



Jersey

COMPANIES (GENERAL PROVISIONS) (AMENDMENT No. 6) (JERSEY) ORDER 2022

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Made

25th February 2022

Coming into force

1st March 2022

THE MINISTER FOR EXTERNAL RELATIONS AND FINANCIAL SERVICES makes this Order under Articles 188 and 219 of the [Companies \(Jersey\) Law 1991](#), having consulted the Jersey Financial Services Commission –

1 [Companies \(General Provisions\) \(Jersey\) Order 2002](#) amended

This Order amends the [Companies \(General Provisions\) \(Jersey\) Order 2002](#).

2 **Article 7 (qualifications of liquidator) amended**

In Article 7 for paragraph (2) there is substituted –

“(2) Subject to paragraph (3), a person is only eligible for appointment as a liquidator of a company to which this Article applies if the person is registered as an approved liquidator and entered on the Register of Approved Liquidators under paragraph (2C).

(2A) A person is not qualified to be registered as an approved liquidator and entered on the Register of Approved Liquidators under paragraph (2C) unless the person –

- (a) is ordinarily resident in Jersey;
- (b) is an individual who has the level of experience determined by the Viscount in writing and –
 - (i) is licensed in the United Kingdom to act as insolvency practitioner by one of the recognised professional bodies as defined under section 391(8) of the Insolvency Act 1986 c. 45, or
 - (ii) is a member of –
 - (A) the Association of Chartered Certified Accountants,
 - (B) the Chartered Accountants of Ireland,
 - (C) the Institute of Chartered Accountants in England and Wales, or

- (D) the Institute of Chartered Accountants in Scotland; and
 - (c) has in place a general bond of £250,000 plus a specific bond of between £5000 and £5,000,000 for each appointment.
- (2B) An individual who is not ordinarily resident in Jersey but is otherwise qualified in accordance with paragraph (2A)(b) and (c) may, together with an individual who is registered as an approved liquidator and entered in the Register of Approved Liquidators under paragraph (2C), be appointed as a liquidator of a company, and the Viscount may, in accordance with this Article, register the individual as a non-Jersey liquidator in the Register of Approved Liquidators.
- (2C) An individual who is qualified under paragraph (2A) to be registered as an approved liquidator or as a non-Jersey liquidator under paragraph (2B) may apply to the Viscount, in the form approved by the Viscount, to be registered or re-registered as an approved liquidator or a non-Jersey liquidator, as the case may be, and entered in the Register of Approved Liquidators.
- (2D) The Viscount must keep and maintain a Register of Approved Liquidators and may upon –
- (a) application under paragraph (2C) by an individual who is qualified to be registered as an approved liquidator under paragraph (2A) or as a non-Jersey liquidator under paragraph (2B); and
 - (b) payment to the Viscount by the individual of the registration or re-registration fee of £800,
- register the individual as an approved liquidator or non-Jersey liquidator and enter the name of the individual in the Register of Approved Liquidators.
- (2E) The registration of an individual as an approved liquidator or a non-Jersey liquidator under this Article expires after one year and an individual may apply to the Viscount under paragraph (2C) to re-register.
- (2F) A person registered as an approved liquidator or a non-Jersey liquidator under this Article must within 21 days of any change of circumstances which disqualifies the person from meeting the requirements under paragraph (2A) notify the Viscount of the change and the Viscount must cancel the person's registration as an approved liquidator or non-Jersey liquidator and remove the name of the person from the Register of Approved Liquidators.
- (2G) The Viscount must publish the Register of Approved Liquidators kept and maintained under paragraph (2D) online and make the register available for inspection to the public.”.

3 Article 8 (investigation into conduct of liquidators), Article 9 (prescribed minimum liquidated sum) and Article 9A (statutory demand) inserted

After Article 7 there is inserted –

“8 Investigation into conduct of liquidators

- (1) The Viscount may investigate the conduct of a liquidator where –
 - (a) the Viscount receives representations (including, but not limited to, complaints) about the exercise of powers, or a failure to exercise powers, by a liquidator and the Viscount is of the opinion that the matter relating to the representations has not been satisfactorily dealt with by the liquidator or within a reasonable timeframe; or
 - (b) it otherwise appears to the Viscount that there are circumstances justifying investigation including circumstances which –
 - (i) give rise to concerns on the part of the Viscount about the conduct of the liquidator (including, but not limited to, the level of fees charged or proposed to be charged by a liquidator),
 - (ii) suggest that a liquidator has failed to comply with an order made or directions given by the Court, or
 - (iii) otherwise constitute good reason, in the view of the Viscount, to seek further information about a liquidator’s discharge of his or her functions.
- (2) The Viscount may by notice in writing –
 - (a) except where the Viscount finds that there is good reason not to do so, inform the liquidator of the representations made under paragraph (1), if any; and
 - (b) require the liquidator to provide such information (including accounts) or documents as may be specified, or as are of such description as may be specified, and such reports as the Viscount may require, from the liquidator as to the exercise of his or her functions, and in either case, may require the liquidator to do so in such a manner and before the end of such reasonable period and at such place as may be specified.
- (3) Where any information or document is provided to the Viscount under paragraph (2)(a), the Viscount may further require such information to be verified, or such document to be authenticated, in such reasonable manner as the Viscount may see fit.
- (4) Nothing in this Order requires the Viscount to investigate, consider or determine any complaint if, in the Viscount’s opinion –
 - (a) the subject matter of the complaint is trivial; or
 - (b) the complaint is frivolous or vexatious or is not made in good faith.
- (5) A person required under paragraph (2)(b) to submit a report may make an application to the Viscount to request more time for doing so.
- (6) An application under paragraph (5) must –
 - (a) state the grounds for requesting more time; and

- (b) contain, or be accompanied by, such information as the Viscount may reasonably require to determine the application.
- (7) The Viscount may, in response to an application under paragraph (5), grant such extension of time as the Viscount may consider reasonable.
 - (8) The Viscount may, at all reasonable times, examine and take copies of any record kept in relation to the liquidator's functions by persons or bodies carrying on the business of providing financial services within the meaning given to that expression by Article 1(1) of the [Financial Services Commission \(Jersey\) Law 1998](#).
 - (9) For the purposes of an investigation into a complaint received by the Viscount, the Viscount may consult such persons, who have expertise in the matter in respect of which the complaint is made, as the Viscount may see fit.
 - (10) Where, following an investigation under this Article the Viscount considers it necessary or appropriate to do so, the Viscount may make an application to the Court requesting the exercise, in relation to a liquidator of any of the Court's powers under the Law.
 - (11) In considering whether it is necessary or appropriate to make an application under paragraph (10), the Viscount must have regard to –
 - (a) the terms of the appointment of the liquidator; and
 - (b) orders or directions given by the Court.
 - (12) A liquidator may require the Viscount to reconsider any decision made by the Viscount under this Article in relation to that liquidator.
 - (13) The right conferred by paragraph (12) is exercisable by the liquidator giving notice in writing to the Viscount within the period of 21 days beginning with the date on which notice of the decision was given to the liquidator.
 - (14) Notice given in accordance with paragraph (13) must –
 - (a) state the grounds for the request for reconsideration; and
 - (b) contain, or be accompanied by, any relevant information or documents.
 - (15) At any time after receiving the notice and before reconsidering the decision to which it relates, the Viscount may require the liquidator to provide such further information, or to produce such documents, as the Viscount reasonably considers necessary to enable reconsideration of the decision.
 - (16) Following reconsideration, the Viscount must give to the liquidator –
 - (a) notice in writing of the decision on reconsideration; and
 - (b) if the previous decision is upheld, a statement in writing of the reasons for upholding it.
 - (17) The Viscount, or any member of the Viscount's Department is not liable in damages for anything done or omitted in the discharge of or purported discharge of any function under this Order.

(18) Paragraph (17) does not apply –

- (a) if it is shown that the act was done, or the omission made, 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](#).

9 Prescribed minimum liquidated sum

The prescribed minimum liquidated sum under Article 157A of the Law is £3,000.

9A Statutory demand

A statutory demand under Article 157A(2) of the Law must be in the form set out in Part 3 of the Schedule.”.

4 Schedule amended

In the Schedule after Part 2 there is inserted –

“PART 3

(Article 9A)

STATUTORY DEMAND	
Under Article 157A of the Companies (Jersey) Law 1991 and Article 9A of the Companies (General Provisions) (Jersey) Order 2002	
Warning	
<ul style="list-style-type: none"> ● This is an important document. This demand must be dealt with within 21 days after its service upon the Company or a winding-up order could be made in respect of the Company 	<ul style="list-style-type: none"> ● Please read the demand and notes carefully.

Section 1 – DEMAND

To *[Insert details of Debtor Company]*

Name: (The Company)
[If registered, insert its registered name]

Registered No. :

Address:

[insert its registered office]

This demand is made under Article 157A of the [Companies \(Jersey\) Law 1991](#) and is served on you by the Creditor *[insert details of Creditor below]*

Name:

[If a registered company, insert its registered name; if unregistered, its name; if an individual, their full name]

Registered No. (if any):

[If an entity registered in Jersey with the Jersey Financial Services Commission, insert its registered number]

Address:

[If registered, insert the registered address; if unregistered, the postal address of any principal residence or principal place of business;]

The creditor claims that the Company owes the sum of £ _____, full details of which are set out in section 2 of this Demand.

Notes for Creditor on Section 1

- The person making this demand must complete the whole of sections 1, 2 (including Part B if applicable) and 3 and the authentication (including the date) at the end.
- The Details of Debt (Section 2) must include all the relevant matters listed in the margin notes at Section 2. These should be set out in the order given unless the person completing the demand considers that a different order would be more convenient for the recipient.
- The creditor must give details of an individual with whom the Company can communicate about the Demand in Section 3.
- If the signatory of the demand is an Advocate/Solicitor or other agent of the creditor the name of their firm should be given.

Section 2

Part A: Details of Debt

Notes for Creditor on Section 2 Part A

These details must include the following information:

- The amount of the debt as at the date of this demand.
- How the debt arose – such as any cause or consideration given for the debt; the date on which the debt arose should also be included.
- If the demand is based on a judgment or order of a court, details of the judgment or order.
- If the creditor is entitled to the debt by way of assignment, a statement to that effect and that the details of the relevant assignment(s) are given in Part B below (which must then also be filled in).
- If the sums demanded include:
 - a. Any charge by way of interest not previously notified to the company as included in its liability and/or
 - b. Any other charge accruing due from time to time,

each such charge must be separately identified (if claimed) with the amount or rate of the charge and the grounds upon which payment is claimed and the amount claimed for such charges must be limited to that which has accrued due at the date of the demand.

**Part B: [for completion if the creditor is entitled to the debt
by way of assignment]**

	Name	Date(s) of Assignment
Original Creditor		
Assignees		

Section 3

The Company must pay the above debt within 21 days of service of this demand on the Company after which the creditor may make an application to the Royal Court of Jersey to wind up the Company unless the Company offers security for the debt and the creditor agrees to accept security or the Company compounds the debt with the creditor's agreement.

The individual(s) acting for the Creditor to whom any communication regarding this demand may be addressed is/are:

Name	
Address	
Electronic address	
Telephone number	
Reference	

How to comply with a statutory demand

If the Company wishes to avoid an application for winding up being made against it, it must pay the debt shown in Section 1 above, details of which are set out in Section 2 of this notice, within the period of 21 days after its service upon the Company. Alternatively, the Company can attempt to come to a settlement with the creditor. To do this an officer or representative of the Company should:

- Inform the individual(s) named in Part A above immediately that it is willing and able to offer security for the debt to the creditor's satisfaction; or
- Inform the individual(s) named in Part A immediately that it is willing and able to compound for the debt to the creditor's satisfaction.

If the Company disputes the demand in whole or in part, it should contact the individual(s) named in Part A immediately.

REMEMBER **The Company only has 21 days after the date of service on it of this document before the creditor may apply to the Royal Court of Jersey to wind up the Company.**

NOTE: The Company has the right to make an application to the Royal Court of Jersey for an injunction restraining the creditor from presenting an application to wind it up.

Authentication:

Signature of Individual:

Name (block letters):

Date:

Address:

.....

.....

Telephone No:

Ref:

[I, the above-signed, not being the creditor herein, state as follows:

I am authorised to make this demand on the creditor’s behalf.

My position in/relationship to the creditor is [insert]

[[If the creditor is a body corporate of which the signatory is the sole member] I am the sole member of the creditor.]

Note: The demand must be dated, and authenticated either by the creditor, or a person authorised to make the demand on the creditor’s behalf. A demand which is authenticated by a person other than by the creditor must state that the person is authorised to make this demand on the creditor’s behalf and state the person’s relationship to the creditor.”.

5 Citation and commencement

This Order may be cited as the Companies (General Provisions) (Amendment No. 6) (Jersey) Order 2022 and comes into force on the same day as the Companies (Amendment No. 8) (Jersey) Regulations 2022 come into force.

SENATOR I.J. GORST

Minister for External Relations and Financial Services