



Jersey

COMPTROLLER AND AUDITOR GENERAL (JERSEY) LAW 2014

Official Consolidated Version

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Jersey

COMPTROLLER AND AUDITOR GENERAL (JERSEY) LAW 2014

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Jersey

COMPTROLLER AND AUDITOR GENERAL (JERSEY) LAW 2014

A **LAW** to continue the office of Comptroller and Auditor General, to provide for the functions of that office and for connected purposes

Commencement [[see endnotes](#)]

PART 1

INTERPRETATION

1 Interpretation

- (1) In this Law, unless a contrary intention appears –
- “Chief Executive Officer” has the same meaning as in the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);
- “Comptroller and Auditor General” means the person for the time being holding or carrying out the duties of the office of Comptroller and Auditor General established by Article 2;
- “independently audited States body” means –
- (a) a person (including a corporation sole), office or body, whether or not incorporated, established by an enactment or by an Act of the States where the establishing enactment or Act provides for the person, office or body to be audited otherwise than by the Comptroller and Auditor General; and
- (b) any company, wherever incorporated, that is owned or controlled by the States;
- “Jersey Appointments Commission” means the Commission established under Article 17 of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);
- “Public Finances Law” means the [Public Finances \(Jersey\) Law 2019](#);
- “States’ employee” has the same meaning as in the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#).¹
- (2) In this Law, unless a contrary intention appears, expressions that are not defined in paragraph (1) but are defined in the Public Finances Law have the same meaning as in that Law.

PART 2

APPOINTMENT AND ADMINISTRATION

2 Office of Comptroller and Auditor General

There shall be an office of Comptroller and Auditor General.

3 Appointment of the Comptroller and Auditor General

- (1) The office of Comptroller and Auditor General shall be held by a person appointed by the States on a proposition signed by the Chief Minister and the Chairman of the Public Accounts Committee.
- (2) The States shall debate the proposition in camera.
- (3) Before recommending to the States the appointment of a person to the office of Comptroller and Auditor General the Chief Minister and the Chairman of the Public Accounts Committee must take into account the views and recommendations of the Jersey Appointments Commission.
- (4) The Chief Minister and the Chairman of the Public Accounts Committee must not propose a person for appointment as Comptroller and Auditor General unless satisfied that the person has the qualifications and experience necessary to discharge the functions of that office.
- (5) A person, on being appointed to the office of Comptroller and Auditor General –
 - (a) shall cease to hold any employment as a States' employee; and
 - (b) shall cease to hold any other office or employment (whether or not for remuneration) with any States body or independently audited States body.²
- (6) A person, whilst holding the office of Comptroller and Auditor General, shall be disqualified for holding any employment or office described in paragraph (5).
- (7) The Chief Minister and the Chairman of the Public Accounts Committee may appoint a person to carry out the duties of the office of Comptroller and Auditor General while –
 - (a) the office is vacant; or
 - (b) the holder of the office is unable to perform the functions of the office.
- (8) The Chief Minister must report an appointment under paragraph (7) to the States at the first practicable opportunity.

4 Terms and conditions of appointment

- (1) Subject to paragraphs (2) and (3) and any other provision of this Law, a person appointed to the office of Comptroller and Auditor General shall hold the office on such terms and conditions as are agreed between the person, the Chief Minister and the Chairman of the Public Accounts Committee.
- (2) A person shall be appointed to the office of Comptroller and Auditor for a fixed term of 7 years, which cannot be extended.
- (3) A person cannot be appointed to the office of Comptroller and Auditor General more than once.

5 Restrictions on professional activities

The Comptroller and Auditor General must not –

- (a) accept any other appointment to, or carry out the functions of, any other paid office;
- (b) enter into any other contract of employment (whether or not for remuneration); or
- (c) carry on practice in any other profession either alone or in partnership with any other person,

except with and in accordance with the approval of the Chief Minister and the Chairman of the Public Accounts Committee, which shall not be unreasonably withheld.

6 Restrictions on activities of former Comptroller and Auditor General

- (1) This Article applies upon the revocation or expiry of the term of office of a Comptroller and Auditor General (a “former Comptroller and Auditor General”).
- (2) A former Comptroller and Auditor General must not, during the period of 2 years following the revocation or expiry of his or her term of office as Comptroller and Auditor General, hold any employment or office described in Article 3(5).

7 Revocation of appointment

- (1) The States may revoke the appointment of a person to the office of Comptroller and Auditor General on a proposition signed by the Chief Minister and the Chairman of the Public Accounts Committee.
- (2) The States shall debate the proposition in camera.
- (3) The proposition must allege one of the following grounds for revocation, namely, that the person holding the office of Comptroller and Auditor General –
 - (a) has not carried out the duties of the office in a competent manner;
 - (b) is incapacitated either mentally or physically from carrying out the duties of the office;
 - (c) has neglected to carry out all or any of the duties of the office;
 - (d) has failed to comply with Article 5;
 - (e) has failed to comply with any term or condition of his or her appointment;
 - (f) has indulged in dishonourable conduct;
 - (g) has, without the approval of both the Chief Minister and the Chairman of the Public Accounts Committee, taken leave of absence not provided for by his or her terms and conditions of appointment; or
 - (h) has been convicted of an offence and, by virtue of the conviction, has shown himself or herself not to be a fit and proper person to continue to hold office.
- (4) The report accompanying the proposition must set out details of the evidence to be relied upon to support the allegation.
- (5) The proposition must not be lodged unless the person holding the office of Comptroller and Auditor General –
 - (a) has been given a copy of the report mentioned in paragraph (4); and

- (b) has been given such reasonable opportunity as the circumstances allow to prepare a written statement in respect of the evidence mentioned in the report.
- (6) Any statement prepared in accordance with paragraph (5)(b) must accompany the proposition when it is lodged.
- (7) When the proposition has been lodged the Chief Minister may, with the approval of the Chairman of the Public Accounts Committee, suspend the Comptroller and Auditor General from office.
- (8) If the proposition –
 - (a) is withdrawn;
 - (b) is not approved by the States after debate; or
 - (c) is not debated by the States within 3 months of being lodged,the Comptroller and Auditor General must be restored to office without loss of remuneration or any other benefits.

8 Vacancy in office

- (1) The office of Comptroller and Auditor General becomes vacant if the term of appointment of the person holding the office expires.
- (2) It also becomes vacant if the person holding the office –
 - (a) dies;
 - (b) gives the Chief Minister and the Chairman of the Public Accounts Committee written notice of resignation from the appointment;
 - (c) accepts nomination to become a member of the States;
 - (d) is appointed to any paid office or other place of profit under the Crown;
 - (e) becomes a paid officer in the service of any parochial authority;
 - (f) is compulsorily detained or subject to a guardianship order under the [Mental Health \(Jersey\) Law 2016](#);
 - (g) under Part 4 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), has a delegate appointed in relation to him or her;
 - (h) has an attorney appointed without whom he or she may not act in matters movable or immovable;
 - (i) becomes bankrupt or makes a composition or arrangement with his or her creditors;
 - (j) is convicted of an offence involving corruption; or
 - (k) whether in Jersey or elsewhere, is convicted of any offence and ordered to be imprisoned.³
- (3) The office of Comptroller and Auditor General also becomes vacant if the States, acting in accordance with Article 7, revoke the appointment of the person holding the office.

9 Resources

- (1) The States must ensure that the Comptroller and Auditor General is provided with sufficient resources to carry out his or her functions.

- (2) Notwithstanding paragraph (1), the transactions, internal controls and systems of the Comptroller and Auditor General shall not be subject to any audit under Article 32(5) of the Public Finances Law.⁴

10 Limitation of civil liability

- (1) This Article applies to –
- (a) a person who is or has been the Comptroller and Auditor General; and
 - (b) a person who is or has been or is acting or has acted as, an officer, employee or agent of the Comptroller and Auditor General.
- (2) A person to whom this Article applies is not liable in damages for any act done in the discharge, or purported discharge, of the functions of the Comptroller and Auditor General under this Law or any other enactment.
- (3) Paragraph (2) does not apply –
- (a) if it is shown that the act was done in bad faith; or
 - (b) 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](#).

PART 3

POWERS AND DUTIES

11 General duties of Comptroller and Auditor General

- (1) It is the duty of the Comptroller and Auditor General to provide the States with independent assurance that –
- (a) the public finances of Jersey are being regulated, controlled, supervised and accounted for in accordance with the Public Finances Law and that the provisions of that Law are otherwise being duly complied with;
 - (b) States funds, other than those referred to in sub-paragraphs (c) to (e), are being regulated, controlled, supervised and accounted for in accordance with the Public Finances Law and the proposition or enactment that established the fund;
 - (c) the Social Security Fund and the Social Security (Reserve) Fund are being regulated, controlled, supervised and accounted for in accordance with the [Social Security \(Jersey\) Law 1974](#) and that the provisions of that Law are otherwise being duly complied with;
 - (d) the Health Insurance Fund is being regulated, controlled, supervised and accounted for in accordance with the [Health Insurance \(Jersey\) Law 1967](#) and that the provisions of that Law are otherwise being duly complied with; and
 - (e) the Long-Term Care Fund is being regulated, controlled, supervised and accounted for in accordance with the [Long-Term Care \(Jersey\) Law 2012](#) and that the provisions of that Law are otherwise being duly complied with.⁵

- (2) The duty under paragraph (1) shall also be taken to require the Comptroller and Auditor General to consider and report to the States on the matters described in paragraph (3) in respect of the bodies and funds described in paragraph (4).
- (3) The matters are –
 - (a) general corporate governance arrangements;
 - (b) the effectiveness of internal controls, and of the internal auditing of those controls;
 - (c) whether resources are being used economically, efficiently and effectively; and
 - (d) actions needed to bring about improvement, where improvement is needed.
- (4) The bodies and funds are –
 - (a) the States;
 - (b) States bodies; and
 - (c) any fund mentioned in this Article.⁶

12 Duty to ensure that the annual financial statement of the States is audited

- (1) When the annual financial statement in respect of the accounts of the States for a financial year is sent to the Comptroller and Auditor General by the Treasurer in accordance with Article 37(b) of the Public Finances Law, the Comptroller and Auditor General must ensure –
 - (a) that an audit of it is completed, whether by the Comptroller and Auditor General or whether by a person appointed by the Comptroller and Auditor General for the purpose;
 - (b) that a certificate from the person carrying out the audit is attached to the statement; and
 - (c) that the statement with the attached certificate and any note mentioned in paragraph (3) are forwarded to the Minister, before the end of the period of 5 months after the end of the financial year.⁷
- (2) The certificate mentioned in paragraph (1)(b) must certify whether the annual financial statement properly represents the activities of the States for the financial year and whether the accounting standards referred to in the Public Finances Manual issued under the Public Finances Law have been complied with.⁸
- (3) The Comptroller and Auditor General may also attach to the statement a note drawing the attention of the States –
 - (a) to any matter in the statement that the Comptroller and Auditor General considers should be of concern to the States or should receive the attention of the States; and
 - (b) to any matter that prevented or hindered an audit of any part of the statement or, in the Comptroller and Auditor General's opinion, constituted a significant breach of a provision of the Public Finances Law or of any other enactment referred to in Article 11(1)(b) to (e) of this Law.
- (4) The Minister for Treasury and Resources and Treasurer must each sign the annual financial statement.

- (5) The Minister for Treasury and Resources must then present the statement, the certificate mentioned in paragraph (1)(b) and any note mentioned in paragraph (3) to the States as soon as practicable.
- (6) The States may, on a proposition lodged by the Minister for Treasury and Resources, extend the time within which an action specified in paragraph (1) must be taken.

13 Powers relating to independently audited States body

- (1) The Comptroller and Auditor General may at any time make a report on –
 - (a) the accounts of an independently audited States body;
 - (b) all or any of the matters described in Article 11(3)(a) to (d) in respect of an independently audited States body.
- (2) When requested to do so by the Comptroller and Auditor General, an independently audited States body must make such records and accounts available to the Comptroller and Auditor General as are required to enable a report to be made in accordance with paragraph (1).
- (3) Where the body is unincorporated, the person or persons with possession of the accounts and other records of the body must comply with paragraph (2).
- (4) This Article does not prejudice any other right the Comptroller and Auditor General may have to audit the accounts of the body or any requirement imposed by an enactment or Act of the States for the Comptroller and Auditor General to appoint the auditors of the accounts of the body.

14 Powers relating to States aided independent body

- (1) This Article applies to a body (including an individual and a corporation sole), whether or not incorporated, that in a financial year receives an amount of money from the States to aid it to carry out its activities.
- (2) The Comptroller and Auditor General may audit the accounts of the body, arrange for them to be audited or ensure that they are audited, in so far as it is necessary to do so to ensure that the amount the body received from the States by way of aid during the relevant financial year was used for the purpose intended by the States.
- (3) The Comptroller and Auditor General may at any time make a report upon all or any of the matters described in Article 11(3)(a) to (d) in respect of a States aided independent body.
- (4) When requested to do so by the Comptroller and Auditor General the body must make such of its records and accounts available to the Comptroller and Auditor General as are required for an audit to be carried out in accordance with paragraph (2) or a report to be made under paragraph (3).
- (5) Where the body is unincorporated the person or persons with possession of the accounts and other records of the body must comply with paragraph (4).
- (6) This Article shall not prejudice any other right the Comptroller and Auditor General may have to audit the accounts of the body.
- (7) A body to which this Article applies is in this Law referred to as a “States aided independent body”.

15 Order establishing board

- (1) The Chief Minister may, by Order, establish a board of individuals to carry out functions in relation to the office of the Comptroller and Auditor General.
- (2) An Order made under paragraph (1) may specify –
 - (a) the name of the board;
 - (b) the constitution of the board;
 - (c) the functions of the board in relation to the office of the Comptroller and Auditor General;
 - (d) the duties of the Comptroller and Auditor General in relation to the board;
 - (e) the appointment, dismissal and removal from office of members of the board; and
 - (f) the resources of the board.
- (3) Before making an Order under this Article, the Chief Minister must consult with the Chairman of the Public Accounts Committee and obtain his or her agreement to the Order.

16 Delegation of functions

- (1) Subject to this Article, the Comptroller and Auditor General may delegate any of his or her functions under this Law or any other enactment to any person.
- (2) The Comptroller and Auditor General shall not delegate a function to a person unless the Comptroller and Auditor General is satisfied that the person has the required qualifications and necessary experience to carry out the function in a satisfactory manner.
- (3) The Comptroller and Auditor General may delegate a function subject to such terms, conditions and other limitations as he or she considers appropriate.
- (4) The delegation of a function does not prevent the exercise of the function by the Comptroller and Auditor General himself or herself.

17 Independence

- (1) The Comptroller and Auditor General may not be directed on how any function of the office of Comptroller and Auditor General is to be carried out.
- (2) However, the Comptroller and Auditor General must liaise with the Public Accounts Committee when carrying out those functions, and shall attend all meetings of that Committee.
- (3) The Comptroller and Auditor General may seek legal advice from the Attorney General on any subject relevant to the functions of the office of the Comptroller and Auditor General, and the Attorney General may provide that advice.

18 Statement of manner in which functions are to be discharged

- (1) The Comptroller and Auditor General shall prepare and publish a statement of the manner in which he or she proposes to discharge his or her functions under this Law and any other enactment.

- (2) The Comptroller and Auditor General shall keep under review and revise, as needed, the statement prepared and published under paragraph (1).
- (3) The Comptroller and Auditor General must provide a copy of the statement, and any revision of it, to the Greffier of the States.
- (4) The Greffier of the States shall lay the statement, and any revision of it, before the States.

19 Duty to prepare annual report and accounts of office

- (1) The Comptroller and Auditor General must, each year –
 - (a) prepare a report in respect of the activities of the office of Comptroller and Auditor General for the previous year; and
 - (b) provide a copy of the report to the Chief Minister and to the Greffier of the States.
- (2) The accounts of the Comptroller and Auditor General shall be audited by auditors appointed by the Chairman of the Public Accounts Committee, after consultation with the board, if any, established under Article 15.
- (3) The Comptroller and Auditor General must, each year, provide a copy of his or her audited accounts for the previous year to the Greffier of the States.
- (4) The Greffier of the States shall lay the report and audited accounts before the States.

20 Duty to report

- (1) This Article applies where, in accordance with this Law, the Comptroller and Auditor General has carried out an audit or made a report (other than a report required by Article 19).
- (2) The Comptroller and Auditor General must prepare a report setting out the results of the audit or incorporating the report.
- (3) The Comptroller and Auditor General must provide the report to the Greffier of the States.
- (4) The Greffier of the States shall lay the report before the States.
- (5) In the report the Comptroller and Auditor General must mention any matter of concern or any matter that should receive attention.
- (6) If, in the course of carrying out an audit or making a report, the Comptroller and Auditor General suspects any criminal activity, the Comptroller and Auditor General must, as soon as practicable, report the suspicion to the Attorney General.
- (7) A report made in accordance with paragraph (6) need not be in writing.

PART 4

POWERS AND ENFORCEMENT

21 Power to summons people to appear and to provide records

- (1) The Comptroller and Auditor General may in the exercise of his or her functions do all or any of the following –
 - (a) summons a person to appear before the Comptroller and Auditor General or to produce a specified record, or to do both;
 - (b) require a person to answer questions;
 - (c) require a person who has access to a record to provide the information contained in it to the Comptroller and Auditor General in a legible and comprehensible form.
- (2) The power under paragraph (1)(a) to require a record to be produced includes a power –
 - (a) if the record is produced, to retain the record or to take copies of or extracts from the information it contains; and
 - (b) if the record is not produced, to require the person to whom the requirement was directed to state, to the best of his or her knowledge and belief, where it is.
- (3) If records are retained a list of the records must be supplied to the person from whom they were obtained.
- (4) A record retained under paragraph (2)(a) –
 - (a) may be retained for one year; but
 - (b) if within that year proceedings to which the record is relevant are commenced against any person, may be retained until the conclusion of those proceedings.
- (5) If –
 - (a) the Comptroller and Auditor General has retained a record under paragraph (2)(a); and
 - (b) a person reasonably requires the record for his or her business,the Comptroller and Auditor General must provide the person with a copy of it as soon as reasonably practicable.

22 Power to enter and inspect

- (1) The Comptroller and Auditor General may, in the exercise of his or her functions under this Law –
 - (a) enter and inspect any building or other premises occupied or controlled by any States body; and
 - (b) while in the building or premises, inspect any records, stores, goods, plant, machinery, cash and other valuables.⁹
- (2) If such a building or other premises are lawfully occupied by some other person the Comptroller and Auditor General shall not enter the building or other premises pursuant to paragraph (1) –

- (a) without first giving the occupier reasonable notice of the Comptroller and Auditor General's intention to enter; and
- (b) where the building or other premises is or forms part of a residence, without first obtaining the consent of the occupier to enter.

23 Offence: failure to appear, to answer questions or to provide information

- (1) A person shall be guilty of an offence if, when summonsed or required to do so by the Comptroller and Auditor General acting in accordance with Article 21, the person fails or refuses –
 - (a) to appear before the Comptroller and Auditor General;
 - (b) to produce a specified record;
 - (c) to answer truthfully any question;
 - (d) to provide information contained in a record in a legible and comprehensible form; or
 - (e) to state, to the best of his or her knowledge and belief, where a record is.
- (2) A person guilty of an offence under paragraph (1) shall be liable to a fine of level 3 on the standard scale.¹⁰
- (3) It shall be a defence for a person charged with an offence under paragraph (1) for the person to show that there was a reasonable excuse for the failure or refusal.

24 Offence: providing false record or information

- (1) A person shall be guilty of an offence if, when required to produce a record under this Law or knowing that a record may be required to be produced under this Law, the person, with intent to deceive –
 - (a) destroys the record or in any other way renders it unintelligible or useless, or difficult or impossible to retrieve; or
 - (b) alters it in any way to make the information it contains false or misleading in any material way.
- (2) A person shall be guilty of an offence if, when required to provide information under this Law, the person knowingly provides information that is false, misleading or incomplete in any material way.
- (3) A person guilty of an offence under paragraph (1) or paragraph (2) shall be liable to imprisonment for a term of 5 years and to a fine.

25 Offence: obstruction

- (1) A person shall be guilty of an offence if he or she hinders or obstructs a person in the exercise by that person of a function under this Law.
- (2) A person guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.¹¹

PART 5

MISCELLANEOUS CLOSING

26 Privilege, protection and self-incrimination

- (1) Nothing in this Law requires a person to produce a record or to provide information that the person would in an action in the Royal Court be entitled to refuse to produce or provide on the grounds of legal professional privilege.
- (2) However, a lawyer must disclose the name and address of a client if required to do so by a person acting in accordance with this Law.
- (3) Where a person provides, in compliance with a request made in accordance with this Law, a record or other information in respect of another person the provision of that record or information shall not be regarded as a breach of any duty owed by the first person to the second person or to any other person.
- (4) An answer given by a person to a question put to the person in exercise of a power conferred by this Law may be used in evidence against the person.
- (5) However, in criminal proceedings in which the person is charged with an offence, other than an offence under Article 24 –
 - (a) no evidence relating to the answer may be adduced; and
 - (b) no question relating to it may be asked,by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

27 Appointment of auditors

The Schedule has effect to amend an Act of the States with the regard to the appointment of auditors.

28 Transitional arrangements

Notwithstanding Article 4(2) and (3), the person who, on 17th November 2014, holds the office of Comptroller and Auditor General may be re-appointed to that office, provided that he or she is not re-appointed for a term that would cause his or her period in the office to exceed, in the aggregate, 7 years.

29 Citation

This Law may be cited as the Comptroller and Auditor General (Jersey) Law 2014.

SCHEDULE

(Article 27)

ACT OF THE STATES AMENDED – APPOINTMENT OF AUDITORS**1 Act of the States dated the 18th June 1991 adopting P.91/1991 – Jersey Dental Scheme**

The Act of the States dated the 18th June 1991 adopting P.91/1992, as amended from time to time, shall be amended so as to provide that, notwithstanding Article 7(1) of that Act, the accounts of the scheme for a financial year shall be audited by auditors appointed by the Comptroller and Auditor General.

ENDNOTES

Table of Legislation History

| Legislation | Year and No | Commencement | °Projet No (where applicable) |
|---|---------------------------------|--|-------------------------------|
| Comptroller and Auditor General (Jersey) Law 2014 | L.25/2014 | 17 November 2014 | P.98/2014 |
| Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 | L.1/2016 | 20 September 2016 (R&O.98/2016) | P.87/2015 |
| Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018 | R&O.49/2018 | 1 October 2018 (R&O.51/2018) | P.48/2018 |
| Public Finances (Jersey) Law 2019 | L.10/2019 | 23 July 2019 (R&O.67/2019) | P.28/2019 |

°Projets available at statesassembly.gov.je

Table of Renumbered Provisions

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| 28 | spent, omitted |
| 29 | 28 |
| 30 | 29 |
| Schedule 1, paragraphs 1 to 4 | spent, omitted |
| Schedule 1, paragraph 5 | Schedule, paragraph 1 |
| Schedule 2 | spent, omitted |

Table of Endnote References

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|-----------------------------|-----------------------------------|
| ¹ Article 1(1) | <i>amended by L.10/2019</i> |
| ² Article 3(5) | <i>amended by L.10/2019</i> |
| ³ Article 8(2) | <i>amended by R&O.49/2018</i> |
| ⁴ Article 9(2) | <i>amended by L.10/2019</i> |
| ⁵ Article 11(1) | <i>amended by L.10/2019</i> |
| ⁶ Article 11(4) | <i>amended by L.10/2019</i> |
| ⁷ Article 12(1) | <i>amended by L.10/2019</i> |
| ⁸ Article 12(2) | <i>amended by L.10/2019</i> |
| ⁹ Article 22(1) | <i>amended by L.10/2019</i> |
| ¹⁰ Article 23(2) | <i>amended by L.1/2016</i> |
| ¹¹ Article 25(2) | <i>amended by L.1/2016</i> |