



Jersey

# **DORMANT BANK ACCOUNTS (JERSEY) LAW 2017**

## **Official Consolidated Version**

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Jersey

## DORMANT BANK ACCOUNTS (JERSEY) LAW 2017

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Jersey

## DORMANT BANK ACCOUNTS (JERSEY) LAW 2017

A LAW to provide for the transfer, to a fund, of balances in dormant accounts, and for the distribution of money in that fund for charitable and other purposes, subject to a right to reclaim those balances from the fund; and for connected purposes.

Commencement [[see endnotes](#)]

### PART 1

#### INTERPRETATION

##### 1 Interpretation

(1) In this Law –

“account” has the meaning given by Article 2;

“account holder” or “holder” means, in respect of an account, a person (whether or not an individual) –

- (a) in whose name the account is held by a bank;
- (b) who is beneficially entitled to the account or has the power to operate it or control it; or
- (c) who is entitled to demand repayment of an amount on the account;

“balance” has the meaning given by Article 3;

“bank” has the meaning given by Article 4;

“bankruptcy” has the meaning given by paragraph (2);

“dormant” has the meaning given by Article 5;

“function” includes a power and a duty;

“Fund” means the Jersey Reclaim Fund;

“Jersey Reclaim Fund” means the fund established under Part 3;

“liquidator” means the person (whether the Viscount or some other person) for the time being charged with the administration of the property of a bank by virtue of its bankruptcy;

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

“Order” means an Order made by the Minister;

“prescribed” means prescribed by Order;

“relevant year” means the 12 month period starting on 1st July in any calendar year and ending on 30th June immediately following.<sup>1</sup>

- (2) In this Law, and without limiting the operation of Article 8 of the [Interpretation \(Jersey\) Law 1954](#), references to bankruptcy include –
  - (a) the winding up of an insolvent company under Article 155 of the [Companies \(Jersey\) Law 1991](#); and
  - (b) a process or state equivalent or similar to such winding up, or to bankruptcy (within the meaning of the [Interpretation \(Jersey\) Law 1954](#)), under the law of a jurisdiction outside Jersey.
- (3) For the purposes of this Law a person is still to be treated as the holder of an account despite the fact that the whole or any part of the balance on the account has been transferred to the Fund in accordance with this Law, and whether or not the account is closed.

## 2 “Account” defined

- (1) For the purposes of this Law, “account” means –
  - (a) an account held by a bank in Jersey as part of its activity of accepting deposits;
  - (b) any one or more of the following held by a bank in Jersey in its activity of accepting safe custody –
    - (i) precious metal (which includes bullion and coins but excludes jewellery),
    - (ii) precious stones (but not jewellery),
    - (iii) such other things as may be prescribed;
  - (c) a prescribed account; or
  - (d) any other prescribed thing, facility or arrangement (whether or not in prescribed circumstances).
- (2) For the purposes of this Law, an account referred to in paragraph (1)(a) includes a current account and a deposit account.

## 3 “Balance” defined

- (1) For the purposes of this Law, the balance of an account at any particular time is the amount, or value, owing to the holder of the account in respect of the account at that time, after adjustments have been made for sums due to the bank in respect of the account (such as any interest due or any fees or charges payable at that time, including those payable under Article 14(1)).
- (2) For clarity, a reference to sums due to the bank is a reference to sums due according to the terms and conditions of the account as in force from time to time and up to the time referred to in paragraph (1).
- (3) However, the balance of an account at any particular time does not include such amount, or value, in that account as is subject to a security interest to which the [Security Interests \(Jersey\) Law 1983](#) or the [Security Interests \(Jersey\) Law 2012](#) applies.

#### 4 “Bank” defined

For the purposes of this Law, “bank” means –

- (a) a person who is registered under the [Banking Business \(Jersey\) Law 1991](#) and carries on deposit taking business within the meaning of that Law;
- (b) a person who, as part of a business, takes safe custody (but not ownership) of anything referred to in Article 2(1)(b); or
- (c) a person prescribed for the purposes of this Article.

#### 5 “Dormant” defined

- (1) Subject to the following provisions of this Article, an account is dormant at any time for the purposes of this Law if –
  - (a) the account has been open throughout the period of 15 years ending at that time; and
  - (b) during that period –
    - (i) no transactions carried out in relation to the account were initiated by a holder of the account, and
    - (ii) there is no evidence held by the bank of the account holder’s having made any contact with the bank in relation to that account by any means of communication.
- (2) An account referred to in Article 2(1)(a) is dormant for the purposes of this Law even if the period during which no transactions have been carried out or no contact has been made under paragraph (1)(b) in relation to the account is less than 15 years if –
  - (a) an application is made to the Minister by the bank holding the account; and
  - (b) the Minister agrees to treat the account as dormant.
- (3) An account is not to be treated as dormant if at any time during the period mentioned in paragraph (1)(a) –
  - (a) a transaction initiated by a holder of the account was carried out or there is evidence held by the bank of contact having been made under paragraph (1)(b) in relation to another account in the name of the same person as that first-mentioned account at the same bank; or
  - (b) under the terms and conditions of the account –
    - (i) withdrawals from the account were not permitted, or
    - (ii) there was a financial penalty or other disincentive for making a withdrawal from the account and the financial penalty or other disincentive applied in all circumstances.
- (4) Where either of the restrictions mentioned in paragraph (3)(b)(i) or (ii) applied to an account but the account then continues without such a restriction, the account is treated as having been opened only at the date on which the restriction ceased to apply.
- (5) For the purposes of paragraph (1) an account that is closed before the time referred to in that paragraph is treated as remaining open at that time

if it has been closed otherwise than by, or on the instructions of, a holder of the account.

- (6) For the purposes of paragraph (3)(b)(ii), “financial penalty or other disincentive” does not include a reasonable fee for keeping the account or for carrying out a transaction on the account, or a requirement to give a reasonable period of notice of a withdrawal from the account.

## 6 Amendment of definitions

The States may by Regulations amend any provision in this Part.

## PART 2

### NOTICES, TRANSFERS AND CLAIMS

## 7 Notice and transfer of dormant accounts

- (1) Within 3 months of the start of each relevant year a bank must, in relation to every account it holds that falls dormant during the preceding relevant year –
- (a) in the case of every account referred to in Article 2(1)(a) –
    - (i) give notice to the Minister setting out the number of, and balances of, each dormant account, and
    - (ii) give notice of the balance of every dormant account to the person in whose name the account is held at the person’s last address known to the bank, unless the bank believes that writing to that address may lead to a risk of fraud; and
  - (b) in the case of every other account, where the bank has not renewed its registration under the [Banking Business \(Jersey\) Law 1991](#) and consequently its registration has expired or will expire, give notice to the Minister describing each account.
- (2) Where a description under paragraph (1)(b) includes a valuation the valuation may be based on an estimate of the current value of the assets or the last-known valuation.
- (3) If requirements have been prescribed in relation to the form or contents of, or information to be included in, a notice under paragraph (1), the notice must comply with those requirements.
- (4) When so requested in writing by the Minister a bank must provide the Minister with further information about dormant accounts held with the bank within 1 month of being notified of that request.
- (5) The bank must not make a transfer of a dormant account under this Article if at any time prior to 30th November in the relevant year –
- (a) a holder of the account has notified the bank that the account is not dormant;
  - (b) the bank otherwise realises that the account is not dormant; or
  - (c) the Minister refuses to accept the transfer.



- (6) The Minister may refuse to accept the transfer under paragraph (5) if it appears to the Minister reasonable to do so.
- (7) Subject to Article 8 and to any Order made under Article 23(2)(f), by the end of December in the relevant year a bank –
  - (a) must transfer to the Fund such part of the balance of a dormant account as is an account referred to in Article 2(1)(a);
  - (b) must transfer to the Fund such part of the balance of a dormant account as is not an account referred to in Article 2(1)(a) but is prescribed for the purposes of this sub-paragraph; and
  - (c) may transfer to the Fund such part of the balance of a dormant account as is a part to which sub-paragraph (a) or (b) does not apply.
- (8) In the case of accounts that are dormant when this Article comes into force –
  - (a) the notice period in paragraph (1) runs from 3 months of the end of the relevant year in which this Article comes into force;
  - (b) if a bank so wishes and the Minister agrees, the bank may make a transfer of a dormant account at any time up to the beginning of the period mentioned in sub-paragraph (a) and this Law applies to the transfer as if the foregoing provisions of this Article had been complied with.
- (9) A bank must ensure that a transfer is accompanied by such information as the Minister may prescribe.
- (10) If for whatever reason a transfer does not take place by the date mentioned in paragraph (7) it must take place during the next period of 12 months following that date without any further notice being given.
- (11) If a bank fails, without reasonable excuse, to comply with this Article, it is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>2</sup>
- (12) The Minister may, by Order, amend –
  - (a) the notice requirements in paragraph (1);
  - (b) paragraph (2) to make the provision of valuations in respect of accounts mandatory.

## **8 Precious metals, precious stones and foreign currencies**

- (1) If a dormant account consists partly or wholly of things referred to in or prescribed under Article 2(1)(b) those things must be sold at reasonable market value as at the time of the sale and their value treated as, respectively, part or the whole of the balance of the account (after subtracting the reasonable costs of the sale) before any part of the balance of the account is transferred under Article 7.
- (2) If a dormant account consists in part or in whole of money in a currency other than the currency of Jersey, that money must be converted to the currency of Jersey at the market mid-rate on the day of the conversion (or at such other rate as is prescribed) immediately before any part of the balance of the account is transferred under Article 7.

- (3) Any payment out on a claim as referred to in Article 11 must be made in the currency of Jersey.

## **9 No further right against bank after transfer of balance to Fund**

- (1) After a transfer of any part of the balance of a dormant account under Article 7, a holder of the account –
  - (a) no longer has any right against the bank to payment of the part of the balance; but
  - (b) has against the Minister in respect of the Fund whatever right to payment of the part of the balance as he or she would have had against the bank if the transfer had not occurred.
- (2) However, the Minister may pay the account holder out of the Fund a sum greater than that which he or she would be entitled to under paragraph (1)(b) if the Minister considers it appropriate to do so, having regard to the amount of money held in the Fund in the light of that additional payment out, other possible claims against the Minister in respect of the Fund and any other matter that the Minister considers relevant.
- (3) A part of a balance, being a part transferred under Article 7, is no longer a debt owed, or value due, by the bank.
- (4) An account holder is not entitled to interest on the part of the balance in respect of any period during which the part is held in the Fund, except to the extent that the Minister otherwise prescribes (though the bank remains liable in respect of any interest that accrued before the transfer but was not in fact transferred).
- (5) In relation to things referred to in or prescribed under Article 2(1)(b) that have been sold under Article 8(1) –
  - (a) nothing in paragraph (1)(b) or (7) entitles the holder of the account in which those things were held to recover those things *in specie*;
  - (b) nothing in paragraph (7) entitles that holder to compensation over and above the value of those things because they are no longer held *in specie*, or because they were so sold; and
  - (c) a reference in paragraph (1)(b) to the part of the balance (in so far as it relates to the value of those things) means the sum realized by the sale referred to in Article 8(1) after deduction of the reasonable costs of the sale.
- (6) Nothing in paragraph (1)(b) or (7) entitles the holder of an account that consisted (before the part of the balance of the account was transferred under Article 7) in whole or in part of money in a currency other than the currency of Jersey to recover any part of the balance –
  - (a) in that other currency; or
  - (b) at a value calculated in terms of that currency as at any time other than the time of the conversion of that other currency under Article 8(2).
- (7) For the avoidance of doubt, nothing in paragraph (1) or (3) affects –

- (a) any liability of the bank to the account holder in respect of an amount, or value, other than the part of the balance referred to in whichever paragraph; or
  - (b) the operation of Article 11.
- (8) Subject to paragraph (4) and to the extent that an Order prescribes otherwise, the terms on which a balance was held by a bank apply to any part of it that is held in the Fund.

## **10 Responsibilities and duties of Minister in relation to Fund**

- (1) The Minister's responsibilities in relation to the Fund are limited to –
- (a) payments out of the Fund to meet claims in accordance with this Part;
  - (b) the management of the Fund in such a way as to enable the meeting of such of those claims as it is prudent to expect;
  - (c) the management of the Fund in accordance with any requirement with regard to its financial resources that is imposed on it by or under any enactment and to defray the expenses of the administration of this Law;
  - (d) the distribution of money under Article 20, subject to subparagraphs (b) and (c); and
  - (e) matters that are incidental or conducive to, or otherwise connected with, any of the above (including in particular the prudent investment of money held in the Fund).
- (2) The Minister must prepare an annual report on the operation of this Law in the preceding year and publish it on a website that the Minister considers appropriate.
- (3) Nothing in paragraph (1) affects a bank's duties referred to in Article 11.

## **11 Duties of bank in relation to Fund**

- (1) Except as otherwise provided by Order, a bank must do the following in relation to any part of a balance, being a part that the bank has transferred to the Fund under this Law –
- (a) retain the records that the bank has created or acquired relating to the relevant dormant account and to any holder of that account;
  - (b) receive any claim for payment of that part;
  - (c) verify the claim;
  - (d) calculate the amount that should be paid in respect of the claim;
  - (e) determine who is entitled to that amount;
  - (f) pay out the amount to the person so entitled;
  - (g) comply with any written directions of the Minister given to the bank for the purposes of this Part.
- (2) Nothing in this Law affects any duty of a bank to comply, in respect of the account and the claim, with any law that imposes obligations on the

bank in relation to taxation, anti-money laundering or terrorist financing, or with any other obligation imposed by law.

- (3) The Minister may give written directions to a bank for the purposes of this Part, which bank must comply with such a direction.
- (4) The Minister may by Order make provision for the purposes of this Part by –
  - (a) amending paragraph (1); and
  - (b) specifying or modifying the duties, liabilities, and rights, under this Part, of a liquidator or other person who acts in relation to a bank in a case where the bank has become bankrupt, has transferred any part of its deposit-taking business or has ceased to trade.
- (5) A reference in this Article to payment of part of a balance includes payment of any amount of interest that becomes due to the account holder, in relation to the part, as prescribed under Article 9(4).
- (6) If a bank fails, without reasonable excuse, to comply with this Article, the bank is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>3</sup>

## **12 Bank to make annual statements of repayments**

- (1) A bank must give to the Minister, during the 3 months following the end of each relevant year, written notice of the amounts that it has during that year –
  - (a) paid out in accordance with Article 11(1)(f);
  - (b) claimed from the Minister under Article 13(1); and
  - (c) not paid out.
- (2) If a bank fails to comply with this Article, it is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>4</sup>

## **13 Bank may recover payment from Fund**

- (1) A bank may, by application in writing to the Minister, claim quarterly from the Fund an amount equal to the amount that the bank, in accordance with Article 11 and this Article, has paid out on claims made to the bank.
- (2) However, such an application by a bank for payment from the Fund is not in accordance with this Article in relation to any amount to the extent that –
  - (a) the amount paid out has been paid out by the bank on the claim by the account holder more than 3 years before the application is made;
  - (b) the amount was paid out in error; or
  - (c) the application is not made in relation to the amount by such time as the Minister may allow in particular circumstances.
- (3) Such an application is not in accordance with this Article unless it meets any prescribed requirements, and those requirements may stipulate that the application –

- (a) be made in respect of aggregates of amounts instead of individual amounts;
  - (b) be made at or in respect of any specified time or times; and
  - (c) set out the prescribed information.
- (4) The Minister must pay from the Fund any amount that the Minister is satisfied has been the subject of an application made in accordance with this Article.

#### **14 Fees and expenses of bank**

- (1) A bank may deduct from an account reasonable fees and expenses incurred in respect of carrying out its functions under this Law to the extent provided for in terms and conditions that are binding on the account holder.
- (2) However, except as provided for in paragraph (1), a bank is not entitled to deduct from any amount transferred to, recovered from or to be paid from, the Fund, any amount in respect of the bank's costs or expenses in the performance of its functions under this Law unless expressly provided for elsewhere under this Law.

#### **15 Actions in cases of default by bank**

- (1) Subject to the following provisions of this Article, the operation of this Part is not affected by the fact that a bank has become bankrupt, has transferred any part of its deposit-taking business or has ceased to trade.
- (2) If the Minister believes that any function referred to in Article 11(1)(a) to (f) is not being performed by or in respect of a bank, the Minister may perform the function instead.
- (3) If the Minister performs a function as referred to in paragraph (2), the Minister may deduct from the Fund the Minister's costs and expenses in the performance of the function or may reduce payments out of the Fund by an amount not exceeding those expenses.
- (4) Where a bank –
- (a) is to transfer any part of its deposit-taking business to another entity or move it to another branch of the same bank, the person to whom that business is transferred or moved must comply with paragraph (5);
  - (b) is to cease to trade in Jersey, the bank must make arrangements to ensure compliance with paragraph (5); or
  - (c) has become bankrupt, the liquidator must comply with the requirements of paragraph (5).
- (5) The requirements are –
- (a) to ensure that Article 11(1)(b) to (g) is complied with;
  - (b) to hold the records of the deposit-taking business of the bank and to make them accessible from within Jersey,
- for a period of 10 years beginning with the date of whichever is the relevant event mentioned in paragraph (4).

- (6) Any expenses of a liquidator, whenever incurred, in complying with paragraph (5) have the same priority –
- (a) as the monies chargeable by the Viscount under Article 32(1)(a) of the [Bankruptcy \(Désastre\) \(Jersey\) Law 1990](#); and
  - (b) as the costs, charges and expenses payable under Article 165 of the [Companies \(Jersey\) Law 1991](#) in relation to a creditors' winding up.
- (7) In this Article “liquidator” means the person (whether the Viscount, or some other person) for the time being charged with the administration of the property of a bank by virtue of its bankruptcy, including a person to whom the administration has been delegated.

## **16 Account holder's rights preserved on insolvency etc. of bank**

If an account holder has a right to payment under this Part in respect of any part of a balance, being a part transferred by a bank under this Law, and –

- (a) the bank becomes bankrupt, has transferred any part of its deposit-taking business or has ceased to trade; or
- (b) for any reason the liability that the bank would have to the account holder (but for the operation of this Part) is extinguished or reduced,

the bankruptcy, transfer, cessation, extinction or reduction is, for the purposes of this Part, to be disregarded in relation to the account holder's rights.

## **17 Disclosure of information**

- (1) A bank (or any other person who holds any records of a bank that relate to dormant accounts held or formerly held with the bank) must allow the Minister (or another person authorized in writing by the Minister for the purposes of this Article) to have access to any records of the bank where that access is necessary for the performance of the Minister's functions under this Law.
- (2) No obligation as to secrecy or other restriction on disclosure (however imposed) prevents a bank or other person from disclosing those records to the Minister or other person under paragraph (1).
- (3) If a bank fails to comply with paragraph (1), the bank is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>5</sup>

## **PART 3**

### **JERSEY RECLAIM FUND AND DISTRIBUTION OF MONEY**

## **18 Fund<sup>6</sup>**

There is established the Jersey Reclaim Fund.

**19 Bank to act as agent of Fund**

- (1) A bank acts as the agent of the Minister in respect of the following matters –
  - (a) any claims from and repayments out of the Fund;
  - (b) client relationships;
  - (c) record-keeping;
  - (d) the fulfilment of any legal or regulatory obligations arising out of client relationships.
- (2) The Minister may by Order prescribe the terms on which a bank so acts as agent.
- (3) Despite paragraph (2) the Minister may agree with a bank such additional terms as the Minister considers appropriate.
- (4) The bank with which the Minister makes an agreement under paragraph (3) must meet the Minister's reasonable costs in reaching the agreement.
- (5) Unless and until it is terminated with the consent of the Minister on behalf of the Fund the arrangement by which a bank acts as agent under this Article is binding on any liquidator, any trustee in bankruptcy and any successor of the bank.
- (6) A bank's role as agent under this Article may not be assigned or transferred by contract except as approved by the Minister on behalf of the Fund.

**20 Distribution of Fund money**

- (1) The Minister must by Order, having consulted the Minister for Treasury and Resources, set out policies and procedures for determining whether to make any distribution from the Fund and, if so, the amounts that must be distributed for the purposes of this Article.
- (2) The purposes for which the monies may be distributed are –
  - (a) to defray the cost of the remuneration or other payment for the services of the Commissioner due under the terms of his or her appointment and the cost of providing staff, accommodation or equipment that are required for the proper and effective discharge of the Commissioner's functions; and
  - (b) charitable purposes in accordance with paragraph (4).
- (3) The Minister must by Order appoint an organization independent of the Minister to determine the persons or bodies for whose charitable purposes money from the Fund must be distributed, and to distribute that money to those persons or bodies.
- (4) The independent organization must distribute such money as has been determined in accordance with an Order made under paragraph (1) for the following charitable purposes in such proportions as may be prescribed –
  - (a) the advancement of the arts in Jersey;
  - (b) the advancement of public participation in sport in Jersey;
  - (c) the advancement of the heritage of Jersey;

- (d) the advancement of health, education, and environmental protection or improvement, in Jersey;
  - (e) any other charitable purpose carried on by a registered charity in Jersey.
- (5) A distribution under paragraph (4) may be in the form of either a grant or loan and may be subject to conditions (which may, in particular, include conditions as to repayment with interest).
  - (6) For the purposes of this Part, distributing money for a purpose includes distributing money to establish, or contribute to, endowments (including permanent endowments) in connection with the purpose.
  - (7) The independent organization must report annually to the Minister on its activities under this Article over the previous 12 months and such report, together with audited accounts relating to those activities, must be laid before the States as soon as practicable.
  - (8) The States may amend this Article by Regulations.
  - (9) In this Article –
    - (a) “Commissioner”, “charitable purpose” and “registered charity” have the same meaning as in Article 1 of the [Charities \(Jersey\) Law 2014](#);
    - (b) “independent organization” means the organization appointed under paragraph (3).

## PART 4

### MISCELLANEOUS

#### 21 Functions under Law not deposit-taking or financial service business

If the Minister or another person performs any function that the Minister may perform under this Law, he or she does not, by so doing, carry on deposit-taking business within the meaning of the [Banking Business \(Jersey\) Law 1991](#) or financial service business within the meaning of the [Financial Services \(Jersey\) Law 1998](#).

#### 22 Limitation of liability

- (1) Despite Article 19(1) the Minister, his or her servants or agents (excluding the bank where the bank acts as an agent of the Minister) are not liable for the actions of the bank, its servants or agents in respect of any of the bank’s obligations under this Law, other than in respect of its obligation under Article 11(1)(f).
- (2) The Minister, his or her servants or agents are not liable to a bank or any of its account holders as a result of any action taken in relation to the Fund that would otherwise arise outside of any obligation imposed by or under this Law.
- (3) Without limiting paragraphs (1) and (2), the Minister, his or her servants or agents are not liable in damages for anything done or omitted in the discharge or purported discharge of any function under, or authorized by



or under, this Law unless it is shown that the act or omission was in bad faith.

- (4) For clarity, this Article applies to any person to whom the Minister has delegated any function under Article 28 of this Law or under Article 28 of the [States of Jersey Law 2005](#) in relation to any of his or her functions under this Law.

## 23 Orders

- (1) The Minister may make Orders relating to any matter required or permitted by this Law to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Law.
- (2) In particular the Orders may make provision for or with respect to any of the following –
  - (a) amending any expression of time (whether numerical or otherwise) in this Law;
  - (b) notices to be given under this Law;
  - (c) procedures, requirements, and other matters, that relate to such notices, including how notice is to be given, the matters in respect of which notices are required and the form or contents of, or information to be included in, the notices;
  - (d) forms in general for the purposes of this Law;
  - (e) returns and reports, to be furnished by banks to the Minister for the purposes of this Law;
  - (f) the circumstances in which a bank is not to transfer, to the Fund, part or all of a balance on a dormant account;
  - (g) for fees to be charged in prescribed circumstances for the benefit of the Fund for processing a claim for repayment to a former account holder whose dormant account has been transferred to the Fund;
  - (h) the administration of this Law;
  - (i) procedures, requirements, and other matters, in respect of the operation of this Law.
- (3) The States may by Regulations make provision for the following matters –
  - (a) the performance of the functions of a bank under this Law in the case where the bank has become bankrupt, has transferred any part of its deposit-taking business or has ceased to trade;
  - (b) the rights and priorities of holders of dormant accounts, and of other persons with interests in those accounts, in the case where the bank has become bankrupt, has transferred any part of its deposit-taking business or has ceased to trade;
  - (c) the appointment or constitution, and functions under this Law, of a person who may perform the functions of the relevant bank under this Law in a case referred to in sub-paragraph (g) or (h);
  - (d) the remuneration or funding of such a person in such a case, including remuneration or funding from the bankrupt estate of the bank or from the bank's assets or former assets or from the Fund;

- (e) making provision for priority in such a case as between such a person and creditors of the relevant bank;
  - (f) subject to the [Public Finances \(Jersey\) Law 2019](#) and any enactment made under that Law, the structure and operation of the Fund.<sup>7</sup>
- (4) Orders and Regulations may create an offence punishable by a fine of level 3 on the standard scale.<sup>8</sup>
  - (5) Orders and Regulations may contain such transitional, consequential, incidental or supplementary provisions, or such savings, as appear to the Minister to be necessary or expedient for the purposes of the Order.
  - (6) A reference in this Article to procedures does not include the procedure of any court.

## 24 Providing false information etc.

- (1) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if –
  - (a) the person provides information to the Minister, or to any other person entitled to information under this Law –
    - (i) in connection with an application or claim,
    - (ii) in purported compliance with a requirement imposed under this Law or any enactment made under this Law, or
    - (iii) otherwise than as mentioned in sub-paragraphs (i) and (ii) 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 Minister or other person for the purpose of exercising his or her functions under this Law;
  - (b) that information is false or misleading in a material particular; and
  - (c) the person knows that, or is reckless as to whether, the information is false or misleading in a material particular.
- (2) A person is guilty of an offence and liable to a fine of level 3 on the standard scale if the person fails, without reasonable excuse, to comply with a requirement, imposed under this Law or any enactment made under this Law, to provide information in connection with an application or claim to the Minister, or to any other person entitled to the information, under this Law or under any enactment made under this Law.<sup>9</sup>

## 25 Criminal responsibility of partners and officers

- (1) Where an offence under this Law committed by any form of partnership that is a legal person or by a body corporate 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 general partner of the partnership or other partner participating in the management of the partnership, or director,

manager, secretary or other similar officer of the body corporate;  
or

(b) any person purporting to act in any such capacity,

the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies 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 body corporate.

## **26 *Bona vacantia***

- (1) Nothing in this Law affects the operation of the rule of law regarding *bona vacantia* or any claim that the Receiver-General may have in respect of *bona vacantia*.
- (2) Accordingly, the Receiver-General may claim, and be paid, from the Fund any amount of a balance paid to the Fund where the amount corresponds to the value of property that is *bona vacantia*.

## **27 Recovery of Minister's expenses**

The Minister may recover from the Fund his or her expenses in the performance of any of his or her functions under this Law.

## **28 Power of Minister to delegate functions**

- (1) The Minister may, in writing, delegate, wholly or partly, the functions conferred upon or vested in the Minister by or under any provision of this Law (except Article 20) to any person (other than a person to whom the Minister may make such a delegation under Article 28 of the [States of Jersey Law 2005](#)).
- (2) A Minister must not so delegate –
- (a) any power to make an enactment;
  - (b) any power to decide an appeal under an enactment;
  - (c) any function the delegation of which is prohibited by an enactment.
- (3) The delegation of functions by a Minister under this Article does not prevent the Minister exercising those functions personally.

## **29 Transitional provision**

- (1) This Article applies where a bank has, before the coming into force of this Article –
- (a) a system in place that identifies accounts held by the bank that are dormant for a shorter period than 15 years; or
  - (b) no system is in place for identifying dormant bank accounts.
- (2) Where this Article applies no offence is committed under Article 7 –

- (a) where paragraph 1(a) applies, until a period of time has elapsed that is equivalent to the time difference between the length of time after which the system identifies accounts as dormant and 15 years;
  - (b) where paragraph 1(b) applies, until 5 years after the coming into force of Article 7.
- (3) However, paragraph (2) does not apply if the bank were able by reasonable means to discover whether or not any accounts held by it are dormant (within the meaning of Article 5) other than by a manual check of each account it holds (for example by means of a computerized search using its existing systems).

### **30 Citation**

This Law may be cited as the Dormant Bank Accounts (Jersey) Law 2017.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Dormant Bank Accounts (Jersey) Law 2017	<a href="#">L.1/2017</a>	17 July 2017, except Articles 10(1)(d); 20 and 30(3) ( <a href="#">R&amp;O.72/2017</a> ) 16 December 2019, Articles 10(1)(d); 20 and 30(3) ( <a href="#">R&amp;O.137/2019</a> )	<a href="#">P.25/2016</a>
Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Regulations 2018	<a href="#">R&amp;O.77/2018</a>	18 July 2018	<a href="#">P.84/2018</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	
Public Finances (Jersey) Law 2019	<a href="#">L.10/2019</a>	23 July 2019 ( <a href="#">R&amp;O.67/2019</a> )	<a href="#">P.28/2019</a>
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

Original	Current
30	omitted
31(1)	30
31(2)	omitted

### Table of Endnote References

- <sup>1</sup> Article 1(1) amended by [R&O.40/2019](#), [R&O.29/2021](#)  
<sup>2</sup> Article 7(11) amended by [R&O.77/2018](#)  
<sup>3</sup> Article 11(6) amended by [R&O.77/2018](#)  
<sup>4</sup> Article 12(2) amended by [R&O.77/2018](#)

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- <sup>5</sup> *Article 17(3)*                      *amended by R&O.77/2018*  
<sup>6</sup> *Article 18*                         *amended by L.10/2019*  
<sup>7</sup> *Article 23(3)*                    *amended by L.10/2019*  
<sup>8</sup> *Article 23(4)*                    *amended by R&O.77/2018*  
<sup>9</sup> *Article 24(2)*                    *amended by R&O.77/2018*