

Jersey Law 12/2001

**COMPETITION REGULATORY AUTHORITY (JERSEY)
LAW 2001**

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**COMPETITION REGULATORY AUTHORITY (JERSEY)
LAW 2001**

A LAW to constitute a body corporate to be known as the Jersey Competition Regulatory Authority and for matters ancillary thereto, sanctioned by Order of Her Majesty in Council of the

14th day of MARCH 2001

(Registered on the 30th day of March 2001)

STATES OF JERSEY

The 28th day of November 2000

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 Authority” means the Jersey Competition Regulatory Authority established by Article 2;

“the Committee” means the Industries Committee;

“financial year” means financial year of the Authority, being the period beginning with the day on which Article 2 comes into force and ending with the thirty-first day of December in the following year, and each subsequent period of twelve months ending with the thirty-first day of December in each year;

“function” includes power, authority and duty;

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“member” means member of the Authority.

(2) A reference in this Law to an Article by number only and without further identification is a reference to the Article of that number in this Law.

(3) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Article or other division of this Law.

(4) A reference in this Law to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.

ARTICLE 2**Establishment of Authority**

(1) The Jersey Competition Regulatory Authority is established.

(2) The Authority 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 Authority shall be authenticated by the signature of a person authorized by the Authority to sign on its behalf and every document bearing the imprint of the seal of the Authority shall be deemed to be properly sealed unless the contrary is proved.

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(4) Save as this Law provides to the contrary, the Authority 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 Authority.

(5) The Authority may regulate its own proceedings.

ARTICLE 3

Appointment of members

(1) The Authority shall consist of -

(a) one member appointed by the States, on the recommendation of the Committee, as Chairman of the Authority; and

(b) two or more other members appointed by the Committee after it has consulted the member that has been appointed as Chairman.

(2) A person is not disqualified from holding office as a member because he is an officer, employee or agent of the Authority.

(3) The Committee shall notify the States of the appointments that the Committee has made under this Article.

(4) The rights and obligations of the Authority, and the performance of its functions, shall not be affected by any vacancy in its membership or any defect in the appointment of a member.

ARTICLE 4

Terms of appointment of members

(1) A member shall hold and vacate office in accordance with the terms of his appointment.

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(2) A member shall be appointed for a period not exceeding five years and upon expiry of such period shall be eligible for reappointment.

(3) A member may at any time resign his office by giving notice in accordance with the terms of his appointment.

(4) The States may, on the recommendation of the Committee, revoke the appointment of the member appointed as Chairman if the States are satisfied that the member -

- (a) has been absent from meetings of the Authority for a period longer than six consecutive months without the permission of the Authority;
- (b) has neglected the duties of a member or has engaged in misconduct;
- (c) is an undischarged bankrupt; or
- (d) is incapacitated by physical or mental illness.

(5) The Committee may revoke the appointment of a member, other than the member appointed as Chairman, if the Committee is satisfied that any of the circumstances referred to in paragraph (4)(a) - (d) apply to the member.

ARTICLE 5**Remuneration of members**

- (1) The Authority shall pay to the members -
 - (a) such remuneration as the Committee determines; and
 - (b) if the Committee so determines, reasonable out-of-pocket or other expenses occasioned in the course of carrying out their duties.

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(2) The Authority shall also make for the members (or persons who have been members) such provision (if any) for pensions, allowances or gratuities, and payments when special circumstances arise, as the Committee directs.

ARTICLE 6

Functions

(1) The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.

(2) The Authority may recognize or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods or services to which the Authority's functions relate.

(3) The functions of those bodies shall include one or more of the following -

- (a) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
- (b) the representation of the views of any one or more of those persons.

(4) The Authority may, on request by the Committee, provide the Committee with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).

(5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.

ARTICLE 7

Committees

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(1) The Authority may establish committees whose members may, but need not, be members, officers, employees, or agents, of the Authority.

(2) A committee of the Authority may itself establish sub-committees whose members may, but need not, be members of the committee or members, officers, employees, or agents, of the Authority.

ARTICLE 8

Staff

(1) The Authority may appoint such officers, employees and agents as it considers necessary for the performance of its functions.

(2) The Authority may -

- (a) make those appointments on such terms as to remuneration, the payment of expenses, 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 employees.

ARTICLE 9

Delegation

(1) The Authority may delegate any of its functions under this or any other enactment wholly or partly to -

- (a) the Chairman;
- (b) another member;
- (c) an officer or employee of the Authority; or

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- (d) a committee whose member or members are drawn only from the members, officers and employees of the Authority.
- (2) Nothing in this Article shall authorize the Authority to delegate -
 - (a) this power of delegation; or
 - (b) the function of reviewing any of its decisions.
- (3) The delegation of any functions under this Article -
 - (a) shall not prevent the performance of those functions by the Authority itself; and
 - (b) may be amended or revoked by the Authority.

ARTICLE 10

Committee may guide or direct Authority in certain matters

(1) The Committee may, if it considers that it is desirable in the public interest to do so, give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is, relating to the system and arrangements by and under which the Authority is directed and controlled.

(2) Those matters may include matters relating to accountability, efficiency, and economy of operation, of the Authority, but not matters relating directly to the performance of the Authority's licensing or regulatory functions or its functions under Article 6(2) or (4).

(3) In particular, but without limiting paragraphs (1) and (2), the guidance or directions may relate to conflicts of interest, the accounts of the Authority and their audit, borrowing by the Authority and the investment of the funds of the Authority.

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(4) It shall be the duty of the Authority to have regard to any guidance, and to act in accordance with any directions, given to it by the Committee under this Article.

(5) The Committee shall not give guidance or directions under this Article without first consulting the Authority.

ARTICLE 11

Public Finances (Administration) (Jersey) Law 1967

For the avoidance of doubt it is hereby declared that for the purposes of Article 8 of the Public Finances (Administration) (Jersey) Law 1967,¹ none of the monies received by the Authority is received on behalf of the States and the Authority is not an establishment under the supervision or administration of the States.

ARTICLE 12

Fees and charges

The Authority may charge, retain and apply in the performance of its functions -

- (a) fees and charges of such amounts, paid by such persons, and paid in such manner, as may be specified by or under this or any other enactment;
- (b) fees for the performance of its function under Article 6(4);
- (c) such fees and charges (not inconsistent with this or any other enactment) of such amounts, paid by such persons, and paid in such manner, as may be decided by the Authority in respect of any service, item, or matter, that does not arise under this or any other enactment; and
- (d) such fees and charges (not inconsistent with this or any other enactment) as may be agreed between the Authority

¹ Volume 1966-1967, page 593.

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and any person for whom the Authority provides advice, assistance or other services under this or any other enactment, in respect of the advice, assistance or other services.

ARTICLE 13

Grants to Authority

(1) The States may make a grant to the Authority from their annual income towards the expenses of the formation of the Authority and its initial expenses.

(2) In respect of each financial year, the States may make a grant to the Authority from their annual income towards the Authority's expenses in performing any of its functions.

(3) The amount of any grant referred to in paragraph (1) or (2) shall be determined by the Finance and Economics Committee on the recommendation of the Industries Committee made after consultation with the Authority.

(4) In determining that amount, the Finance and Economics Committee shall have regard to the actual financial position and the projected financial position of the Authority.

(5) In making that recommendation, the Industries Committee shall have regard to the actual financial position and the projected financial position of the Authority.

ARTICLE 14

Consent to borrowing

(1) The Authority shall not borrow money without the consent of the Industries Committee.

(2) The Finance and Economics Committee may, on such terms as it may determine, on behalf of the States -

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- (a) guarantee the liabilities of the Authority; or
- (b) lend money to the Authority.

(3) The Finance and Economics Committee may act under paragraph (2) only on the recommendation of the Industries Committee.

ARTICLE 15

Guidelines on investment

The Authority shall, in investing any of its funds, comply with any guidelines specified by the Committee.

ARTICLE 16

Exemption from income tax

The income of the Authority shall not be liable to income tax under the Income Tax (Jersey) Law 1961.²

ARTICLE 17

Accounts and audit

- (1) The Authority shall -
 - (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare accounts in respect of each financial year and provide these to the Committee as soon as practicable after

² Volume 1961-1962, pages 197 and 443, Volume 1963-1965, pages 97, 143, 178, 189, 423 and 454, Volume 1966-1967, page 523, Volume 1968-1969, pages 38 and 219, Volume 1970-1972, pages 209, 305 and 382, Volume 1973-1974, page 275, Volume 1975-1978, pages 47, 148 and 257, Volume 1979-1981, pages 16, 157, 297 and 383, Volume 1982-1983, page 46, Volume 1984-1985, page 76, Volume 1986-1987, pages 192 and 208, Volume 1988-1989, pages 222 and 380, Volume 1990-1991, pages 96, 432 and 1088, Volume 1992-1993, pages 36 and 121, Volume 1994-1995, pages 220 and 366, Volume 1996-1997, pages 264, 643 and 652, Volume 1998, pages 3 and 259, Volume 1999, pages 209, 390, 403 and 418 and Volume 2000, page 290.

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the end of the financial year to which they relate, but in no case later than four months after the end of that year.

(2) The Committee shall lay a copy of the accounts so provided before the States as soon as practicable after the Committee receives the report.

(3) The accounts of the Authority shall -

(a) be audited by auditors appointed in respect of each financial year by the Finance and Economics Committee; 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 Authority for the period to which they relate and of the state of the Authority's affairs at the end of the period.

(4) Article 113 of the Companies (Jersey) Law 1991³ shall apply to an auditor and his appointment referred to in this Article as if the Authority were a company within the meaning of the first-mentioned Article and the appointment were under Article 109 of that Law.

ARTICLE 18

Annual report

(1) The Authority shall prepare a report on its activities in each of its financial years.

(2) The Authority shall provide the Committee with the report as soon as practicable after the end of the financial year to which the report relates, but in no case later than four months after the end of that year.

³ Volume 1990-1991, page 982, Volume 1998, page 269 and R & O 8941.

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(3) The Committee shall lay a copy of the report so provided before the States as soon as practicable after the Committee receives the report.

ARTICLE 19

Limitation of liability

(1) A person or body to whom this Article applies shall not be liable in damages for anything done or omitted in the performance or purported performance of any functions of the Authority conferred by or under this Law or any other enactment, or any other functions conferred by or under this Law, unless it is shown that the act or omission was in bad faith.

(2) This Article applies to the following -

- (a) the States;
- (b) the Committee, any member of the Committee, or any person who is, or is acting as, an officer, employee or agent of the Committee or performing any function on behalf of the Committee;
- (c) the Authority, any member of the Authority, or any person who is, or is acting as, an officer, employee or agent of the Authority or performing any function on behalf of the Authority.

ARTICLE 20

Orders

(1) The Committee may by Order make provision for the purpose of carrying this Law into effect.

(2) An Order made under this Law may -

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

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

(3) The Subordinate Legislation (Jersey) Law 1960⁴ shall apply to Orders made under this Law.

ARTICLE 21

Citation and commencement

This Law may be cited as the Competition Regulatory Authority (Jersey) Law 2001 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.

M.N. DE LA HAYE

Deputy Greffier of the States.

⁴ Tome VIII, page 849.