

STATES OF JERSEY



DRAFT JERSEY MUTUAL INSURANCE SOCIETY, INCORPORATED (ALTERATION OF RULES) (No. 6) (JERSEY) LAW 200-

**Lodged au Greffe on 24th December 2009
by the Minister for Economic Development**

STATES GREFFE



Jersey

**DRAFT JERSEY MUTUAL INSURANCE SOCIETY,
INCORPORATED (ALTERATION OF RULES)
(No. 6) (JERSEY) LAW 200-**

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Economic Development has made the following statement –

In the view of the Minister for Economic Development the provisions of the Draft Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 6) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator A.J.H. Maclean**

REPORT

The Jersey Mutual Insurance Society Incorporated (“the Society”) was incorporated by Act of the States passed on 13th February 1908. Legal effect was given to the Fundamental Rules of the Society (“the Rules”), which continue to be embodied by statute. At the Annual General Meeting of the Society held on 5th December 2008, it was resolved by special resolution of the members of the Society to make the following three amendments to the Rules –

- (a) the first amendment is to grant the Society the power to carry on social or benevolent activities, including the making of donations, the raising of funds, the giving of sponsorship and any other activities carried on for a charitable or benevolent purpose;
- (b) the second amendment is to change the title of the Secretary of the Society to General Manager. The Society has determined that the title “General Manager” better describes the nature of the role and the duties undertaken and functions performed by the bearer of this position;
- (c) the final amendment will enable the Society to communicate with its members by way of electronic communication. This amendment will result in an increase in the administrative efficiencies of the Society and also result in significant cost savings for the Society with respect to printing, publishing and postage.

A petition to give effect to the desired changes was lodged au Greffe on behalf of the Society on 19th May 2009 and approved by the States on 1st July 2009 as P.71/2009. The necessary amending Law has now been drafted and approved by the Law Officers’ Department.

Because of the way that the Law was previously drafted it was considered to be easiest to replace the entire law although the amendments are relatively minor.

Financial and manpower implications

There are no financial or manpower implications for the States.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 22nd December 2009 the Minister for Economic Development made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Economic Development the provisions of the Draft Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 6) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

The object of this Law is to make the following changes to the Fundamental Rules of the Jersey Mutual Insurance Society, Incorporated –

- (a) references to the Secretary are made references to the General Manager throughout;
- (b) it is made clear that the Society may do things for charitable purposes (last paragraph of Rule 1);
- (c) the manner of giving notice to members is clarified (new Rule 31);
- (d) it is made clear that any notice (whether to members or to other persons) may be sent to an address appropriately notified to the sender, including an electronic address (new Rule 30).

In order to give the reader a consolidated version of the Rules that incorporates those changes, this Law replaces the Rules that were substituted in 1976 (and later amended).



Jersey

**DRAFT JERSEY MUTUAL INSURANCE SOCIETY,
INCORPORATED (ALTERATION OF RULES)
(No. 6) (JERSEY) LAW 200-**

A LAW to vary the Fundamental Rules of the Jersey Mutual Insurance Society, Incorporated.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Substitution of Fundamental Rules

For the Fundamental Rules of the Jersey Mutual Insurance Society, Incorporated (incorporated by Act of the States of Jersey passed on 13th February 1908, and sanctioned by Order of 9th April 1908), being the Fundamental Rules set out in the Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (Jersey) Law 1976¹ and subsequently amended, there shall be substituted the Rules set out in the Schedule to this Law.

2 Citation and commencement

- (1) This Law may be cited as the Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 6) (Jersey) Law 200-.
- (2) This Law shall come into force on the seventh day after it is registered in the Royal Court.

SCHEDULE

(Article 1)

FUNDAMENTAL RULES

- 1** The Society is incorporated in the Island of Jersey under the name and title of the “Jersey Mutual Insurance Society” with the object of permitting members mutually to insure themselves and their houses, buildings, stock in trade, house furniture, rentals, farm implements, cattle, agricultural products and other effects, against the risks of fire and other such risks, being accident risks whether fatal or not, and attaching to the ownership or occupation of property, as the Society may from time to time in General Meeting decide to accept.

The Society may reinsure any individual risk or any part of any individual risk with other insurers and shall be bound to effect such reinsurances against any individual risk in Class I (non-hazardous) which exceeds two hundred and fifty thousand pounds sterling and against any individual risk in Class II (hazardous) which exceeds one hundred and twenty-five thousand pounds sterling. Such reinsurance shall be effected with such insurers, being assurance companies or underwriters for the time being approved by the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998, and on such terms and conditions as the Board of Administration may from time to time determine.

The Society may accept and be paid commissions and agency fees on such insurance business as the Society being itself unable to conduct may introduce to other insurers.

The Society may carry on any social or benevolent activity, including the making of donations, the raising of funds, the giving of sponsorship or any other activity carried on for a charitable or benevolent purpose.

- 2** A Board of Administration shall be formed, composed of a minimum of twenty-four Directors and a maximum of thirty Directors (the figure to be a multiple of three) all of whom shall be selected from among the members of the Society at a General Meeting of the said members and who shall name annually two of their number as President and Vice-President for the current year; they shall have full power to direct, conduct and manage the affairs of the Society in conformity with these Rules and the Bye-Laws made and to be made from time to time for the government of the Society. The Directors shall remain in office for three years commencing on the 25th day of December next following their appointment. Should a member of the Board of Administration die, resign or otherwise cease to be a member of the Society, during his term of office, the Board of Administration shall appoint a substitute who shall remain in office until the 25th day of December next following. At the next Annual General Meeting, a Director shall be named to fill the vacancy thus caused until the end of his predecessor’s unexpired term. One third of the members of the Board of Administration shall retire

annually in rotation and shall not be eligible for re-election for the ensuing year. The Board of Administration shall have the power to appoint a Committee to be known as the Supervising Committee, the composition, duties and powers of which shall be as laid down by the Society's Bye-Laws.

3 All Bye-Laws for giving effect to these Rules shall be adopted either at the Annual General Meeting of the Society or at a Special General Meeting convened under Rule 23.

4 Five of the Directors duly assembled shall form a quorum and the Board of Administration shall assemble as often as may be necessary for conducting the business of the Society.

5 The Board of Administration shall appoint a General Manager and such other officers as it may deem necessary for the proper management of the Society's affairs at such remuneration as the Board shall think proper. The Board of Administration shall also have power to dismiss any officer for incapacity, negligence, disobedience or misconduct, and to replace him. The Board of Administration shall have the right to set up a pension scheme or pension schemes for the purpose of providing for pensions for such employees of the Society as may be selected from time to time.

The members of the Board of Administration shall receive an annual remuneration for their services, the amount of which shall be determined and voted at the Annual General Meeting of the Society.

6 The General Manager, or his duly authorised substitute, shall be present at all the meetings of the Board of Administration and at the General Meetings; he shall correctly enter the names of the Directors present as well as the minutes of the deliberations in a book provided for the purpose and such minutes shall be signed by the member who presides over the meeting. The General Manager shall keep the accounts and have the custody of the documents of the Society under the direction of the Board of Administration; he shall receive all monies due to the Society and shall sign the necessary receipts, shall keep records of all monies paid and received and shall carry on the necessary correspondence.

7 Accounts may be opened at the discretion of the Board of Administration with any one or more banks in Jersey (being registered under the Banking Business (Jersey) Law 1991, as amended, or exempted from such registration) in the name of the Society, and the General Manager shall pay into the said bank or banks to the credit of the Society all monies received by him and shall obtain cheques on the bank or banks from the Directors for all his disbursements.

All monies withdrawn from any account in the name of the Society shall be withdrawn by cheque signed by two Directors and countersigned by the General Manager or a duly authorised officer. No receipt for monies paid to the Society shall be valid unless signed by the General Manager or a duly authorised officer.

8 The Board of Administration shall determine the nature of the information to be obtained from any person desirous of becoming a member of the Society and shall cause a proposal form to be prepared indicating the information so required.

Any person desiring to become a member of the Society must complete and sign the proposal form in the manner required by its terms.

Should the proposal be accepted, the Board of Administration shall determine the class in which the property is to be insured and the contribution to be paid, and the person desiring to become a member of the Society shall forthwith become a provisional member of the Society and shall be bound by these Rules and the Bye-Laws for giving effect thereto. The Board of Administration shall be entitled to reject any proposal for membership. Should any proposal for membership be rejected by the Board of Administration as aforesaid, the provisional member shall cease to be a member of the Society at the expiration of ten days from the date of the notice of such rejection, but shall be liable to pay to the Society a proportion of the contribution for the time on risk. A member shall (subject however to Rule 11) continue as such until he receives a notice from the Board of Administration refusing to continue the insurance for the ensuing year.

Every member of the Society shall every year pay his contribution at the office of the Society on or before the day and month when he first became a provisional member. Any member who shall in any year fail to pay his contribution on the day and month aforesaid shall cease to be a member of the Society at the expiration of thirty days from the date upon which such contribution became payable.

- 9** Whenever a sum insured is declared by the Society to be subject to average, if the property covered thereby shall, at the breaking out of any fire, or at the commencement of any destruction of, or damage to, such property by any other peril covered by any policy of insurance issued by the Society, be collectively of greater value than such sum insured, then the member or provisional member effecting such insurance shall be considered as being his own insurer for the difference and shall bear a rateable share of the loss accordingly.

No one individual risk accepted by the Society shall exceed two hundred and fifty thousand pounds sterling in Class I or one hundred and twenty-five thousand pounds sterling in Class II, provided always that when the Society effects the reinsurance of any risk these limits shall not apply and in cases where the said limits are exceeded the Society shall not be deemed to be "on risk" until such reinsurance has been duly effected.

In the event of the whole or any part of the insured property being covered by other insurers the insured shall give written notice of this fact to the Society and in the event of loss or damage covered by insurance with the Society this latter shall be liable only for a contribution to such loss or damage in the proportion which the amount in which the property is insured with the Society bears to the total amount in which the property is insured with the Society and the other insurers; it being understood that the Society shall be liable (within the limits hereinbefore declared) jointly with the other insurers for the whole of such loss or damage, subject however to the provisions of the first paragraph of this Rule.

- 10** In the event of any house, building or other property insured by the Society being destroyed or damaged by any one or more of the risks accepted by the Society the amount of the loss shall be taken from the

funds or capital of the Society and, in the event of these being insufficient, the amount shall be raised by a call on all the members of the Society in the manner prescribed by Rule 16. The Board of Administration shall have power to rebuild, repair or restore the destroyed or damaged property to its original state should it deem such a step to be in the interests of the Society.

- 11** The Society (acting through the Board of Administration) shall have the right at any time to refuse to continue to insure the property of any member but shall not do so unless it has given to the member not less than ten days' notice in writing of its intention so to do and of its reasons for so doing, and every such notice shall contain an intimation that, if within ten days after the receipt of the notice the member informs the Board of Administration in writing that he desires so to do, the Board of Administration will, before refusing to continue the insurance, give him an opportunity of being heard, in person or by a representative. Should the Society exercise the right given to it by the present Rule, the Society shall refund to the member whose property the Society shall have refused to continue to insure a fair and just proportion of any contribution paid in advance by such member.
- 12** Should the property of any member be destroyed or damaged by any risk accepted by the Society, such member shall be bound to give written notice to the Society of such destruction or damage within three days of the event. In addition, such member shall at his own expense within a reasonable time (such reasonable time not to exceed three months, but without prejudice to the Board of Administration's power in its absolute discretion to grant the member additional or further time) furnish to the General Manager a detailed statement and account of the destruction or damage suffered by such member together with an estimate of the cost of repairing, rebuilding or rehabilitating the property so destroyed or damaged.

On receipt of such statement and account and estimate, the General Manager shall inform the President that the same have been received and the President shall appoint a Committee composed of three members of the Board of Administration. The said Committee may, if it sees fit, require three other members of the Society (who shall not need to be members of the Board of Administration) to assist the Committee in its deliberations. The said Committee shall hold an inquiry and shall examine the property so destroyed or damaged as aforesaid, and the Committee shall report thereon.

Where a claim by any member in respect of any such destruction or damage as aforesaid does not exceed three thousand pounds sterling, the General Manager shall notify the President of this fact, and in such a case the claim shall be investigated by not more than two Directors. The report of the said two Directors (or of the Director should there be only one making the investigation) shall be made to the Supervising Committee who, after hearing such report, shall either approve or repudiate the claim or otherwise deal with the same as may be expedient.

- 13** Should any dispute arise between a member and the Society in respect of any loss or damage, such dispute may be submitted to the decision of two

Arbitrators, one to be named by the Society and the other by the member. The Arbitrators thus appointed, before entering upon the Arbitration, shall select an Umpire.

The decision of the Arbitrators or of the Umpire shall be without prejudice to the jurisdiction of the Royal Court.

- 14** No call (as provided by Rule 10) shall be made on the members of the Society until three weeks have elapsed from the date of the accident.

Any member refusing or neglecting to pay a call in the course of ten days after having been required to do so in writing, shall pay a fine of one pound for each one hundred pounds sterling insured by him with the Society. If the fines and calls are not paid in the course of one month the General Manager shall be authorised to take legal proceedings for their recovery.

- 15** The lowest contribution on any policy shall be thirty pounds sterling.

Fire insurance policies shall be divided into two Classes. Class I shall cover non-hazardous risks and Class II shall cover hazardous risks. Such part of Comprehensive policies as shall cover fire risks shall also be divided into two classes as aforesaid.

- 16** The accumulated funds of the Society shall form its capital and after provision has been made for expenses of the Society the surplus of the annual contribution shall be added to the capital.

If at any time the capital of the Society becomes insufficient to meet the claims resulting from accidents for which the Society is liable the members shall make up the insufficiency in the proportion of the contributions paid by them.

- 17** The amount of every loss after having been settled by the Board of Administration shall be paid in the course of three months, unless the property is repaired by the Society.

- 18** Should a false declaration be made in respect of any risk or hazardous trade carried on, or hazardous goods contained, in any building insured by the Society, the owner in case of accident shall lose all right to claim the amount of the insurance.

The owner shall immediately inform the General Manager should any hazardous trade be carried on or any hazardous goods be stored in any building insured by the Society after the date of the insurance, under a similar penalty of losing all right to claim the amount of the insurance.

- 19** Should any member knowingly or voluntarily do any act or assist or participate in any way in any act whereby his property is damaged or destroyed by any risk accepted by the Society, his contract of insurance shall be forfeited and annulled; if after payment to him by the Society of any sum whatsoever it is proved that the member in question has committed any such act, he shall be liable to repay to the Society the amount so paid to him with interest at Bank of England minimum lending rate from time to time plus two per cent per annum, the whole without prejudice to any criminal proceedings instituted or to be instituted.

- 20** All monies received or paid by the Society shall be regularly entered in the ledgers at the moment of receipt or payment.

-
- 21** Should a property insured by the Society be sold or otherwise transferred, the seller or transferor shall forthwith inform the Society of such sale or transfer so as to enable the Society to cancel the policy covering such property. Should any such seller or transferor fail to inform the Society of such sale, no claim under any policy or policies covering such property or its contents shall be entertained by the Society unless the Society shall have agreed to insure such property or its contents for the new owner.
- 22** A general meeting of members of the Society shall be called by the President of the Board of Administration during the first week of the month of December in each year at such place in Jersey as the Board of Administration shall appoint. Notice of the said meeting shall be published, at least one week beforehand, in one newspaper circulating in the Island.

The Board of Administration shall keep an exact account of all sums of money received and paid by and on behalf of the Society and of the assets and liabilities thereof and shall present to the members a statement of accounts closed on the thirtieth day of September of the current year, the accuracy of which shall be duly certified by the auditor appointed as hereinafter provided and which, moreover, shall be accompanied by a report of the Board of Administration on the working of the Society during the last preceding twelve months. A printed copy of the said statement of accounts and report shall be sent by post to each member of the Society at least one week before the date of the said meeting.

The members present shall elect as Directors to replace those due to retire a number equal to the number of retiring Directors with power to elect additional Directors up to a maximum of thirty in accordance with Rule 2 and shall fill those vacancies on the Board of Administration which have occurred since the last Annual General Meeting by reason of death, resignation or otherwise, and they shall appoint an Auditor who shall be a Chartered Accountant or a firm of Chartered Accountants in practice. No Director or other officer of the Society shall, during his period of office, be eligible for appointment as Auditor.

All alterations of and additions to these Rules which are recommended by the Board of Administration may, if duly set out in the convening notice, be debated and decided upon at the Annual General Meeting with a view to their submission to the States.

A copy of the statement of accounts and balance sheet and of the report of the Board of Administration together with a list of the members of such Board for the following year (all of which documents shall bear the Seal of the Society) shall be sent by the General Manager to the Judicial Greffier before the 23rd day of December of each year under a penalty of five pounds sterling per day for so long as this provision of this Rule shall be contravened.

The Society's Seal shall not be affixed to any account whatsoever except it be in the presence of at least two members of the Board of Administration or of one such member and the General Manager, who shall sign every such document to witness their presence.

The Society shall have a Public Office in the town of St. Helier; the address of such office is now 74 Halkett Place, St. Helier, and any change of address shall be notified to the Judicial Greffier by the General Manager of the Society within one week under a penalty which shall not exceed five pounds sterling per day for so long as this provision of this Rule shall be contravened.

- 23** A Special General Meeting may be convened at any time by the Board of Administration or at the request, in writing, of at least twelve members of the Society, indicating the objects of the meeting which shall be held in the course of ten days from the receipt of the request. Notice of every such meeting shall be published in one newspaper circulating in the Island.

Each member shall have a right to one vote at all General Meetings, whether Special or Annual.

Any member present shall have power to make any proposition entailing an alteration to these Rules or the Bye-Laws for giving effect thereto, either at the Annual General Meeting, or at a Special General Meeting, provided that notice in writing of such proposition has been sent to the General Manager not less than twenty-one days before the date of the Meeting and that, in case of an alteration being proposed to these Rules, such proposition shall be referred to the Board of Administration which shall report thereon.

All proposed alterations, whether to these Rules or to the Bye-Laws for giving effect thereto, shall appear on the convening notice.

No Bye-Law which is in contradiction to these Rules may be adopted at any meeting.

- 24** The Board of Administration shall have power, and is hereby authorised, to purchase in perpetuity for and in the name of the Society (subject to the approval of a Special General Meeting) such real property as it may consider most convenient for the purpose of providing permanent offices for carrying on the business of the Society.

- 25** If the aggregate values insured fall below one million pounds sterling the Society shall be dissolved and the Directors shall immediately convene a Special General Meeting of the members of the Society to name a Liquidator; such dissolution to take effect one month after the date of the meeting.

Should this Special General Meeting not be convened in the course of eight days, or should the meeting, when convened, fail to name a Liquidator, it shall be lawful for any member or creditor to apply to the Royal Court to name a Liquidator.

- 26** If the Society is dissolved at any time, the members of the Society at the time of the dissolution shall alone have the right to participate in the assets of the Society in proportion to the amounts for which they are then insured, and they shall be responsible for the debts of the Society in the same proportions as also for the risks or insurances existing at the moment of the dissolution.

- 27** Save in the case of liquidation or dissolution, the accumulated funds of the Society shall only be used to meet claims arising from accidents

caused by the risks accepted by the Society, for the expenses necessary for the efficient management of the Society, and the functioning of its affairs in an efficient manner, for defraying the expenses occasioned by the putting into operation of the provisions of Rule 29, and for the payment of salaries and pensions to the employees or former employees of the Society.

The capital of the Society may be invested in the following types of investments:

- 1 in any loans issued by or guaranteed by the States of Jersey;
 - 2 in any loans issued by or guaranteed by Her Majesty's Government or by the Government of any of Her Majesty's possessions overseas;
 - 3 stocks and shares of any Company or other corporate body quoted on a recognised stock exchange in the United Kingdom, the Commonwealth or the United States of America provided that such Company or corporate body has paid-up capital of not less than twenty-five million pounds (or the equivalent of twenty-five million pounds in any other currency);
 - 4 in any loans made by the Society against the security of real property situated in the Island of Jersey owned by such employees of the Society (either solely or jointly with his/her spouse) as the Board of Administration may from time to time select, on such terms and conditions as the Board of Administration may from time to time determine;
 - 5 directly or through a holding company in any real property situate in the Island of Jersey.
- 28** The President, the Vice President and the General Manager, or any two of them, shall represent the Society for the purpose of passing all hereditary contracts and in all matters connected with the real property of the Society.

The General Manager shall represent the Society in all matters other than those connected with the real property of the Society.

- 29** Should damage at any time be caused to the property of a member of the Society by the fault, negligence, imprudence or lack of skill of a third party or parties and the Society be liable to indemnify such member for the damage so caused, the Society shall have the right to be reimbursed by such third party or parties the amount which the Society has had to pay to such member to indemnify him for the damage caused to him through the fault, negligence, imprudence or lack of skill of such third party. Should such third party refuse to reimburse to the Society the amount so paid to such member, the Society may proceed against such third party by an action in the appropriate Court in the same way as the member whose property has been damaged could himself have proceeded had he not been indemnified by the Society by virtue of his contract of insurance. The third party shall have the same rights in defending the action as he would have had if the action had been instituted by the member aggrieved, and to this end the Society shall be deemed to be substituted in the place and stead of the member so aggrieved.

-
- 30** A notice to be given to or by a person pursuant to these Rules shall be in writing or in an electronic communication and sent or delivered in accordance with the Electronic Communications (Jersey) Law 2000 to an address for the time being notified for that purpose to the person giving the notice.
- 31** A notice or other document may be given to a member by the Society –
- 1 by publishing such notice or document on a web site; or
 - 2 personally; or
 - 3 by sending it by post in a pre-paid envelope addressed to the member at his registered address; or
 - 4 by leaving it at that address (or at another address notified for the purpose) in an envelope addressed to the member; or
 - 5 by giving it by electronic communication to an address for the time being notified to the Society for that purpose; or
 - 6 by the member collecting such notice or document from the registered office of the Society; or
 - 7 by any other means authorised by the member concerned.

For the purposes of these Rules the expression “communication” includes a communication comprising sounds or images or both, and a communication effecting a payment and the expression “electronic communication” shall have the meaning given to it in the Electronic Communications (Jersey) Law 2000, the latter including, without limitation, e-mail, facsimile, CD-Rom, audio tape and telephone transmission and publication on a website; and the expression “address” shall include, in relation to electronic communication, any number or addresses used for the purposes of such communication.

¹

L.18/1976