a permit to carry on insurance business under Article 6, on and from the commencement day until the day the application is finally determined (including as a result of an appeal to the Court under Article 9) or is withdrawn.
- (2) In relation to the period for which, in accordance with paragraph (1), a person shall not be taken to have committed an offence under Article 5(4), the provisions of this Law shall apply (with the necessary



modifications) to and in relation to the person as they apply to and in relation to a person who holds a permit to carry on insurance business.

- (3) The Commission may, on the application of a person, by notice in writing to the person, specify in relation to the person a day for the purposes of paragraph (1)(a).
- (4) The Commission may only specify a day under paragraph (3) if –
  - (a) the Commission is satisfied that there are exceptional circumstances that justify the extension of the period during which the person shall not be taken to have committed an offence under Article 5(4) by reason only of carrying on insurance business without a permit; and
  - (b) the day is not more than 12 months after the commencement day.
- (5) In this Article –
  - “commencement day” means the day on which the Insurance Business (Amendment No. 7) (Jersey) Law 2014 came into force;
  - “repealed provision” means the provision repealed by Article 2 of the Insurance Business (Amendment No. 7) (Jersey) Law 2014.

## **45 Citation**

This Law may be cited as the Insurance Business (Jersey) Law 1996.

**SCHEDULE 1<sup>150</sup>****CLASSES OF INSURANCE BUSINESS**

(Article 5)

**PART 1**

## Classes of long term business

<b>Number</b>	<b>Description</b>	<b>Nature of business</b>
I	Life and annuity	Effecting and/or carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class 3 below.
II	Marriage or civil partnership and birth	Effecting and/or carrying out contracts of insurance to provide a sum on marriage or civil partnership or on birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and/or carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
IV	Permanent health	Effecting and/or carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that – (a) are expressed to be in effect for a period of not less than 5 years, or until the normal retirement age for the persons concerned, or without limit of time, and (b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.
V	Tontines	Effecting and/or carrying out tontines.
VI	Capital redemption	Effecting and/or carrying out capital redemption contracts, if such contracts are effected and

Number	Description	Nature of business
		carried out by a person (not being a person carrying on a banking business) who carries on long term business of class 1, 2, 3, 4 or 5 or general business of any class.
VII	Pension fund management	<p>Effecting and/or carrying out –</p> <p>(a) contracts to manage the investments of pension funds, (other than funds solely for the benefit of the officers or employees and their dependants of the person effecting and carrying out such contracts, or in the case of a company, partly for the benefit of those persons and partly for the benefit of officers or employees and their dependants of its subsidiary or holding company or a subsidiary of its holding company); or</p> <p>(b) contracts of the kind mentioned in paragraph (a) above that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest,</p> <p>if such contracts are effected and carried out by a person (not being a person carrying on a banking business) who carries on long term business of class 1, 2, 3, 4 or 5 or general business of any class.</p>

## PART 2

### Classes of general business

Number	Description	Nature of Business
1	Accident	<p>Effecting and/or carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the persons insured –</p> <p>(a) sustaining injury as the result of an accident or of an accident of a specified class;</p> <p>(b) dying as the result of an accident or of an accident of a specified class; or</p> <p>(c) becoming incapacitated in consequence of disease or of disease of a specified class,</p>

Number	Description	Nature of Business
		inclusive of contracts relating to industrial injury and occupational disease but exclusive of contracts falling within class 2 or within class 4 in Part 1 (permanent health).
2	Sickness	Effecting and/or carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the 2) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within class 4 in Part 1.
3	Land Vehicles	Effecting and/or carrying out contracts of insurance against loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock.
4	Railway rolling stock	Effecting and/or carrying out contracts of insurance against loss of or damage to railway rolling stock.
5	Aircraft	Effecting and/or carrying out contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.
6	Ships	Effecting and/or carrying out contracts of insurance upon vessels used on the sea or on inland water, or upon the machinery, tackle, furniture or equipment of such vessels.
7	Goods in transit	Effecting and/or carrying out contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.
8	Fire and natural forces	Effecting and/or carrying out contracts of insurance against loss of or damage to property (other than property to which classes 3 to 7 relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.
9	Damage to property	Effecting and/or carrying out contracts of insurance against loss of or damage to property (other than property to which classes 3 to 7 relate) due to hail or frost or to any event (such as theft) other than those mentioned in class 8.
10	Motor vehicle liability	Effecting and/or carrying out contracts of insurance against damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier's liability.
11	Aircraft liability	Effecting and/or carrying out contracts of insurance against damage arising out of or in connection with the use of aircraft, including third-party risks and carrier's liability.
12	Liability for ships	Effecting and/or carrying out contracts of insurance against damage arising out of or in

Number	Description	Nature of Business
		connection with the use of vessels on the sea or on inland water, including third-party risks and carrier's liability.
13	General liability	Effecting and/or carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which class 10, 11 or 12 relates.
14	Credit	Effecting and/or carrying out contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due.
15	Suretyship	<p>Effecting and/or carrying out –</p> <p>(a) contracts of insurance against risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;</p> <p>(b) contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee,</p> <p>if, in the case of contracts referred to in paragraph (b), such contracts are effected and carried out by a person not carrying on a banking business, and such contracts are effected by way of business (and not merely incidentally to some other business carried out by the person effecting them) in return for the payment of one or more premiums.</p>
16	Miscellaneous financial loss	<p>Effecting and/or carrying out contracts of insurance against any of the following risks, namely –</p> <p>(a) risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;</p> <p>(b) risks of loss to the persons insured attributable to their incurring unforeseen expense (other than such loss as is covered by contracts falling within class 18);</p> <p>(c) risks neither falling within paragraph (a) or (b) nor being of a kind such that the carrying on of the business of effecting and carrying out contracts of insurance</p>

Number	Description	Nature of Business
		against them constitutes the carrying on of insurance business of some other class.
17	Legal expenses	Effecting and/or carrying out contracts of insurance against risks of loss to the persons insured attributable to their incurring legal expenses (including costs of litigation).
18	Assistance	Effecting and/or carrying out contracts of insurance providing either or both of the following benefits, namely – (a) assistance (whether in cash or kind) for persons who get into difficulties while travelling, while away from home or while away from their permanent residence; or (b) assistance (whether in cash or kind) for persons who get into difficulties otherwise than as mentioned in paragraph (a) above.

### PART 3

#### Groups

1	Accident and health	Classes 1 and 2
2	Motor	Class 1 (to the extent that the relevant risks are risks of the person insured sustaining injury, or dying, as the result of travelling as a passenger) and classes 3, 7 and 10.
3	Marine and transport	Class 1 (to the said extent) and classes 4, 6, 7 and 12.
4	Aviation	Class 1 (to the said extent) and classes 5, 7 and 11.
5	Fire and other damage to property	Classes 8 and 9.
6	Liability	Classes 10, 11, 12 and 13.
7	Credit and suretyship	Classes 14 and 15.
8	General	All classes.

### PART 4

#### Interpretation

1.

(1) In this Schedule –

“class” means a class of the kind specified in Part 1 or 2;

“group” means a group of the kind specified in Part 3.

- (2) A reference in this Schedule to a numbered class or to a numbered group is a reference to the class so numbered in Part 1 or 2 or to the group so numbered in Part 3, as the case may be.
- (3) A class or part of a class may be described in an Order or permit by reference to a group specified in Part 3.

2. In this Schedule –

- (a) “long term business” means insurance business of any of the classes specified in Part 1;
- (b) “general business” means insurance business of any of the classes specified in Part 2.

3.

- (1) For the purposes of this Schedule the effecting and carrying out of a contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class or classes, shall be taken to constitute the carrying on of insurance business of the first-mentioned class, and no other, if paragraph (2) or (3) applies to the contract.
- (2) This paragraph applies to a contract whose principal object is within any class of long term business but which contains subsidiary provisions within general business class 1 or 2 if the insurer is authorized as mentioned in Article 5(2) to carry on long term business class 1.
- (3) This paragraph applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes, not being class 14 or 15.

4. In this Schedule, unless the context otherwise requires –

“annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;

“industrial assurance business” has the meaning given in section 1(2) of the Industrial Assurance Act 1923 of the United Kingdom;

“vessel” includes hovercraft.

**SCHEDULE 2<sup>151</sup>****TRANSFER OF INSURANCE BUSINESS****(Article 27)**

1. Where it is proposed to carry out a scheme under which the whole or part of the insurance business carried on in or from within Jersey by a permit holder (the “transferor company”) is to be transferred to another body whether incorporated or not (the “transferee company”) the transferor company or transferee company may make a Representation to the Court for an order sanctioning the scheme.
2. If any such scheme involves a compromise or arrangement the provisions of Articles 125 to 127 of the [Companies \(Jersey\) Law 1991](#) shall have effect in the case of a company to which that Law applies as regards that compromise or arrangement, but without prejudice to the operation of the provisions of this Schedule in relation to the scheme.
3. The Court shall not determine an application under this Schedule unless the Representation to the Court is accompanied by a report on the terms of the scheme by an independent actuary and the Court is satisfied that the requirements of paragraph 4 have been complied with.
4. The said requirements are –
  - (a) that a notice has been published in the Jersey Gazette stating that the application has been made and giving the address of the offices at which, and the period for which, copies of the documents mentioned in sub-paragraph (d) will be available as required by that sub-paragraph;
  - (b) except where the Court has otherwise directed, that a statement –
    - (i) setting out the terms of the scheme, and
    - (ii) containing a summary of the report mentioned in paragraph 3 sufficient to indicate the opinion of the actuary on the likely effects of the scheme on the policy holders of the companies concerned, has been sent to each of those policy holders and to every member of those companies;
  - (c) that a copy of the Representation to the Court, of the report mentioned in paragraph 3 and of any statement sent out under sub-paragraph (b) has been served on the Commission and that a period of not less than 21 days has elapsed since the date of service;
  - (d) that copies of the Representation to the Court and of the report mentioned in paragraph 3 have been open to inspection at offices in Jersey of the companies concerned for a period of not less than 21 days beginning with the date of the first publication of a notice in accordance with sub-paragraph (a).
5. Each of the companies concerned shall, on payment of such fee as may be prescribed by rules of court, furnish a copy of the Representation to



the Court and of the report mentioned in paragraph 3 to any person who asks for one at any time before an order sanctioning the scheme is made on the Representation to the Court.

6. On any Representation to the Court under this Schedule –
  - (a) the Commission; and
  - (b) any person (including any employee of the transferor company or the transferee company) who alleges that the person would be adversely affected by the carrying out of the scheme,shall be entitled to be heard.
7. The Court shall not make an order sanctioning the scheme unless it is satisfied that the transferee company is, or immediately after the making of the order will be, authorized to carry on the insurance business to be transferred under the scheme.
8. No transfer described in paragraph 1 shall be carried out unless the scheme relating to the transfer has been sanctioned by the Court in accordance with this Schedule.
9. Where the Court makes an order under this Schedule sanctioning a scheme, the Court may, either by that order or by any subsequent order, make provision for all or any of the following matters –
  - (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of the transferor company;
  - (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the scheme are to be allotted or appropriated by that company to or for any person;
  - (c) the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company;
  - (d) the dissolution, without winding up, of the transferor company;
  - (e) such incidental, consequential and supplementary matters as are necessary to secure that the scheme shall be fully and effectively carried out.
10. Where any such order provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any other hypothec, security interest or other charge which is by virtue of the scheme to cease to have effect, except that any property so transferred vests in the transferee company subject to any obligations and liabilities however arising which bound the transferor company in relation to that property on the date of the order.
11. Where a scheme is sanctioned by an order of the Court under this Schedule the transferee company shall, within 10 days from the date on which the order is made or such longer period as the Commission may allow, deposit 2 office copies of the order with the Commission.

12. Any person who fails to comply with paragraph 5 or 11 shall be guilty of an offence.
13. A person guilty of an offence under paragraph 5 is liable to a fine and a person guilty of an offence under paragraph 11 is liable to a fine not exceeding level 3 on the standard scale.
14. In this Schedule –
  - “arrangement” includes a reorganisation of the company’s share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods;
  - “liabilities” includes duties;
  - “obligations” includes any requirement or restriction imposed by any enactment affecting the development, use or disposition of property or any transaction in relation to property;
  - “property” includes property, rights and powers of every description.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Insurance Business (Jersey) Law 1996	<a href="#">L.12/1996</a>	1 October 1996 (R&O.8963)	
Limited Liability Partnerships (Jersey) Law 1997	<a href="#">L.3/1997</a>	9 September 1998 (R&O.9233)	
Financial Services Commission (Jersey) Law 1998	<a href="#">L.11/1998</a>	1 July 1998 (R&O.9238)	
Insurance Business (Amendment) (Jersey) Law 1998	<a href="#">L.26/1998</a>	13 November 1998	<a href="#">P.96/1998</a>
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	<a href="#">L.23/1999</a>	23 July 1999	<a href="#">P.34/1999</a>
Fees (Miscellaneous Amendments and Validation) (Jersey) Law 1999	<a href="#">L.30/1999</a>	5 November 1999	<a href="#">P.88/1999</a>
Insurance Business (Amendment No. 2) (Jersey) Law 2000	<a href="#">L.22/2000</a>	20 October 2000 ( <a href="#">R&amp;O.89/2000</a> )	<a href="#">P.7/2000</a>
Insurance Business (Amendment No. 3) (Jersey) Law 2002	<a href="#">L.6/2002</a>	1 March 2002 ( <a href="#">R&amp;O.12/2002</a> )	<a href="#">P.157/2001</a>
Insurance Business (Amendment No. 4) (Jersey) Law 2003	<a href="#">L.9/2003</a>	28 March 2003	<a href="#">P.162/2002</a>
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	<a href="#">R&amp;O.101/2003</a>	14 October 2003	<a href="#">P.122/2003</a>
States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005	<a href="#">R&amp;O.44/2005</a>	9 December 2005	<a href="#">P.58/2005</a>
Insurance Business (Amendment) (Jersey) Regulations 2006	<a href="#">R&amp;O.145/2006</a>	7 December 2006	<a href="#">P.160/2006</a>
Insurance Business (Amendment No. 5) (Jersey) Law 2007	<a href="#">L.10/2007</a>	19 January 2007	<a href="#">P.85/2006</a>
Financial Services Commission (Amendment No. 4) (Jersey) Law 2007	<a href="#">L.33/2007</a>	24 January 2008	<a href="#">P.35/2007</a>

Legislation	Year and No	Commencement	Project No (where applicable)
Insurance Business (Amendment No. 6) (Jersey) Law 2008	<a href="#">L.19/2008</a>	4 April 2008	<a href="#">P.137/2007</a>
Financial Regulation (Miscellaneous Provisions) (Jersey) Law 2009	<a href="#">L.4/2009</a>	9 January 2009	<a href="#">P.123/2008</a>
Civil Partnership (Consequential Amendments) (Jersey) Regulations 2012	<a href="#">R&amp;O.47/2012</a>	2 April 2012	<a href="#">P.12/2012</a>
Alternative Investment Funds (Jersey) Regulations 2012	<a href="#">R&amp;O.142/2012</a>	2 April 2013	<a href="#">P.109/2012</a>
Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 2013	<a href="#">R&amp;O.31/2013</a>	13 March 2013	<a href="#">P.7/2013</a>
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	<a href="#">R&amp;O.107/2013</a>	19 July 2013	<a href="#">P.75/2013</a>
Financial Services Ombudsman (Jersey) Law 2014	<a href="#">L.14/2014</a>	25 July 2014	<a href="#">P.9/2014</a>
Insurance Business (Amendment No. 7) (Jersey) Law 2014	<a href="#">L.30/2014</a>	24 October 2014	<a href="#">P.55/2014</a>
European Union Legislation (Implementation) (Jersey) Law 2014	<a href="#">L.28/2014</a>	31 October 2014	<a href="#">P.164/2013</a>
Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 2014	<a href="#">L.40/2014</a>	21 November 2014	<a href="#">P.47/2014</a>
Financial Services Commission (Amendment No. 6) (Jersey) Law 2015	<a href="#">L.1/2015</a>	20 March 2015	<a href="#">P.151/2014</a>
Financial Regulation (Miscellaneous Provisions No. 3) (Jersey) Law 2016	<a href="#">L.8/2016</a>	22 April 2016	<a href="#">P.162/2015</a>
Financial Regulation (Miscellaneous Provisions No. 4) (Jersey) Law 2016	<a href="#">L.14/2016</a>	22 August 2016	<a href="#">P.30/2016</a>
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )	<a href="#">P.87/2015</a>

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Limited Liability Partnerships (Jersey) Law 2017	<a href="#">L.2/2017</a>	1 August 2018 ( <a href="#">R&amp;O.74/2018</a> )	<a href="#">P.95/2016</a>
Financial Services Commission (Amendment No. 7) (Jersey) Law 2018	<a href="#">L.28/2018</a>	26 October 2018	<a href="#">P.74/2018</a>
Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 2019	<a href="#">R&amp;O.3/2019</a>	22 January 2019	<a href="#">P.139/2018</a>
Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 2019	<a href="#">L.7/2019</a>	26 May 2019	<a href="#">P.138/2018</a>
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to External Relations) Order 2019	<a href="#">R&amp;O.40/2019</a>	31 May 2019	
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	<a href="#">R&amp;O.29/2021</a>	2 March 2021	

◦Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

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PART I	PART 1
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(5)	repealed by <a href="#">L.11/1998</a>
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(7), (8)	repealed by <a href="#">L.23/1999</a>
PART IV	PART 4
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38	41
(1A)	(2)
(2)	(3)
39	42
39A	43
40	44
41	spent, omitted from this revised edition
42	spent, omitted from this revised edition
43	45
FIRST SCHEDULE	SCHEDULE 1
PART I	PART 1
PART II	PART 2
PART III	PART 3
PART IV	PART 4
SECOND SCHEDULE	SCHEDULE 2
THIRD SCHEDULE	spent, omitted from this revised edition

### Table of Endnote References

<sup>1</sup> This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government

<sup>2</sup> Article 1(1) amended by L.11/1998, L.26/1998, R&O.145/2006, L.33/2007, L.19/2008, L.4/2009, R&O.47/2012, R&O.31/2013, R&O.107/2013, L.28/2014, L.40/2014, L.8/2016, R&O.3/2019, R&O.40/2019, R&O.29/2021

<sup>3</sup> Article 2(1) substituted by L.10/2007

<sup>4</sup> Article 2(2)&(3) substituted by L.19/2008 [replaced by (2)]

<sup>5</sup> Article 3 substituted by L.11/1998

<sup>6</sup> Article 4 inserted by L.11/1998

<sup>7</sup> Article 4(1A) inserted by L.7/2019

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- <sup>8</sup> Article 5(3) inserted by L.9/2003
- <sup>9</sup> Article 5(5) amended by L.11/1998, L.26/1998, L.22/2000, L.30/2014
- <sup>10</sup> Article 5(6) amended by L.3/1997, L.2/2017
- <sup>11</sup> Article 8 of the Financial Services Commission (Amendment No. 4) (Jersey) Law 2007, which came into force on 2nd November 2007, states-
- “8 Initial publication of fees**
- (1) The Commission must, before [24th January 2008], publish fees for the purpose of the Laws specified in the Schedule to this Law. (NOTE: the Schedule includes this Law)
- (2) The fees so published –
- (a) shall be the same fees as those prescribed under those Laws; and
- (b) shall have effect when this Law comes fully into force.
- (3) On this Law coming fully into force, the fees published under this Article shall be taken to have been published under Article 15(5) of the [Financial Services Commission (Jersey) Law 1998].
- (4) In this Article –
- “Commission” means the Jersey Financial Services Commission established by the principal Law;
- “published”, in respect of fees published in accordance with this Article, means published in a manner likely to bring them to the attention of those affected by the fees.”
- <sup>12</sup> Article 6(1) amended by L.11/1998, L.33/2007
- <sup>13</sup> Article 6(1A) inserted by L.8/2016
- <sup>14</sup> Article 6(2) deleted by L.14/2016
- <sup>15</sup> Article 6(3) inserted by L.4/2009
- <sup>16</sup> Article 7 amended by L.11/1998
- <sup>17</sup> Article 7(2) amended by L.26/1998
- <sup>18</sup> Article 7(4) amended by L.9/2003, L.19/2008, R&O.142/2012, L.1/2015, L.7/2019
- <sup>19</sup> Article 7(9) amended by L.40/2014
- <sup>20</sup> Article 7(10) repealed by L.19/2008
- <sup>21</sup> Article 7(11) amended by L.40/2014
- <sup>22</sup> Article 7(12) substituted by L.9/2003
- <sup>23</sup> Article 7(13) inserted by L.9/2003
- <sup>24</sup> Article 7(14) inserted by L.40/2014
- <sup>25</sup> Article 7A inserted by L.19/2008
- <sup>26</sup> Article 8 substituted by L.19/2008
- <sup>27</sup> Article 8A inserted by L.19/2008
- <sup>28</sup> Article 8A(1) amended by L.4/2009, L.40/2014
- <sup>29</sup> Article 8A(3) substituted by L.40/2014
- <sup>30</sup> Article 8A(3A) inserted by L.40/2014
- <sup>31</sup> Article 9 substituted by L.19/2008
- <sup>32</sup> Article 9A inserted by L.19/2008
- <sup>33</sup> Article 10 substituted by L.40/2014
- <sup>34</sup> Article 10(9) amended by L.7/2019
- <sup>35</sup> Article 10(14) amended by L.7/2019
- <sup>36</sup> Article 11 amended by L.11/1998



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- <sup>37</sup> Article 11(1) substituted by L.4/2009  
<sup>38</sup> Article 11(2) substituted by L.4/2009  
<sup>39</sup> Article 11(3) amended by L.7/2019  
<sup>40</sup> Article 11(4) amended by L.6/2002, L.40/2014  
<sup>41</sup> Article 11(7) amended by L.1/2015, L.1/2016  
<sup>42</sup> Article 11(8) substituted by L.26/1998  
<sup>43</sup> Article 12 repealed by L.40/2014  
<sup>44</sup> Article 13 amended by L.11/1998  
<sup>45</sup> Article 13(1) amended by L.40/2014  
<sup>46</sup> Article 13(3) amended by L.40/2014  
<sup>47</sup> Article 13(10) inserted by L.26/1998  
<sup>48</sup> Article 14(1) amended by L.40/2014  
<sup>49</sup> Article 15 amended by L.11/1998  
<sup>50</sup> Article 16 amended by L.11/1998  
<sup>51</sup> Article 17 amended by L.11/1998  
<sup>52</sup> Article 17(5) amended by L.1/2016  
<sup>53</sup> Article 18 amended by L.11/1998  
<sup>54</sup> Article 18(3) amended by L.6/2002  
<sup>55</sup> Article 19 amended by L.11/1998  
<sup>56</sup> Article 19(3) substituted by L.9/2003, amended by L.1/2016  
<sup>57</sup> Article 19(4) inserted by L.9/2003  
<sup>58</sup> Article 20 amended by L.11/1998  
<sup>59</sup> Article 21 substituted by L.8/2016  
<sup>60</sup> Article 21(2) amended by L.7/2019  
<sup>61</sup> Article 21(3) amended by L.7/2019  
<sup>62</sup> Article 22 amended by L. 11/1998  
<sup>63</sup> Article 23 substituted by L.19/2008  
<sup>64</sup> Article 23(1) amended by L.7/2019  
<sup>65</sup> Article 23(4) amended by L.7/2019  
<sup>66</sup> Article 23(5) amended by L.7/2019  
<sup>67</sup> Article 23(5A) inserted by L.40/2014  
<sup>68</sup> Article 23(6) amended by L.7/2019  
<sup>69</sup> Article 23(7) amended by L.7/2019  
<sup>70</sup> Article 23(9) amended by L.7/2019  
<sup>71</sup> Article 24 amended by L.11/1998  
<sup>72</sup> Article 24(4) amended by L.19/2008  
<sup>73</sup> Article 24(12) inserted by L.40/2014  
<sup>74</sup> Article 24(13) inserted by L.40/2014  
<sup>75</sup> Article 25 amended by L.11/1998  
<sup>76</sup> Article 25(4) substituted by L.19/2008  
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<sup>78</sup> Article 25(7) substituted by L.9/2003  
<sup>79</sup> Article 27 amended by L.9/2003  
<sup>80</sup> Article 28 amended by L.11/1998  
<sup>81</sup> Article 28(1A) inserted by L.19/2008  
<sup>82</sup> Article 28(1B) inserted by L.19/2008  
<sup>83</sup> Article 28(3) amended by L.1/2016  
<sup>84</sup> Article 28(4) amended by L.7/2019  
<sup>85</sup> Article 30(1) substituted by L.4/2009  
<sup>86</sup> Article 30(2) substituted by L.4/2009  
<sup>87</sup> Article 30(3) repealed by L.4/2009

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- <sup>88</sup> Article 31(1) substituted by L.4/2009, amended by R&O.31/2013
- <sup>89</sup> Article 31(1A) inserted by R&O.31/2013
- <sup>90</sup> Article 31(2) substituted by L.19/2008
- <sup>91</sup> Article 31(2A) inserted by L.14/2014
- <sup>92</sup> Article 31(3) added by R&O.31/2013
- <sup>93</sup> Article 31(3A) inserted by R&O.3/2019
- <sup>94</sup> Article 31(4) added by R&O.31/2013
- <sup>95</sup> Article 31(5) added by R&O.31/2013
- <sup>96</sup> Article 31(6) added by R&O.31/2013
- <sup>97</sup> Article 32(1) amended by L.11/1998, L.19/2008, L.4/2009, R&O.31/2013
- <sup>98</sup> Article 32(2) substituted by L.4/2009
- <sup>99</sup> Article 32(3) substituted by L.4/2009
- <sup>100</sup> Article 32(4) inserted by L.4/2009
- <sup>101</sup> Article 32(4A) inserted by R&O.3/2019
- <sup>102</sup> Article 32(5) inserted by L.4/2009, amended by R&O.31/2013, R&O.3/2019
- <sup>103</sup> Article 32(6) inserted by L.4/2009
- <sup>104</sup> Article 32(7) inserted by L.4/2009, amended by R&O.3/2019
- <sup>105</sup> Article 32A inserted by L.4/2009
- <sup>106</sup> Article 33 substituted by L.6/2002
- <sup>107</sup> Article 33(1) amended by L.4/2009, L.40/2014
- <sup>108</sup> Article 33(7) substituted by L.40/2014
- <sup>109</sup> Article 34 substituted by L.4/2009, amended by R&O.31/2013
- <sup>110</sup> Article 35(1) amended by L.11/1998
- <sup>111</sup> Article 35(2) amended by L.11/1998, L.22/2000
- <sup>112</sup> Article 35(7) substituted by L.9/2003
- <sup>113</sup> Article 36 substituted by L.19/2008
- <sup>114</sup> Article 36(2) amended by L.7/2019
- <sup>115</sup> Article 36(4) amended by L.8/2016
- <sup>116</sup> Article 36(8) inserted by L.4/2009
- <sup>117</sup> Article 36(9) inserted by L.4/2009
- <sup>118</sup> Article 36A inserted by L.4/2009
- <sup>119</sup> Article 36B inserted by L.4/2009
- <sup>120</sup> Article 36B(1) substituted by L.40/2014
- <sup>121</sup> Article 36B(2) substituted by L.40/2014
- <sup>122</sup> Article 37 renumbered as paragraph (1) by L.4/2009
- <sup>123</sup> Article 37(2) inserted by L.4/2009
- <sup>124</sup> Article 38 substituted by L.22/2000
- <sup>125</sup> Article 39 amended by L.11/1998
- <sup>126</sup> Article 39(3) substituted by L.22/2000, amended by L.7/2019
- <sup>127</sup> Article 39(4) inserted by L.22/2000
- <sup>128</sup> Article 39(5) substituted by L.22/2000
- <sup>129</sup> Article 39(6) inserted by L.22/2000
- <sup>130</sup> Article 40 inserted by L.9/2003
- <sup>131</sup> Article 41 heading substituted by L.4/2009
- <sup>132</sup> Article 41(1) amended by L.11/1998
- <sup>133</sup> Article 41(2) repealed by L.33/2007
- <sup>134</sup> Article 41(3) substituted by L.4/2009
- <sup>135</sup> Article 41(4) inserted by L.19/2008
- <sup>136</sup> Article 42(1) amended by L.19/2008, L.4/2009, L.1/2015
- <sup>137</sup> Article 42(3) substituted by L.1/2015
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- <sup>138</sup> Article 42(4) *amended by L.1/2015*
- <sup>139</sup> Article 42 *amended by L.11/1998*
- <sup>140</sup> Article 43 *substituted by L.19/2008*
- <sup>141</sup> Article 43(1) *amended by L.40/2014, L.1/2015*
- <sup>142</sup> Article 43(2) *amended by L.4/2009, L.1/2015. L.28/2018*
- <sup>143</sup> Article 43A *inserted by L.19/2008*
- <sup>144</sup> Article 43B *inserted by L.19/2008*
- <sup>145</sup> Article 43B(3) *amended by L.4/2009*
- <sup>146</sup> Article 43C *inserted by L.19/2008*
- <sup>147</sup> Article 43D *inserted by L.14/2016*
- <sup>148</sup> Article 44 *substituted by L.19/2008*
- <sup>149</sup> Article 44A *inserted by L.30/2014*
- <sup>150</sup> Schedule 1 *amended by R&O.47/2012*
- <sup>151</sup> Schedule 2 *amended by L.26/1998, L.9/2003, L.10/2007, L.1/2016*