



Jersey

**PUBLIC FINANCES (TRANSITIONAL
PROVISIONS) (No. 2) (JERSEY)
REGULATIONS 2005¹**

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to 22 July 2019



Jersey

PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 2) (JERSEY) REGULATIONS 2005

Contents

Regulation

Chapter 1 – General interpretation

1	Interpretation	4
---	----------------------	---

Chapter 2 – Investment of money owned or controlled by the States

2	Application of Chapter 2.....	4
2A	Pooling	4
3	Minister to develop and to invest in accordance with investment strategy	5
4	Minister to present investment strategy and any review of it to the States.....	5
5	Treasurer to ensure compliance with investment strategy	5
6	Treasurer to appoint investment managers and other qualified persons	6

Chapter 3 – Borrowing by or on behalf of the States

7	Application of Chapter 3.....	6
8	Transactions that are not borrowing.....	6
9	Minister's authority to borrow money in the name of and on behalf of the States	6
10	Power of Minister to delegate functions – borrowing.....	8

Chapter 4 – Lending by or on behalf of the States

11	Application of Chapter 4.....	8
12	Transactions that are not lending	8
13	Minister's authority to lend money in the name of and on behalf of the States	8
14	Power of Minister to delegate functions – lending.....	9

Chapter 5 – Comptroller and Auditor General

15	9
----	-------	---

Chapter 6 – Administration of money forming part of trust assets

16	Application of Chapter 6.....	9
17	Treasurer to be generally responsible for money forming part of trust assets	9
18	Trust assets bank accounts.....	9
19	Application of the Law to trust assets	10
20	Administration costs may be charged	10

Chapter 7 – Financial administration of States trading operations

21	Application of Chapter 7.....	10
22	Expenditure from trading fund of States trading operation	11
23	Payments into a trading fund of States trading operation	11
24	Interest in respect of a trading fund of a States trading operation	11
25	Borrowing, lending, guarantees and indemnities in the name of the States by a States trading operation.....	12
26	States trading operations to provide an annual financial statement	12

Chapter 8 - Citation and commencement

27	Citation	12
----	----------------	----

ENDNOTES **13**

Table of Legislation History.....	13
Table of Renumbered Provisions	13
Table of Endnote References.....	13



Jersey

PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 2) (JERSEY) REGULATIONS 2005

THE STATES, in pursuance of Article 70 of the Public Finances (Jersey) Law 2005, have made the following Regulations –

Commencement [[see endnotes](#)]

Chapter 1 – General interpretation

1 Interpretation

In these Regulations –

“1967 Law” means the Public Finances (Administration) (Jersey) Law 1967;

“2005 Law” means the Public Finances (Jersey) Law 2005.

Chapter 2 – Investment of money owned or controlled by the States

2 Application of Chapter 2

(1) This Chapter shall have effect when Article 6 of the 2005 Law comes into force² and may be amended by Regulations made by the States in accordance with paragraph (2) of that Article.

(2) This Chapter applies to money to which Article 6 of the 2005 Law applies.

(3) ³

2A Pooling⁴

(1) All or any part of the money to which this Chapter applies may be pooled for investment purposes.

(2) Money pooled under paragraph (1) may be invested in the name ‘States of Jersey – Common Investment Fund’.

(3) If –

- (a) an instrument that established a special fund;
- (b) a trust; or
- (c) an enactment,

relates to the whole or any part of money pooled under paragraph (1), the investment strategy mentioned in Regulation 3 must take account of the provisions of the instrument, trust or enactment.

3 Minister to develop and to invest in accordance with investment strategy

- (1) The Minister must develop and keep under review an investment strategy for money to which this Chapter applies.
- (2) Where the Minister considers it appropriate to do so the Minister must seek the advice of persons who are appropriately qualified and have the necessary experience to provide the required investment advice.
- (3) The investment strategy and any review of it must, in particular, have regard to –
 - (a) the desirability of diversification in the management of the money to which this Chapter applies; and
 - (b) the level of the funds to be invested.

4 Minister to present investment strategy and any review of it to the States

- (1) As soon as practical after the Minister has prepared the investment strategy, or any review of it, the Minister must present it to the States.
- (2) The Minister and the Treasurer may invest money to which this Chapter applies –
 - (a) to the extent and in the manner set out in the investment strategy presented to the States; but
 - (b) where that strategy has been reviewed, to the extent and in the manner set out in the last review of the strategy presented to the States.
- (3) The Minister and the Treasurer –
 - (a) where the investment strategy so requires, must invest money to which this Chapter applies through the use of investment managers; and
 - (b) in any other case, may do so through the use of investment managers.

5 Treasurer to ensure compliance with investment strategy

The Treasurer must ensure –

- (a) that money to which this Chapter applies is invested in accordance with Regulation 4; and
- (b) that any investments so made are properly managed, controlled and accounted for in accordance with the investment strategy or review of it, mentioned in Regulation 4(2).

6 Treasurer to appoint investment managers and other qualified persons

- (1) To comply with Regulation 5, the Treasurer –
 - (a) must appoint any investment managers required by virtue of the investment strategy; and
 - (b) may appoint such other suitably qualified and experienced investment managers, custodians, agents, investment advisers and other persons as the Treasurer considers necessary or convenient to enable the Treasurer to comply with Regulation 5.
- (2) Before appointing an investment manager the Treasurer must satisfy himself or herself that any person proposed to be appointed is suitably qualified and has the necessary experience to make investment decisions on behalf of the States and to offer investment advice to the States.
- (3) Persons appointed in accordance with this Regulation are to be appointed on such terms as the Treasurer determines are best suited to ensure that he or she is able to comply with Regulation 5.

Chapter 3 – Borrowing by or on behalf of the States

7 Application of Chapter 3

This Chapter shall have effect when Article 22 of the 2005 Law comes into force⁵ and may be amended by Regulations made by the States in accordance with paragraph (1) of that Article.

8 Transactions that are not borrowing

- (1) The following transactions, or classes or types of transactions do not amount to borrowing by the States for the purposes of the 2005 Law, namely –
 - (a) the purchase by or on behalf of the States of goods or services on credit terms of not more than 90 days;
 - (b) the issue by the States of Jersey currency;
 - (c) a transaction undertaken by or on behalf of the States where the use of an asset is secured and the ownership, risk and responsibility does not pass to the States or to a States funded body.
- (2) A temporary transfer of money from one fund that is capable of being audited by the Comptroller and Auditor General under the 2005 Law to another such fund solely to meet the cash flow requirements of the second fund does not amount to borrowing by the States.

9 Minister's authority to borrow money in the name of and on behalf of the States

- (1) The Minister may, in the name of and on behalf of the States –
 - (a) arrange a bank overdraft;
 - (b) arrange a bank overdraft facility; or

- (c) arrange a temporary loan to the States,
in anticipation of or required to meet a cash deficiency in respect of an expenditure approval or any other financial commitment approved by the States or by the Minister under this Regulation or by the Treasurer by delegation under Regulation 10.
- (2) The Minister may not exercise his or her power under paragraph (1) if the total amount borrowed by the States under that paragraph at that time would exceed an amount equal to 25% of the estimated income of the States derived from taxation during the previous financial year.
- (3) The Minister may, if requested to do so by the minister with responsibility for a States trading operation, in the name of and on behalf of the States, borrow money where –
- (a) the amount borrowed is to be used by the States trading operation;
 - (b) the Minister is satisfied that the assets to be purchased or created by the use of the borrowed amount will produce income from external sources or from tangible financial savings sufficient to repay that amount and the interest on it over the period of the borrowing; and
 - (c) any necessary approval by the States of the assets to be purchased or created by the use of the borrowed amount has been given.
- (4) In addition to the borrowing that the Minister may undertake on behalf of the States by virtue of paragraphs (1) and (3), the Minister may, in any financial year, in the name of and on behalf of the States borrow up to £1 million in respect of any one transaction where –
- (a) the total amount borrowed in that financial year by virtue of this paragraph does not exceed £3 million;
 - (b) the amount borrowed by virtue of this paragraph and still outstanding at any one time does not exceed £20 million; and
 - (c) any amount borrowed by virtue of this paragraph is repayable within 10 years.
- (5) In addition to the borrowing permitted by or mentioned in paragraph (4), the Minister may, in the name of and on behalf of the States, borrow money that forms part of a class, type or series of borrowings for which the States have given their general approval.
- (6) The Minister may use –
- (a) any asset of the States; and
 - (b) the future revenues of the States,
- to secure any borrowing in accordance with this Regulation.
- (7) For the purpose of this Regulation –
- (a) borrowing by the States shall be taken to include the giving of a guarantee in the name of the States and the provision of an indemnity in the name of the States; and
 - (b) the liability of the States in respect of any such guarantee or indemnity shall be taken as an amount borrowed by the States.

- (8) The Minister must, at periods of no longer than 6 months, report to the States details of any additional borrowing under this Regulation since the last such report.

10 Power of Minister to delegate functions – borrowing

- (1) The Minister may delegate to the Treasurer, wholly or partly, a function vested in the Minister by Regulation 9.
- (2) Such a delegation shall not prevent the Minister exercising the function personally.

Chapter 4 – Lending by or on behalf of the States

11 Application of Chapter 4

This Chapter shall have effect when Article 23 of the 2005 Law comes into force⁶ and may be amended by Regulations made by the States in accordance with paragraph (3) or paragraph (5) of that Article.

12 Transactions that are not lending

- (1) The sale or provision of goods or services by or on behalf of the States on terms that provided for them to be paid for not more than 90 days from the date of their sale or provision does not amount to lending by the States for the purposes of the 2005 Law.
- (2) A temporary transfer of money from one fund that is capable of being audited by the Comptroller and Auditor General under the 2005 Law to another such fund solely to meet the cash flow requirements of the second fund does not amount to lending by the States.

13 Minister's authority to lend money in the name of and on behalf of the States

- (1) The Minister may, in any financial year, in the name of and on behalf of the States, lend up to £500,000 in respect of any one transaction where –
- (a) the total amount lent in that financial year by virtue of this paragraph does not exceed £3 million;
 - (b) the amount lent by virtue of this paragraph and still outstanding at any one time does not exceed £10 million; and
 - (c) any amount lent by virtue of this paragraph is repayable within 20 years.
- (2) Except as otherwise provided by paragraph (1), a loan made under that paragraph may be made on such terms, conditions and at such rate of interest (if any), and may be secured in such manner (if any) as the Minister may determine.
- (3) In addition to the money permitted to be lent under paragraph (1), the Minister may, in the name of and on behalf of the States, make a specific loan that forms part of a class, type or series of loans for which the States have given their general approval.
- (4) The Minister must, at periods of no longer than 6 months, report to the States details of any additional lending under this Regulation since the last such report.

14 Power of Minister to delegate functions – lending

- (1) The Minister may delegate to the Treasurer, wholly or partly, a function vested in the Minister by Regulation 13.
- (2) Such a delegation shall not prevent the Minister exercising the function personally.

*Chapter 5 – Comptroller and Auditor General***15** ⁷*Chapter 6 – Administration of money forming part of trust assets***16 Application of Chapter 6**

This Chapter shall have effect when Article 67 of the 2005 Law comes into force⁸ and may be amended by Regulations made by the States in accordance with paragraph (3) of that Article.

17 Treasurer to be generally responsible for money forming part of trust assets

- (1) Except as otherwise provided by this Chapter, money forming part of trust assets shall be managed, handled and accounted for by the Treasurer.
- (2) The Treasurer may –
 - (a) authorize the accountable officer of a States funded body to administer and account for any specified money forming part of any trust assets; or
 - (b) authorize any other suitably qualified person to manage, handle and account for any specified money forming part of any trust assets.⁹
- (3) The Treasurer shall not give any authorization under paragraph (2)(a) except with the approval of any minister assigned responsibility for the States funded body.
- (4) The Treasurer shall not give any authorization under paragraph (2)(b) except with the approval of the Minister.
- (5) An authorization given under paragraph (2) –
 - (a) may be given subject to such terms, conditions and other limitations as the Treasurer considers appropriate; and
 - (b) may be revoked by the Treasurer at any time.

18 Trust assets bank accounts

Unless the trust under which the money is held provides otherwise, any bank account used to manage, handle or account for money forming part of trust assets shall be kept with a bank approved for the purpose by the Minister.

19 Application of the Law to trust assets

- (1) Where money forming part of trust assets is managed, handled or accounted for by –
- (a) the Treasurer;
 - (b) an accountable officer; or
 - (c) by virtue of Regulation 17(2)(b), any other person,
- the Treasurer, the accountable officer or that person shall have the same personal accountability, with the necessary amendments, in respect of the money as an accountable officer of a States funded body has in respect of the financial management of the resources of the body.¹⁰
- (2) In particular the Treasurer, accountable officer or person shall ensure that the money is used for the purpose intended.¹¹
- (3) Where paragraph (1) applies –
- (a) the internal auditor may carry out an internal audit of the transactions and internal controls and systems of the Treasurer, accountable officer or person in respect of the money forming part of trust assets as if the Treasurer, accountable officer or person were a States funded body;
 - (b) the Comptroller and Auditor General shall have the same functions in respect of the Treasurer, accountable officer or person as the Comptroller and Auditor General would have if the Treasurer, accountable officer or person were a States funded body; and
 - (c) Part 7 of the Law (which relates to offences) shall apply in respect of the money as if it were money being managed, handled and accounted for by a States funded body.¹²

20 Administration costs may be charged

- (1) Where money forming part of trust assets is managed, handled or accounted for by –
- (a) the Treasurer;
 - (b) an accountable officer; or
 - (c) by virtue of Regulation 17(2)(b), any other person,
- the Treasurer, the accountable officer or that person may deduct from the money such amount (if any) by way of administration costs as the Minister may agree.¹³
- (2) The Minister shall not give approval under paragraph (1) that is contrary to any trust subject to which the money is held.

*Chapter 7 – Financial administration of States trading operations***21 Application of Chapter 7**

This Chapter shall have effect when Article 26 of the 2005 Law comes into force¹⁴ and may be amended by an Order made by the Minister in accordance with paragraph (3) of that Article.

22 Expenditure from trading fund of States trading operation

- (1) Money standing to the credit of the trading fund of a States trading operation may, in particular, be used –
 - (a) for a capital project of the trading operation approved by the States as part of an annual business plan;
 - (b) in the early repayment of a loan made to the States trading operation; and
 - (c) for any other purpose approved by the States.
- (2) Money standing to the credit of the trading fund of a States trading operation may also be used, with the approval of the Minister, for a capital project of the trading operation if –
 - (a) the amount approved by the States for the project as part of an annual business plan has proved to be insufficient; or
 - (b) the project arises from a contingency that could not have been reasonably foreseen at the time the estimates of the States trading operation were submitted to the Minister in accordance with Article 8 of the 2005 Law for inclusion as part of an annual business plan.
- (3) Money standing to the credit of the trading fund of a States trading operation may also be used, with the approval of the Minister, for a purpose other than one approved as part of an annual business plan if expenditure for the purpose is necessary or expedient to advance the business of the trading operation.
- (4) The Minister must, at periods of no longer than 6 months, report to the States details of any approval given under paragraph (2) or paragraph (3) since the last such report.

23 Payments into a trading fund of States trading operation

- (1) At the end of a financial year there shall be placed to the credit of the trading fund of a States trading operation an amount equal to any amount earned by the trading operation during that year that is in excess of the total of –
 - (a) the expenditure of the trading operation; and
 - (b) the contribution to be made to the States in respect of that year as agreed between the Minister and the minister with responsibility for the States trading operation, being an amount that is not less than the minimum contribution that the trading operation is required to make to the States as approved by the States as part of the annual business plan for the year.
- (2) There shall be placed to the credit of the trading fund of a States trading operation such other amounts as the Minister may from time to time direct.

24 Interest in respect of a trading fund of a States trading operation

- (1) At the end of any period of a financial year, as determined by the Treasurer, there shall be placed to the credit of the trading fund of a States trading operation interest on the money from time to time standing to the credit of the fund during that period.
- (2) The interest shall be calculated at the rate for the time being specified in financial directions.

- (3) Should the expenditure of a States trading operation at any time exceed the funds available to it at that time there shall be debited from its trading fund interest on the excess at the rate for the time being specified in financial directions.

25 Borrowing, lending, guarantees and indemnities in the name of the States by a States trading operation

- (1) Money shall not be borrowed in the name of the States by a States trading operation except in accordance with Regulation 9(3).
- (2) Money shall not be lent in the name of the States by a States trading operation except with and in accordance with the approval of the States or the Minister.
- (3) A guarantee or indemnity shall not be given in the name of the States by a States trading operation except with and in accordance with the approval of the States or the Minister.
- (4) The Minister may delegate to the Treasurer, wholly or partly, the function vested in the Minister by paragraph (2) or paragraph (3).
- (5) Such a delegation shall not prevent the Minister exercising the function personally.
- (6) The Minister must, at periods of no longer than 6 months, report to the States details of any approval given by the Minister or the Treasurer under this Regulation since the last such report.

26 States trading operations to provide an annual financial statement

- (1) An annual financial statement in respect of the accounts, assets, liabilities and operations of a States trading operation for each financial year must be prepared and supplied to the Treasurer in sufficient time to enable the Treasurer to prepare an annual financial statement in respect of the accounts of the States before the end of the period of 3 months mentioned in Article 32(1) of the 2005 Law or any extension of that period by virtue of paragraph (6) of that Article.
- (2) The Minister may, in addition, require that a financial statement in respect of the accounts and operations of a States trading operation be prepared and supplied in respect of any other period.
- (3) Unless the Minister directs otherwise, a statement mentioned in paragraph (1) or paragraph (2) must be prepared in accordance with the standards applicable to the annual financial statement of the States by virtue of Article 32(2) of the 2005 Law.

Chapter 8 - Citation and commencement

27 Citation

These Regulations may be cited as the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005	R&O.129/2005	1 November 2005	P.209/2005
Public Finances (Transitional Provisions) (No. 2) (Amendment) (Jersey) Regulations 2010	R&O.46/2010	12 May 2010	P.35/2010
Comptroller and Auditor General (Jersey) Law 2014	L.25/2014	17 November 2014	P.98/2014
Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018	L.18/2018	8 June 2018	

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
27(1)	27
27(2)	Spent, omitted

Table of Endnote References

-
- ¹ *These Regulations were impliedly repealed by repeal of the Public Finances (Jersey) Law 2005 by the Public Finances (Jersey) Law 2019 on 23 July 2019*
- ² BLANK
- ³ *Regulation 2(3) deleted by R&O.46/2010*
- ⁴ *Regulation 2A inserted by R&O.46/2010*
- ⁵ BLANK
- ⁶ BLANK
- ⁷ *Regulation 15 revoked by L.25/2014*
- ⁸ BLANK
- ⁹ *Regulation 17(2) amended by L.18/2018*
- ¹⁰ *Regulation 19(1) amended by L.18/2018*
- ¹¹ *Regulation 19(2) amended by L.18/2018*
- ¹² *Regulation 19(3) amended by L.18/2018*
- ¹³ *Regulation 20(1) amended by L.18/2018*
- ¹⁴ BLANK