



Jersey

INSURANCE BUSINESS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

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 Current



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INSURANCE BUSINESS (APPOINTMENT OF MANAGER) (JERSEY) ORDER 2008

THE MINISTER FOR ECONOMIC DEVELOPMENT, in pursuance of Articles 9A and 41 of the [Insurance Business \(Jersey\) Law 1996](#) and on the recommendation of the Jersey Financial Services Commission, orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

- (1) In this Order –
 - “insurance business” means insurance business to which Article 5 of the Law applies;
 - “Law” means the [Insurance Business \(Jersey\) Law 1996](#);
 - “policy holder” means a person who is the holder of, or may receive a benefit under, a policy securing a contract of insurance.
- (2) In this Order a note contained in a paragraph of the Schedule to this Order forms part of that paragraph.

2 Prescribed circumstances in which the Commission may apply to the Court for appointment of a manager

- (1) The Schedule sets out the prescribed circumstances for the purposes of Article 9A of the Law.
- (2) The Commission may apply to the Court for the appointment by the Court of a person to manage the affairs, or any part of the affairs, of a person in so far as those affairs relate to the carrying on of insurance business to which Article 5 of the Law applies where the Commission is satisfied that there is sufficient evidence to show the existence of any of the cases set out in the Schedule.

3 Citation

This Order may be cited as the Insurance Business (Appointment of Manager) (Jersey) Order 2008.

SCHEDULE¹

(Article 2)

PRESCRIBED CIRCUMSTANCES

Case 1

There has been inadequate management of the affairs of the insurance business carried on by a person (“the person”).

Note Such inadequate management may be evidenced, in particular, by –

- (a) the dishonesty of a shareholder controller or any director or employee of the person;
- (b) any person committing a serious breach of a fiduciary duty in respect of the person’s insurance business;
- (c) the person having insufficient resources to continue to carry on the insurance business effectively;
- (d) a serious failure by the person to maintain proper records;
- (e) the existence of a conflict of interests that may prevent the interests of the person’s business or the interests of a policy holder or a potential policy holder being properly protected;
- (f) the person committing serious and persistent breaches of –
 - (i) the Drug Trafficking Offences (Jersey) Law 1988, the [Proceeds of Crime \(Jersey\) Law 1999](#), the [Terrorism \(Jersey\) Law 2002](#), the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#), the [Money Laundering \(Jersey\) Order 2008](#) or an Order made under the European Communities Legislation (Implementation) (Jersey) Law 1996 and relating to the freezing of funds,
 - (ii) any other enactment of Jersey relating to money laundering or the financing of terrorism,
 - (iii) any code of practice made under an enactment referred to in subparagraph (i) or (ii) or adopted by or under such an enactment,
 - (iv) the Law or any code of practice made under the Law or adopted by or under the Law, or
 - (v) an enactment made under the Law;
- (g) the death or incapacity or prolonged absence of a shareholder controller or director of the person to the detriment of the insurance business of the person.

Case 2

The person carrying on the insurance business appears to have ceased to do so but has failed to wind up, liquidate, close or transfer the business in an orderly manner or at all.

Case 3

The person carrying on the insurance business has persistently failed to examine claims or complaints by policy holders.

Case 4

The person carrying on the insurance business is not authorized under the Law to carry on insurance business of that class.

Case 5

There is a need to appoint a manager to collect, protect or preserve the assets or records of the insurance business or the property of policy holders, or both.

Case 6

There is a need to appoint a manager to avoid circumstances arising that could provide grounds for a forced closure of the insurance business.

Case 7

There is a need to appoint a manager to promote or implement a compensation scheme established specifically for policy holders.

Case 8

The person carrying on the insurance business has failed to comply with any of the following –

- (a) a condition under Article 7 of the Law;
- (b) a notice of objection under Article 23 of the Law;
- (c) a direction under Article 28 or Article 36 of the Law,

and there is therefore a need to appoint a manager of the business to ensure its independent management.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Insurance Business (Appointment of Manager) (Jersey) Order 2008	R&O.147/2008	11 November 2008
Financial Regulation (Miscellaneous Provisions) (Jersey) Order 2014	R&O.32/2014	4 April 2014

Table of Renumbered Provisions

Original	Current
3(1)	3
3(2)	Spent, omitted

Table of Endnote References

¹ *Schedule* amended by *R&O.32/2014*