



Jersey

L.24/2005

JERSEY OVERSEAS AID COMMISSION (JERSEY) LAW 2005

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Jersey

JERSEY OVERSEAS AID COMMISSION (JERSEY) LAW 2005

A LAW to incorporate the Jersey Overseas Aid Commission, to abolish the Overseas Aid Committee, and for connected purposes.

Adopted by the States 16th March 2005

Sanctioned by Order of Her Majesty in Council 19th July 2005

Registered by the Royal Court 19th August 2005

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

1 Interpretation

In this Law, unless the contrary intention appears –

“commencement day” means the day on which Article 2 comes into force;

“Commission” means the Jersey Overseas Aid Commission established by Article 2;

“Constitution” means the Constitution of the Commission as in force from time to time.

2 Jersey Overseas Aid Commission established

The Jersey Overseas Aid Commission shall be established.

3 Constitution

(1) There shall be a Constitution in respect of the Commission.

(2) The Constitution shall be as set out in Schedule 1.

(3) The States may, by Regulations, amend the Constitution set out in Schedule 1.

- (4) The States may only make Regulations under paragraph (3) if they have considered a report, provided to them by the member of the States who is proposing that the Constitution be amended by Regulations made under that paragraph, setting out –
 - (a) the attempts made to ascertain the opinion of the Commission in relation to the proposed amendment; and
 - (b) the opinion, if any, of the Commission in relation to the proposed amendment.

4 Incorporation

- (1) The Commission shall be a body corporate with perpetual succession and may –
 - (a) sue and be sued in its corporate name; and
 - (b) so far as 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.
- (2) The Commission shall have –
 - (a) the objects specified in the Constitution;
 - (b) the membership specified in the Constitution;
 - (c) the functions, powers, duties, rights and responsibilities specified in the Constitution; and
 - (d) the functions, powers, duties, rights and responsibilities assigned to the Commission by Part 2 of Schedule 2.

5 Schedule 2

- (1) Part 1 of Schedule 2 shall have effect for the purpose of establishing the initial membership of the Commission.
- (2) Part 2 of Schedule 2 shall have effect for the purpose of transferring certain functions, powers, duties and responsibilities to the Commission.

6 Overseas Aid Committee abolished

The Committee of the States of Jersey known as the Overseas Aid Committee shall be abolished.

7 Citation and commencement

- (1) This Law may be cited as the Jersey Overseas Aid Commission (Jersey) Law 2005.
- (2) This Article, Articles 1 and 5(1), and Part 1 of Schedule 2, shall come into force on the seventh day after this Law is made.

- (3) The remaining provisions of this Law shall come into force on a day to be appointed by the States.

A.H. HARRIS

Deputy Greffier of the States.

SCHEDULE 1

(Article 3(2))

CONSTITUTION

TABLE OF PROVISIONS

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1 Interpretation

- 1.1. In this Constitution, unless the context otherwise requires –
 - “Commission” means the Jersey Overseas Aid Commission;
 - “Commissioner” includes the Chairman of the Commission;
 - “Law” means the Jersey Overseas Aid Commission (Jersey) Law 2005;
 - “overseeing authority” means the Finance and Economics Committee or another body, or person, designated from time to time by the States.

2 Incorporation

- 2.1 The Jersey Overseas Aid Commission is incorporated by the Jersey Overseas Aid Commission (Jersey) Law 2005.

3 Objects

3.1 The objects of the Commission are to manage and administer the monies voted by the States of Jersey for overseas aid, so as to enable humanitarian aid to be provided overseas for the purposes of –

- (a) assisting in the reduction of poverty;
- (b) providing medical and health care and education;
- (c) providing effective education and training;
- (d) providing safe drinking water and food; and
- (e) assisting in emergency and disaster needs, including the subsequent restoration of facilities,

and other purposes, relating to the provision of humanitarian aid overseas, that the Commission may from time to time consider appropriate.

4 Powers of Commission

4.1 The Commission shall have the following powers –

- (a) to have and to use a special seal to certify all acts, contracts, agreements and undertakings;
- (b) to take, acquire, hold and possess all kinds of movable and immovable property, whether in perpetuity or on lease, to receive, hold and possess all kinds of gifts and legacies of movable and immovable property which may be made to it and to lease, sell or otherwise dispose of such property;
- (c) to borrow the amounts that it may from time to time consider necessary or desirable, provided that –
 - (i) the Commission shall not, without the prior written consent of the overseeing authority, borrow an amount which will cause the total debt of the Commission to be more than £5,000, and
 - (ii) the Commission shall not, without the prior written consent of the Treasurer of the States, borrow an amount which will cause the total debt of the Commission to be more than £500; and
- (d) all other powers necessary to achieve its objects.

5 Membership of Commission

5.1 The Commission shall consist of –

- (a) a Chairman;
- (b) 2 States Commissioners; and
- (c) 3 Non-States Commissioners.

- 5.2 A person shall not be appointed as –
- (a) the Chairman or a States Commissioner unless he or she is an elected member of the States; or
 - (b) a Non-States Commissioner unless he or she is not an elected member of the States.
- 5.3 A person shall not be appointed as a Commissioner if –
- (a) he or she is an employee or agent of the Commission; or
 - (b) he or she holds an honorary office with the Commission.
- 5.4 For the duration of his or her appointment each Commissioner shall be an officer of the Commission.
- 5.5 A person who has been a Commissioner is eligible for reappointment as a Commissioner.
- 5.6 The Commissioners shall appoint a Vice-Chairman from amongst their number.

6 Vacancy in office of Commissioner

- 6.1 Subject to paragraph 2 of Part 1 of Schedule 2 of the Law and this clause, the term of office of the Chairman and the States Commissioners shall expire on the day on which the States are reconstituted after the next ordinary elections for Deputies following the appointment of the Chairman and the States Commissioners.
- 6.2 The Chairman may resign by giving notice in writing to the Greffier of the States.
- 6.3 A Commissioner, other than the Chairman, may resign by giving notice in writing to the Chairman or to another person whom the Commission may from time to time designate to receive notices of resignation.
- 6.4 A Commissioner shall cease to hold office if –
- (a) he or she becomes bankrupt;
 - (b) a curator is appointed to administer the Commissioner's property and affairs;
 - (c) the Commissioner appoints an attorney without whom the Commissioner may not act in matters real and personal;
 - (d) he or she is sentenced to a term of imprisonment by a court of competent jurisdiction;
 - (e) he or she ceases to be ordinarily resident in Jersey;
 - (f) if he or she becomes an employee or agent of the Commission or becomes the holder of an honorary office with the Commission;
 - (g) in the case of a States Commissioner or the Chairman – he or she ceases to be an elected member of the States; or

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- (h) in the case of a Non-States Commissioner – he or she becomes a member of the States.

7 Filling of vacancies in office of Commissioner

- 7.1 If the office of Chairman becomes vacant the States shall by ballot appoint to be the Chairman an elected member of the States.
- 7.2 If the office of a States Commissioner becomes vacant the States shall, on the recommendation of the Chairman, appoint a person as a States Commissioner.
- 7.3 If the office of a Non-States Commissioner becomes vacant, the Commission shall cause to be published in the Jersey Gazette a notice stating that the office has become vacant and inviting persons to nominate themselves for appointment to the office.
- 7.4 If the office of a Non-States Commissioner becomes vacant because the term of the office has expired, the States shall, on the recommendation of the Chairman, appoint as a Non-States Commissioner a person who has nominated himself or herself for appointment to the office.
- 7.5 A Commissioner appointed under clause 7.4 holds office for a period of 3 years on and from the date of his or her appointment.
- 7.6 If the office of a Non-States Commissioner becomes vacant otherwise than because the term of the office has expired, the States shall, on the recommendation of the Chairman, appoint as a Non-States Commissioner a person who has nominated himself or herself for appointment to the office.
- 7.7 The States is not required to (but may choose to) appoint a Non-States Commissioner under clause 7.6 if the balance of the period of the term of office of the person who last vacated the office is less than 8 weeks.
- 7.8 A Commissioner appointed under clause 7.6 holds office, on and from the date of his or her appointment, for the balance of the period of the term of office of the person who last vacated the office.
- 7.9 In making recommendations for appointment to the office of Commissioner the Chairman shall use his or her best endeavours to ensure that the Commissioners shall be a diverse and balanced group of people in terms of gender, age, experience and skills, who share a commitment to the promotion of the objects of the Commission.

8 Proceedings of Commission

- 8.1 At a meeting of the Commission –
- (a) 4 Commissioners shall form a quorum;
- (b) the Chairman, or, in the absence of the Chairman, the Vice-Chairman, or in the absence of both the Chairman and the Vice-Chairman, another Commissioner who is present at the meeting and is elected by the Commissioners present, shall preside;

- (c) each Commissioner shall have one vote on each matter for deliberation; and
 - (d) if the votes on a matter are equal, the person presiding over the meeting in accordance with sub-clause (b) shall have a casting vote in addition to his or her own vote.
 - 8.2 A resolution shall be 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 the Commissioners; and
 - (b) proper notice of the proposed resolution was given to all the Commissioners.
 - 8.3 The Commission shall keep proper minutes of its proceedings, including minutes of any business transacted in accordance with paragraph 8.2.
 - 8.4 The Commission shall meet not less than once every 3 months and otherwise as convened by the Chairman.
 - 8.5 The Chairman –
 - (a) may convene a meeting of the Commission of his or her own motion; and
 - (b) shall convene a meeting of the Commission if requested to do so by notice in writing signed by not less than one third of the Commissioners (or the nearest number to that number, if the number of Commissioners at the material time is not divisible by 3).
 - 8.6 Subject to this Constitution, the Commission may regulate its own proceedings (including the period of notice, which shall not be less than 24 hours, to be given of any meeting of the Commission) and may adopt, alter, amend or vary rules for that purpose.
- 9 Expenses of Commissioners**
- 9.1 Commissioners may be reimbursed for all reasonable out-of-pocket or other expenses occasioned in the course of carrying out their duties.
 - 9.2 Except in accordance with clause 9.1, a Commissioner shall not be remunerated.
- 10 Appointment and remuneration of staff, agents and honorary officers**
- 10.1 The Commission may employ the persons, and appoint the agents and honorary officers, that it considers necessary for carrying out its objects.
 - 10.2 The Commission may make the arrangements it thinks fit concerning the remuneration, expenses, pensions and other conditions of the employees, agents and honorary officers of the Commission.

11 Accounts

11.1 The Commission shall keep accounts in a form that is acceptable to the overseeing authority.

12 Accountability to States of Jersey

12.1 The Chairman shall present annually to the States –

- (a) a report of the activities of the Commission during the previous year;
and
- (b) the audited accounts for the previous year.

SCHEDULE 2

(Articles 4 and 5)

TRANSITIONAL PROVISIONS**PART 1 – COMMENCEMENT OF COMMISSION MEMBERSHIP****1 Interpretation**

In this Schedule –

“authorized revenue expenditure” has the meaning it has in the Public Finances (Administration) (Jersey) Law 1967;¹

“Committee’s functions” means the functions of the Overseas Aid Committee in so far as those functions are, on the commencement day, objects of the Commission that are specified in the Constitution;

“liabilities” means any liabilities, debts, or obligations, whether present or future and whether vested or contingent;

“rights” means any rights, powers, privileges, or immunities, whether present or future and whether vested or contingent.

2 Establishment of initial membership of Commission

- (1) The Greffier of the States shall cause to be published in the Jersey Gazette a notice stating that the offices of Non-States Commissioners under the Constitution are required to be filled and inviting persons to nominate themselves for appointment to those offices.
- (2) The States shall, by ballot, appoint an elected member of the States to be the Chairman Designate of the Commission on and from the date of the appointment until the commencement day.
- (3) The States shall, on the recommendation of the Chairman Designate of the Commission –
 - (a) appoint to be States Commissioners for the purposes of the Constitution 2 elected members of the States; and
 - (b) appoint to be Non-States Commissioners for the purposes of the Constitution 3 persons who are not members of the States and who have nominated themselves for appointment to the office of Non-States Commissioner.
- (4) A person shall not be appointed under sub-paragraph (2) or (3) as the Chairman Designate of the Commission or a Commissioner if at the time of the appointment he or she is an employee or agent of, or holds an honorary office with, the Overseas Aid Committee.

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- (5) The States shall appoint under sub-paragraph (3)(b) one of the Non-States Commissioners for a period of 3 years, one for a period of 2 years and one for a period of one year.
 - (6) In making recommendations for the appointment of Commissioners the Chairman Designate shall use his or her best endeavours to ensure that the Commissioners shall be a diverse and balanced group of people in terms of gender, age, experience and skills, who share a commitment to the promotion of the objects of the Commission.
 - (7) On and from the commencement day, the Chairman Designate shall become the Chairman of the Commission for the purposes of the Constitution.
 - (8) The Chairman, and each States Commissioner, who is appointed under this paragraph, shall hold office on and from the commencement day until the date on which the States are first reconstituted after the first ordinary elections for Deputies that are held after the 2005 elections for Deputies, unless his or her office becomes vacant earlier under the Constitution.
 - (9) A person appointed to be a Non-States Commissioner under sub-paragraph (3) shall hold office on and from the commencement day for the period specified by the States under sub-paragraph (5) as his or her period of appointment.

PART 2 – TRANSFER OF COMMITTEE’S FUNCTIONS

3 Construction and transitional provisions

- (1) In an enactment, a reference to the Overseas Aid Committee in relation to the Committee’s functions shall be construed as a reference to the Commission.
- (2) In the construction of, and for the purposes of, any enactment, judgment, award, contract, certificate or other document passed or made before the commencement day, anything that is, or is to be construed as, a reference to the Overseas Aid Committee or its officers and relates to the Committee’s functions shall be construed as a reference to the Commission or its officers.
- (3) Nothing in this Law shall prejudice the operation of any appointment, determination, direction, instruction, approval, consent, requirement, authorization or other thing made, given or done by the Overseas Aid Committee in relation to the Committee’s functions before the commencement day.
- (4) A matter referred to in sub-paragraph (3) shall, if it is in force immediately before the commencement day, continue in force after the commencement day to the like extent and subject to the like provisions as if it had been duly made, given or done by the Commission.

- (5) The rights and liabilities enjoyed or incurred by the Overseas Aid Committee in connection with the Committee's functions before the commencement day shall, after the commencement day, by virtue of this Schedule become the rights and liabilities of the Commission.
- (6) The operation of sub-paragraph (5) shall not be regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
 - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument or of any obligation or relationship.
- (7) For the purposes of sub-paragraph (6), to the extent that a contract, or other instrument, which creates or passes a right or liability of the Overseas Aid Committee specifies that it is incapable of transfer or assignment, the contract or instrument shall be of no effect.
- (8) Anything that is, before the commencement day, commenced by or under the authority of the Overseas Aid Committee may, so far as it relates to the Committee's functions, or its rights or liabilities in relation to the Committee's functions, be carried on and completed by or under the authority of the Commission on or after the commencement day.
- (9) The amount, if any, of the authorized revenue expenditure of the Overseas Aid Committee in relation to the Committee's functions that has not, on the commencement day, been expended by the Committee, shall be transferred to the Commission on the commencement day.
- (10) If any legal proceeding to which the Overseas Aid Committee is a party is pending on the commencement day and relates to the Committee's functions, or to the Committee's rights or liabilities in relation to the Committee's functions, the Commission shall be substituted in the proceeding for the Overseas Aid Committee and the proceeding shall not abate by reason of the substitution.

¹ *Chapter 24.900.*