



Jersey

# **PUBLIC FINANCES (JERSEY) LAW 2005**

**UNOFFICIAL CONSOLIDATION**

**UP TO AND INCLUDING**

**amendments made by –**

**L.18/2018:**

**Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018**

*(in force 8th June 2018)*





Jersey

## PUBLIC FINANCES (JERSEY) LAW 2005

### Arrangement

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Jersey

## PUBLIC FINANCES (JERSEY) LAW 2005

A LAW to provide for the administration of the public finances of Jersey and for related purposes.

Commencement [[see endnotes](#)]

### PART 1

#### INTRODUCTION

##### 1 Interpretation

- (1) In this Law, unless a contrary intention appears –
- “accountable officer” has the meaning given by Article 38A(1);
  - “capital head of expenditure” shall be construed in accordance with Article 16(3);
  - “central planning vote” means a capital head of expenditure described in Article 10(3A);
  - “Chief Executive Officer” has the same meaning as in the Employment of States of Jersey Employees (Jersey) Law 2005<sup>1</sup>;
  - “Comptroller and Auditor General” has the same meaning as in the Comptroller and Auditor General (Jersey) Law 2014<sup>2</sup>;
  - “consolidated fund” means the fund established by Article 3(1);
  - “consolidated fund bank account” has the meaning given to that expression by Article 33(1);
  - “Council of Ministers” has the same meaning as in the States of Jersey Law 2005<sup>3</sup>;
  - “currency fund” means the fund established by Article 5(1);
  - “expenditure approval” means –

- (a) in the case of a States funded body other than a States trading operation, the authority described in Article 16(1), (2) or (3) as it may be varied in accordance with Part 3;
- (b) an amount appropriated for a financial year, in a medium term financial plan, to contingency expenditure, as that amount may be added to as described in Article 17(1);

“financial directions” means directions issued by the Treasurer in accordance with Article 34;

“financial year” means a year starting on 1st January;

“function” includes a power and a duty;

“head of expenditure” means a revenue head of expenditure or a capital head of expenditure;

“income”, in respect of the States, means all money received by the States other than –

- (a) money derived from taxation;
- (b) money received directly by a States funded body;
- (c) money received by the States on behalf of a States funded body;
- (d) trust money received by the States;
- (e) a capital receipt, where the receipt is intended to be used for a capital project and the amount allocated for capital expenditure in a medium term financial plan, or the amount appropriated to a capital head of expenditure in a budget, is shown net of the receipt,

and in respect of a States funded body means all money received by the States funded body from any source and includes money received by the States on behalf of the States funded body;

“independently audited States body” means –

- (a) a person (including a corporation sole), office or body, whether or not incorporated, established by this or any other enactment or by an Act of the States where the establishing enactment or Act provides for the person, office or body to be audited otherwise than by the Comptroller and Auditor General; and
- (b) any company, wherever incorporated, that is owned or controlled by the States;

“insurance fund” means the fund established by Article 5A;

“lodge” means lodge au Greffe in accordance with standing orders;

“Minister” means the Minister for Treasury and Resources;

“non-Ministerial States funded body” means a States funded body specified in Part 1 or Part 2 of Schedule 1;

“Panel” means the Fiscal Policy Panel established by Article 56A(1);

“PAO” means the Principal Accountable Officer under Article 37;

“Public Accounts Committee” means the Committee established in accordance with Article 47(3)(a) of the States of Jersey Law 2005<sup>4</sup>;

“record” means information recorded in any form and, in relation to information recorded otherwise than in legible form, a reference to its provision or production includes a reference to providing or producing a copy of the information in legible form;

“revenue head of expenditure” shall be construed in accordance with Article 16(1) and (2);

“special fund” means –

- (a) a fund established under Article 3(3); and
- (b) a fund declared by any enactment to be a special fund for the purposes of this Law;

“stabilisation fund” means the special fund established on 5th December 2006, upon the States adopting Projet 133 of 2006;

“standing orders” means standing orders made under the States of Jersey Law 2005;

“States aided independent body” means a body (including an individual and a corporation sole), whether or not incorporated, that in a financial year receives an amount of money from the States to aid it to carry out its activities;

“States Assembly” includes –

- (a) committees of the States established by standing orders;
- (b) scrutiny panels established by standing orders; and
- (c) the States Greffe;

“States body” has the meaning given by Article 37(2)(a);

“States fund” has the meaning given by Article 37(2)(b);

“States funded body” means any of the following –

- (a) a Ministry;
- (b) a department of the States (including one or any part of one that has been designated a States trading operation);
- (c) a committee or other body established by an Act of the States;
- (d) the holder of a Crown or States appointment funded by the States including any associated establishment of the holder;

“States trading operation” or “trading operation” means an area of operation of the States designated by the States by Regulations to be a States trading operation in accordance with Article 25(1);

“strategic reserve fund ” means the fund established by Article 4(1);

“tax” includes a duty and “taxation” shall be interpreted accordingly;

“taxation draft” means, draft legislation that contains provision for any of the following –

- (a) the imposition of a tax;
- (b) the variation of a tax;
- (c) the renewal of a tax (whether at the same or at a different rate and whether with or without modification);

(d) the abolition of a tax;

“total revenue expenditure” in relation to a States funded body, means the amount indicated in the report accompanying a draft medium term financial plan, as amended in accordance with Part 3;

“trading fund”, in respect of a States trading operation, means the trading fund maintained by the trading operation in accordance with Article 26(2);

“Treasurer” means the person for the time being holding or performing the functions of the office of Treasurer of the States established by Article 28(1);

“Treasury” means the department of the States for which the Minister has responsibility to the States in the Minister’s capacity as the Minister responsible to the States for the public finances of Jersey;

“trust assets” has the meaning given to that expression by Article 67(2).<sup>5</sup>

- (2) The States may by Regulations amend paragraph (1).
- (3) The Minister may by Order amend Schedule 1.<sup>6</sup>
- (4) Regulations made under paragraph (2) may make consequential amendments to this Law.
- (5) Regulations made under paragraph (2) and Orders made under paragraph (3) may contain saving, transitional, consequential, incidental or supplementary provisions.

## **2 Functions of the Minister**

The Minister must ensure that the public finances of Jersey are regulated, controlled and supervised in accordance with this Law and that the provisions of this Law are otherwise duly complied with.

## **PART 2**

### **THE FUNDS**

## **3 The consolidated fund and special funds**

- (1) There is established a consolidated fund.
- (2) Except as otherwise provided by this or any other enactment or by a proposition under paragraph (3) –
  - (a) all money received by or on behalf of the States shall be credited to the consolidated fund; and
  - (b) money shall not be withdrawn from the consolidated fund and used for any purpose except with and in accordance with an expenditure approval.<sup>7</sup>
- (3) The States may, on a proposition lodged by the Minister –
  - (a) establish special funds for specific purposes;

- (aa) permit money received by a fund so established to be credited to that fund;
  - (ab) direct that money credited to a fund so established does not form part of the annual income of the States;
  - (b) vary the purposes of a fund so established; or
  - (c) wind up a fund so established.<sup>8</sup>
- (4) An enactment that would –
- (a) establish a special fund for specific purposes, or declare a fund to be a special fund;
  - (b) vary the purposes of a fund so established or to which such a declaration relates; or
  - (c) wind up a fund so established or to which such a declaration relates,
- shall only be lodged by or with the concurrence of the Minister.<sup>9</sup>
- (5) Upon the winding up of a special fund, any balance shall be transferred to the consolidated fund.<sup>10</sup>

#### **4 The strategic reserve fund**

- (1) There is established a strategic reserve fund, being a permanent reserve that shall not be used to defray directly expenditure of the States.
- (2) There shall be transferred from the consolidated fund to the strategic reserve fund such amount as the States may decide on a proposition lodged by the Minister.
- (3) Money shall not be withdrawn from the strategic reserve fund otherwise than in accordance with a decision of the States made on a proposition lodged by the Minister that provides for the amount withdrawn to be credited to the consolidated fund.
- (4) Notwithstanding paragraph (3), following the States' adoption of P.107/2017, money may be withdrawn from the strategic reserve fund, without a further proposition lodged by the Minister, and credited to the special fund known as the 'Hospital Construction Fund' provided that this is done in accordance with P.107/2017.<sup>11</sup>
- (5) No later than 2 months after the end of each successive 6 month period starting from the first withdrawal referred to in paragraph (4), the Minister shall report to the Council of Ministers and then to the States the amount withdrawn from the strategic reserve fund during each such 6 month period.<sup>12</sup>
- (6) Notwithstanding anything to the contrary in this Law or any other enactment, all monies borrowed for the 'Preferred Scheme' referred to in P.107/2017 shall be credited to the strategic reserve fund provided that such borrowing is in accordance with P.107/2017.<sup>13</sup>
- (7) Notwithstanding paragraph (1), money from the strategic reserve fund may be used to defray directly expenditure of the States to meet the costs of borrowing for the 'Preferred Scheme' referred to in P.107/2017 and

any ongoing finance and administration costs related to that borrowing, provided that the use of that money for those purposes is in accordance with P.107/2017.<sup>14</sup>

- (8) Notwithstanding Article 3(5), upon the winding up of the Hospital Construction Fund any balance of that Fund shall be transferred to the strategic reserve fund.<sup>15</sup>
- (9) In this Article references to ‘P.107/2017’ are to the Proposition lodged au Greffe on 31st October 2017 “Future Hospital: approval of preferred scheme and funding” as adopted by the States and to the Report, including Appendices, to that Proposition.<sup>16</sup>

#### **4A Stabilisation fund**

- (1) There shall be transferred from the consolidated fund to the stabilisation fund such amount as the States may decide on a proposition lodged by the Minister.
- (2) Money shall not be withdrawn from the stabilisation fund otherwise than in accordance with a decision of the States made on a proposition lodged by the Minister that provides for the amount withdrawn to be credited to the consolidated fund.<sup>17</sup>

#### **5 The currency fund**

- (1) There is established a currency fund.
- (2) There shall be credited to the currency fund money received from the issue of currency notes or coins.
- (3) Money must not be withdrawn from the currency fund except –
  - (a) to pay for the production of currency notes or coins, for expenses relating to their circulation and sale, and for any associated expenditure; or
  - (b) as a transfer to the consolidated fund of all or any part of a surplus in the currency fund as determined by the Minister after making provision for the repayment of currency in issue.
- (4) If at any time the Minister is satisfied that the amount standing to the credit of the currency fund may be insufficient to meet the repayment of currency in issue the Minister may transfer from the consolidated fund to the currency fund such amount as the Minister considers is necessary to correct the deficiency.

#### **5A Insurance fund<sup>18</sup>**

- (1) There is established an insurance fund.
- (2) Schedule 2 has effect to specify the purposes of the insurance fund and make provision for its administration.
- (3) The States may by Regulations –
  - (a) amend Schedule 2; or

- (b) wind up the insurance fund and, in so doing, repeal this Article and Schedule 2 and make any consequential amendments to other provisions of this Law.

## **6 Investment of money of the States**

- (1) This Article applies to –
  - (a) money in the consolidated fund, any special fund, the strategic reserve fund, the currency fund and the insurance fund; and
  - (b) any other money of the States held, whether on trust or otherwise, by the States, the Minister, the Treasurer or an investment manager.<sup>19</sup>
- (2) Except as provided by paragraph (5), money to which this Article applies may be invested to the extent and in the manner prescribed by Regulations made by the States on a proposition lodged by the Minister.
- (3) The Regulations may, in particular, provide for –
  - (a) investment by the Minister or the Treasurer; and
  - (b) the appointment of investment managers and their investment powers.
- (4) Despite any other provision of this Law –
  - (a) any profit arising from the investment of money in a fund or trust in accordance with this Article shall be credited to that fund or trust; and
  - (b) any loss arising from the investment of money in a fund or trust in accordance with this Article, including any investment costs, shall be taken to have been lawfully withdrawn from that fund or trust.
- (5) Paragraph (2) is subject to any provision of –
  - (a) an instrument that established a special fund; or
  - (b) a trust,that provides for money in the special fund or trust to be invested in a different way.
- (6) In this Article –
  - “investment costs” includes the fees charged by investment managers, other fees paid in relation to obtaining investment advice and administrative costs;
  - “money in the consolidated fund” includes money for the time being standing to the credit of a consolidated fund bank account.

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**PART 3****FINANCIAL PLANNING AND BUDGETING<sup>20</sup>***Medium term financial plan and budget<sup>21</sup>***7 Financial planning cycle<sup>22</sup>**

- (1) The Council of Ministers must, following an ordinary election for Deputies, prepare and lodge, for approval by the States, a draft medium term financial plan for the period –
  - (a) commencing with the second complete financial year following the ordinary election; and
  - (b) ending with the first complete financial year following the next ordinary election.
- (2) The Minister must prepare and lodge, for approval by the States, a draft budget for each financial year.
- (3) A draft medium term financial plan and a draft budget must be prepared and lodged in accordance with the requirements in this Part.
- (4) The requirements in this Part are in addition to the requirements in standing orders.
- (5) <sup>23</sup>

**8 Preparation and lodging of draft medium term financial plan<sup>24</sup>**

- (1) A Council of Ministers required by Article 7(1) to lodge a draft medium term financial plan must do so in sufficient time for it to be debated and approved by the States at least 2 months before the start of the first financial year to which it relates.
- (2) Subject to Article 8A, a draft medium term financial plan must seek the approval of the States to the following amounts, for each financial year to which the draft plan relates –
  - (a) an intended total amount of States income;
  - (b) a maximum amount of net States expenditure from the consolidated fund;
  - (c) the following amounts, not exceeding in the aggregate the total amount of net States expenditure referred to in sub-paragraph (b) –
    - (i) for each States funded body, other than a States trading operation, the appropriation of an amount to a revenue head of expenditure being, subject to Article 16(2), its total revenue expenditure for the year less its estimated income for the year,
    - (ii) the appropriation of an amount to contingency expenditure,
    - (iii) the allocation of a total amount that, in the budget for the year, may be appropriated to capital heads of expenditure (other than capital projects of a States trading operation),

- being an amount that is net of any proposed capital receipts to be used for capital projects to which the amount may be appropriated, and
- (iv) the allocation of a maximum amount that, in the budget for the year, may be appropriated to growth expenditure;
- (d) for each States trading operation –
- (i) its estimated income,
  - (ii) its estimated expenditure, and
  - (iii) the total cost of the capital projects that it is scheduled to start during the financial year; and
- (e) any intended transfer of money between the consolidated fund and a fund mentioned in Part 2 or a special fund established in accordance with Article 3(3) or (4).<sup>25</sup>
- (3) The revenue head of expenditure proposed for a financial year for the States Assembly under paragraph (2)(c)(i) must be the amount of the estimate of revenue expenditure, less the estimate of income of the States Assembly, provided under Article 24B.
- (3A) The revenue head of expenditure proposed for a financial year for the Comptroller and Auditor General under paragraph (2)(c)(i) must be the amount of the estimate of revenue expenditure provided under Article 24C.<sup>26</sup>
- (4) Paragraphs (3) and (3A) do not prohibit the lodging of an amendment to the draft medium term financial plan that would vary the revenue head of expenditure of the States Assembly or Comptroller and Auditor General for a financial year.<sup>27</sup>
- (5) Subject to Article 8A, the report accompanying a draft medium term financial plan must contain the following information –
- (a) an estimate of the amount that will be in the consolidated fund at the start of each financial year to which the plan relates;
  - (b) an estimate of the amount that will be in the consolidated fund at the end of each financial year to which the plan relates, after provision has been made for the intended amounts to be paid into the consolidated fund and the expenditure and allocations proposed under paragraph (2)(b), (c) and (e);
  - (c) the Minister's statement of the expected purposes for which the Minister will approve transfers from the amount appropriated for contingency expenditure for each financial year to which the plan relates; and
  - (d) such information as the Council of Ministers believes that the States may reasonably be expected to need in order to consider the amounts proposed under paragraph (2).<sup>28</sup>
- (6) The Council of Ministers must not lodge a draft medium term financial plan that includes a report that shows a deficit in the consolidated fund at the end of any financial year to which the plan relates.
- (7) If the Council of Ministers is unable to agree with a non-Ministerial States funded body (other than the States Assembly or Comptroller and

Auditor General) the revenue head of expenditure of the body for a financial year the report must also contain –

- (a) a note stating the estimate provided by the non-Ministerial States funded body for its revenue head of expenditure; and
  - (b) an explanation stating why the amount of the revenue head of expenditure proposed by the Council of Ministers varies from that estimate.<sup>29</sup>
- (8) <sup>30</sup>
- (9) Only the Council of Ministers may lodge a draft medium term financial plan.
- (10) In this Article ‘States income’ includes money derived from taxation.

**8A Medium term financial plan for 2016 to 2019 – subsequent approval of certain net States expenditure<sup>31</sup>**

- (1) The draft medium term financial plan for the financial years 2016 to 2019 need not seek the approval of the States to all or any of the amounts described in Article 8(2)(c) and (d) for the second or any subsequent financial year to which the draft plan relates.
- (2) If such amounts for the second or a subsequent financial year are omitted from the draft medium term financial plan for the financial years 2016 to 2019 –
  - (a) the Council of Ministers must prepare a draft addition to the medium term financial plan that would add the amounts to the medium term financial plan for that year (a “draft addition”);
  - (b) a draft addition may add amounts for one or more financial years;
  - (c) Articles 8, 24A, 24B and 24C apply, with any necessary modifications, to the preparation of a draft addition as they apply to the preparation of a draft medium term financial plan;
  - (d) a draft addition must be lodged no later than 30th June 2016.
- (3) Subject to paragraph (4), only the Council of Ministers may lodge a draft addition.
- (4) The Council of Ministers may agree that a draft addition is lodged by the Minister.
- (5) Where a draft addition is to be lodged by the Minister, the Minister may lodge the draft addition and a draft budget as one proposition.
- (6) The minimum lodging period that applies to a draft medium term financial plan shall also apply to a draft addition (whether lodged by the Council of Ministers or, in accordance with paragraph (5), by the Minister).

**9 Restriction of amendment of medium term financial plan approved by the States<sup>32</sup>**

- (1) Once a medium term financial plan has been approved by the States –

- 
- (a) the total amount of net States expenditure approved for a financial year to which the plan relates may only be varied on a proposition lodged in accordance with paragraph (2);
  - (b) the amount appropriated to a revenue head of expenditure of a States funded body for a financial year to which the plan relates may only be varied –
    - (i) on a proposition lodged in accordance with paragraph (2), or
    - (ii) as described in Article 16(5)(b) to (g);
  - (c) the amount appropriated to contingency expenditure for a financial year to which the plan relates may only be varied –
    - (i) on a proposition lodged in accordance with paragraph (2), or
    - (ii) by the addition of the amounts described in Article 17(1)(b) to (d);
  - (d) the total amount, described in Article 8(2)(c)(iii), allocated for capital projects for a financial year to which the plan relates (other than capital projects of a States trading operation) may only be varied on a proposition lodged in accordance with paragraph (2);
  - (e) the maximum amount, described in Article 8(2)(c)(iv), allocated for appropriation to growth expenditure for a financial year to which the plan relates may only be altered on a proposition lodged in accordance with paragraph (2).
- (2) The Council of Ministers may only lodge a proposition for the purposes described in paragraph (1) –
- (a) if a state of emergency has been declared under the Emergency Powers and Planning (Jersey) Law 1990<sup>33</sup>;
  - (b) if the Council is satisfied that there exists an immediate threat to the health or safety of all or any of the inhabitants of Jersey;
  - (c) if the Council of Ministers is satisfied that there is a serious threat to the economic, environmental or social wellbeing of Jersey which requires an immediate response;
  - (ca) if the Council of Ministers is satisfied, on the recommendation of the Minister –
    - (i) that there is an urgent need for expenditure, and
    - (ii) that –
      - (A) the balance currently available for contingency expenditure is insufficient to fund the expenditure that is urgently needed, and
      - (B) the expenditure that is urgently needed cannot reasonably be funded out of existing heads of expenditure;
  - (d) following the appointment of a Council of Ministers otherwise than following an ordinary election for Deputies; or
  - (e) in accordance with paragraph (3).<sup>34</sup>
- (3) If, at any time, it appears to the Council of Ministers that, by reason of any variance between the intended total amount to be paid into the

consolidated fund and amounts actually received in a financial year, or by any other reason, the receipts and expenditure approved in the medium term financial plan would result in a deficit in the consolidated fund at the end of any financial year, the Council of Ministers must lodge a proposition, for the purposes described in paragraph (1), that, if approved by the States, would remedy the deficit.

- (4) The Council of Ministers must not lodge an amendment to a medium term financial plan that, if the receipts and expenditure proposed in it were approved, would result in a deficit in the consolidated fund at the end of any financial year to which the plan relates.
- (5) Paragraph (1) does not prohibit the lodging of an amendment to a proposition lodged under paragraph (2).
- (6) If a medium term financial plan is amended before it is approved by the States, either a supplement to the report that accompanied the draft plan when it was lodged shall be issued or the report shall be reissued, to take account of the amendment.

## **10 Preparation and lodging of draft budget<sup>35</sup>**

- (1) Once the annual financial statement required by Article 32 for the previous financial year has been prepared, the Minister must, in advance of the budget, and after consultation with the Council of Ministers, inform the States of the amount (if any) he or she intends to propose, in the budget, should be allocated to growth expenditure for the following financial year.
- (2) The Minister must –
  - (a) in the course of preparing a draft budget, consult with the Council of Ministers upon the amounts described in paragraph (3); and
  - (b) lodge a draft budget for a financial year in sufficient time for it to be debated and approved by the States before the start of that year.
- (3) A draft budget must seek the approval of the States to the following for the financial year to which it relates –
  - (a) the amount of income intended to be raised by taxation during the year;
  - (b) a maximum amount (if any) that the States may borrow during the year, in accordance with Article 21;
  - (c) the amounts (if any) in respect of growth expenditure, described in Article 11(1);
  - (d) for each capital project to be started or continued in the year by a States funded body (other than a States trading operation) and for which no other expenditure approval sufficient to complete the project exists, a capital head of expenditure;
  - (e) for each States trading operation, details of each capital project that it is scheduled to start during the next financial year; and
  - (f) amounts (if any) to be transferred between the consolidated fund and any fund mentioned in Part 2 or a special fund established in accordance with Article 3(3) or (4).

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- (3A) A draft budget may seek the approval of the States, for the financial year to which it relates, to a capital head of expenditure (a “central planning vote”) to fund work to scope or assess the feasibility of proposed capital projects that the States have agreed, in principle, will start in the future.<sup>36</sup>
- (4) Subject to paragraph (6), if the estimates of the States Assembly, provided under Article 24B, or of the Comptroller and Auditor General, provided under Article 24C, include an estimate for a capital project to be started or continued in the year and for which no other expenditure approval sufficient to complete the project exists, a capital head of expenditure for the amount of the estimate shall be included in the draft budget, under paragraph (3)(d).<sup>37</sup>
- (5) Paragraph (4) does not prohibit the lodging of an amendment to the draft budget that would vary or omit a capital head of expenditure of the States Assembly or the Comptroller and Auditor General for the financial year.<sup>38</sup>
- (6) The aggregate of the capital heads of expenditure proposed under paragraphs (3)(d) and (3A) must not exceed the total amount, described in Article 8(2)(c)(iii), allocated for capital heads of expenditure, by the States, for the financial year in the medium term financial plan.<sup>39</sup>
- (7) The report accompanying a draft budget lodged by the Minister must contain the following information –
- (a) an estimate of the amounts from each source that, in the financial year, would be paid into the consolidated fund by way of receipts from taxation, if the proposals for taxation in the budget were approved, and from income;
  - (b) a summary of the amounts in respect of growth expenditure, described in Article 11(9);
  - (c) a summary of amounts (other than those referred to in subparagraph (b)) previously authorized by the States to be withdrawn from the consolidated fund during the year and all money to be paid into the fund during the year;
  - (d) the nature and cost of each capital project proposed to start or continue in the year and for which no other expenditure approval sufficient to complete the project already exists;
  - (e) an estimate of –
    - (i) the amount that will be in the consolidated fund at the beginning of the year, and
    - (ii) the amount that would be in the consolidated fund at the end of the year if the draft budget is approved and all moneys that are estimated to be paid into the fund during the year are received; and
  - (f)
  - (g) such other information as the Minister believes that the States may reasonably be expected to need in order to consider the amounts proposed under paragraph (3).<sup>40</sup>

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- (8) The Minister must not lodge a draft budget that includes a report that shows a deficit in the consolidated fund at the end of the financial year to which the budget relates.
- (9) If the Minister is unable to agree with a non-Ministerial States funded body (other than the States Assembly or Comptroller and Auditor General) a capital head of expenditure of the body for a financial year, the report must also contain –
- (a) a note stating the estimate provided by the non-Ministerial States funded body for the capital project; and
  - (b) an explanation stating why, as the case requires, the Minister has not proposed any capital head of expenditure for the project or has proposed a capital head of expenditure for an amount less than the non-Ministerial States funded body's estimate.<sup>41</sup>
- (10) <sup>42</sup>
- (11) Only the Minister may lodge a draft budget.
- (12) The Minister may, at any time during a financial year, lodge a further draft budget for the year.
- (13) If a draft budget –
- (a) is not approved by the States or is amended by the States; and
  - (b) as a result the consolidated fund would, after provision had been made for all the receipts and expenditure approved, be in deficit at the end of the financial year to which the budget relates,
- the Minister must lodge, as soon as practicable, a further draft budget which, if approved by the States, would remedy the deficit.

## 11 Budget – growth expenditure<sup>43</sup>

- (1) Subject to this Article, the amounts referred to in Article 10(3)(c) to be included in a draft budget are –
- (a) a total amount (if any) for appropriation to growth expenditure for the financial year; and
  - (b) the appropriation, from the amount (if any) proposed under subparagraph (a), of –
    - (i) amounts to specified heads of expenditure, and
    - (ii) an amount (if any) to contingency expenditure.
- (2) A proposed appropriation to a specified head of expenditure may also specify one or more purposes for which the money is to be used.
- (3) Subject to paragraphs (5) and (6), and notwithstanding that a budget relates to one financial year, a proposal for the appropriation of an amount to a revenue head of expenditure for the year to which a budget relates in respect of expenditure that will recur in one or more remaining years of the medium term financial plan may also propose the appropriation of amounts to revenue heads of expenditure for each or any of those remaining years.

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- (4) Subject to paragraphs (5) and (6), where a proposal described in paragraph (3) for the appropriation of an amount from growth expenditure to a revenue head of expenditure for a remaining year of the medium term financial plan is approved by the States, the approval also approves the appropriation of the amount to the total amount for growth expenditure for that year, as described in paragraph (1)(a).
  - (5) The total amount (if any) appropriated to growth expenditure for a financial year cannot exceed the maximum amount allocated for growth expenditure by the States for that financial year in the medium term financial plan.
  - (6) Except as provided by paragraph (7), the amounts appropriated from growth expenditure for a financial year to heads of expenditure and contingency expenditure cannot exceed the total amount appropriated to growth expenditure for that year.
  - (7) Where, for any financial year, the States approve the appropriation of an amount from growth expenditure to a head of expenditure for specified purposes, and the States subsequently decide that, by reason of a change in circumstances, all or part of the amount is no longer required to be expended for those purposes –
    - (a) the States may approve the transfer of the amount that is no longer required from the head of expenditure back to growth expenditure; and
    - (b) fresh appropriations of all or part of the amount may be proposed, as described in paragraphs (1)(b), (2) and (3), whether for the year for which the approval described in sub-paragraph (a) of this paragraph has effect or for any remaining year of the medium term financial plan.
  - (8) Where, pursuant to paragraph (7), an amount previously appropriated to growth expenditure for one financial year is the subject of a fresh appropriation to a head of expenditure or contingency expenditure for a remaining year of the medium term financial plan, notwithstanding Article 9(1)(a), the total amount of net States expenditure for that remaining year shall be increased by the amount of the appropriation.
  - (9) The report accompanying a draft budget must contain a summary of –
    - (a) all appropriations from growth expenditure previously approved as described in paragraph (4) by the States for the financial year and any remaining years of the medium term financial plan; and
    - (b) amounts previously transferred back to growth expenditure as described in paragraph (7)(a) and which have not been appropriated as described in paragraph (7)(b).

## **12 Amendments to draft budget<sup>44</sup>**

- (1) An amendment to a draft budget is not limited to an amendment of the draft budget but may propose –

- (a) the amendment of any enactment that imposes a tax or provides for the administration of a tax (whether or not the Minister has lodged a taxation draft that would amend the enactment);
  - (b) the imposition of a new tax;
  - (c) an alternative way for the States to borrow money;
  - (d) an alternative way for the States to obtain financial resources.
- (2) Article 11(5) and (6) applies to an amendment to the budget for or regarding the appropriation of a total amount to growth expenditure, or for the appropriation of an amount from growth expenditure to a specified head of expenditure or to contingency expenditure, as it applies to the amounts proposed by the Minister in accordance with Articles 10(3)(c) and 11.

### **13 Approval of budget<sup>45</sup>**

If a draft budget is amended before it is approved by the States, either a supplement to the report that accompanied the draft budget when it was lodged shall be issued or the report shall be reissued, to take account of the amendment.

#### *Taxation drafts<sup>46</sup>*

### **14 Lodging of taxation draft<sup>47</sup>**

- (1) The Minister shall lodge any taxation draft that is necessary to implement a proposal in a draft budget for the variation of a tax or the imposition of a new tax in sufficient time for the taxation draft to be debated and approved by the States before the start of the financial year to which the budget relates.
- (2) If, at any time, the States approve a proposition (including an amendment to a draft budget) that suggests that a taxation draft should be lodged and the Minister does not lodge such a draft in sufficient time for it to be debated before the time (if any) when the proposition suggests that the taxation draft should have effect, the Minister must explain why he or she has not lodged the taxation draft.
- (3) Only the Minister may lodge a taxation draft.
- (4) Paragraph (1) does not prevent the Minister lodging a taxation draft at any time.

### **15 Taxation draft may be given immediate effect<sup>48</sup>**

- (1) This Article applies to a taxation draft that is a draft Law.
- (2) The States may, by Act, declare that the provisions of a taxation draft to which the Act applies shall, upon the Act being made, have effect as if the draft was a Law passed by the States, confirmed by Her Majesty in Council and registered in the Royal Court.
- (3) The power in paragraph (2) may be exercised at any time after the taxation draft has been lodged.

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- (4) The provisions of a taxation draft given effect under paragraph (2) may include provisions for –
    - (a) the collection and administration of a tax;
    - (b) the proper administration of matters connected with the imposition of a tax;
    - (c) the interpretation, application, effect and commencement of the taxation draft;
    - (d) consequential amendments, transitional arrangements and savings that are supplemental to any provisions of the taxation draft being given effect.
  - (5) Where any provision of a taxation draft which has effect in accordance with an Act made under paragraph (2) provides for the renewal of an existing tax, any enactment which was in force with reference to the tax as last imposed shall, subject to any amending provisions of the taxation draft which also have effect in accordance with an Act made under paragraph (2), have full force and effect with respect to the tax as so renewed.
  - (6) If, after an Act has been made under paragraph (2), a provision of a taxation draft given effect by the Act is amended before it is confirmed by Her Majesty in Council, money paid or deducted under the provision as given effect by the Act which would not have been paid or deducted under the provision as so confirmed shall be repaid or made good.
  - (7) If, after an Act has been made under paragraph (2), a provision of a taxation draft given effect by the Act is withdrawn, or the States decide not to adopt it, or Her Majesty in Council decides not to confirm it, any money paid or deducted under the provision shall be repaid or made good.
  - (8) In paragraphs (6) and (7), a reference to money paid or deducted under a provision of a taxation draft includes a reference to money paid or deducted under a subordinate enactment made in exercise of a power conferred by the provision of the taxation draft.
  - (9) In this Article, ‘taxation draft’ includes any amendment to a taxation draft that is adopted by the States before the Act is declared.

*Expenditure*<sup>49</sup>

**16 Authorized expenditure**<sup>50</sup>

- (1) The approval by the States of a revenue head of expenditure of a States funded body for a financial year authorizes the body –
  - (a) subject to paragraphs (4) and (5), to withdraw from the consolidated fund, in the year, amounts not exceeding, in total, the amount of the revenue head of expenditure; and
  - (b) subject to Article 19, to withdraw from the consolidated fund, in the year, amounts not exceeding, in total, the amount it pays into the consolidated fund in the year by way of income or, if that

amount exceeds its estimated income for the year, referred to in Article 8(2)(c)(i), amounts not exceeding that estimated income.

- (2) Notwithstanding paragraph (1) and Article 8(2)(c)(i), if a States funded body has estimated income for a financial year in excess of its total revenue expenditure for the year, the approval by the States of a revenue head of expenditure for the financial year for the body authorizes the body, subject to paragraph (5) and Article 19, to withdraw from the consolidated fund, in the year, amounts not exceeding, in total, its total revenue expenditure for the year.
- (3) Subject to paragraphs (4) and (5), the approval of a capital head of expenditure by the States or, under paragraph (3A), by the Minister, authorizes a States funded body (other than a States trading operation) to withdraw from the consolidated fund, in one or more financial years, commencing with the financial year for which the approval is given, to make payments due for a capital project, amounts not exceeding, in total, the amount approved for the project, net of any capital receipts that are intended to be used for the project.<sup>51</sup>
- (3A) The approval by the States of a central planning vote authorizes the Minister to approve –
  - (a) capital heads of expenditure to fund work to scope or assess the feasibility of proposed capital projects that the States have agreed, in principle, will start in the future; and
  - (b) the transfer of amounts to such capital heads of expenditure, for such purposes, from the central planning vote.<sup>52</sup>
- (4) If the States, when approving a head of expenditure, provide that the approval is dependent upon the subsequent approval by the States of the funding for the head of expenditure, the authority given by the head of expenditure to withdraw an amount from the consolidated fund shall have effect in accordance with the conditions of the approval.
- (5) A revenue head of expenditure approved by the States in the medium term financial plan, as described in Article 8(2)(c)(i), or a capital head of expenditure approved by the States in the budget, as described in Article 10(3)(d), or by the Minister under paragraph (3A), may be varied, following such approval, by –
  - (a) the approval by the States of an amendment, lodged in accordance with Article 9, to the medium term financial plan;
  - (b) the approval by the States as part of a budget, of the appropriation of an amount from growth expenditure, as described in Articles 10(3)(c) and 11(1)(b) and (7)(b);
  - (c) a decision of the States to transfer an amount from a head of expenditure to growth expenditure, as described in Article 11(7)(a);
  - (d) a transfer of an amount from contingency expenditure, approved by the Minister under Article 17;
  - (e) a transfer approved by the Minister under Article 18;
  - (f) an authorization given by the Minister under Article 18(5); or
  - (g) a determination by the Council of Ministers under Article 20(3).<sup>53</sup>

**17 Contingency expenditure**<sup>54</sup>

- (1) The amount available for contingency expenditure in a financial year is the aggregate of –
  - (a) the amount approved by the States, in the medium term financial plan, to be appropriated to contingency expenditure for the year;
  - (b) an amount (if any), approved by the States, in the budget for the year, to be appropriated from growth expenditure to contingency expenditure;
  - (c) the amounts (if any) approved by the Minister to be transferred from a head of expenditure in accordance with Article 18(1A); and
  - (d) the amounts (if any) transferred by the Minister from excess income, in accordance with Article 19(1)(b).<sup>55</sup>
- (2) The Minister is authorized to approve the transfer from contingency expenditure to heads of expenditure or the insurance fund of amounts not exceeding, in total, the amount available for contingency expenditure in a financial year in accordance with paragraph (1).<sup>56</sup>
- (3) The Minister may, when approving a transfer from contingency expenditure, specify the use to which the amount transferred is to be put.
- (4) The Minister must, in accordance with Article 8(5)(c) and from time to time, present to the States a statement of –
  - (a) the Minister's procedures for the approval of transfers; and
  - (b) the expected purposes for which the Minister will approve transfers.
- (5) The Minister must not approve a transfer that would cause a deficit in the amount available for contingency expenditure in a financial year.
- (6) If, at the end of a financial year, the whole of the amount available for contingency expenditure in the year has not been transferred, the Minister may, under paragraph (2), approve transfers of all or any of the balance after the end of the financial year.
- (7) The Minister must, at periods of no longer than 6 months, report to the States details of any approvals given under paragraph (2).
- (8) Financial directions shall specify how and when an application for the Minister's approval under paragraph (2) may be made.

**18 Permitted variations of heads of expenditure**<sup>57</sup>

- (1) All or any part of the amount appropriated by a head of expenditure may, with the approval of the Minister –
  - (a) be transferred from a revenue head of expenditure to a capital head of expenditure, or vice versa, in order to comply with accounting standards issued for the purposes of Article 32(2);
  - (b) be transferred from one head of expenditure to another head of expenditure consequentially upon a transfer of functions by Regulations made under Article 29 of the States of Jersey Law 2005<sup>58</sup>; or

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- (c) be transferred from one head of expenditure to another head of expenditure for any purpose not mentioned in sub-paragraph (a) or (b).<sup>59</sup>
- (1A) All or any part of the amount appropriated by a head of expenditure may, with the approval of the Minister, be transferred from the head of expenditure to contingency expenditure, within or after the end of the relevant financial year.<sup>60</sup>
- (1B) The Minister shall, after consulting the Chief Minister and PAO, give the States Assembly at least 2 weeks' notice before an amount is transferred under paragraph (1)(c) or (1A).<sup>61</sup>
- (1C) Before giving notice under paragraph (1B), the Minister shall, in relation to any States funded body, consult the Minister responsible for that body.<sup>62</sup>
- (2) A transfer described in paragraph (1)(c) or (1A) must also be approved by –
- (a) in the case of a transfer from a head of expenditure of the States Assembly, the chairman described in Article 24B(1);
  - (aa) in the case of a transfer from a head of expenditure of the Comptroller and Auditor General, the chairman described in Article 24C(1); or
  - (b) in the case of a transfer from a head of expenditure of any other non-Ministerial States funded body, the person determined by the Minister for the purposes of Article 24A.<sup>63</sup>
- (2A) <sup>64</sup>
- (3) If a transfer described in paragraph (1) is between revenue heads of expenditure, the heads of expenditure must be for the same financial year.<sup>65</sup>
- (3A) The Minister may approve the withdrawal from the consolidated fund, after the end of the relevant financial year, of all or part of the amount appropriated by a revenue head of expenditure.<sup>66</sup>
- (4) The Minister must, at periods of no longer than 6 months, report to the States details of any approval given under this Article since the last report made under this paragraph<sup>67</sup>.
- (5) The Minister may authorize a States funded body that has disposed of an asset to use all or a specified amount of the proceeds of the sale for revenue expenditure or a specified capital project.
- (6) Financial directions –
- (a) shall specify how and when an application for the Minister's approval under this Article may be made; and
  - (b) may permit expenditure to be incurred for services and goods to be provided and paid for in the subsequent financial year where it is necessary or expedient to do so.<sup>68</sup>

**19 Adjustments for variations in income**<sup>69</sup>

- (1) If, during a financial year, the Minister is satisfied that the income of a States funded body which has a revenue head of expenditure for the year is likely to exceed its estimated income taken into account in approving that head of expenditure –
  - (a) the Minister may authorize the body to withdraw from the consolidated fund during that year an amount not exceeding the likely excess of income; or
  - (b) the Minister may, either within or after the end of the financial year, with the agreement of the person responsible for the States funded body, transfer all or part of the excess income to contingency expenditure.
- (1A) The Minister must consult the Chief Minister before –
  - (a) authorizing a withdrawal under paragraph (1)(a) by a non-Ministerial States funded body specified in Part 2 of Schedule 1; or
  - (b) making a transfer under paragraph (1)(b) from the excess income of a non-Ministerial States funded body specified in Part 2 of Schedule 1.<sup>70</sup>
- (2) Where paragraph (1)(a) applies, the States funded body's total revenue expenditure is increased by the additional amount that the body is allowed to withdraw from the consolidated fund by virtue of that paragraph.
- (3) If, during a financial year, the person responsible for a States funded body is satisfied that the income of the body for the year is likely to fall short of its estimated income, the person must take steps to ensure that the body's total revenue expenditure does not exceed the sum of its revenue head of expenditure and the revised estimate of its income.
- (4) In paragraphs (1)(b) and (3), the person responsible for a States funded body is the person whose approval would be required for a transfer from a head of expenditure of the body under Article 18(2).

**20 Emergency expenditure**<sup>71</sup>

- (1) This Article applies where –
  - (a) a state of emergency has been declared under the Emergency Powers and Planning (Jersey) Law 1990; or
  - (b) the Minister is satisfied that there exists an immediate threat to the health or safety of all or any of the inhabitants of Jersey.
- (2) If the Minister is satisfied that –
  - (a) the circumstances described in paragraph (1) require the immediate expenditure of money by a States funded body; and
  - (b) no other money, or insufficient money, may be withdrawn from the consolidated fund by virtue of any other provision of this Part,the Minister may authorize the States funded body to withdraw the money or additional money so required from the consolidated fund.

- (3) If the expenditure is not subsequently authorized by an amendment to the medium term financial plan or the budget, the expenditure must be met from existing heads of expenditure, as determined by the Council of Ministers.

*Borrowing and lending by the States*

## **21 Borrowing by the States**

- (1) Except as provided by this or any other enactment, the States may not borrow money except in accordance with a decision of the States made on a proposition lodged by the Minister.
- (2) The decision may specify the assets of the States that may be used to secure the loan.
- (3) The States shall not authorize any borrowing if it would permit the total amount borrowed by the States at that time to exceed an amount equal to the estimated income of the States derived from taxation during the previous financial year.
- (4) In calculating the total amount borrowed by the States for the purpose of paragraph (3) there shall not be taken into account –
  - (a) any amount borrowed from a third party by a company owned or controlled by the States; and
  - (b) the liability of a company owned or controlled by the States under any guarantee or indemnity given by the company.
- (5) Regulations made by the States on a proposition lodged by the Minister may –
  - (a)
  - (b) prescribe certain transactions or classes or types of transactions by the States that would otherwise amount to borrowing by the States not to be borrowing for the purposes of this Law.<sup>72</sup>
- (6) Financial directions may be issued giving instructions and guidance on Regulations made for the purpose of paragraph (5)(b).

## **22 Minister and Treasurer may be authorized to borrow**

- (1) The States may on a proposition lodged by the Minister make Regulations that authorize the Minister or the Treasurer to borrow, or to authorize the borrowing of, money in the name of and on behalf of the States.
- (2) The Regulations may, in particular, specify –
  - (a) the circumstances in which the Minister or the Treasurer may exercise or authorize the power to borrow;
  - (b) the maximum amounts that may be borrowed by the Minister or the Treasurer or that the Minister or the Treasurer may authorize may be borrowed in any particular circumstance;

- (c) any terms, conditions and other limitations subject to which the power to borrow may be exercised; and
  - (d) the assets of the States that may be used to secure loans to which this Article applies.
- (3) Financial directions may be issued giving instructions and guidance on Regulations made for the purpose of paragraph (2).

### **23 Loans by the States**

- (1) Except as provided by this or any other enactment money of the States must not be lent except with the authorization of the States given on a proposition lodged by the Minister.
- (1A) An authorization of the States referred to in paragraph (1) may take the form of an authorization for any Minister to lend or authorize the lending of money on behalf of the States, from any special fund established for the purpose in such circumstances, in such amounts and otherwise subject to such terms, conditions and limitations as are specified in the authorization.<sup>73</sup>
- (2) The total amount lent under paragraph (1) must not at any one time exceed an amount equal to 60% of the estimated income of the States derived from taxation during the previous financial year.<sup>74</sup>
- (3) Regulations made by the States on a proposition lodged by the Minister may authorize the Minister or the Treasurer to lend or authorize the lending of money on behalf of the States.
- (4) The Regulations may, in particular, prescribe –
- (a) the circumstances in which the Minister or the Treasurer may exercise the power to lend or authorize the lending of money on behalf of the States;
  - (b) the maximum amounts that may be lent by the Minister or the Treasurer or that the Minister or Treasurer may authorize be lent in any particular circumstance;
  - (c) any terms, conditions and other limitations subject to which the power to lend or authorize the lending of money on behalf of the States may be exercised.
- (5) Regulations made by the States on a proposition lodged by the Minister may –
- (a)
  - (b) prescribe certain transactions by the States that would otherwise amount to lending by the States not to be lending for the purposes of this Law.<sup>75</sup>
- (6) Money of the States to be lent in accordance with this Article shall not form part of any expenditure approval but the money shall instead be withdrawn from cash balances.
- (7) In calculating, for the purpose of paragraph (2), the total amount lent by the States there shall not be taken into account –

- (a) any amount lent to a third party by a company owned or controlled by the States; or
  - (b) the value of any guarantee or indemnity given or provided in the name of the States.
- (8) Financial directions may be issued giving instructions and guidance on Regulations made for the purpose of this Article.

## **24 Guarantees and indemnities**

- (1) Except as provided by this or any other enactment a guarantee or indemnity must not be given or provided in the name of the States except with the authorization of the States given on a proposition lodged by the Minister.
- (2) Regulations made by the States on a proposition lodged by the Minister may authorize the Minister or the Treasurer –
  - (a) to give guarantees in the name of the States; and
  - (b) to provide indemnities in the name of the States.

### *Information gathering<sup>76</sup>*

## **24A Estimates to be provided for States funded bodies<sup>77</sup>**

- (1) When requested by the Minister –
  - (a) the Minister responsible to the States for the administration of a States funded body; or
  - (b) in the case of a non-Ministerial States funded body other than the States Assembly or Comptroller and Auditor General, a person determined by the Minister,must provide the Minister with such estimates and other information as the Minister requires for the purposes described in paragraph (2), whether for one or more financial years or for any other period.<sup>78</sup>
- (2) The purposes are –
  - (a) providing the Council of Ministers with the information it requires to prepare or monitor a medium term financial plan;
  - (b) the preparation or monitoring by the Minister of a budget.
- (3) The Minister must, when requesting estimates and other information in accordance with paragraph (1), specify –
  - (a) the procedures to be followed for providing those estimates and other information;
  - (b) the detail and form in which the estimates and other information are to be provided; and
  - (c) the date by which they must be provided.

**24B Estimates for the States Assembly<sup>79</sup>**

- (1) In this Article ‘chairman’ means the chairman of the Privileges and Procedures Committee established by standing orders in accordance with Article 48(2) of the States of Jersey Law 2005.
- (2) When requested by the Minister, the chairman must provide the Minister with such estimates and other information in respect of the States Assembly as the Minister requires for the purposes described in Article 24A(2), whether for one or more financial years or for any other period.
- (3) Article 24A(3) applies to a request by the Minister under this Article as it applies to a request under Article 24A.
- (4) The chairman must, before providing the estimates of the States Assembly for a financial year specified by the Minister –
  - (a) consult the Minister –
    - (i) where the information is requested for the purposes of the preparation by the Council of Ministers of a draft medium term financial plan, on the proposed policy of the Council of Ministers for the plan, or
    - (ii) where the information is requested for the purposes of the preparation of a draft budget by the Minister, on the Minister’s proposed policy for the budget.<sup>80</sup>
- (5) <sup>81</sup>

**24C Estimates for Comptroller and Auditor General<sup>82</sup>**

- (1) In this Article “chairman” means the chairman of the Public Accounts Committee established by standing orders in accordance with Article 48 of the States of Jersey Law 2005<sup>83</sup>.
- (2) When requested by the Minister, the chairman must provide the Minister with such estimates and other information in respect of the Comptroller and Auditor General as the Minister requires for the purposes described in Article 24A(2), whether for one or more financial years or for any other period.
- (3) Article 24A(3) applies to a request by the Minister under this Article as it applies to a request under Article 24A.
- (4) The chairman must, before providing the estimates of the Comptroller and Auditor General for a financial year specified by the Minister, consult the Minister –
  - (a) where the information is requested for the purposes of the preparation by the Council of Ministers of a draft medium term financial plan, on the proposed policy of the Council of Ministers for the plan; or
  - (b) where the information is requested for the purposes of the preparation of a draft budget by the Minister, on the Minister’s proposed policy for the budget.

**PART 4****STATES TRADING OPERATIONS****25 States may designate States trading operations**

- (1) The States may by Regulations made on a proposition lodged by the Minister designate any disparate or distinct area of operation of the States to be a States trading operation.
- (2) The Regulations must specify –
  - (a) the area of operation of the States that constitutes the States trading operation; and
  - (b) the trading operation to be undertaken.

**26 Financial control and administration of States trading operations**

- (1) The provisions of this Law apply to a States trading operation subject to this Article.
- (2) A States trading operation shall maintain –
  - (a) a profit and loss account; and
  - (b) a balance sheet including a trading fund, (that shall not for the purposes of this Law be considered part of the consolidated fund) that may be used for such purposes as the Minister may by Order prescribe.
- (3) The Minister may by Order prescribe financial controls to be observed by States trading operations.
- (4) Financial directions may be issued in respect of the financial control and administration of States trading operations.
- (5) States trading operations shall observe such financial directions and any other financial directions expressed to apply to States trading operations.

**27 Returns of States trading operations to be agreed**

- (1) When requested to do so by the Minister, the Minister with responsibility to the States for a States trading operation shall discuss with the Minister and determine the estimates mentioned in paragraph (2) in respect of the business activities of the trading operation whether for one or more financial years or for any other period.<sup>84</sup>
- (2) Those estimates are –
  - (a) the estimated income and expenditure of the trading operation;
  - (b) the estimated minimum contribution (if any) (which may be expressed by reference to a rate of return) that the trading operation will be required to make to the income of the States;
  - (c) the estimated amount of any surplus of income over expenditure of the trading operation that may be retained by it and placed in its

- trading fund or, where there is estimated to be a deficit, debited to its trading fund; and
- (d) the estimated deficit (if any) of the trading operation, and shall be taken to include details of any capital expenditure.
- (3) The estimates as so determined shall be included in a draft medium term financial plan or a draft budget, when it is lodged for approval by the States.<sup>85</sup>
- (4) If during that financial year the Minister with responsibility to the States for the States trading operation satisfies the Minister that the trading situation of the trading operation makes it impossible or difficult for the trading operation to contribute the minimum contribution agreed in accordance with paragraph (2)(b), the Minister may waive or delay payment of all or any part of the contribution.
- (5) The Minister shall at the first practicable opportunity advise the States of any action taken under paragraph (4), and the reason for taking the action, together with details of any revised estimates of the States trading operation.
- (6) Paragraph (1) shall not be taken to imply that the matters that may be discussed and agreed must be limited to the term of a medium term financial plan or a budget or to the estimates mentioned in paragraph (2).<sup>86</sup>

## PART 5

### ADMINISTRATION

#### *The Treasurer*

#### **28 Establishment of the office of Treasurer of the States**

- (1) There is established the office of Treasurer of the States.
- (2) The Treasurer is the chief officer of the Treasury and as such is responsible to the Minister for the supervision of the administration of this Law and of the public finances of Jersey.
- (3) It is the responsibility of the Treasurer to ensure the proper stewardship and administration of the public finances of Jersey and, in particular –
- (a) to set financial management standards and ensure that financial systems are provided –
- (i) for their administration, and
- (ii) for monitoring compliance with those standards;
- (b) to ensure that professional practices are adhered to in their administration;
- (c) to advise on the key strategic controls that are necessary to secure their sound financial management; and

- (d) to ensure that financial information is available to enable accurate and timely monitoring of their administration,
- and to advise on the preparation of a medium term financial plan and on the appropriation and budget process for each financial year.<sup>87</sup>

## **29 Appointment and removal of the Treasurer**

- (1) The office of Treasurer shall be held by a person appointed by the Minister after consulting the Chief Minister.
- (2) Before appointing a person to the office of Treasurer the Minister must take into account the views and recommendations, if any, of the Appointments Commission established under the Employment of States of Jersey Employees (Jersey) Law 2005<sup>88</sup> in relation to the appointment of the Treasurer.<sup>89</sup>
- (3) The appointment of a person to the office of Treasurer may not be revoked except by the States on a proposition lodged by the Minister that alleges that the person –
  - (a) has been guilty of any malpractice;
  - (b) is incapable of the proper performance of the functions of the office; or
  - (c) is otherwise unsuitable to continue in office.
- (4) The States shall debate the proposition in camera.
- (5) The Minister may appoint a person to carry out the functions of the office of Treasurer while –
  - (a) the office is vacant; or
  - (b) the holder of the office is unable to perform the functions of the office.

## **30 Independence of the Treasurer**

- (1) The Treasurer may not be directed on how a function of the office of Treasurer is to be carried out.
- (2) If the Treasurer is satisfied –
  - (a) that any person has in any way –
    - (i) dealt with money of the States, including money forming part of any trust assets or any other money controlled or managed on behalf of the States or by a Minister,
    - (ii) dealt with money lent or borrowed in the name of or on behalf of the States, or
    - (iii) given a guarantee or provided an indemnity in the name of or on behalf of the States,in each case, otherwise than in accordance with this or any other enactment or financial directions; and
  - (b) that –

- (i) any action taken in accordance with this or any other enactment or financial directions has been insufficient to correct the situation, or
- (ii) the person's actions described in sub-paragraph (a) had or, if the situation had not been corrected, would have had, material consequences,

the Treasurer may, after consulting the Comptroller and Auditor General, provide a written report on the matter to the Greffier of the States who shall lay the document before the States.<sup>90</sup>

### **31 Treasurer may authorize others to carry out functions**

- (1) Except as provided by paragraph (4), the Treasurer may authorize people employed in the Treasury to carry out functions of the office of Treasurer on behalf of and in the name of the Treasurer.
- (2) An authorization given under paragraph (1) –
  - (a) may be given subject to such terms, conditions and other limitations as the Treasurer considers appropriate;
  - (b) does not affect the Treasurer's ability to carry out any function; and
  - (c) may be revoked by the Treasurer at any time.
- (3) Where a function of the office of Treasurer is carried out in accordance with an authorization given under paragraph (1) –
  - (a) the person carrying out the function has the same powers as the Treasurer to carry out the function; and
  - (b) the effect is the same as if the function had been carried out by the Treasurer.
- (4) This Article does not apply to any power the Treasurer may have under this Law to lend money of the States or to borrow money on behalf of the States.

#### *Duties of the Treasurer*

### **32 Treasurer to prepare annual financial statements in respect of accounts of the States**

- (1) The Treasurer must –
  - (a) prepare an annual financial statement in respect of the accounts of the States for a financial year within 3 months of the end of the year; and
  - (b) send the statement to the Comptroller and Auditor General for auditing.
- (1A) The statement must include –
  - (a) the accounts of the Social Security Fund maintained under Article 30 of the Social Security (Jersey) Law 1974<sup>91</sup> and of the

Social Security (Reserve) Fund maintained under Article 31 of that Law;

- (b) the accounts of the Health Insurance Fund established under Article 21 of the Health Insurance (Jersey) Law 1967<sup>92</sup>; and
  - (c) the accounts of the Long-Term Care Fund established under Article 2 of the Long-Term Care (Jersey) Law 2012<sup>93, 94</sup>
- (2) The statement must be prepared in accordance with accounting standards issued by the Treasurer with the approval of the Minister.<sup>95</sup>
  - (3) Paragraph (4) applies where paragraph (1A) or the accounting standards mentioned in paragraph (2) require the accounts of any person or body (whether or not incorporated) to be consolidated with those of the States.<sup>96</sup>
  - (4) The person or body must provide the Treasurer with any information the Treasurer may require to prepare the annual financial statement.
  - (5) The information must be supplied in sufficient time to enable the Treasurer to prepare the statement before the end of the period of 3 months mentioned in paragraph (1) or any extension of that period by virtue of paragraph (6).
  - (6) The States may on a proposition lodged by the Minister extend the time within which an action specified in paragraph (1) must be taken.
  - (7) The Minister shall lay before the States any accounting standards issued for the purposes of paragraph (2).<sup>97</sup>

### **33 Treasurer to open bank accounts**

- (1) The Treasurer must open, operate and maintain a bank account or bank accounts with a bank or banks approved by the Minister through which the consolidated fund shall be operated, any such account being called in this Law a “consolidated fund bank account”.
- (2) Except as specifically provided by this Law or any other enactment, all money received by or on behalf of the States must be paid into a consolidated fund bank account.
- (3) Money standing to the credit of a consolidated fund bank account may, with the approval of the Minister, be used to incur expenditure that will subsequently be recharged.
- (4) In addition to consolidated fund bank accounts, the Treasurer may, with the approval of the Minister, open such other bank accounts as may be convenient or necessary for the proper administration of this or any other Law.

### **34 Financial directions**

- (1) The Treasurer may, with the approval of the Minister, issue financial directions.
- (2) Financial directions –

- (a) shall specify any matter required by this Law to be so specified by financial directions; and
- (b) may comprise such additional directions and information as appear to the Treasurer to be necessary or expedient for the proper administration of this Law and of the public finances of Jersey.

*Chief internal auditor*

**35 Chief internal auditor**

- (1) There shall be a chief internal auditor who shall be a person employed in the Treasury.
- (2) The Treasurer may appoint a person to carry out the functions of the chief internal auditor while –
  - (a) there is no chief internal auditor; or
  - (b) the chief internal auditor is unable to perform his or her functions.

**36 Duties of chief internal auditor**

- (1) The chief internal auditor must carry out an internal audit of the transactions and internal controls and systems of each States funded body to ensure that the finances of the States are regulated, controlled and supervised in accordance with this Law.
- (2) The times and frequency of those audits shall be determined by the chief internal auditor with the agreement of the Treasurer.
- (3) However the chief internal auditor may carry out such an audit of the Treasury at any time.
- (4) The role, scope and duties of the chief internal auditor may otherwise be specified by financial directions.
- (5) The Treasurer shall provide the chief internal auditor with sufficient resources to carry out his or her functions.
- (6) The chief internal auditor shall as soon as practicable after completing an audit of a States funded body provide the Comptroller and Auditor General with a copy of the report on the audit.
- (7) In this Article “chief internal auditor” includes a person appointed under Article 35(2).

*Accountable officers*<sup>98</sup>

**37 Principal Accountable Officer**<sup>99</sup>

- (1) The Chief Executive Officer shall be the Principal Accountable Officer with functions, as provided in this Part, in relation to –
  - (a) States funded bodies excluding non-Ministerial States funded bodies;

- 
- (b) independently audited States bodies;
  - (c) States aided independent bodies; and
  - (d) any fund established by Part 2, any special fund, any States income, any money derived from taxation or any money forming part of trust assets.
- (2) In this Law –
- (a) “States body” means any body included in paragraph (1)(a) to (c) for which an accountable officer has been appointed by the PAO under Article 38(1)(c) or deemed to have been so appointed under Article 38B(1);
  - (b) “States fund” means any fund, income or money referred to in paragraph (1)(d).
- (3) Where –
- (a) the Chief Executive Officer is unable to discharge the functions of the PAO for any reason, including, without prejudice to the generality of the foregoing, illness, injury or absence; or
  - (b) there is no person holding the post of Chief Executive Officer,
- the Minister may, having first consulted the Chief Minister, appoint another person to discharge the functions of PAO until, as the case requires, the Chief Executive Officer is able to discharge such functions or that post is filled.

### **38 Functions of PAO<sup>100</sup>**

- (1) The PAO has the following functions and is answerable to the States and is accountable to the Council of Ministers for the exercise of those functions –
- (a) ensuring the propriety and regularity of the finances of States bodies and States funds;
  - (b) ensuring that the resources of States bodies and States funds are used economically, efficiently and effectively;
  - (c) subject to paragraphs (2), (3), (4) and (5), appointing accountable officers for such of any of the following as the PAO may specify –
    - (i) bodies included in Article 37(1)(a) to (c) (other than non-Ministerial States funded bodies), or
    - (ii) States funds;
  - (d) determining the functions of accountable officers;
  - (e) ensuring the performance of the functions of accountable officers;
  - (f) exercising the functions of an accountable officer of a States body or States fund in respect of which the accountable officer is unable, for any reason, to act; and
  - (g) making publicly available a list of the names or descriptions of States bodies and States funds and their accountable officers.
- (2) Paragraph (1)(c) does not apply in relation to a body included in Article 37(1)(a) to (c) or to a States fund if the effect of an enactment,

whether expressly or by implication and whether or not in force at the time of commencement of Part 2 of the Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018<sup>101</sup>, provides for a person other than a person appointed under this Part to carry out functions similar or equivalent to those of an accountable officer.

- (3) An appointment of an accountable officer under paragraph (1)(c) for a body included in Article 37(1)(a) shall be with the concurrence of either –
  - (a) the Minister responsible for that body; or
  - (b) the Council of Ministers.
- (4) In determining the functions of an accountable officer for a body included in Article 37(1)(a), under paragraph (1)(d), the PAO must consult with either –
  - (a) the Minister responsible for that body; or
  - (b) the Council of Ministers.
- (5) The PAO must not appoint an accountable officer for a body which is an independently audited States body or a States aided independent body unless that body is specified in paragraph (10).
- (6) Any functions of an accountable officer determined by the PAO under paragraph (1)(d) are without prejudice to any specific functions specified in any enactment or act of the States that apply to that accountable officer.
- (7) The functions that may be determined by the PAO under paragraph (1)(d), without prejudice to the generality of that provision, include, in particular –
  - (a) ensuring the propriety and regularity of the finances of the States body or States fund for which the accountable officer is responsible; and
  - (b) ensuring that the resources of that States body or States fund are used economically, efficiently and effectively.
- (8) The PAO may determine different functions under paragraph (1)(d) for different accountable officers.
- (9) Financial directions may specify the application of the PAO's functions and how they are to be carried out and, accordingly, those functions must be applied and carried out in accordance with those directions.
- (10) For the purpose of paragraph (5), the specified bodies are –
  - (a) Andium Homes Limited, registered on 13th May 2014 under registration number 115713;
  - (b) Jersey Post International Limited, registered on 22nd September 2005 under registration number 91247;
  - (c) JT Group Limited, registered on 22nd October 2002, under registration number 84230 (including its subsidiary companies);
  - (d) Jersey Overseas Aid Commission, established under the Jersey Overseas Aid Commission (Jersey) Law 2005;

- (e) Ports of Jersey Ltd, established under the Air and Sea Ports (Incorporation) (Jersey) Law 2015;
  - (f) States of Jersey Development Company Limited, registered on 21st February 1996 under registration number 64345 (including its subsidiary companies).
- (11) The Minister may, by Order, amend paragraph (10).

### **38A Accountable officers**<sup>102</sup>

- (1) In this Law, except where specified otherwise, ‘accountable officer’ means any person who is appointed under Article 38(1)(c) or deemed to be so appointed under Article 38B.
- (2) An accountable officer has the following functions –
  - (a) exercising the functions that apply to that accountable officer (if any) determined by the PAO under Article 38(1)(d); and
  - (b) exercising functions that apply to that accountable officer (if any) specified in any relevant enactment or act of the States.
- (3) Except to the extent that an enactment specifies otherwise, an accountable officer is answerable to –
  - (a) the States; and
  - (b) in the case of a body included in Article 37(1)(a), the Minister responsible for that body,for the exercise of the functions that apply to that accountable officer under paragraph (2).
- (4) Financial directions may specify how the functions of an accountable officer must be carried out and, accordingly, an accountable officer must carry out those functions in accordance with those directions.
- (5) In making an appointment under Article 38(1)(c) the PAO shall have regard to any relevant act of the States.
- (6) A person appointed under Article 38(1)(c) must be a States’ employee within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>103</sup>, or otherwise an employee of the States body or States fund for which he or she is appointed.
- (7) An appointment under Article 38(1) must be by written notice and has effect when the appointed person receives a copy of the notice.
- (8) A copy of the notice must also be sent to the Comptroller and Auditor General and to the Minister, if any, with responsibility to the States for the States body or States fund, as the case may be.

### **38B Transitional and savings provisions**<sup>104</sup>

- (1) A person who is –
  - (a) by virtue of being a senior States’ employee in a Ministerial department, an accounting officer under Article 37(1) or (2) or Article 38A of this Law immediately before the commencement of

Part 2 of the Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018; or

- (b) an accounting officer for the purposes of this Law under an express provision to that effect in any enactment, immediately before the commencement of Part 2 of the Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018,

shall be deemed to be appointed by the PAO as an accountable officer under Article 38 in compliance with the provisions for appointment under Article 38A.

- (2) In relation to a non-Ministerial States funded body, Articles 37, 38 and 39 of this Law shall continue to apply to the extent they applied to such a body immediately before the commencement of Part 2 of the Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018.
- (3) In relation to any other States funded body which does not have an accounting officer as described in paragraph (1), Articles 37, 38 and 39 of this Law shall continue to apply to the extent they applied to such a body immediately before the commencement of Part 2 of the Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018 until such time (if at all) as an accountable officer is appointed under Part 5.

*Duties of States employees and employees of States funded bodies*<sup>105</sup>

### **39 Records to be provided**

A States employee or an employee of a States funded body must produce a record in the employee's possession or under the employee's control when required to do so by –

- (a) the Minister;
- (b) the Minister with responsibility to the States for the States funded body;
- (c) the Treasurer;
- (d) the chief internal auditor as mentioned in Article 36;
- (e) the PAO or an accountable officer,

acting in accordance with his or her functions under this Law.<sup>106</sup>

## **PART 6**<sup>107</sup>

### **PART 6A**<sup>108</sup>

#### **FISCAL POLICY PANEL**

### **56A Establishment of Fiscal Policy Panel**

- (1) There shall be a Fiscal Policy Panel.

- (2) There shall be at least 3 members of the Panel.
- (3) The Minister shall appoint the members of the Panel.
- (4) The persons appointed by the Minister as members of the Panel must have the appropriate qualifications and experience to discharge the functions described in Articles 56C, 56D and 56E.
- (5) Before appointing a member of the Panel, the Minister must seek the views of the Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>109</sup> on the appointment.
- (6) The Minister must, at least 2 weeks before appointing a member of the Panel, present to the States a notice of his or her intention to make the appointment.
- (7) The Minister shall appoint a member of the Panel for a period not exceeding 5 years.
- (8) The Minister may appoint a person as a member of the Panel more than once.
- (9) A member of the Panel may resign by notice in writing given to the Minister.
- (10) The appointment of a member of the Panel may be terminated by the Minister on any of the following grounds –
  - (a) that the person is incapable, by reason of illness, of discharging his or her duties as a member;
  - (b) that the person has been made bankrupt;
  - (c) that the person has not, through absence, discharged his or her duties as a member; or
  - (d) that the person is otherwise unable or unfit to discharge his or her duties as a member.
- (11) The Minister must, not more than 2 weeks after terminating the appointment of a member of the Panel, present to the States a notice that the Minister has terminated the appointment.
- (12) The Minister must ensure that the Panel is provided with appropriate and sufficient resources to discharge its functions.
- (13) The Minister must provide the Panel with such information as it reasonably requires to discharge its functions.

### **56B Independence of Panel**

The Panel may not be directed on the advice given by it, and the comments and recommendations made by it, in any report prepared by it in the discharge of its functions under Articles 56C, 56D and 56E.

### **56C Annual report**

- (1) The Panel must prepare an annual report upon the state of the economy in Jersey and States finances.

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- (2) The matters commented upon in the report must include –
    - (a) the strength of the economy in Jersey;
    - (b) the outlook for the economy in Jersey and, generally, world economies and financial markets;
    - (c) the economic cycle in Jersey;
    - (d) the medium and long-term sustainability of the States finances, having regard to the foregoing matters; and
    - (e) transfers to or from, the strategic reserve fund and stabilisation fund, having regard to the foregoing matters.
  - (3) The Panel must publish its annual report –
    - (a) in a year in which a draft medium term financial plan must be lodged – no later than 2 weeks before the date by which an amendment to the draft medium term financial plan must be lodged in order to be debated during the same meeting of the States as that draft plan; or
    - (b) in any other year – no later than 2 weeks before the date by which an amendment to the draft budget must be lodged in order to be debated during the same meeting of the States as that draft budget.
  - (4) The Council of Ministers and the Minister must have regard to the Panel's annual report.

**56D Report before preparation of draft medium term financial plan or amendment to plan**

- (1) The Panel must prepare a report, in a year in which a draft medium term financial plan must be lodged, for the purposes of the preparation of that draft plan.
- (2) The report required by paragraph (1) must provide advice and recommendations on the prevailing economic conditions and on the medium and long-term sustainability of the States finances.
- (3) The Panel must publish the report required by paragraph (1) sufficiently early in the year in which the draft medium term financial plan must be lodged that regard may be had to it in the preparation of that draft plan.
- (4) The Minister must request that the Panel prepare a report, and the Panel must comply with the request, if the Council of Ministers is preparing a proposition to amend a medium term financial plan.
- (5) The Panel must publish a report required under paragraph (4) sufficiently early that regard may be had to it in the preparation of the proposition to amend a medium term financial plan.
- (6) The Council of Ministers, when preparing a draft medium term financial plan or a proposition to amend a medium term financial plan, must have regard to the relevant report prepared and published under this Article.

**56E Other reports prepared on request**

- (1) The Minister may, for the purposes of the preparation of a draft budget, request that the Panel prepare a report and the Panel must comply with the request.
- (2) The Panel must publish a report required under paragraph (1) sufficiently early in the year in which the draft budget must be lodged that regard may be had to it in the preparation of that draft budget.
- (3) The Minister may request that the Panel prepare a report –
  - (a) in respect of proposals for any significant change in, or new, States expenditure or for a disposal of significant States assets; or
  - (b) at any time that the Minister is of the opinion that, by reason of a significant change in economic conditions, the advice and recommendations previously given by the Panel in compliance with Article 56C requires reconsideration,and the Panel must comply with the request.
- (4) The Panel must publish a report required under paragraph (3) as soon as is practicable.
- (5) The Minister, when preparing a draft budget, and the Council of Ministers, when being consulted on a draft budget, must have regard to a report prepared and published following a request under paragraph (1).
- (6) The Council of Ministers and Minister must have regard to a report prepared and published following a request under paragraph (3).

**PART 7****OFFENCES***Range of offences***57 Failure to provide a record or information**

- (1) A person shall be guilty of an offence if when required to do so by a person acting in accordance with this Law the person refuses or fails –
  - (a) to produce a record that is in the person's possession or under the person's control; or
  - (b) to provide any information (including an estimate) that the person is able to provide.
- (2) A person guilty of an offence under paragraph (1) shall be liable to a fine of level 3 on the standard scale.
- (3) It shall be a defence for a person charged with an offence under paragraph (1) for the person to show that there was a reasonable excuse for the failure or refusal.

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**59 Provision of false record or information**

- (1) A person shall be guilty of an offence if when required to produce a record under this Law or knowing that a record may be required to be produced under this Law the person with intent to deceive –
  - (a) destroys the record or in any other way renders it unintelligible or useless, or difficult or impossible to retrieve; or
  - (b) alters it in any way to make the information it contains false or misleading in any material way.
- (2) A person shall be guilty of an offence if when required to provide information under this Law the person knowingly provides information that is false, misleading or incomplete in any material way.
- (3) A person guilty of an offence under paragraph (1) or paragraph (2) shall be liable to imprisonment for a term of 5 years and to a fine.

**60 Failure to pay money into a bank account**

- (1) A person shall be guilty of an offence if the person refuses or fails to pay money into a bank account when required to do so in accordance with this Law.
- (2) A person guilty of an offence under paragraph (1) shall be liable to a fine of level 2 on the standard scale.
- (3) It shall be a defence for a person charged with an offence under paragraph (1) for the person to prove that there was a reasonable excuse for the failure or refusal.

**61 Unlawful acquisition or use of money of the States**

- (1) A person shall be guilty of an offence if the person secures for himself or herself, or for any other person –
  - (a) the improper payment of money by the States; or
  - (b) the improper use of any money or other resources of the States.
- (2) A person guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 10 years and to a fine.
- (3) In paragraph (1) “money” includes money forming part of any trust assets.

**62 Offence to hinder or obstruct**

- (1) A person shall be guilty of an offence if he or she hinders or obstructs a person in the exercise by that person of a function under this Law.
- (2) A person guilty of an offence under paragraph (1) is liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.<sup>111</sup>

*Concomitant provisions***63 Privilege, protection and self incrimination**

- (1) Nothing in this Law requires a person to produce a record or to provide information that the person would in an action in the Royal Court be entitled to refuse to produce or provide on the grounds of legal professional privilege.
- (2) However a lawyer must disclose the name and address of a client if required to do so by a person acting in accordance with this Law.
- (3) Where a person provides in compliance with a request made in accordance with this Law a record or other information in respect of another person the provision of that record or information shall not be regarded as a breach of any duty owed by the first person to the second person or to any other person.
- (4) An answer given by a person to a question put to the person in exercise of a power conferred by this Law may be used in evidence against the person.
- (5) However in criminal proceedings in which the person is charged with an offence, other than an offence under Article 59 (which relates to the provision of information that is false, misleading or incomplete) –
  - (a) no evidence relating to the answer may be adduced; and
  - (b) no question relating to it may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

**64 Royal Court may order compliance**

- (1) This Article applies where a person has refused or failed to comply with a requirement –
  - (a) to produce a record that is in the person's possession or under the person's control; or
  - (b) to provide any information that the person is able to provide,made by a person acting in accordance with this Law.
- (2) The Royal Court may, on the application of the person requiring the production of the record or the provision of the information, order the person required to comply with the requirement to take such action as the Court considers necessary to comply with the requirement.
- (3) The Court need only be satisfied of the facts on which it bases an order under paragraph (2) on the balance of probabilities.

**65 Responsibility**

- (1) If an offence under this Law that has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person who was purporting to act in any such capacity,that person, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if the person were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

**66 Authority for prosecutions**

A prosecution for an offence under this Law shall not be instituted except by or with the consent of the Attorney General.

**PART 8****MISCELLANEOUS PROVISIONS****67 Money forming part of trust assets**

- (1) This Article applies to money that forms part of trust assets.
- (2) In paragraph (1) “trust assets” means –
  - (a) property in a legacy or bequest in favour of the States or held in trust for the States; or
  - (b) property held by the States on behalf of a person or unclaimed property that is due to or belongs to a person other than the States that has been deposited with the States.
- (3) Money to which this Article applies shall not be paid into and does not form part of the consolidated fund but shall be held, managed, handled and accounted for in accordance with Regulations made by the States.
- (4) The Regulations may apply any provisions of this Law to, or in respect of, money to which this Article applies but shall not derogate from any trust under which the money is held.

**68 Minister's responsibility in respect of certain companies**

- (1) If the States own, in the name of the States, shares in a company, wherever incorporated, the Minister, on behalf of the States, may exercise the rights and is responsible for any liabilities attached to the shares.
- (2) Where the company is an independently audited States body the Minister shall for the purpose of this Law be taken to be the Minister responsible to the States for the financial interests of the States in the company.

**69 Limitation of civil liability**

- (1) This Article applies to –
  - (a) a person discharging or purporting to be discharging a function under this Law; and
  - (b) a person who is, or is acting as, an officer, employee or agent of a person mentioned in sub-paragraph (a) or who is performing a duty or exercising a power on behalf of such a person.
- (2) A person to whom this Article applies shall not be liable in damages for an act done in the discharge or purported discharge of a function under this Law unless it is shown that the act was done in bad faith.

**69A Power to amend Law by Regulations<sup>112</sup>**

- (1) Subject to paragraph (2), the States may by Regulations amend Parts 2, 3, 4 and 5 (apart from Articles 15, 21(5), 22, 23(3) and (5) and 24(2)).<sup>113</sup>
- (2) Only the Minister may lodge Regulations under paragraph (1).
- (3) Regulations under paragraph (1) may amend other provisions of this Law consequentially upon the amendment of Part 2, 3, 4 or 5.<sup>114</sup>
- (4) Regulations under paragraph (1) may also contain savings and transitional provisions.

**70 Transitional and saving provisions**

The States may make Regulations containing such transitional, saving, consequential, incidental or supplementary provisions as may be necessary or expedient to bring this Law into effect.

**71 Amendment of other enactments**

- (1) The States may make Regulations amending enactments consequent on the repeal of the Public Finances (Administration) (Jersey) Law 1967<sup>115</sup> and its replacement by this Law.
- (2) Regulations made under paragraph (1) may include such transitional, ancillary, consequential and supplementary provision as the States think fit.

**72 Citation**

This Law may be cited as the Public Finances (Jersey) Law 2005.

**SCHEDULE 1<sup>116</sup>**

(Article 1(1))

**PART 1**

Bailiff's Department  
Office of the Lieutenant Governor  
Office of the Dean of Jersey  
Comptroller and Auditor General  
Official Analyst  
States Assembly

**PART 2<sup>117</sup>**

Viscount's Department  
Judicial Greffe  
Law Officers Department  
Probation Department  
Data Protection Authority.

**SCHEDULE 2<sup>118</sup>**

(Article 5A)

**INSURANCE FUND****1 Purpose of insurance fund**

- (1) The purpose of the insurance fund is to facilitate the provision of mutual insurance arrangements (the ‘mutual insurance arrangements’) for –
  - (a) States funded bodies;
  - (b) any fund or money for which an accountable officer is appointed; and
  - (c) any other bodies and persons participating in those arrangements pursuant to paragraph 2.<sup>119</sup>
- (2) Financial directions –
  - (a) may prohibit a States funded body or accountable officer appointed for a fund or money from arranging any insurance otherwise than through the mutual insurance arrangements; and
  - (b) shall specify the descriptions of liabilities and persons insured by, the terms of, and the administrative processes connected with, the mutual insurance arrangements.<sup>120</sup>

**2 Participation by other persons and bodies**

The Minister may permit persons or bodies that appear to the Minister to be connected with the States to participate in the mutual insurance arrangements on such terms and conditions as the Minister specifies.

**3 Income of insurance fund**

- (1) There shall be transferred from the consolidated fund to the insurance fund, upon the establishment of the insurance fund, the sum of £7.5 million.
- (2) There shall be transferred from the consolidated fund to the insurance fund such amount as the States may decide –
  - (a) in a budget, in accordance with Article 10(3)(f); or
  - (b) at any time, on a proposition lodged by the Minister.
- (3) There shall be paid into the insurance fund such amounts, due from bodies or persons in respect of their participation in the mutual insurance arrangements, as are required by financial directions to be paid in.
- (4) There shall be paid into the insurance fund such amounts, received by or on behalf of the States or bodies or persons participating in the mutual

insurance arrangements from insurers or otherwise in settlement of an insurable claim, as are required by financial directions to be paid in.

- (5) Amounts paid into the insurance fund do not form part of the annual income of the States.
- (6) Article 17(2) provides for the approval of transfers from contingency expenditure to the insurance fund.

#### **4 Withdrawals from insurance fund**

- (1) Money shall only be withdrawn from the insurance fund –
  - (a) in accordance with financial directions, for the purposes of the mutual insurance arrangements;
  - (b) in accordance with an approval under sub-paragraph (3); or
  - (c) as approved by the States in a budget, in accordance with Article 10(3)(f).
- (2) Financial directions may permit payments to be made from the insurance fund, in accordance with the terms of the directions, in settlement of insurable claims without any admission of liability.
- (3) If it appears to the Minister that the amount in the insurance fund exceeds the amount required for the mutual insurance arrangements, the Minister may, at any time, approve the transfer of all or part of the excess to the consolidated fund and may further approve that all or part of the amount transferred shall be taken to have been appropriated to contingency expenditure.
- (4) The Minister must report to the States, within 6 months, any approval given under sub-paragraph (3).

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Public Finances (Jersey) Law 2005	L.14/2005	14 September 2005, Articles 1, 40 to 45, 69 and 71 to 74 (R&O.97/2005) 9 December 2005, remainder of Law (R&O.127/2005)
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	R&O.155/2005	9 December 2005
Public Finances (Amendment) (Jersey) Law 2006	L.3/2006	10 March 2006
Proceeds of Crime (Cash Seizure) (Jersey) Law 2008	L.11/2008	29 February 2008
Public Finances (Amendment No. 2) (Jersey) Law 2008	L.33/2008	1 August 2008
Public Finances (Amendment No. 3) (Jersey) Law 2011	L.30/2011	1 January 2012
Public Finances (Amendment No. 4) (Jersey) Law 2013	L.20/2013	22 November 2013
Public Finances (Amendment of Law No. 1) (Jersey) Regulations 2014	R&O.5/2014	29 January 2014
Comptroller and Auditor General (Jersey) Law 2014	L.25/2014	17 November 2014
Public Finances (Amendment of Law No. 2) (Jersey) Regulations 2015	R&O.70/2015	17 June 2015
Public Finances (Amendment of Law No. 3) (Jersey) Regulations 2015	R&O.144/2015	1 January 2016
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)
Data Protection Authority (Jersey) Law 2018	L.4/2018	25 May 2018
Public Finances (Amendment No. 5) (Jersey) Law 2018	L.11/2018	30 March 2018
Machinery of Government (Miscellaneous Amendments) (Jersey) Law 2018	L.18/2018	8 June 2018 (except Part 4)

### Table of Renumbered Provisions

Original	Current
70	Spent, omitted
71	70
72	71
73	Spent, omitted
74	72

### Table of Endnote References

- 
- <sup>1</sup> chapter 16.325
- <sup>2</sup> chapter 24.140
- <sup>3</sup> chapter 16.800
- <sup>4</sup> chapter 16.800
- <sup>5</sup> Article 1(1) amended by L.3/2006, L.11/2008, L.33/2008, L.30/2011, L.20/2013, L.25/2014, R&O.144/2015, L.18/2018
- <sup>6</sup> Article 1(3) amended by L.20/2013
- <sup>7</sup> Article 3(2) amended by L.20/2013
- <sup>8</sup> Article 3(3) substituted by L.33/2008, amended by L.20/2013
- <sup>9</sup> Article 3(4) substituted by L.33/2008
- <sup>10</sup> Article 3(5) inserted by L.33/2008
- <sup>11</sup> Article 4(4) inserted by L.11/2018
- <sup>12</sup> Article 4(5) inserted by L.11/2018
- <sup>13</sup> Article 4(6) inserted by L.11/2018
- <sup>14</sup> Article 4(7) inserted by L.11/2018
- <sup>15</sup> Article 4(8) inserted by L.11/2018
- <sup>16</sup> Article 4(9) inserted by L.11/2018
- <sup>17</sup> Article 4A inserted by L.33/2008
- <sup>18</sup> Article 5A inserted by L.20/2013
- <sup>19</sup> Article 6(1) amended by L.20/2013
- <sup>20</sup> Part 3 subheading substituted by L.30/2011
- <sup>21</sup> Cross-heading substituted by L.30/2011
- <sup>22</sup> Article 7 substituted by L.30/2011
- <sup>23</sup> Article 7(5) repealed by L.20/2013
- <sup>24</sup> Article 8 substituted by L.30/2011
- <sup>25</sup> Article 8(2) amended by R&O.70/2015
- <sup>26</sup> Article 8(3A) inserted by L.25/2014
- <sup>27</sup> Article 8(4) substituted by L.25/2014
- <sup>28</sup> Article 8(5) amended by L.25/2014, R&O.70/2015
- <sup>29</sup> Article 8(7) amended by L.25/2014
- <sup>30</sup> Article 8(8) repealed by L.20/2013
- <sup>31</sup> Article 8A inserted by R&O.70/2015
- <sup>32</sup> Article 9 substituted by L.30/2011
- <sup>33</sup> chapter 23.100
- <sup>34</sup> Article 9(2) amended by L.20/2013
- <sup>35</sup> Article 10 substituted by L.30/2011
- <sup>36</sup> Article 10(3A) inserted by L.20/2013
- <sup>37</sup> Article 10(4) amended by L.25/2014
- <sup>38</sup> Article 10(5) amended by L.25/2014
- <sup>39</sup> Article 10(6) amended by L.20/2013

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- <sup>40</sup> Article 10(7) amended by L.25/2014
- <sup>41</sup> Article 10(9) amended by L.25/2014
- <sup>42</sup> Article 10(10) repealed by L.20/2013
- <sup>43</sup> Article 11 substituted by L.30/2011
- <sup>44</sup> Article 12 substituted by L.30/2011
- <sup>45</sup> Article 13 substituted by L.30/2011
- <sup>46</sup> Cross-heading substituted by L.30/2011
- <sup>47</sup> Article 14 substituted by L.30/2011
- <sup>48</sup> Article 15 substituted by L.30/2011
- <sup>49</sup> Cross-heading substituted by L.30/2011
- <sup>50</sup> Article 16 substituted by L.30/2011
- <sup>51</sup> Article 16(3) amended by L.20/2013
- <sup>52</sup> Article 16(3A) inserted by L.20/2013
- <sup>53</sup> Article 16(5) amended by L.20/2013
- <sup>54</sup> Article 17 substituted by L.30/2011
- <sup>55</sup> Article 17(1) amended by L.20/2013
- <sup>56</sup> Article 17(2) amended by L.20/2013
- <sup>57</sup> Article 18 substituted by L.30/2011
- <sup>58</sup> chapter 16.800
- <sup>59</sup> Article 18(1) amended by L.20/2013
- <sup>60</sup> Article 18(1A) inserted by L.20/2013
- <sup>61</sup> Article 18(1B) inserted by L.18/2018
- <sup>62</sup> Article 18(1C) inserted by L.18/2018
- <sup>63</sup> Article 18(2) amended by L.20/2013, L.25/2014, L.18/2018
- <sup>64</sup> Article 18(2A) repealed by L.18/2018 (inserted by R&O.144/2015)
- <sup>65</sup> Article 18(3) amended by L.20/2013
- <sup>66</sup> Article 18(3A) inserted by L.20/2013
- <sup>67</sup> Article 18(4) amended by L.20/2013
- <sup>68</sup> Article 18(6) amended by L.20/2013
- <sup>69</sup> Article 19 substituted by L.30/2011
- <sup>70</sup> Article 19(1A) inserted by R&O.144/2015
- <sup>71</sup> Article 20 substituted by L.30/2011
- <sup>72</sup> Article 21(5) amended by L.20/2013
- <sup>73</sup> Article 23(1A) inserted by L.20/2013
- <sup>74</sup> Article 23(2) amended by R&O.5/2014
- <sup>75</sup> Article 23(5) amended by L.20/2013
- <sup>76</sup> Cross-heading inserted by L.30/2011
- <sup>77</sup> Article 24A inserted by L.30/2011
- <sup>78</sup> Article 24A(1) amended by L.25/2014
- <sup>79</sup> Article 24B inserted by L.30/2011
- <sup>80</sup> Article 24B(4) amended by L.25/2014
- <sup>81</sup> Article 24B(5) deleted by L.25/2014
- <sup>82</sup> Article 24C inserted by L.25/2014
- <sup>83</sup> chapter 16.800
- <sup>84</sup> Article 27(1) amended by L.30/2011
- <sup>85</sup> Article 27(3) substituted by L.30/2011
- <sup>86</sup> Article 27(6) amended by L.30/2011
- <sup>87</sup> Article 28(3) amended by L.30/2011, L.20/2013
- <sup>88</sup> chapter 16.325
- <sup>89</sup> Article 29(2) substituted by R&O.155/2005
- <sup>90</sup> Article 30(2) substituted by L.20/2013
- <sup>91</sup> chapter 26.900
- <sup>92</sup> chapter 26.500
- <sup>93</sup> chapter 26.600
- <sup>94</sup> Article 32(1A) inserted by L.25/2014
- <sup>95</sup> Article 32(2) substituted by L.20/2013

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- <sup>96</sup> Article 32(3) amended by L.20/2013, L.25/2014
- <sup>97</sup> Article 32(7) added by L.20/2013
- <sup>98</sup> Cross heading before Article 37 substituted by L.18/2018
- <sup>99</sup> Article 37 substituted by L.18/2018
- <sup>100</sup> Article 38 substituted by L.18/2018
- <sup>101</sup> L.18/2018
- <sup>102</sup> Article 38A substituted by L.18/2018
- <sup>103</sup> chapter 16.325
- <sup>104</sup> Article 38B inserted by L.18/2018
- <sup>105</sup> Cross-heading amended by L.20/2013
- <sup>106</sup> Article 39 amended by L.20/2013, L.18/2018
- <sup>107</sup> Part 6 repealed by L.25/2014
- <sup>108</sup> Part 6A inserted by L.20/2013
- <sup>109</sup> chapter 16.325
- <sup>110</sup> Article 58 repealed by L.25/2014
- <sup>111</sup> Article 62(2) amended by L.1/2016
- <sup>112</sup> Article 69A inserted by L.20/2013
- <sup>113</sup> Article 69A(1) amended by L.11/2018, L.18/2018
- <sup>114</sup> Article 69A(3) amended by L.11/2018, L.18/2018
- <sup>115</sup> chapter 24.900 (revised edition 31 August 2004)
- <sup>116</sup> Schedule 1 substituted by R&O.144/2015
- <sup>117</sup> Schedule 1, Part B amended by L.4/2018
- <sup>118</sup> Schedule 2 added by L.20/2013
- <sup>119</sup> Schedule 2, paragraph 1 amended by L.18/2018
- <sup>120</sup> Schedule 2, paragraph 2 amended by L.18/2018