

**Jersey Law 11/1998**

**FINANCIAL SERVICES COMMISSION (JERSEY) LAW 1998**

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**FINANCIAL SERVICES COMMISSION (JERSEY) LAW 1998**

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**A LAW** to establish a Financial Services Commission and for connected purposes sanctioned by Order of Her Majesty in Council of the

**22nd day of APRIL 1998**

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*(Registered on the 8th day of May 1998)*

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**STATES OF JERSEY**

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The 9th day of December 1997

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

**ARTICLE 1**

**Interpretation**

(1) In this Law unless the context otherwise requires –

“the Commission” means the Jersey Financial Services Commission established by Article 2;

“Commissioner” means the Chairman or other person appointed to be a member of the Commission by Article 3;

“the Committee” means the Finance and Economics Committee;

“financial services” includes the carrying on of and the provision of services in relation to the businesses of banking,

insurance, investment, asset management, trusteeship and company administration, the provision and administration of

corporate and other business structures and any matters ancillary to such businesses or structures;

“transferred function” means a statutory function transferred from the Committee to the Commission by Article 6.

(2) A reference in this Law to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

(3) A reference in this Law to an Article, Part or Schedule by number alone is a reference to the Article, Part or Schedule of that number in this Law and a reference in an Article of this Law to a paragraph or sub-paragraph by number or letter alone is a reference to the paragraph or sub-paragraph of that number or letter in the Article in which that reference occurs.

## ARTICLE 2

### **Establishment of the Commission**

(1) There shall be established a body to be known as the Jersey Financial Services Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and may –

- (a) sue and be sued in its corporate name;
- (b) enter into contracts and acquire, hold and dispose of any property; and

- (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Commission shall be authenticated by the signature of a person authorised by the Commission to sign on its behalf and every document bearing the imprint of the seal of the Commission shall be deemed to be properly sealed unless the contrary is proved.

(4) Save as this Law provides to the contrary, the Commission shall be independent of the Committee and of the States and neither the Committee nor the States shall be liable for any act or omission or debt or other obligation of the Commission.

### ARTICLE 3

#### **Appointment of Commissioners**

- (1) The Commission shall consist of –
  - (a) a Chairman who shall be a member for the time being of the Committee; and
  - (b) not less than six other Commissioners,

such appointments being made by the Committee and notified to the States.

- (2) The Commissioners shall include –
  - (a) persons with experience of the type of financial services supervised by the Commission;
  - (b) regular users on their own account or on behalf of others, or representatives of those users, of financial services of any kind supervised by the Commission; and

- (c) individuals representing the public interest,

and the composition of the Commission shall be such as to secure a proper balance between the interests of persons carrying on the business of financial services, the users of such services and the interests of the public at large.

(3) The Committee shall appoint one Commissioner to be Deputy Chairman who shall preside at any meeting of the Commission which is not attended by the Chairman.

(4) The functions, powers, rights and obligations of the Commission shall not be affected by any vacancy in its membership.

#### ARTICLE 4

##### **Terms of appointment of Commissioners and proceedings of the Commission**

(1) Every Commissioner shall, before he begins to act in execution of this Law, take oath before the Royal Court, in the form set out in Part I of the First Schedule.

(2) Part II of the First Schedule shall have effect with respect to the Commissioners and the proceedings of the Commission.

(3) The States may make Regulations amending any provision of the First Schedule.

(4) Subject to the provisions of this Law the Commission may regulate its own proceedings.

#### ARTICLE 5

##### **Functions of the Commission**

- (1) The Commission shall be responsible for –

- (a) the supervision and development of financial services provided in or from within the Island;
- (b) promoting the Island as a centre for financial services;
- (c) providing the States, any Committee of the States or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;
- (d) preparing and submitting to the Committee recommendations for the introduction, amendment or replacement of legislation appertaining to financial services, companies and other forms of business structure; and
- (e) such functions in relation to financial services or such incidental or ancillary matters –
  - (i) as are required by or under any enactment; or
  - (ii) as the States may, by Regulations, transfer.

(2) Regulations made under this Article may amend this or any other enactment in order to give effect to any transfer of functions to the Commission under this Article.

## ARTICLE 6

### **Transferred functions**

The following functions of the Committee are hereby transferred to the Commission –

- (a) supervising –

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- (i) banking and other categories of deposit-taking business under the Banking Business (Jersey) Law 1991<sup>1</sup>;
  - (ii) insurance business under the Insurance Business (Jersey) Law 1996<sup>2</sup>; and
  - (iii) collective investment funds and functionaries of such funds under the Collective Investment Funds (Jersey) Law 1988<sup>3</sup>;
- (b) administering –
- (i) the Borrowing (Control) (Jersey) Law 1947<sup>4</sup>;
  - (ii) the Registration of Business Names (Jersey) Law 1956<sup>5</sup>;
  - (iii) the Companies (Jersey) Law 1991<sup>6</sup>;
  - (iv) the Limited Partnerships (Jersey) Law 1994<sup>7</sup>; and
  - (v) the Limited Liability Partnerships (Jersey) Law 1997<sup>8</sup>;
- (c) investigating insider dealing under the Company Securities (Insider Dealing) (Jersey) Law 1988<sup>9</sup>;

<sup>1</sup> Volume 1990–1991, page 477, and Volume 1992–1993, page 93.v

<sup>2</sup> Volume 1996–1997, page 81.

<sup>3</sup> Volume 1988–1989, page 133.

<sup>4</sup> Tome VII, page 386, Volume 1986–1987, page 57, and Volume 1996–1997, page 287.

<sup>5</sup> Tome VIII, page 519.

<sup>6</sup> Volume 1990–1991, page 875.

<sup>7</sup> Volume 1994–1995, page 171.

<sup>8</sup> Volume 1996–1997, page 503.

<sup>9</sup> Volume 1988–1989, pages 1 and 321.

- (d) applying for a declaration under sub-paragraph (c) of paragraph (1) of Article 3 of the Bankruptcy (Désastre) (Jersey) Law 1990<sup>10</sup>;
- (e) receiving particulars in respect of companies treated as exempt from Income Tax under Article 123A of the Income Tax (Jersey) Law 1961<sup>11</sup> and international business companies taxed under 123B of that Law; and
- (f) approving reinsurance arrangements under the Jersey Mutual Fire Insurance Society Incorporated (Alteration of Names and Rules) Law 1952<sup>12</sup>.

## ARTICLE 7

### **Guiding principles**

In exercising any of its functions the Commission may take into account any matter which it considers appropriate, but shall in particular have regard to –

- (a) the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by or the financial unsoundness of persons carrying on the business of financial services in or from within the Island;
- (b) the protection and enhancement of the reputation and integrity of the Island in commercial and financial matters; and
- (c) the best economic interests of the Island.

<sup>10</sup> Volume 1990–1991, page 39, Volume 1994–1995, page 399, and Volume 1996–1997, pages 485, 607 and 641.

<sup>11</sup> Volume 1988–1989, page 384, and Volume 1994–1995, page 224.

<sup>12</sup> Tome VIII, page 97, and Volume 1984–1985, page 95.

## ARTICLE 8

**Powers of the Commission**

(1) The Commission shall have such powers as are reasonably necessary for the carrying out of its functions or incidental to their proper discharge.

(2) Without prejudice to the generality of paragraph (1) the Commission may, in connection with the carrying out of its functions –

- (a) seek and exchange information relating to the supervision, development and promotion of financial services in the Island and the supervision and development of similar services carried on outside the Island;
- (b) consult and seek the advice of such persons or bodies whether inside or outside the Island as it considers appropriate;
- (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit; and
- (d) provide advice, assistance or services to any person with a view to securing the efficient and effective provision of financial services in or from within the Island.

## ARTICLE 9

**Appointment and remuneration of staff**

(1) The Commission may appoint such officers, servants and agents as it considers necessary for carrying out its functions.

(2) Subject to paragraph (3), the Commission may –

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

(3) Subject to paragraph (5) but without prejudice to the generality of paragraph 1 of the Third Schedule, if, immediately before the coming into force of this Article, a person is employed in respect of any of the functions of the Committee which, by virtue of this Law, are transferred to the Commission, then, on the commencement of this Article –

- (a) he shall become an employee of the Commission; and
- (b) his contract of employment shall have effect as if it was originally made between him and the Commission;
- (c) all the rights, powers, duties and liabilities which accrued under or in connection with such contract shall be enforceable by or against the Commission as if it were originally made between that employee and the Commission; and
- (d) any collective agreement made by or on behalf of the States with a representative body recognised by the States in respect of that employee at any time before he becomes an employee of the Commission shall continue to have effect as if it were originally made by or on behalf of the Commission.

(4) If a person was, immediately before becoming an employee of the Commission by virtue of paragraph (3), a member of any

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scheme made under the Public Employees (Retirement) (Jersey) Law 1967,<sup>13</sup> then, on the commencement of this Article –

- (a) he shall continue to be a member of the scheme on the same terms; and
- (b) notwithstanding any provision to the contrary in that Law or any other enactment, the Commission shall become his employer for the purposes of that scheme in place of the Committee of the States which, immediately before the commencement of this Article, employed him.

(5) Where a person referred to in paragraph (3) has, at any time prior to the commencement of this Article, given notice in writing to his employer that he refuses to be employed by the Commission, then, on such commencement, unless he has revoked that notice –

- (a) he shall not become an employee of the Commission; and
- (b) he shall be deemed to have given notice of resignation from his employment to his employer on the preceding day,

and, upon the expiry of the period of notice specified in his contract of employment, his employment shall be terminated.

(6) Notwithstanding paragraph (3), after the commencement of this Article the Commission shall not be bound to recognise a representative body in respect of any employee.

(7) In this Article “representative body” includes a trade union and any other association of employees formed for the purpose of representing those employees in their relationship with their employers.

<sup>13</sup> Volume 1966–1967, page 527, Volume 1986–1987, page 239, Volume 1988–1989, page 25, and Volume 1994–1995, pages 121 and 427.

## ARTICLE 10

**Delegation to Commissioners and officers**

(1) Subject to the provisions of this Article, where any functions or powers are conferred upon or vested in the Commission by or under this Law or any other enactment, it shall be lawful for the Commission to delegate such functions or powers wholly or partly to –

- (a) the Chairman;
- (b) one or more Commissioners; or
- (c) an officer of the Commission.

(2) Nothing in this Article shall authorise the Commission to delegate –

- (a) this power of delegation;
- (b) any statutory functions relating to the procuring of the winding up of any company under the Companies (Jersey) Law 1991 or a declaration that the property of any person is en désastre under the Bankruptcy (Désastre) (Jersey) Law 1990; or
- (c) the review of any of its decisions.

(3) The delegation of any functions under this Article –

- (a) shall not prevent the exercise of those functions by the Commission itself; and
- (b) may be amended or revoked by the Commission.

## ARTICLE 11

**Guidance and directions**

(1) The Committee may, after consulting the Commission and where it considers that it is necessary in the public interest to do so, give to the Commission guidance or give in writing general directions in respect of the policies to be followed by the Commission in relation to the supervision, development and promotion of financial services in the Island and the manner in which any function of the Commission is to be carried out.

(2) It shall be the duty of the Commission in carrying out any of its functions to have regard to any guidance and to act in accordance with any directions given to it by the Committee under this Article.

## ARTICLE 12

**Publication of information and advice**

(1) The Commission may publish information or give advice or arrange so to do in such form and manner as it considers appropriate with respect to –

- (a) the operation of this Law or any other enactment, including in particular the rights of those provided with financial services, the duties of those who provide such services and the steps to be taken for enforcing those rights or complying with those duties;
- (b) any matters relating to the functions of the Commission under this Law or any other enactment; or
- (c) any other matters about which it appears to it to be desirable to publish information or give advice concerning

–

- (i) the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by or the financial unsoundness of persons carrying on financial services in or from within the Island;
- (ii) the protection and enhancement of the reputation and integrity of the Island in commercial and financial matters; or
- (iii) the best economic interests of the Island.

(2) The Commission may offer for sale copies of information published under this Article and may, if it thinks fit, make a reasonable charge for advice given under this Article at any person's request.

(3) Nothing in this Article shall be construed as authorising the disclosure of information in any case where, apart from the provisions of this Article, it could not be disclosed.

## ARTICLE 13

### **Funding of the Commission**

The funds and resources of the Commission are –

- (a) the fees and charges payable to the Commission in accordance with Article 14;
- (b) any grant paid to the Commission under Article 15;
- (c) any money borrowed by the Commission in accordance with Article 16; and
- (d) any other money or property, and any income derived from such money or property, as is lawfully vested in the Commission through the exercise of its powers under this Law.

## ARTICLE 14

**Fees and charges**

There shall be payable to the Commission –

- (a) fees and charges of such amounts, by such persons and in such manner as may be specified by or under any enactment;
- (b) fees and charges of such amounts, by such persons and in such manner as may be decided by the Commission in respect of any service, item or matter which does not arise under any enactment;
- (c) such fees and charges as may be agreed between any person for whom the Commission provides advice, assistance or services under this Law and the Commission in respect of such advice, assistance or services; and
- (d) proceeds from the sale of the publications of the Commission.

## ARTICLE 15

**Grants to the Commission**

(1) In respect of each financial year the States may make a grant to the Commission from their annual income towards the expenses of the Commission in carrying out any of its functions.

(2) The amount of any grant under paragraph (1) shall be determined by the Committee after consultation with the Commission, and in determining that amount the Committee shall have regard to the financial position and projected financial position of the Commission.

ARTICLE 16

**Borrowing by the Commission**

(1) For the purpose of enabling it to carry out its functions, the Commission may borrow up to five times its total annual revenue or such other figure as the Committee may prescribe by Order.

(2) The Committee may, on such terms as it may determine, on behalf of the States –

- (a) guarantee the liabilities of the Commission; or
- (b) lend monies to the Commission,

up to the maximum amount the Commission may borrow under paragraph (1).

ARTICLE 17

**Investment of surplus funds**

The Commission may invest any of its funds which are not immediately required in accordance with guidelines set by the Committee.

ARTICLE 18

**Payment to the States**

(1) The Commission shall pay each year into the annual income of the States such amount, if any, as shall be determined by the Commission and the Committee in consultation with each other.

(2) Where the Commission and the Committee fail to agree on the amount to be paid under paragraph (1), the matter shall be referred to the Policy and Resources Committee who shall determine the amount to be paid.

## ARTICLE 19

**Exemption from income tax**

The income of the Commission shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

## ARTICLE 20

**Accounts, audit and reports**

- (1) The Commission shall –
  - (a) keep proper accounts and proper records in relation to the accounts; and
  - (b) prepare accounts in respect of each financial year and a report on its operations during the year.

(2) The Committee shall lay a copy of the accounts and report prepared by the Commission before the States not later than seven months after the close of each financial year.

- (3) The accounts of the Commission shall –
  - (a) be audited by auditors appointed in respect of each financial year by the Committee and qualified for appointment as auditors of a company by virtue of Article 113 of the Companies (Jersey) Law 1991; and
  - (b) be prepared in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss of the Commission for the period and of the state of the Commission's affairs at the end of the period.

(4) In this Article “financial year” means the period beginning with the day on which this Law comes into force and ending with the thirty-first day of December next following and each subsequent

period of twelve months ending with the thirty-first day of December in each year.

## ARTICLE 21

### **General provisions as to Regulations and Orders**

(1) The Committee may by Order make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for prescribing any matter which may be prescribed under this Law by Order.

(2) Any Regulations or Order made under this Law may –

(a) make different provision in relation to different cases or circumstances;

(b) contain such transitional, consequential, incidental or supplementary provisions as appear to the States or the Committee, as the case may be, to be necessary or expedient for the purposes of the Regulations or Order.

(3) The Subordinate Legislation (Jersey) Law 1960<sup>14</sup> shall apply to Orders made under this Law.

## ARTICLE 22

### **Consequential amendments**

The enactments specified in the Second Schedule shall be amended in accordance with the provisions of that Schedule.

<sup>14</sup> Tome VIII, page 849.

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ARTICLE 23

**Transitional provisions**

On the commencement of this Law the transitional provisions contained in the Third Schedule shall have effect.

ARTICLE 24

**Short title and commencement**

This Law may be cited as the Financial Services Commission (Jersey) Law 1998 and shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or different provisions of this Law.

*FIRST SCHEDULE*

**PART I**

**(Article 4(1))**

**OATHS OF OFFICE**

**Form of oath to be taken by the Commissioners**

You swear and promise before God that you will well and faithfully discharge the duties of a member of the Jersey Financial Services Commission under the Financial Services Commission (Jersey) Law 1998.

**PART II**

**(Article 4(2))**

**APPOINTMENT OF COMMISSIONERS AND PROCEEDINGS OF THE  
COMMISSION**

**Terms of appointment of Commissioners**

**1.**-(1) Subject to sub-paragraph (a) of paragraph (1) of Article 3 and sub-paragraphs (2) to (6) of this paragraph, a Commissioner shall hold and vacate office in accordance with the terms of his appointment.

(2) A Commissioner shall be appointed by instrument in writing for a period not exceeding three years and upon expiry of such period shall be eligible for reappointment.

(3) A Commissioner may at any time resign his office by giving not less than one month's notice in writing.

(4) If the Committee is satisfied that a Commissioner –

- (a) has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission;
- (b) has become bankrupt;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a Commissioner,

it may terminate his appointment.

(5) Nothing in sub-paragraph (4) shall affect the continuance of any other appointment with the Commission held by a Commissioner.

(6) A Commissioner shall retire from office on reaching the age of 72 years.

(7) The Deputy Chairman of the Commission shall continue to hold appointment as such until –

- (a) he resigns from that appointment by notice in writing delivered to the Committee; or
- (b) that appointment is revoked by the Committee by an instrument in writing.

#### **Disclosure of interest**

**2.-(1)** Where a Commissioner has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter –

- (a) he shall disclose the nature of his interest at a meeting of the Commission in person or by means of a written notice brought to the attention of the Commission;

- (b) the disclosure shall be recorded in the minutes of the Commission; and
- (c) he shall withdraw from any deliberations of the Commission in relation to that matter and not vote upon it.

(2) For the purposes of this paragraph a general notice given by a Commissioner that he is a member or director of a particular organization and is to be regarded as interested in any matter concerning that organization is sufficient disclosure in relation to any such matter.

#### **Procedure at meetings**

- 3.** At a meeting of the Commission –
- (a) a majority of the Commissioners shall form a quorum;
  - (b) the Chairman or the Deputy Chairman shall preside;
  - (c) each Commissioner shall have one vote on each matter for deliberation; and
  - (d) in the event of an equality in the votes the chairman of the meeting shall have a casting vote.

#### **Transaction of business without meeting**

- 4.** A resolution is a valid resolution of the Commission, even though it was not passed at a meeting of the Commission, if –
- (a) it is signed or assented to by a majority of Commissioners; and
  - (b) proper notice of the proposed resolution was given to all Commissioners.

#### **Minutes of meetings**

5. The Commission shall keep proper minutes of its proceedings including minutes of any business transacted in accordance with paragraph 4.

**Expenses of Commissioners**

6. The Commission shall pay to the Commissioners –
- (a) except in the case of a Commissioner who is a member of the States, such remuneration as it may determine; and
  - (b) reasonable out of pocket or other expenses occasioned in the course of carrying out their duties.

*SECOND SCHEDULE***(Article 22)**

## AMENDMENT OF ENACTMENTS

**Borrowing (Control) (Jersey) Law 1947<sup>15</sup>**

1. In Article 1 –
  - (a) in paragraph (1) before the definition of “the Committee” there shall be inserted the following definition –
 

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”;
  - (b) in paragraph (4) after the word “may” there shall be inserted the words “, on the recommendation of the Commission,”.
2. In Article 2 –
  - (a) in paragraph (1) after the word “may” there shall be inserted the words “, on the recommendation of the Commission,”;
  - (b) in sub-paragraph (a) of paragraph (1A) after the word “consent” there shall be inserted the words “by the Commission”; and
  - (c) for the word “Committee” in each place where it occurs in paragraphs (1A), (1AA), (1B), (1C), (1E) and (1F) there shall be substituted the word “Commission”.

<sup>15</sup> Tome VII, page 386, Volume 1994–1995, page 201, and Volume 1996–1997, page 287.

3. For Article 2A there shall be substituted the following Article –

“ARTICLE 2A

**Limitation of Liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

(2) This Article applies to –

- (a) the States;
- (b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or performing any duty or exercising any power on behalf of the Committee; and
- (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or performing any duty or exercising any power on behalf of the Commission.”.

4. Article 4 shall be repealed.

5. In the Schedule –

- (a) for the word “Committee” in each place where it occurs there shall be substituted the word “Commission”; and
- (b) in paragraph 3 for the words “Treasurer of the States” there shall be substituted the words “Chairman of the Commission”.

**Jersey Mutual Fire Insurance Society, Incorporated (Alteration of Name and Rules) Law 1952<sup>16</sup>**

In paragraph 1 of the Schedule for the words “Finance and Economics Committee of the States of Jersey” there shall be substituted the words “Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998”.

**Registration of Business Names (Jersey) Law 1956<sup>17</sup>**

1. In paragraph (1) of Article 1 –
  - (a) after the definition of “Christian name” there shall be inserted the following definitions –
 

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;

‘the Committee’ means the Finance and Economics Committee;”; and
  - (b) for the definition of “prescribed” there shall be substituted the following definitions –
 

“ ‘prescribed’ means prescribed by Order of the Committee;

‘the registrar’ means the registrar of business names appointed pursuant to Article 1A of this Law and ‘his seal’ in relation to the registrar means a seal prepared under that Article;”.
2. After Article 1 there shall be inserted the following Article –

<sup>16</sup> Tome VIII, page 99.

<sup>17</sup> Tome VIII, page 519.

## “ARTICLE 1A

**Registrar and other officers**

(1) The registrar of companies appointed pursuant to Article 196 of the Companies (Jersey) Law 1991, as amended, shall be the registrar of business names.

(2) The Commission may direct a seal or seals to be prepared for the authentication of documents required for or in connection with the registration of business names.

(3) Any functions of the registrar under this Law may, to the extent authorised by him, be exercised by any officer on the staff of the Commission.”.

**3.** For the words “Judicial Greffier” in each place where they occur in Articles 4, 7, 8, 11, 12, 13 14 and 15 there shall be substituted the word “registrar”.

**4.** For Articles 16, 17 and 18 there shall be substituted the following Articles –

## “ARTICLE 16

**Inspection of statements registered**

(1) Any person may, on payment of such fee as may be prescribed –

- (a) inspect the documents filed by the registrar in pursuance of this Law; and
- (b) require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement to be certified by the registrar.

(2) Any certificate of registration or document certified under this Article shall be admissible in all legal proceedings, civil or criminal.

## ARTICLE 17

### **Orders**

(1) The Committee may by Order make provision for the purpose of carrying this Law into effect and in particular, but without prejudice to the generality of the foregoing, for prescribing any matter which is to be prescribed under this Law.

(2) An Order made under this Law may –

- (a) make different provision in relation to different cases or circumstances;
- (b) contain such transitional, consequential, incidental or supplementary provisions as the Committee may consider necessary or expedient.

(3) The Committee shall consult the Commission before making any Order under this Law.

(4) The Subordinate Legislation (Jersey) Law 1960, as amended, shall apply to Orders made under this Law.

## ARTICLE 18

### **Rules of Court**

The power to make Rules of Court under the Royal Court (Jersey) Law 1948, as amended, shall include a power to make Rules for the purposes of this Law.”.

**Income Tax (Jersey) Law 1961<sup>18</sup>**

1. In Article 123A –
  - (a) In sub-paragraph (b) of paragraph (1) for the words “Director, to his satisfaction” there shall be substituted the words “satisfaction of the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998”; and
  - (b) in paragraph (10) the definition of “Director” shall be deleted.
2. In Article 123B –
  - (a) in sub-paragraph (a) of paragraph (1) for the words “Director, to his satisfaction” there shall be substituted the words “satisfaction of the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998”; and
  - (b) in paragraph (13) the definition of “Director” shall be deleted.

**Limited Liability Companies (Registration Fees) (Jersey) Law 1967<sup>19</sup>**

In Article 1 after paragraph (2B) there shall be inserted the following new paragraph –

“(2BA) All fees paid under this Article shall form part of the Income of the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998.”.

**Company Securities (Insider Dealing) (Jersey) Law 1988<sup>20</sup>**

<sup>18</sup> Volume 1961–1962, page 279, Volume 1988–1989, page 384, and Volume 1994–1995, page 224.

<sup>19</sup> Volume 1966–1967, page 727, Volume 1990–1991, page 1088, and R & O 8829.

<sup>20</sup> Volume 1988–1989, page 1.

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1. In paragraph (1) of Article 1 before the definition of “the Committee” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”.

2. In paragraph (4) of Article 9 after sub-paragraph (b) there shall be inserted the following sub-paragraph –

“(ba) a member, officer or employee of the Commission;  
or”

3. In Article 15 –

- (a) after the word “Committee” in each place where it occurs there shall be inserted the words “or the Commission”; and
- (b) after paragraph (8) there shall be inserted the following new paragraph –

“(8A) In any case where the Committee or the Commission may exercise a discretion under this Article, the decision of the Committee shall prevail.”.

4. After Article 18 there shall be inserted the following Article –

“ARTICLE 18A

**Limitation of Liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

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- (2) This Article applies to –
  - (a) the States;
  - (b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or who is an inspector appointed by the Committee under Article 15 or who is performing any duty or exercising any power on behalf of the Committee; and
  - (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is an inspector appointed by the Commission under Article 15 or who is performing any duty or exercising any power on behalf of the Commission.”.

**5.** In Article 19 –

- (a) the existing paragraph shall be renumbered as paragraph (1) of that Article; and
- (b) there shall be added the following paragraph –

“(2) The Committee shall consult the Commission before making any Order under this Article.”.

**Collective Investment Funds (Jersey) Law 1988<sup>21</sup>**

**1.** In Article 1 –

- (a) after the definition of “collective investment fund” there shall be inserted the following definition –

<sup>21</sup> Volume 1988–1989, page 133.

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998; and

- (b) in the definition of “prescribed” after the word “Committee” there shall be inserted the words “on the recommendation of the Commission”.

**2.** After the word “may” in each of the places where it occurs in the following provisions there shall be inserted the words “, on the recommendation of the Commission,” –

- (a) paragraph (2) of Article 3;
- (b) paragraphs (4) and (8) of Article 6;
- (c) paragraphs (1) and (2) of Article 10;
- (d) paragraph (1) of Article 13; and
- (e) paragraphs (1) and (2) of Article 17.

**3.** For the word “Committee” in each of the places where it occurs in the following provisions there shall be substituted the word “Commission” –

- (a) Article 5;
- (b) paragraphs (1), (3), (6) and (7) of Article 6;
- (c) Articles 7 and 8;
- (d) sub-paragraph (d) of paragraph (1) and in paragraph (3) of Article 10;
- (e) Article 12;
- (f) paragraph (2) of Article 13; and

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(g) Articles 15, 19 and 20.

4. In paragraph (5) of Article 6 for the word “Committee” there shall be substituted the words “the Commission or the Committee as the case may be”.

5. In paragraph (5) of Article 15 for the word “President” there shall be substituted the word “Chairman”.

6. For Article 22 there shall be substituted the following Article –

“ARTICLE 22

**Limitation of liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

(2) This Article applies to –

(a) the States;

(b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or performing any duty or exercising any power on behalf of the Committee; and

(c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is an inspector appointed by the Commission under Article 19 or who is performing any duty or exercising any power on behalf of the Commission.”.

**Bankruptcy (Désastre) (Jersey) Law 1990<sup>22</sup>**

1. In paragraph (1) of Article 1 after the definition of “claim” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”.

2. For the words “Finance and Economics Committee” in

- (a) sub-paragraph (c) of paragraph (1) of Article 3; and
- (b) paragraph (4) of Article 7,

there shall be substituted the word “Commission”.

3. For Article 47A there shall be substituted the following Article –

“ARTICLE 47A

**Limitation of Liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge of or purported discharge of any functions under this Law or any enactment made or purportedly made, under this Law, unless it is shown that the act or omission was in bad faith.

(2) The Article applies to –

- (a) the States;

<sup>22</sup> Volume 1990–1991, pages 45 and 1092, Volume 1994–1995, page 399 and Volume 1996–1997, pages 485, 550, 607 and 641.

- (b) the Finance and Economics Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or performing any duty or exercising any power on behalf of the Committee;
- (c) the Commission, any Commissioner or any person who is, or is acting as an officer, servant or agent of the Commission or performing any duty or exercising any power on behalf of the Commission; and
- (d) the Viscount or any member of his Department.”.

**Banking Business (Jersey) Law 1991<sup>23</sup>**

**1.** In paragraph (1) of Article 1 –

- (a) after the definition of “chief executive” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”;

- (b) in the definition of “prescribed” after the word “Order” there shall be inserted the words “of the Committee on the recommendation of the Commission”.

**2.** In the title to Part II for the words “FINANCE AND ECONOMICS COMMITTEE” there shall be substituted the words “FINANCIAL SERVICES COMMISSION”.

**3.** For Article 6 there shall be substituted the following Articles –

<sup>23</sup> Volume 1990–1991, page 483, and Volume 1992–1993, page 93.

## “ARTICLE 6

**Functions of the Commission**

The Commission shall have the powers conferred on it by this Law and the duty generally to supervise the persons registered by it in the exercise of those powers.

## ARTICLE 6A

**Limitation of liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

(2) This Article applies to –

- (a) the States;
- (b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or performing any duty or exercising any power on behalf of the Committee; and
- (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is a person appointed by the Commission to conduct an investigation under Article 27 or who performing any duty or exercising any power on behalf of the Commission.”.

**4.** For sub-paragraph (d) of paragraph (2) of Article 7 there shall be substituted the following sub-paragraph –

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“(d) subject to such conditions or restrictions as may be prescribed, any other prescribed person or institution.”.

**5.** For the word “Committee” in each of the places where it occurs in the following provisions there shall be substituted the word “Commission” –

- (a) paragraph (4) of Article 7;
- (b) Articles 8 and 9;
- (c) paragraphs (2) and (4) of Article 10;
- (d) paragraph (1) of Article 11;
- (e) Articles 12 to 18, 20, 21, 23 to 28 and 32;
- (f) in Article 33 –
  - (i) in the heading; and
  - (ii) in paragraph (1); and
- (g) Articles 34, 35, 37 to 40, 42 to 47 and 49.

**6.** Paragraph (2) of Article 8 shall be deleted.

**7.** In paragraph (1) of Article 10 –

- (a) after the word “may” in the first place where it occurs there shall be inserted the words “, on the recommendation of the Commission,”; and
- (b) for the words “may attach” there shall be substituted the words “the Commission may attach”.

**8.** In Article 19 –

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- (a) in paragraph (1) after the word “may” there shall be inserted the words “, on the recommendation of the Commission,”; and
- (b) in sub-paragraph (c) of paragraph (2) after the word “Committee” there shall be inserted the words “or the Commission”.

**9.** For paragraphs (5) and (6) of Article 33 there shall be substituted the following paragraphs –

“(5) Subject to paragraph (6), the Committee may make Orders specifying circumstances in which a person described in sub-paragraphs (a) or (b) of paragraph (1) shall be required to communicate any information or opinion to the Commission on a matter to which this Article applies, and which is relevant to any functions of the Commission under this Law.

(6) Orders under this Article may only be made –

- (a) on the recommendation of the Commission; and
- (b) after consultation with such bodies as appear to the Commission to represent the interests of accountants and registered persons.

(7) This Article shall apply to the auditor of a former registered person as it applies to the auditor of a registered person.”.

**10.** In paragraph (5) of Article 49 for the word “President” there shall be substituted the word “Chairman”.

**Companies (Jersey) Law 1991<sup>24</sup>**

**1.** In paragraph (1) of Article 1 after the definition of “articles” there shall be inserted the following definition –

<sup>24</sup> Volume 1990–1991, page 887.

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“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”.

**2.** For the word “Committee” in each of the places where it occurs in the following provisions there shall be substituted the word “Commission” –

- (a) paragraph (3) of Article 17
- (b) paragraphs (1) and (4) of Article 88;
- (c) paragraph (3) of Article 106;
- (d) paragraph (1) of Article 113;
- (e) sub-paragraph (b) of paragraph (2) of Article 155;
- (f) paragraph (1) of Article 168
- (g) paragraph (3) of Article 194;
- (h) Article 197; and
- (j) paragraph (1) of Article 201A.

**3.** After the word “Committee” in each place where it occurs in paragraph (1) of Article 78 there shall be inserted the words “, the Commission”.

**4.** After the word “Committee” in each of the places where it occurs in the following provisions there shall be inserted the words “or the Commission” –

- (a) paragraphs (1) and (3) of Article 128;
- (b) paragraph (2) of Article 135

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- (c) Articles 136 and 137;
- (d) paragraph (1) of Article 138;
- (e) Article 142
- (f) paragraph (2) of Article 184; and
- (g) paragraph (1) of Article 185.

**5.** At the end of Article 128 there shall be inserted the following paragraph –

“(5) In any case where the Committee or the Commission may exercise a discretion under this Article, the decision of the Committee shall prevail.”.

**6.** After the word “Committee” in paragraph (2) of Article 129 there shall be inserted the words “or the Commission as the case may be”.

**7.** For paragraph (1) of Article 135 there shall be substituted the following paragraph –

“(1) The inspectors may, and if so directed by the Committee or the Commission shall, –

- (a) make interim reports; and
- (b) on conclusion of their investigation make a final report,

to the Committee or the Commission as the case may be.”.

**8.** After the word “States” in each place where it occurs in paragraph (2) of Article 136 and paragraph (5) of Article 137 there shall be inserted the words “or the Commission as appropriate”.

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**9.** At the end of Article 136 there shall be inserted the following paragraph –

“(3) In any case where the Committee or the Commission may exercise a discretion under this Article, the decision of the Committee shall prevail.”.

**10.** In Article 139 for the words “or to an inspector appointed by it” there shall be substituted the words “, to the Commission or to the Committee or to an inspector appointed by the Committee or the Commission”.

**11.** In Article 142 –

(a) the existing Article shall be re-numbered as paragraph (1) of that Article; and

(b) there shall be inserted the following paragraph –

“(2) In any case where the Committee or the Commission may exercise a discretion under this Article, the decision of the Committee shall prevail.”.

**12.** In Article 196 –

(a) in paragraph (2) for the words “his staff” there shall be substituted the words “the staff of the Commission”; and

(b) for paragraph (3) there shall be substituted the following paragraph –

“(3) An officer appointed under this Article shall be an officer of the Commission.”.

**13.** In paragraph (6) of Article 201 for the words “annual income of the States” there shall be substituted the words “income of the Commission”.

**14.** After Article 217 there shall be inserted the following Article –

“ARTICLE 217A

**Limitation of Liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

(2) This Article applies to –

- (a) the States;
- (b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or who is an inspector appointed by the Committee under Article 128 or who is performing any duty or exercising any power on behalf of the Committee; and
- (c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is an inspector appointed by the Commission under Article 128 or who is performing any duty or exercising any power on behalf of the Commission.”.

**15.** After paragraph (1) of Article 219 there shall be inserted the following paragraph –

“(1A) The Committee shall consult the Commission before making any Order under this Law.”.

**16.** In the First Schedule –

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- (a) for the word “Committee” in the following places where it occurs there shall be substituted the word “Commission” –
  - (i) in the second column opposite the second item relating to Article 17(4) in the first column; and
  - (ii) in the second column opposite the item relating to Article 88(3) in the first column; and
- (b) for the words “or by Committee” in the second column opposite the item relating to Article 143(5) in the first column there shall be substituted the words “, Committee or Commission”.

**Limited Partnerships (Jersey) Law 1994<sup>25</sup>**

**1.** In paragraph (1) of Article 1 after the definition of “bankruptcy” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;”.

**2.** In Article 30 –

- (a) in paragraph (2) for the word “Committee” there shall be substituted the word “Commission”;
- (b) in paragraph (3) for the words “his staff” there shall be substituted the words “the staff of the Commission”; and
- (c) paragraph (4) shall be deleted.

**3.** In paragraph (5) of Article 31 for the words “annual income of the States” there shall be substituted the words “income of the Commission”.

<sup>25</sup> Volume 1994–1995, page 174.

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4. After paragraph (2) of Article 38 there shall be inserted the following paragraph –

“(2A) The Committee shall consult the Commission before making any Order under this Law.”.

**Insurance Business (Jersey) Law 1996<sup>26</sup>**

1. In paragraph (1) of Article 1 –

(a) after the definition of “chief executive” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998;” and

(b) in the definition of “prescribed” after the word “Order” there shall be inserted the words “of the Committee on the recommendation of the Commission”.

2. For Article 3 there shall be substituted the following Articles –

“ARTICLE 3

**Functions of the Commission**

The Commission shall have the powers conferred on it by this Law and the duty generally to supervise the persons registered by it in the exercise of those powers.

<sup>26</sup> Volume 1996–1997, page 86.

## ARTICLE 3A

**Limitation of liability**

(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.

(2) This Article applies to –

(a) the States;

(b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, servant or agent of the Committee or performing any duty or exercising any power on behalf of the Committee; and

(c) the Commission, any Commissioner or any person who is, or is acting as, an officer, servant or agent of the Commission or who is a person appointed by the Commission to conduct an investigation under Article 10 or who is performing any duty or exercising any power on behalf of the Commission.”.

3. In Article 4 –

(a) in paragraph (4) –

(i) for the words “subject to paragraph (5), paragraphs” there shall be substituted the word “Paragraphs”; and

(ii) for sub-paragraph (e) there shall be substituted the following sub-paragraph –

“(e) the carrying on, subject to any prescribed conditions or restrictions, of such insurance business as may be prescribed by any other person or institution as may be prescribed;” and

(b) paragraph (5) shall be deleted.

**4.** For the word “Committee” in each of the following places there shall be substituted the word “Commission” –

(a) in Article 5 –

(i) in each place where it occurs in paragraph (1); and

(ii) in the second place where it occurs in paragraph (2);

(b) in each place where it occurs in Article 6 except for paragraph (8);

(c) in each place where it occurs in Articles 7 to 12 and 14 to 19;

(d) in each place where it occurs in paragraph (1) of Article 20;

(e) in each place where it occurs in Articles 21 and 22;

(f) in each place where it occurs in paragraphs (3) to (8) and (11) of Article 23; and

(g) in each place where it occurs in Articles 24, 27, 29, 30, 31, 32, 34, 37 and 39.

**5.** For paragraph (3) of Article 20 there shall be substituted the following paragraphs –

“(3) Subject to paragraph (3A), the Committee may prescribe circumstances in which an auditor shall be required to

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communicate any information or opinion to the Commission on a matter to which this Article applies, and which is relevant to any functions of the Commission under this Law.

(3A) Orders under this Article may only be made –

- (a) on the recommendation of the Commission; and
- (b) after consultation with such bodies as appear to the Commission to represent the interests of accountants, permit holders and insurers.”.

**6.** In paragraph (1) of Article 23 after the word “Committee” there shall be inserted the words “, on the recommendation of the Commission,”.

**7.** After the word “may” in paragraph (1) of Article 33 and paragraph (1) of Article 38 there shall be inserted the words “, on the recommendation of the Commission,”.

**8.** In sub-paragraph (c) of paragraph (2) of Article 33 after the word “Committee” there shall be inserted the words “, or the Commission,”.

**9.** In paragraph (8) of Article 37 for the word “President” there shall be substituted the word “Chairman”.

**Limited Liability Partnerships (Jersey) Law 1997<sup>27</sup>**

**1.** In paragraph (1) of Article 1 after the definition of “charge” there shall be inserted the following definition –

“ ‘the Commission’ means the Jersey Financial Services Commission established under the Financial Services Commission (Jersey) Law 1998;”.

**2.** In Article 36 –

<sup>27</sup> Volume 1996–1997, page 508.

- (a) in paragraph (4) for the word “Committee” there shall be substituted the word “Commission”;
- (b) in paragraph (5) for the words “his staff” there shall be substituted the words “the staff of the Commission”; and
- (c) paragraph (6) shall be deleted.

**3.** In paragraph (5) of Article 37 for the words “annual income of the States” there shall be substituted the words “income of the Commission”.

**4.** After paragraph (3) of Article 46 there shall be inserted the following paragraph –

“(3A) The Committee shall consult the Commission before making any Orders under this Law.”.

**THIRD SCHEDULE****(Article 23)****TRANSITIONAL PROVISIONS****Rights, liabilities and agreements**

1.-(1) All rights, liabilities and obligations of the Committee arising out of a transferred function shall become the rights, liabilities and obligations of the Commission.

(2) Any agreement entered into by or on behalf of, or undertaking given to or to any person on behalf of, the Committee in connection with a transferred function shall have effect as if the Commission were the original party to it, and any reference in such agreement or undertaking to the Committee shall be construed as a reference to the Commission.

**Uncompleted matters**

2. Nothing done by the Committee under or in consequence of a transferred function shall be invalidated by the coming into force of this Law, and anything commenced by the Committee under or in consequence of a transferred function may be carried on and completed by the Commission.

**Consents**

3.-(1) Any licence, permit, authorisation, certificate, registration, consent, waiver or permission granted, issued, made or given by or on behalf of the Committee under a transferred function shall be deemed to have been granted, issued, made or given by or on behalf of the Commission on the date when it was in fact granted, issued made or given.

(2) Any condition, restriction or requirement imposed by the Committee under a transferred function shall be deemed to have been

imposed by or on behalf of the Commission on the date on which it was in fact imposed.

#### **Pending and refused applications**

4.-(1) Any application made to the Committee under any enactment in respect of a transferred function which has not been finally determined or withdrawn shall be deemed to have been made to the Commission on the date when it was in fact made.

(2) Any application which has been refused by the Committee, or which has been granted by the Committee subject to conditions under a transferred function, shall be deemed to have been refused or to have been granted subject to those conditions, as the case may be, by the Commission on the date on which it was in fact refused or granted subject to those conditions.

#### **Legal proceedings**

5. Any legal proceedings instituted by or against the Committee in relation to a transferred function may be continued as if the Commission were instead a party to it.

#### **Requirements and information**

6.-(1) Any requirement made by the Committee for the purposes of a transferred function shall be deemed to be a requirement made by the Commission.

(2) Any information given or statement made to the Committee and every document deposited with the Committee shall be deemed to have been given or made to, or deposited with, the Commission on the date when it was in fact given, made or deposited.

(3) Any information passed to the Commission by the Committee shall be held by the Commission on the same terms as it was held by the Committee.

#### **Records and registers**

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7.-(1) Any books, lists, files or registers required to be established and maintained, and any other record or document required to be kept by the Committee or any other body or individual under a transferred function shall, on the transfer of that function –

- (a) be delivered to the Commission; and
- (b) be deemed to have been established, maintained or kept by the Commission.

(2) Notwithstanding paragraph (1), where the Commission is satisfied that the Committee has good cause to have access to any record or document delivered to the Commission under that paragraph it shall grant such access to the Committee.