



Jersey

# TAXATION (INCOME TAX, GOODS AND SERVICES TAX AND REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202-

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Jersey

**TAXATION (INCOME TAX, GOODS AND  
SERVICES TAX AND REVENUE  
ADMINISTRATION) (AMENDMENT) (JERSEY)  
LAW 202-**

A LAW to amend the [Income Tax \(Jersey\) Law 1961](#), the [Goods and Services Tax \(Jersey\) Law 2007](#) and the [Revenue Administration \(Jersey\) Law 2019](#).

<i>Adopted by the States</i>	<i>5th October 2021</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

**PART 1**

AMENDMENTS TO INCOME TAX (JERSEY) LAW 1961

*Introductory*

**1 [Income Tax \(Jersey\) Law 1961](#) amended**

This Part amends the [Income Tax \(Jersey\) Law 1961](#).

*Amendments to civil and criminal penalties*

**2 Article 17A (penalty for late delivery of return) amended**

- (1) Article 17A is amended as follows.
- (2) In each of the following provisions, after “Article 16” there is inserted “or 17” –
  - (a) paragraph (2B)(a);
  - (b) paragraph (3);
  - (c) paragraph (4);

- (d) paragraph (4A)(a).
- (3) In paragraph (12A), after “Article 16,” there is inserted “17,”.

### **3 Article 20 (returns of information regarding employees) amended**

In Article 20(4), “under this Article” is deleted.

### **4 Article 21B (offences) and Article 21C (offences by bodies corporate and others) inserted**

After Article 21A there is inserted –

#### **“21B Offences**

- (1) It is an offence for a person to fail, without reasonable excuse, to comply with a requirement imposed by, or by a notice under, any of the following provisions of this Part –
  - (a) Article 16 (returns);
  - (b) Article 16A (documents and other information in support of a return);
  - (c) Article 17 (returns by persons acting for others);
  - (d) Article 18 (lists by persons in receipt of taxable income belonging to others);
  - (e) Article 19 (lists of lodgers etc);
  - (f) Article 20 (returns: employees);
  - (g) Article 20A (returns: building sub-contractors);
  - (h) Article 20B (returns: companies);
  - (i) Article 20C (returns: employees’ benefits in kind);
  - (j) Article 20D (returns: foundations).
- (2) A person who commits an offence under paragraph (1) is liable to a fine.

#### **21C Offences by bodies corporate and others**

- (1) Paragraph (2) applies if –
  - (a) an offence under Article 21B is committed by –
    - (i) a limited liability partnership,
    - (ii) a separate limited partnership, or
    - (iii) a body corporate; and
  - (b) the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a relevant officer of the body corporate or partnership.
- (2) The relevant officer also commits an offence and is liable in the same manner as the body corporate or partnership to the penalty provided for the offence.

- (3) In this Article, “relevant officer” means –
- (a) in relation to a limited liability partnership, a partner;
  - (b) in relation to a separate limited partnership or an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of a partnership;
  - (c) in relation to a foundation, the qualified member of the council of the foundation (within the meaning of the [Foundations \(Jersey\) Law 2009](#));
  - (d) in relation to a body corporate, other than an incorporated limited partnership or a foundation –
    - (i) a director, manager, secretary or other similar officer of the body corporate, or
    - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
  - (e) a person purporting to act in any capacity mentioned in subparagraphs (a) to (d) in relation to the body corporate or partnership.”.

**5 Article 41F (exemption certificate) amended**

In Article 41F(8), for “shall be” there is substituted “commits an offence and is”.

**6 Article 89 (explanation of income tax deductions) amended**

In Article 89(2), for “the provisions of this Article, the company shall, in respect of each offence, be liable” there is substituted “a requirement of this Article, the company commits an offence and is liable”.

**7 Article 136 (penalties for failure to deliver returns, etc.) deleted**

Article 136 is deleted.

**8 Article 137 (penalties for fraudulently making incorrect statements etc) amended**

In Article 137(1)(c), for “the person’s” there is substituted “any person’s”.

**9 Article 139 (penalty for refusing to allow deduction of tax etc)**

In Article 139(1) for “shall be liable” there is substituted “commits an offence and is liable”.

*Amendments relating to assessments and appeals***10 Article 17A (penalty for late delivery of return) amended**

For Article 17A(10) there is substituted –

“(10) Part 6 applies, with the necessary modifications, to an appeal under paragraph (9) as if it were an appeal against an assessment.”

**11 Article 23 (provision for making assessments where no returns are received) amended**

(1) After Article 23(1) there is inserted –

“(1A) The Comptroller may, at any time, amend an assessment made under paragraph (1) or make an additional assessment under that paragraph.”

(2) In Article 23(2) for “paragraph (1)” there is substituted “this Article” in both places.

**12 Article 24 (additional assessments) substituted**

For Article 24 there is substituted –

**“24 Comptroller may amend assessments**

(1) The Comptroller may, within the time limits specified in this Article, amend an assessment or make an additional assessment to ensure that the correct amount of tax is charged on a person.

(2) The Comptroller must not amend an assessment or make an additional assessment later than 2 years after the later of the filing due date and the date the return was delivered unless –

(a) the amendment or additional assessment is required due to a careless action by the person, in which case the Comptroller must not amend the assessment later than 4 years after the later of the filing due date and the date the return was delivered; or

(b) the amendment or additional assessment is required due to a deliberate action or inaction by the person, in which case the Comptroller may amend the assessment at any time.

(3) An amended or additional assessment may be appealed in the same way as a first assessment.

(4) In this Article, “filing due date” has the meaning given to “specified time” by Article 17A(2).”

**13 Article 41I (late payment surcharge) amended**

For Article 41I(8) there is substituted –

“(8) Part 6 applies, with the necessary modifications, to an appeal under paragraph (7) as if it were an appeal against an assessment.”

**14 Article 77 (fees and subscriptions to professional bodies, learned societies, etc.) amended**

For Article 77(6) there is substituted –

- “(6) A body may appeal to the Commissioners against a decision made by the Comptroller under this Article by giving notice in writing to the Comptroller within 21 days of receiving notification of the decision.
- (7) Part 6 applies, with the necessary modifications, to an appeal under paragraph (6) as if it were an appeal against an assessment.”

**15 Article 80 (basis of computation under Cases IV and V) amended**

For Article 80(4) and (5) there is substituted –

- “(4) A person may appeal to the Commissioners against a decision made by the Comptroller under paragraph (2) about the person’s ordinary residence by giving notice in writing to the Comptroller within 3 months of receiving notification of the decision.
- (5) Part 6 applies, with the necessary modifications, to an appeal under paragraph (4) as if it were an appeal against an assessment.”

**16 Article 131Q (appeals against decisions of the Comptroller under this Part) amended**

For Article 131Q(2) there is substituted –

- “(2) Part 6 applies, with the necessary modifications, to an appeal under paragraph (1) as if it were an appeal against an assessment.”

*Amendment of empowering provision*

**17 Schedule 5 (savings, transitional and similar provisions: general) amended**

(1) After paragraph 23(5) of Schedule 5 there is inserted –

- “(6) Sub-paragraph (3) does not prevent the States from, after 31st March 2021, amending Regulations made under this paragraph.”

(2) After paragraph 26 of Schedule 5 there is inserted –

**“27 Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202-: savings and transitional arrangements for amending assessments**

- (1) Article 23(1A) does not apply in respect of an assessment for a year of assessment that began before 1 January 2022.
- (2) If the Comptroller wishes to amend an assessment or make an additional assessment for a year of assessment that began before 1 January 2022, Article 24, as in force immediately before the commencement of the Taxation (Income Tax, Goods and Services

Tax and Revenue Administration) (Amendment) (Jersey) Law 202-<sup>1</sup>, applies.”.

## PART 2

### GOODS AND SERVICES TAX

#### 18 [Goods and Services Tax \(Jersey\) Law 2007](#) amended

Articles 22 to 24 amend the [Goods and Services Tax \(Jersey\) Law 2007](#).

#### 19 **Article 19 (application to the States of Jersey) amended**

In Article 19(1), for “for which no charge or fee is payable by the person to whom the goods or services are supplied” there is substituted “that is not in the course of or furtherance of a business”.

#### 20 **Article 71 (penalty tax where conduct involving dishonesty) amended**

For Article 71(3) there is substituted –

“(3) But a person is not liable to a penalty tax under paragraph (1) or (2) in respect of conduct for which the person has been convicted of an offence.”.

#### 21 **Schedule 1 (registration) amended**

For paragraph 4(1) of Schedule 1 there is substituted –

“(1) Where the Comptroller is satisfied that a person is liable to be registered, the Comptroller must register the person (whether or not the person has notified liability in accordance with paragraph 3).”.

#### 22 **Regulation 4 (Article 19(1) of Law modified) of [Goods and Services Tax \(Jersey\) Regulations 2007](#) deleted**

Regulation 4 of the [Goods and Services Tax \(Jersey\) Regulations 2007](#) is deleted.

## PART 3

### AMENDMENTS TO, AND RELATED TO, REVENUE ADMINISTRATION (JERSEY) LAW 2019

#### 23 [Revenue Administration \(Jersey\) Law 2019](#) amended

This Part, except for Article 38, amends the [Revenue Administration \(Jersey\) Law 2019](#).



## **24 Article 1 (interpretation) amended**

In Article 1(1), in the definition of “Revenue Laws”, for sub-paragraph (d) there is substituted –

“(d) the Land Transactions Tax Law;”.

## **25 Article 8 (general prohibition and exceptions) amended**

(1) In Article 8(3)(a)(i) for “Land Transaction Tax Law” there is substituted “Land Transactions Tax Law”.

(2) In Article 8(9) for “Land Transactions Law” there is substituted “Land Transactions Tax Law”.

(3) After Article 8(9) there is inserted –

“(9A) Notwithstanding any enactment to the contrary, paragraph (1) does not apply to the publication by or on behalf of the Commissioners of Appeal of any determination or summary of a determination, under a Revenue Law, of the Commissioners of Appeal.

(9B) A matter published under paragraph (9A) –

(a) must not include personal information, that is information relating to and identifying a particular person, whether the identity is specified in or can be deduced from the matter published; and

(b) may be, or relate to, a determination of the Commissioners of Appeal made prior to the commencement of this provision.”.

(4) In Article 8(10) for “paragraph (2) to (9)” there is substituted “paragraphs (2) to (9A),”.

## **26 Article 13 (administration of penalty) amended**

In Article 13(2) for “paragraph (3)” there is substituted “Article 14”.

## **27 Article 14 (appeals) amended**

For Article 14(2) there is substituted –

“(2) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

## **28 Article 16 (interpretation of this Part) amended**

For Article 16(1)(b) there is substituted –

“(b) “remittance” means an amount to be remitted to the Comptroller under Article 41B(5) or (5AA) or Article 41E(5) of the Income Tax Law;

(c) “Law” refers to the Income Tax Law or the GST Law, as the case may be.”.

**29 Article 17 (interest for late payment of a tax) amended**

- (1) For the heading to Article 17 there is substituted –

**“17 Interest for late payment of tax or remittance”.**

- (2) For Article 17(1) there is substituted –

“(1) A person who fails, on or before the time required under a Law, to pay all or part of a tax or remittance is liable to pay simple interest on the amount outstanding for the period beginning on the day following the date on which the tax or remittance is due and ending on the date on which the tax or remittance is fully paid.”.

- (3) After Article 17(4)(b) there is inserted –

“(c) the person concerned is an individual who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

- (4) In Article 17(5) for “and reference to “the date tax is fully paid” refers to” there is substituted “and reference to a date on which the tax is fully paid is reference to”.

**30 Article 18 (further penalty interest for late payment of tax) amended**

- (1) For the heading to Article 18 there is substituted –

**“18 Further penalty interest for late payment of tax or remittance”.**

- (2) For Article 18(1) there is substituted –

“(1) The Comptroller may decide to impose further interest under this Article if a person fails, on or before the date that is 3 months after the date on which a tax or remittance is required to be paid under a Law (the “specified date”), to pay all or part of the tax or remittance.

(1A) Interest imposed under paragraph (1) is simple interest on the amount outstanding for the period beginning on the day following the specified date and ending on the date on which the tax or remittance is fully paid.”.

- (3) After Article 18(5)(b) there is inserted –

“(c) the person concerned is an individual who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

- (4) After Article 18(7) there is inserted –

“(8) A person may appeal to the Commissioners against the Comptroller’s decision to impose interest under this Article by notifying the Comptroller in writing within 40 days after becoming aware of the decision.

- (9) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

### **31 Article 19 (interest arising from over-payments) amended**

- (1) For Article 19(1) there is substituted –

“(1) If the Comptroller refunds an over-payment to a person, the Comptroller must pay simple interest on the refund for the period –

- (a) beginning on the later of –

- (i) the day following the date the tax was due, or
- (ii) the date the payment of tax was made; and

- (b) ending on the date the Comptroller refunds the over-payment.”.

- (2) For Article 19(3) there is substituted –

“(3) No interest is payable under paragraph (1) if –

- (a) the amount refunded is less than £300; or

- (b) the person to whom the over-payment is refunded is an individual who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

### **32 Article 25 (preservation of records) amended**

After Article 25(2) there is inserted –

“(3) Regulations (under this or any other Revenue Law) may require an individual to keep records for a different period than that required by this Article.”.

### **33 Article 26 (civil penalties) amended**

For Article 26(7) there is substituted –

“(7) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

### **34 New Part 6A (Comptroller’s powers to obtain information) inserted**

After Part 6 there is inserted –

## **“PART 6A**

### **COMPTROLLER’S POWERS TO OBTAIN INFORMATION**

#### **27A Interpretation and application of this Part**

- (1) In this Part –
  - “information” –
    - (a) includes all information, not limited to documents or records, that the Comptroller reasonably requires for the purposes of ascertaining a person’s tax position; but
    - (b) does not include –
      - (i) information with respect to which a claim to legal privilege is or could be maintained for the purpose of or in any proceedings, or
      - (ii) confidential medical information;
  - “information notice” means a notice under Article 27B or 27C;
  - “record” has the same meaning as given by Article 22(b);
  - “tax” means tax under the Income Tax Law, GST Law, or Land Transactions Tax Law, and includes LTC contributions;
  - “tax position”, in relation to a person or group of persons, means the person’s or group’s position as regards any tax, including –
    - (a) past, present or future liability to pay any tax;
    - (b) penalties and other amounts paid or payable by or to the person or group in connection with any tax;
    - (c) allowances, applications, claims, deductions, elections, and notices that have been or may be made or given in respect of any tax.
- (2) References in this Part to a person’s tax position –
  - (a) may include the tax position of a company which has ceased to exist, or an individual who has died;
  - (b) include, where appropriate, references to the person’s position as regards any deductions or repayments of tax which the person is required to make –
    - (i) under Article 41B or 41E of the Income Tax Law, or
    - (ii) under any provision of the Revenue Laws other than that Law; and
  - (c) are references to the person’s tax position at any time, or in relation to any period, specified in an information notice.
- (3) This Part applies in addition to any other power of the Comptroller to seek information under the Revenue Laws, whether by way of a notice or return or otherwise.

### **27B Information notices: general**

- (1) This Article applies where the Comptroller reasonably requires information as to a person's tax position, and either –
  - (a) the person has been given a reasonable opportunity to deliver the information required, but has failed to do so; or
  - (b) the Comptroller reasonably suspects that, were a request for such information to be made, the person would seek to conceal or destroy the information.
- (2) Where this Article applies, the Comptroller may serve on the person a notice in writing that specifies –
  - (a) the information required; and
  - (b) the period, being not less than 30 days beginning with the date of service of the notice, within which the information must be provided to the Comptroller.
- (3) A notice may also specify such other matters as the Comptroller may consider reasonable, including –
  - (a) the manner and format in which the information or part of it is to be provided; and
  - (b) the place at which the information or part of it is to be made available.

### **27C Information notices: third parties**

- (1) This Article applies where the Comptroller reasonably requires from a third party, information as to the tax position of a person, or class of persons, other than that third party, and either –
  - (a) the Comptroller has already issued a notice under Article 27B; or
  - (b) the Comptroller considers that it would not be expedient in the circumstances to issue such a notice.
- (2) Where this Article applies, the Comptroller may serve on the third party a notice in writing (a "third party notice") that specifies –
  - (a) the name of the person, or the bank account number or other details sufficiently identifying the person or class of persons, as to whose tax position the information is sought;
  - (b) the information required;
  - (c) the period, being not less than 30 days beginning with the date of service of the notice, within which the information must be provided to the Comptroller; and
  - (d) a warning that the third party is liable to prosecution if the third party discloses information relating to the notice to any person.
- (3) A third party notice may also specify other matters that the Comptroller considers reasonable, including –
  - (a) the manner and format in which the information or part of it is to be provided;

- (b) the place at which the information or part of it is to be made available.
- (4) Where the Comptroller serves a third party notice, the Comptroller must, as soon as reasonably practicable after service of the notice, serve a copy of the notice on any person specifically identified in the notice.
- (5) However, the Comptroller is not required to serve a copy of a third party notice on a person if –
  - (a) the Comptroller does not know the person's name or address;
  - (b) provision of the notice would identify or might identify a person who has provided information taken into account by the Comptroller in deciding whether or not to serve the notice; or
  - (c) the Comptroller is satisfied that serving a copy of the notice may prejudice the assessment, collection or recovery of tax or the investigation or prosecution of tax matters.
- (6) A person who knowingly and without reasonable excuse discloses, to any person other than the Comptroller –
  - (a) the fact that a third party notice has been served; or
  - (b) the contents of, or any information relating to, a third party notice,commits an offence and is liable to a fine of level 2 on the standard scale.

## **27D Appeals against information notices**

- (1) A person on whom an information notice is served may appeal to the Commissioners against the notice by notifying the Comptroller in writing, no later than 30 days after the date of service of the notice.
- (2) Where an information notice requires information to be provided which comprises or includes a document, an appeal may be made on the grounds that the document is not in that person's possession or power.
- (3) An appeal against a third party notice may be made only –
  - (a) on such grounds as are stated in paragraph (2); or
  - (b) on the grounds that compliance with the notice is unduly onerous.
- (4) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.
- (5) Where an appeal is made under this Article, the information notice is of no effect pending the final determination or withdrawal of the appeal.

### **27E Comptroller may retain, copy and require explanation of document**

Where information required by an information notice includes, or is contained in, a document, the Comptroller's power under Article 27B or 27C to obtain information includes the power –

- (a) to retain a document for so long as is reasonably necessary to permit a full and complete inspection of the document;
- (b) to take copies of the document;
- (c) to require an explanation of the document; and
- (d) if a document which the Comptroller reasonably expected to be produced is not produced, to require the recipient of an information notice to state, to the best of the recipient's knowledge or belief, where the document is.

### **27F Amounts and administration of penalties**

- (1) A person who refuses or fails to comply with an information notice is liable to an initial penalty of an amount not exceeding £300.
- (2) A person who continues to refuse or to fail to comply with an information notice after receiving notice of an initial penalty is liable to a further penalty of an amount not exceeding £60 per day for the period during which the refusal or failure continues.
- (3) Where a person is liable to a penalty under this Article, the Comptroller may serve on the person a notice in writing specifying –
  - (a) the amount of the penalty, being such amount as the Comptroller considers to be reasonable in the circumstances;
  - (b) the grounds on which the penalty is imposed, and whether it is imposed under paragraph (1) or (2);
  - (c) where the penalty is imposed under paragraph (1), the person's potential liability to a further penalty under paragraph (2); and
  - (d) the person's right to appeal against the penalty under Article 27G.
- (4) Subject to Article 27G, a person on whom a notice is served under this Article must pay the amount of the penalty no later than 40 days after the service of the notice.
- (5) The amount of a penalty is treated for all purposes, including collection and recovery, as if it were an amount of tax charged and payable under the Income Tax Law, except that the penalty –
  - (a) is not deductible for any purpose of the Income Tax Law; and
  - (b) is disregarded when determining the amount of a surcharge under Article 41I of that Law.

### **27G Appeals against penalty notices**

- (1) A person who receives a notice under Article 27F(3) may appeal to the Commissioners against the notice by notifying the Comptroller

in writing, no later than 40 days after the date of service of the notice, of the grounds on which the appeal is made.

- (2) The grounds on which an appeal may be made are –
  - (a) that the person has taken all reasonable steps to comply with the information notice giving rise to the penalty; and
  - (b) that the amount of the penalty is unreasonable.
- (3) No right of appeal arises if the information sought by the information notice consists of information required to be kept under any of the Revenue Laws.
- (4) In determining an appeal under this Article, the Commissioners may –
  - (a) confirm the imposition of the penalty and its amount;
  - (b) declare that the penalty was wrongly imposed;
  - (c) reduce the amount of the penalty; or
  - (d) amend or set aside the notice.
- (5) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.
- (6) Where an appeal is made against a penalty notice, the notice is of no effect pending the final determination or withdrawal of the appeal.

#### **27H Offence of concealing information etc.**

- (1) This Article –
  - (a) applies to a person from whom the Comptroller has requested information as to the person's tax position or as to the tax position of any other person, whether or not the request is made by an information notice; but
  - (b) does not apply where the Comptroller has indicated to the person (whether in making the request or otherwise) that this Article does not apply.
- (2) If, knowingly and without reasonable excuse, a person to whom this Article applies alters, conceals, destroys or otherwise disposes of the information requested by the Comptroller, the person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (3) Despite paragraph (2), a person may alter, conceal, destroy or otherwise dispose of information requested by the Comptroller –
  - (a) where the request was not made by means of an information notice –
    - (i) after the end of the period of 12 months beginning with the date of the request, or
    - (ii) if the request is withdrawn, at any time after the withdrawal; or
  - (b) where the request was made by means of an information notice –



- (i) with the permission of the Comptroller, or
  - (ii) where the Comptroller has refused such permission or has failed to respond to the person's request for permission, with the leave of the Royal Court upon an application made for that purpose to the Court.
- (4) This Article is without prejudice to the provisions of Part 6 or any requirement, under any other enactment, to keep records or retain information for the purposes of establishing a person's tax position."

**35 Related amendment to [Goods and Services Tax \(Jersey\) Regulations 2007](#)**

- (1) In Regulation 18(1) of the [Goods and Services Tax \(Jersey\) Regulations 2007](#) –
  - (a) in sub-paragraph (a), after “retaining” there is inserted “, for 6 years after the date of supply,”;
  - (b) the proviso is deleted.
- (2) In Regulation 18(3) of the [Goods and Services Tax \(Jersey\) Regulations 2007](#) –
  - (a) in sub-paragraph (a), after “retaining” there is inserted “, for 6 years after the date of importation,”;
  - (b) the proviso is deleted.

**PART 4**

**CITATION AND COMMENCEMENT**

**36 Citation and commencement**

This Law may be cited as the Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- and comes into force 7 days after it is registered.

**ENDNOTES**

**Table of Endnote References**

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<sup>1</sup> *Law currently awaiting Privy Council sanction*