



Jersey

FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 5) (JERSEY) LAW 2019

Arrangement

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FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 5) (JERSEY) LAW 2019

A **LAW** to further amend the Bankruptcy (Désastre) (Jersey) Law 1990, the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998, the Financial Services Commission (Jersey) Law 1998, the Insurance Business (Jersey) Law 1996 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

Adopted by the States

15th January 2019

Sanctioned by Order of Her Majesty in Council

10th April 2019

Registered by the Royal Court

26th April 2019

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

1 Bankruptcy (Désastre) (Jersey) Law 1990 amended

In Article 3(1)(c)(ii) of the Bankruptcy (Désastre) (Jersey) Law 1990¹, after the words “Law 1988” there shall be inserted the words “or the Alternative Investment Funds (Jersey) Regulations 2012²”.

2 Banking Business (Jersey) Law 1991 amended

In the Banking Business (Jersey) Law 1991³ –

(a) after Article 7(1) there shall be inserted the following paragraph –

“(1A) Paragraph (1) does not apply 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 2000⁴.”;

(b) in Article 10(3) –

(i) at the end of sub-paragraph (g), for the full-stop there shall be substituted a semi-colon, and

(ii) after sub-paragraph (g) there shall be added the following sub-paragraph –

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- “(h) person A has failed to pay any fee published in accordance with Article 48E that is payable under Article 48E.”;
- (c) in Article 21(2)(b), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (d) in Article 24 –
- (i) in paragraph (1) after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (ii) in paragraph (1)(a) and (1)(b) for the words “or such a manager” there shall be substituted the words “, such a manager or such a liquidator or administrator”;
- (iii) in paragraph (3), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs”;
- (iv) in paragraph (4), after the words “the registered person” in the second place where it appears, there shall be inserted the words “, or a liquidator of the registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (v) for paragraph (9)(b) there shall be substituted the following subparagraph –
- “(b) becomes a director, controller, key person of any class, or manager, of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs, without having been served with a notice by the Commission under paragraph (1)(b) to the effect that the Commission does not object to the person’s so becoming a director, controller, key person of the relevant class or of any class, manager, liquidator or administrator,”;
- (vi) in paragraphs (10) and (11), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs”;
- (e) in Article 26 –
- (i) for paragraph (4) there shall be substituted the following paragraph –
- “(4) The Commission, an officer or an agent may, by notice in writing served on any person who is, or is to be, a director, controller or manager of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs, require the person to provide the Commission, an officer or an agent, at such times as may be specified in the notice, with such information or
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- documents as the Commission, an officer or an agent may reasonably require for determining whether the person is a fit and proper person to be a director, controller, manager, liquidator or administrator (as the case may be) of that registered person.”,
- (ii) in paragraph (10) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words “whichever is the later.”,
 - (iii) in paragraph (15) –
 - (A) in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted,
 - (B) in the definition “defined person”, after sub-paragraph (l) there shall be inserted the following sub-paragraph –
 - “(m) any person who at any time has been appointed a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (f) in Article 28(5), after the words “Article 26(7)” there shall be inserted the words “, any liquidator or administrator”;
 - (g) in Article 32(3) the words “not exceeding £2,000” shall be deleted.
 - (h) in Article 34 –
 - (i) in paragraph (2) –
 - (A) in sub-paragraph (a) the word “or” that appears immediately after the semi-colon shall be deleted,
 - (B) in sub-paragraph (b), for the full-stop there shall be substituted a semi-colon followed by the word “or”,
 - (C) after sub-paragraph (b) there shall be inserted the following sub-paragraph –
 - “(c) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (ii) in paragraph (3) –
 - (A) in sub-paragraph (b) the word “or” that appears immediately after the semi-colon shall be deleted,
 - (B) in sub-paragraph (c), for the comma there shall be substituted a semi-colon followed by the word “or”,
 - (C) after sub-paragraph (c) there shall be inserted the following sub-paragraph –
 - “(d) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (i) in Article 52(1), after the word “capacity,” there shall be inserted the words “or by a liquidator of a registered person (whether or not appointed

under a bankruptcy) or an administrator of a bankrupt registered person's affairs.”.

3 Collective Investment Funds (Jersey) Law 1988 amended

In the Collective Investment Funds (Jersey) Law 1988⁵ –

- (a) in Article 1(1), in the definition “principal person”, for paragraph (e) there shall be substituted the following sub-paragraph –
 - “(e) subject to paragraph (f), a person who has been appointed a liquidator of a person's affairs (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person;”;
- (b) in Article 9 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
 - “whichever is the later.”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer”, the words “, in any provision,” shall be deleted;
- (c) in Article 30A, for the words “Articles 27, 28 and 29” there shall be substituted the words “Articles 27, 28, 29 and 30”;
- (d) after Article 36(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply 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 2000⁶.”.

4 Financial Services (Jersey) Law 1998 amended

In the Financial Services (Jersey) Law 1998⁷ –

- (a) in Article 1(1), in the definition “principal person” for the words “in relation to a person who has become bankrupt, includes a person who has been appointed as liquidator or administrator of the person's affairs;” there shall be substituted the words “includes a person who has been appointed a liquidator of the person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs;”;
- (b) after Article 6(1), there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply 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 2000⁸.”;
- (c) for Article 9(4)(g) there shall be substituted the following sub-paragraph –

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- “(g) if the registered person fails to pay any fee published under paragraph (6) that is payable.”;
 - (d) in Article 32 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
 - “whichever is the later.”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted.

5 Financial Services Commission (Jersey) Law 1998 amended

In the Financial Services Commission (Jersey) Law 1998⁹ –

- (a) in Article 8(4) –
 - (i) at the end of sub-paragraph (d) for the full-stop there shall be substituted a semi-colon, and
 - (ii) after sub-paragraph (d) there shall be added the following sub-paragraph –
 - “(e) a person granted a certificate under Regulation 9 of the Alternative Investment Funds (Jersey) Regulations 2012¹⁰.”;
- (b) after Article 9(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply 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 2000¹¹.”.
- (c) in Article 21C(2), for the word “(2)(b)” there shall be substituted the word “(1)(b)”.

6 Insurance Business (Jersey) Law 1996 amended

In the Insurance Business (Jersey) Law 1996¹² –

- (a) after Article 4(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply 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 2000¹³.”.
- (b) in Article 7(4) –
 - (i) at the end of sub-paragraph (j), for the full-stop there shall be substituted a semi-colon, and
 - (ii) after sub-paragraph (j) there shall be inserted the following sub-paragraph –

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- “(k) if the applicant fails to pay any fee published under Article 43D that is payable.”;
- (c) in Article 10 –
- (i) in paragraph (9) –
- (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
- (B) after paragraph (b) there shall be added the words –
- “whichever is the later.”,
- (ii) in paragraph (14) –
- (A) in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted,
- (B) in the definition “defined person”, after sub-paragraph (i) there shall be inserted the following sub-paragraph –
- “(j) a person who at any time has been appointed a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder’s affairs;”;
- (d) in Article 11(3), for the words “an employee, banker, auditor or legal adviser (subject to paragraph (9)) of a permit holder who is under investigation under paragraph (1) –” there shall be substituted the words “a director, shareholder controller, chief executive, employee, banker, liquidator (whether or not appointed under a bankruptcy), administrator of a bankrupt permit holder’s affairs, auditor or legal adviser (subject to paragraph (9)) of a permit holder who is under investigation under paragraph (1), or any person appointed to make a report in respect of that permit holder under Article 10(6) –”;
- (e) in Article 21 –
- (i) in paragraph (2) –
- (A) in sub-paragraph (b) the word “or” at the end shall be deleted,
- (B) at the end of sub-paragraph (c) for the full-stop there shall be substituted a semi-colon followed by the word “or”,
- (C) after sub-paragraph (c) there shall be inserted the following sub-paragraph –
- “(d) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs.”,
- (ii) in paragraph (3) –
- (A) in sub-paragraph (e) the word “or” at the end shall be deleted,
- (B) at the end of paragraph (f) there shall be inserted the word “or”,
- (C) after sub-paragraph (f) there shall be inserted the following sub-paragraph –

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- “(g) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs.”;
- (f) in Article 23 –
- (i) in paragraph (1), after the words “the permit holder” there shall be inserted the words “, liquidator of the permit holder (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs”,
- (ii) in paragraph (4), after the words “permit holder” there shall be inserted the words “, or the permit holder’s liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs”,
- (iii) in paragraph (5)(a), after the words “permit holder” there shall be substituted the words “or liquidator (whether or not appointed under a bankruptcy) or, where the person is bankrupt, the administrator of the bankrupt permit holder’s affairs”,
- (iv) for sub-paragraph (6)(b) to the end of paragraph (6) there shall be substituted the following –
- “(b) has been appointed as the permit holder’s actuary or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder’s affairs,
- is not a fit and proper person to be (as the case requires) a director, chief executive, key person of that class, or shareholder controller, in relation to the permit holder, or the permit holder’s actuary or liquidator (whether or not appointed under a bankruptcy), or the administrator of the bankrupt permit holder’s affairs, the Commission shall serve on the person and on the permit holder a written notice of objection, directing that the person shall not, as the case requires –
- (i) continue to be, or become, a director, chief executive, key person of the particular class, or shareholder controller, in relation to the permit holder, or
- (ii) continue to be the permit holder’s actuary or liquidator or the administrator of the bankrupt permit holder’s affairs.”;
- (v) in paragraph (7)(b) and (9)(b), after the word “actuary” there shall be inserted the words “or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder’s affairs”;
- (g) in Article 28(4), after the word “liquidator” there shall be inserted the words “(whether or not appointed under a bankruptcy), by the administrator of the bankrupt permit holder’s affairs”;
- (h) in Article 36(2)(b), after the words “permit holder” there shall be inserted the words “the permit holder’s liquidator (whether or not appointed under a bankruptcy) or the administrator of a bankrupt permit holder’s affairs.”;
- (i) in Article 39(3) –
- (i) in sub-paragraph (a), the word “or” at the end shall be deleted, and
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- (ii) after sub-paragraph (a) there shall be inserted the following sub-paragraph –
 - “(aa) a liquidator (whether or not appointed under a bankruptcy) of such a person or an administrator of such a bankrupt person’s affairs; or”.

7 Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 amended

In the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁴ –

- (a) in Article 1(1) in the definition “principal person” for the words “in relation to a person who has become bankrupt, a person who has been appointed as liquidator or administrator of the persons’ affairs;” there shall be substituted the words “a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person’s affairs;”;
- (b) for Article 9(1) there shall be substituted the following paragraphs –
 - “(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.
 - (1A) Paragraph (1) does not apply 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 2000¹⁵.”;
- (c) in Article 30 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
 - “whichever is the later,”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted.
- (d) Article 34(12) shall be deleted.

8 Citation and commencement

This Law may be cited as the Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 2019 and shall come into force one month after it is registered.

DR. M. EGAN

Greffier of the States

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- 1 *chapter 04.160*
 - 2 *chapter 17.245.51*
 - 3 *chapter 13.075*
 - 4 *chapter 15.350*
 - 5 *chapter 13.100*
 - 6 *chapter 15.350*
 - 7 *chapter 13.225*
 - 8 *chapter 15.350*
 - 9 *chapter 13.250*
 - 10 *chapter 17.245.51*
 - 11 *chapter 15.350*
 - 12 *chapter 13.425*
 - 13 *chapter 15.350*
 - 14 *chapter 08.785*
 - 15 *chapter 15.350*