



Jersey

# **COMPETITION REGULATORY AUTHORITY (JERSEY) LAW 2001**

## **Official Consolidated Version**

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Jersey

# COMPETITION REGULATORY AUTHORITY (JERSEY) LAW 2001

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Jersey

## COMPETITION REGULATORY AUTHORITY (JERSEY) LAW 2001<sup>1</sup>

A **LAW** to constitute a body corporate to be known as the Jersey Competition Regulatory Authority and for matters ancillary thereto

Commencement [[see endnotes](#)]

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### 1 Interpretation<sup>2</sup>

In this Law, unless the context otherwise requires –

“Authority” means the Jersey Competition Regulatory Authority established by Article 2;

“Comptroller and Auditor General” has the same meaning as in the [Comptroller and Auditor General \(Jersey\) Law 2014](#);

“financial year” means financial year of the Authority, being the period beginning with the day on which Article 2 comes into force and ending with 31st December in the following year, and each subsequent period of 12 months ending with 31st December in each year;

“function” includes power, authority and duty;

“member” means member of the Authority;

“Minister” means the Minister for Sustainable Economic Development.

### 2 Establishment of Authority

- (1) The Jersey Competition Regulatory Authority is established.
- (2) The Authority shall be a body corporate with perpetual succession and a common seal and may –
  - (a) sue and be sued in its corporate name;
  - (b) enter into contracts and acquire, hold and dispose of any property; and
  - (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

- (3) The application of the common seal of the Authority shall be authenticated by the signature of a person authorized by the Authority to sign on its behalf and every document bearing the imprint of the seal of the Authority shall be deemed to be properly sealed unless the contrary is proved.
- (4) Save as this Law provides to the contrary, the Authority shall be independent of the Minister and of the States and neither the Minister nor the States shall be liable for any act or omission or debt or other obligation of the Authority.
- (5) The Authority may regulate its own proceedings.

### **3 Appointment of members**

- (1) The Authority shall consist of –
  - (a) one member appointed by the Minister as Chairman of the Authority; and
  - (b) 2 or more other members appointed by the Minister after he or she has consulted the member who has been appointed as Chairman.<sup>3</sup>
- (2) A person is not disqualified from holding office as a member because the person is an officer, employee or agent of the Authority.
- (3) Article 2 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) shall apply to the appointment of the Chairman of the Authority.<sup>4</sup>
- (3A) The Minister shall notify the States of the appointments that the Minister has made under paragraph (1)(b).<sup>5</sup>
- (4) The rights and obligations of the Authority, and the performance of its functions, shall not be affected by any vacancy in its membership or any defect in the appointment of a member.

### **4 Terms of appointment of members**

- (1) A member shall hold and vacate office in accordance with the terms of the member's appointment.
- (2) A member shall be appointed for a period not exceeding 5 years and upon expiry of such period shall be eligible for reappointment.
- (3) A member may at any time resign his or her office by giving notice in accordance with the terms of the member's appointment.
- (4) The States may, on the recommendation of the Minister, revoke the appointment of the member appointed as Chairman if the States are satisfied that the member –
  - (a) has been absent from meetings of the Authority for a period longer than 6 consecutive months without the permission of the Authority;
  - (b) has neglected the duties of a member or has engaged in misconduct;
  - (c) is an undischarged bankrupt; or
  - (d) is incapacitated by physical or mental illness.
- (5) The Minister may revoke the appointment of a member, other than the member appointed as Chairman, if the Minister is satisfied that any of the circumstances referred to in paragraph (4)(a) – (d) apply to the member.

- (6) Article 3 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) shall apply to the termination of the appointment of a member of the Authority, other than the Chairman.<sup>6</sup>

## **5 Remuneration of members**

- (1) The Authority shall pay to the members –
- (a) such remuneration as the Minister determines; and
  - (b) if the Minister so determines, reasonable out-of-pocket or other expenses occasioned in the course of carrying out their duties.
- (2) The Authority shall also make for the members (or persons who have been members) such provision (if any) for pensions, allowances or gratuities, and payments when special circumstances arise, as the Minister directs.

## **6 Functions**

- (1) The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.
- (2) The Authority may recognize or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods or services to which the Authority's functions relate.
- (3) The functions of those bodies shall include one or more of the following –
- (a) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
  - (b) the representation of the views of any one or more of those persons.
- (4) The Authority may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).
- (5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.

## **7 Committees**

- (1) The Authority may establish committees whose members may, but need not, be members, officers, employees, or agents, of the Authority.
- (2) A committee of the Authority may itself establish sub-committees whose members may, but need not, be members of the committee or members, officers, employees, or agents, of the Authority.

## **8 Staff**

- (1) The Authority may appoint such officers, employees and agents as it considers necessary for the performance of its functions.
- (2) The Authority may –

- (a) make those appointments on such terms as to remuneration, the payment of expenses, and other conditions of service, as it thinks fit; and
- (b) establish and maintain such schemes or make such other arrangements as it thinks fit for the payment of pensions and other benefits in respect of its officers and employees.

## **9 Delegation**

- (1) The Authority may delegate any of its functions under this or any other enactment wholly or partly to –
  - (a) the Chairman;
  - (b) another member;
  - (c) an officer or employee of the Authority; or
  - (d) a committee whose member or members are drawn only from the members, officers and employees of the Authority.
- (2) Nothing in this Article shall authorize the Authority to delegate –
  - (a) this power of delegation; or
  - (b) the function of reviewing any of its decisions.
- (3) The delegation of any functions under this Article –
  - (a) shall not prevent the performance of those functions by the Authority itself; and
  - (b) may be amended or revoked by the Authority.

## **10 Minister may guide or direct Authority in certain matters**

- (1) The Minister may, if he or she considers that it is desirable in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is, relating to the system and arrangements by and under which the Authority is directed and controlled.
- (2) Those matters may include matters relating to accountability, efficiency, and economy of operation, of the Authority, but not matters relating directly to the performance of the Authority's licensing or regulatory functions or its functions under Article 6(2) or (4).
- (3) In particular, but without limiting paragraphs (1) and (2), the guidance or directions may relate to conflicts of interest, the accounts of the Authority and their audit, borrowing by the Authority and the investment of the funds of the Authority.
- (4) It shall be the duty of the Authority to have regard to any guidance, and to act in accordance with any directions, given to it by the Minister under this Article.
- (5) The Minister shall not give guidance or directions under this Article without first consulting the Authority.

**11** <sup>7</sup>**12 Fees and charges**

The Authority may charge, retain and apply in the performance of its functions –

- (a) fees and charges of such amounts, paid by such persons, and paid in such manner, as may be specified by or under this or any other enactment;
- (b) fees for the performance of its function under Article 6(4);
- (c) such fees and charges (not inconsistent with this or any other enactment) of such amounts, paid by such persons, and paid in such manner, as may be decided by the Authority in respect of any service, item, or matter, that does not arise under this or any other enactment; and
- (d) such fees and charges (not inconsistent with this or any other enactment) as may be agreed between the Authority and any person for whom the Authority provides advice, assistance or other services under this or any other enactment, in respect of the advice, assistance or other services.

**13 Grants to Authority**

- (1) The States may make a grant to the Authority from their annual income towards the expenses of the formation of the Authority and its initial expenses.
- (2) In respect of each financial year, the States may make a grant to the Authority from their annual income towards the Authority's expenses in performing any of its functions.
- (3) The amount of any grant referred to in paragraph (1) or (2) shall be determined by the Minister for Treasury and Resources on the recommendation of the Chief Minister made after consultation with the Authority.<sup>8</sup>
- (4) In determining that amount, the Minister for Treasury and Resources shall have regard to the actual financial position and the projected financial position of the Authority.
- (5) In making that recommendation, the Chief Minister shall have regard to the actual financial position and the projected financial position of the Authority.<sup>9</sup>

**14 Consent to borrowing**

- (1) The Authority shall not borrow money without the consent of the Chief Minister.<sup>10</sup>
- (2) The Minister for Treasury and Resources may, on such terms as he or she may determine, on behalf of the States –
  - (a) guarantee the liabilities of the Authority; or
  - (b) lend money to the Authority.
- (3) The Minister for Treasury and Resources may act under paragraph (2) only on the recommendation of the Chief Minister.<sup>11</sup>

**15 Guidelines on investment**

The Authority shall, in investing any of its funds, comply with any guidelines specified by the Minister.

**16 Exemption from income tax**

The income of the Authority shall not be liable to income tax under the [Income Tax \(Jersey\) Law 1961](#).

**17 Accounts and audit**

- (1) The Authority shall –
  - (a) keep proper accounts and proper records in relation to the accounts; and
  - (b) prepare accounts in respect of each financial year and, after the accounts have been audited in accordance with paragraph (3), provide these to the Minister as soon as practicable after the end of the financial year to which they relate, but in no case later than 4 months after the end of that year.<sup>12</sup>
- (2) The Minister shall lay a copy of the accounts so provided before the States as soon as practicable after the Minister receives the report.
- (3) The accounts of the Authority shall –
  - (a) be audited by auditors appointed in respect of each financial year by the Comptroller and Auditor General; and
  - (b) be prepared in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss of the Authority for the period to which they relate and of the state of the Authority's affairs at the end of the period.<sup>13</sup>
- (4) Article 113 of the [Companies \(Jersey\) Law 1991](#) shall apply to an auditor and the auditor's appointment referred to in this Article as if the Authority were a company within the meaning of the first-mentioned Article and the appointment were under Article 109 of that Law.

**18 Annual report**

- (1) The Authority shall prepare a report on its activities in each of its financial years.
- (2) The Authority shall provide the Minister with the report as soon as practicable after the end of the financial year to which the report relates, but in no case later than 4 months after the end of that year.
- (3) The Minister shall lay a copy of the report so provided before the States as soon as practicable after the Minister receives the report.

**19 Limitation of liability**

- (1) A person or body to whom this Article applies shall not be liable in damages for anything done or omitted in the performance or purported performance of any functions of the Authority conferred by or under this Law or any other enactment, or

any other functions conferred by or under this Law, unless it is shown that the act or omission was in bad faith.

- (2) This Article applies to the following –
- (a) the States;
  - (b) the Minister or any person who is, or is acting as, an officer, employee or agent of the Authority, or performing any function on behalf of the Authority;
  - (c) the Authority, any member of the Authority, or any person who is, or is acting as, an officer, employee or agent of the Authority or performing any function on behalf of the Authority.

## **20 Orders**

- (1) The Minister may by Order make provision for the purpose of carrying this Law into effect.
- (2) An Order made under this Law may –
- (a) make different provision in relation to different cases or circumstances; and
  - (b) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the Order.
- (3) <sup>14</sup>

## **21 Citation**

This Law may be cited as the Competition Regulatory Authority (Jersey) Law 2001.

## ENDNOTES

### Table of Legislation History

| Legislation  | Year and No                      | Commencement  | ◦Projet No (where applicable)           |
|--|----------------------------------|---|---|
| Competition Regulatory Authority (Jersey) Law 2001   | <a href="#">L.12/2001</a>        | 1 May 2001<br>( <a href="#">R&amp;O.80/2001</a> )         | <a href="#">P.191/2000</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>               |
| Public Finances (Consequential Amendments) (Jersey) Regulations 2005   | <a href="#">R&amp;O.126/2005</a> | 9 December 2005   | <a href="#">P.203/2005</a>              |
| Comptroller and Auditor General (Jersey) Law 2014  | <a href="#">L.25/2014</a>        | 17 November 2014  | <a href="#">P.98/2014</a>               |
| States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015                                   | <a href="#">R&amp;O.158/2015</a> | 1 January 2016  | <a href="#">P.46/2015</a><br>(re-issue) |
| States of Jersey (Appointment Procedures) (Jersey) Law 2018  | <a href="#">L.13/2018</a>        | 11 May 2018   | <a href="#">P.97/2017</a><br>(re-issue) |
| States of Jersey (Transfer of Responsibilities and Functions) (Competition, Unregistered Rights and Trade Marks) (Jersey) Order 2020 | <a href="#">R&amp;O.93/2020</a>  | 11 July 2020  |   |
| Legislation (Jersey) Law 2021  | <a href="#">L.8/2021</a>         | 28 September 2021<br>( <a href="#">R&amp;O.112/2021</a> ) | <a href="#">P.26/2021</a>               |
| States of Jersey (Ministerial Offices – Minister for Sustainable Economic Development) Order 2023                                    | <a href="#">R&amp;O.102/2023</a> | 24 November 2023  |   |

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

### Table of Renumbered Provisions

| Original    | Current                                  |
|-------------|--|
| 1(1)        | 1  |
| (2),(3),(4) | spent, omitted from this revised edition |

### Table of Endnote References

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- <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* amended by L.25/2014, R&O.158/2015, R&O.93/2020, R&O.102/2023
- <sup>3</sup> *Article 3(1)* amended by L.13/2018
- <sup>4</sup> *Article 3(3)* substituted by L.13/2018
- <sup>5</sup> *Article 3(3A)* inserted by L.13/2018
- <sup>6</sup> *Article 4(6)* inserted by L.13/2018
- <sup>7</sup> *Article 11* repealed by R&O.126/2005
- <sup>8</sup> *Article 13(3)* amended by R&O.158/2015
- <sup>9</sup> *Article 13(5)* amended by R&O.158/2015
- <sup>10</sup> *Article 14(1)* amended by R&O.158/2015
- <sup>11</sup> *Article 14(3)* amended by R&O.158/2015
- <sup>12</sup> *Article 17(1)* amended by L.25/2014
- <sup>13</sup> *Article 17(3)* amended by L.25/2014
- <sup>14</sup> *Article 20(3)* deleted by L.8/2021