

**Jersey Law 26/1998**

**INSURANCE BUSINESS (AMENDMENT) (JERSEY) LAW 1998**

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**A LAW** to amend the Insurance Business (Jersey) Law 1996, sanctioned by Order of Her Majesty in Council of the

**21st day of OCTOBER 1998**

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*(Registered on the 13th day of November 1998)*

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**STATES OF JERSEY**

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The 2nd day of June 1998

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

**ARTICLE 1**

In paragraph (1) of Article 1 of the Insurance Business (Jersey) Law 1996<sup>1</sup> (hereinafter referred to as “the principal Law”) for the definition of “insurance company” there shall be substituted the following definition –

“ ‘insurance company’ means the person carrying on insurance business;”.

**ARTICLE 2**

In paragraph (4) of Article 4 for the words “paragraphs (1) and (2)” there shall be substituted the words “paragraphs (2) and (6)”.

<sup>1</sup> Volume 1996–1997, page 86.

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ARTICLE 3

In sub-paragraph (c) of paragraph (2) of Article 6 of the principal Law for the words commencing “of any branch,” to the end of the sub-paragraph there shall be substituted the words “carried on in or from within the Island is subject to the authority’s supervision.”.

ARTICLE 4

For paragraph (6) of Article 9 of the principal Law there shall be substituted the following paragraph –

“(6) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal proceedings except proceedings under paragraph (8) or Article 36.”.

ARTICLE 5

For paragraph (8) of Article 10 of the principal Law there shall be substituted the following paragraph –

“(8) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal proceedings except proceedings under paragraph (7) or Article 36.”.

ARTICLE 6

For paragraph (4) of Article 11 of the principal Law there shall be substituted the following paragraph –

“(4) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against him in any criminal

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proceedings except proceedings under paragraph (3) or Article 36.”.

ARTICLE 7

After paragraph (9) of Article 12 of the principal Law there shall be inserted the following paragraph –

“(10) The power to obtain information conferred by subparagraph (b) of paragraph (4) includes a power to require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible.”.

ARTICLE 8

After Article 31 of the principal Law there shall be inserted the following Article –

“ARTICLE 31A

**Co-operation with relevant supervisory authority**

(1) The Commission may exercise the following powers at the request of or for the purposes of assisting a relevant supervisory authority –

- (a) the power to attach or vary conditions of a permit pursuant to paragraphs (1) to (6) of Article 6;
- (b) the power to refuse to grant a permit under paragraph (1) of Article 6 or to cancel a permit under paragraph (9) of Article 6;
- (c) the powers relating to information and documents under Article 9;
- (d) the powers of investigation under Article 10;

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- (e) the powers of entry under Article 12;
- (f) the power to communicate to the relevant supervisory authority information which is in the possession of the Commission, whether or not as a result of the exercise of any of the above powers, other than information relating to the persons who have transacted insurance business with a permit holder or former permit holder unless the persons concerned have consented to such disclosure.

(2) The Commission shall not exercise powers by virtue of this Article unless it is satisfied that the assistance is requested by the relevant supervisory authority only for the purposes of the exercise of one or more of its supervisory functions.

(3) No information shall be disclosed under subparagraph (c) or (f) of paragraph (1) unless the Commission is satisfied that the relevant supervisory authority complies with or will comply with any conditions to which the Commission may, in its discretion, subject such disclosure.

(4) In deciding whether to exercise its powers by virtue of this Article, the Commission may take into account, in particular –

- (a) whether corresponding assistance would be given in that country or territory to the Commission;
- (b) whether the case concerns the possible breach of a law, or other requirement, which has no close parallel in the Island or involves the assertion of a jurisdiction not recognised by the Island;
- (c) the seriousness of the case and its importance in the Island and whether the assistance could be obtained by other means;

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(d) whether it is otherwise appropriate in the public interest to give the assistance sought.

(5) The Commission may decline to exercise powers under this Article unless the relevant supervisory authority undertakes to make such contribution towards the costs of its exercise as the Commission considers appropriate.”

ARTICLE 9

After Article 39 of the principal Law there shall be inserted the following Article –

“ARTICLE 39A

**Public statements**

(1) The Commission may issue a public statement concerning a person if that person appears to the Commission to have committed a contravention of the type referred to in –

- (a) paragraph (2) of Article 4;
- (b) Article 6;
- (c) Article 14;
- (d) Article 33;
- (e) Article 34;
- (f) Article 36;
- (g) any Regulation or Order made under this Law; or

has failed to comply with a Code of Practice under Article 39.

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(2) The Commission may issue a public statement concerning a person who it believes to be carrying on insurance business, whether in the Island or elsewhere, if it appears to the Commission to be desirable to do so in the interests of policy holders or potential policy holders.

(3) Where a public statement, issued under this Article, concerns a permit holder the Commission shall, at least seven days prior to the publication of the statement, give written notice to the person concerned of the proposed statement and of the reasons for which it intends to act.”.

ARTICLE 10

In the Second Schedule to the principal Law –

- (a) in paragraph 1 –
  - (i) for the words “an insurance company” there shall be substituted the words “a permit holder”; and
  - (ii) for the words “apply to the Court” there shall be substituted the words “make a Representation to the Court”;
- (b) in paragraph 2 after the word “effect” there shall be inserted the words “in the case of a company to which that Law applies”;
- (c) in paragraph 3 for the words “order of justice” there shall be substituted the words “Representation to the Court”;
- (d) in sub-paragraphs (c) and (d) of paragraph 4 for the words “order of justice” there shall be substituted the words “Representation to the Court”;

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- (e) in paragraph 5 for the words “order of justice” in both places where they occur there shall be substituted the words “Representation to the Court”;
- (f) in paragraph 6 for the words “order of justice” there shall be substituted the words “Representation to the Court”;
- (g) in paragraph 10 the full-stop at the end shall be deleted and there shall be added the following words –

“, except that any property so transferred vests in the transferee company subject to any obligations and liabilities however arising which bound the transferor company in relation to that property on the date of the order.”;

- (h) in paragraph 14, after the definition of “liabilities” there shall be inserted the following definition–

“ ‘obligations’ includes any requirement or restriction imposed by any enactment affecting the development, use or disposition of property or any transaction in relation to property;”.

ARTICLE 11

This Law may be cited as the Insurance Business (Amendment) (Jersey) Law 1998.

**C.M. NEWCOMBE**

*Deputy Greffier of the States.*