



Jersey

COMPANIES (AMENDMENT No. 10) (JERSEY) LAW 2009

Arrangement

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A LAW to amend further the Companies (Jersey) Law 1991.

<i>Adopted by the States</i>	<i>24th February 2009</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>15th October 2009</i>
<i>Registered by the Royal Court</i>	<i>30th October 2009</i>

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

1 Interpretation

In this Law, “principal Law” means the Companies (Jersey) Law 1991¹.

2 Article 16 amended

After Article 16(6) of the principal Law there shall be added the following paragraphs –

- “(7) Within 28 days after a company receives a notice of a direction made by the Commission under paragraph (2) in relation to the company –
 - (a) a member of the company may appeal to the court on the ground that the direction was unreasonable having regard to all the circumstances of the case; and
 - (b) the company, or a member of the company, may appeal to the court on the ground that a condition imposed by the direction was unreasonable having regard to all the circumstances of the case.
- (8) Within 28 days after a company receives a notice of a direction made by the Commission under paragraph (4) in relation to the company, the company, or a member of the company, may appeal

to the court on the ground that the direction was unreasonable having regard to all the circumstances of the case.

- (9) On hearing an appeal under this Article –
- (a) if the appeal is against a direction imposed by the Commission, the court may confirm or reverse the direction made by the Commission; or
 - (b) if the appeal is against a condition specified in a direction made by the Commission, the court may confirm, vary or revoke the condition and, in any case, add a new condition to the conditions specified in the direction.
- (10) On hearing an appeal under this Article the court may make such order as to the costs of the appeal as it thinks fit.”

3 Article 17 amended

After Article 17(8) of the principal Law there shall be added the following paragraphs –

- “(9) Within 28 days after a company receives a notice of a direction, or an amendment of the terms of a direction, made by the Commission under paragraph (7) in relation to the company –
- (a) a member of the company may appeal to the court on the ground that the direction was unreasonable having regard to all the circumstances of the case; and
 - (b) the company, or a member of the company, may appeal to the court on the ground that a term imposed by the direction, or an amendment to a term of the direction, was unreasonable having regard to all the circumstances of the case.
- (10) On hearing an appeal under this Article –
- (a) if the appeal is against a direction imposed by the Commission, the court may confirm or reverse the direction made by the Commission; or
 - (b) if the appeal is against a term imposed by a direction made by the Commission, the court may confirm, vary or revoke the term and, in any case, add a new term to the terms imposed by the direction.
- (11) On hearing an appeal under this Article the Court may make such order as to the costs of the appeal as it thinks fit.”

4 Article 39 amended

In Article 39(3) of the principal Law –

- (a) in sub-paragraph (c) the word “and”, in the second place where it occurs, shall be deleted;
- (b) in sub-paragraph (d), for the full stop there shall be substituted the word “; and”;

(c) after sub-paragraph (d) there shall be added the following new sub-paragraph –

“(e) in the making of a distribution in accordance with Part 17.”.

5 Article 39A amended

In Article 39A of the principal Law, after paragraph (3), there shall be added the following paragraph –

“(4) A stated capital account may be applied by the company for any purpose for which a share premium account may be applied by a par value company.”.

6 New Article 40C inserted

In Part 8 of the principal Law, after Article 40B, there shall be inserted the following Article –

“40C Power of States to amend Part 8

The States may amend this Part by Regulations.”.

7 New Article 58C inserted

In Part 11 of the principal Law, after Article 58B, there shall be inserted the following Article –

“58C Redemption, purchase or cancellation under Part 11 not a reduction of capital

The redemption, purchase or cancellation by a company under this Part of its shares is not for the purposes of Part 12 a reduction of capital.”.

8 Article 61 amended

In Article 61(3) of the principal Law, the words “or in the case of a reduction in capital comprised of a distribution made in accordance with Article 115” shall be deleted.

9 New Article 66A inserted

In Part 12 of the principal Law, after Article 66, there shall be inserted the following Article –

“66A Power of States to amend Part 12

The States may amend this Part by Regulations.”.

10 Article 67 replaced

For Article 67 of the principal Law, there shall be substituted the following Articles –

“67 Registered office

- (1) A company shall at all times have a registered office in Jersey to which all communications and notices may be addressed.
- (2) A company does not comply with the requirement in paragraph (1) unless the occupier of the premises that are the registered office authorizes for the time being their use for that purpose.
- (3) The registrar may, by notice in writing served on the applicants for the incorporation of a company, refuse to incorporate it if he or she is not satisfied that the occupier of the premises that are to be the registered office of the company authorizes their use for that purpose.
- (4) On incorporation, the company’s registered office shall be that specified in the statement sent to the registrar under Article 7.
- (5) The company may change its registered office from time to time by giving notice to the registrar.
- (6) If the registrar, by notice in writing served on the company, informs it that the registrar is no longer satisfied that the occupier of the premises that are the company’s registered office authorizes their use for that purpose, the company shall within 14 days change its registered office by giving notice to the registrar.
- (7) Subject to paragraph (8), a change of registered office under paragraph (5) or (6) shall take effect upon the notice being registered by the registrar, but until the end of the period of 14 days beginning with the date on which it is registered a person may validly serve any document on the company at its previous registered office.
- (8) The registrar may, by notice in writing served on a company, refuse to register a notice given by the company under paragraph (5) or (6) if he or she is not satisfied that the occupier of the premises that are to be the registered office of the company authorizes their use for that purpose.
- (9) If default is made in compliance with any requirement of or made under this Article, the company and every officer of it who is in default are each guilty of an offence.

67A Relief from breach of duty in unavoidable circumstances

Where a company unavoidably ceases to perform any duty to keep at its registered office or make available for public inspection there any document, in circumstances in which it was not practicable to give prior notice to the registrar of a change in its registered office, but –

- (a) resumes performance of that duty at other premises as soon as practicable; and
 - (b) gives notice under Article 67(5) to the registrar of the change of its registered office within 14 days of doing so, and that the change is made for the purposes of this Article,
- and the registrar registers the notice, the company shall not be treated as having failed to comply with that duty.

67B Review of registrar's decision

- (1) Within 28 days after the applicants for the incorporation of a company receive notice under Article 67(3) that the registrar refuses to incorporate the company, the applicants may appeal to the court on the ground that the registrar's decision was unreasonable having regard to all the circumstances of the case.
- (2) Within 28 days after a company receives notice under Article 67(6) that the registrar is no longer satisfied that the occupier of the premises that are the company's registered office authorizes their use for that purpose, the company may appeal to the court on the ground that the registrar's decision was unreasonable having regard to all the circumstances of the case.
- (3) Within 28 days after a company receives notice under Article 67(8) that the registrar refuses to register a notice of change of registered office given by the company under paragraph (5) or (6) of that Article, the company may appeal to the court on the ground that the registrar's decision was unreasonable having regard to all the circumstances of the case.
- (4) On hearing the appeal, the court –
 - (a) may confirm or reverse the decision of the registrar; and
 - (b) may make such order as to the costs of the appeal as it thinks fit.

67C Evidence of authorization

The Minister may prescribe information that is to be provided to the registrar to show that an occupier of premises authorizes the use of the premises as a company's registered office.”.

11 Article 90 amended

- (1) In Article 90(1) of the principal Law, for the words “a majority of not less than 2/3rds of members” there shall be substituted the words “the majority specified in paragraph (1A) of the members”.
- (2) After Article 90(1) of the principal Law there shall be inserted the following paragraph –
 - “(1A) The majority to which paragraph (1) refers is –

- (a) two-thirds, if the articles of the company do not specify a greater majority; or
- (b) if the articles do specify a greater majority than two-thirds, that greater majority.”.

12 Article 115 amended

- (1) In Article 115(7) of the principal Law, for the words “A distribution made in accordance with this Article is debited to” there shall be substituted the words “A distribution made in accordance with this Article shall be debited by the company to”.
- (2) After Article 115(8) of the principal Law there shall be added the following paragraph –
 - “(9) A distribution made in accordance with this Article is not for the purposes of Part 12 a reduction of capital.”.

13 New Article 127GA inserted

In Part 18B of the principal Law, after Article 127G, there shall be inserted the following Article –

“127GA Power of States to amend Part 18B

- (1) The States may amend this Part by Regulations.
- (2) Without prejudice to the generality of the foregoing such Regulations may extend the provisions of this Part, with or without such modifications as may be specified in the Regulations –
 - (a) to mergers of companies with bodies that are incorporated in Jersey but are not companies; and
 - (b) to mergers of companies with bodies incorporated outside Jersey.”.

14 Article 181 amended

Article 181(9) shall be repealed.

15 New Article 194A inserted

In Part 21 of the principal Law, after Article 194, there shall be inserted the following Article –

“194A Power of States to amend Part 21

The States may amend this Part by Regulations.”.

16 Schedule 1 amended

In Schedule 1 to the principal Law, after the entries relating to Article 66, there shall be inserted in the first, second and third columns respectively the following entries –

“67(9)	Company failing to comply with requirements as to registered office	Level 3”
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17 Citation and commencement

- (1) This Law may be cited as the Companies (Amendment No. 10) (Jersey) Law 2009.
- (2) This Law shall come into force 7 days after it is registered.

M.N. DE LA HAYE

Greffier of the States

¹ *chapter 13.125*