

STATES OF JERSEY



DRAFT FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 5) (JERSEY) LAW 201-

**Lodged au Greffe on 19th November 2018
by the Chief Minister**

STATES GREFFE



Jersey

**DRAFT FINANCIAL REGULATION
(MISCELLANEOUS PROVISIONS No. 5) (JERSEY)
LAW 201-**

European Convention on Human Rights

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

In the view of the Chief Minister, the provisions of the Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator J.A.N. Le Fondré**

Chief Minister

Dated: 13th November 2018

REPORT

The Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201- (the “Miscellaneous Provisions Law”) will, as the name suggests, make a miscellany of amendments to the Laws that the Jersey Financial Services Commission (“**JFSC**”) uses to regulate financial service businesses.

Principal person provisions: liquidators and administrators

Provisions in the regulatory Laws require a person who wishes to become a “principal person” (e.g. a director or significant shareholder) of a regulated business, to obtain a “no objection” confirmation from the JFSC. This enables the JFSC to assess whether or not the person is “fit and proper” for the proposed principal person role. An example of the relevant statutory provision can be found in Article 13(1) of the [Financial Services \(Jersey\) Law 1998](#) (the “**FSJL**”).

In addition, the regulatory Laws provide the JFSC with certain powers over principal persons. These include powers to: issue them with directions (for example, see Article 23(2)(b) of the FSJL); compel them to provide information to the JFSC (for example, see Article 32 of the FSJL); require them to co-operate with a JFSC investigation (for example, see Article 33(3) of the FSJL).

The key purpose of the principal person provisions is to protect customers and clients of regulated businesses by ensuring that persons holding senior positions are fit and proper.

Liquidators of regulated businesses and administrators of bankrupt regulated businesses perform an important function and, accordingly, should be subject to the principal person provisions in the regulatory Laws. However, presently there are 2 lacunae in the regulatory Laws, which mean that is not always the case –

- In the [Alternative Investment Funds \(Jersey\) Regulations 2012](#) (the “**AIF Regulations**”), the [Collective Investment Funds \(Jersey\) Law 1988](#) (the “**CIFJL**”), the FSJL, and the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#) (the “**SBJL**”), a liquidator of a regulated business appointed in circumstances other than a bankruptcy (for example, under a “just and equitable” winding-up under Article 155 of the [Companies \(Jersey\) Law 1991](#)) does not presently come within the principal person provisions; and
- in the [Banking Business \(Jersey\) Law 1991](#) (the “**BBJL**”) and the [Insurance Business \(Jersey\) Law 1996](#) (the “**IBJL**”) neither a liquidator (whether appointed under a bankruptcy or otherwise) nor an administrator of a bankrupt regulated business presently come within the principal person provisions.

The Miscellaneous Provisions Law will remove these 2 lacunae.

Banks and insurers: failure to pay JFSC fees

Unlike the other regulatory Laws, the BBJL and the IBJL do not include a provision that would allow the JFSC to revoke the registration of a bank or the permit of an insurance company, respectively, where a fee due to the JFSC has not been paid.

Whilst revoking a registration or permit would be a last resort in the event of an unpaid fee, it is important that the BBJL and the IBJL should provide for such a possibility, not least to ensure consistency across the regulatory Laws. The Miscellaneous Provisions Law will make the necessary amendments.

Published fees – additional consequential amendments

The [Financial Services Commission \(Amendment No. 4\) \(Jersey\) Law 2007](#) amended the [Financial Services Commission \(Jersey\) Law 1998](#) (the “**Commission Law**”) to enable the JFSC to set regulatory fees by means of a “published” fees notice. (Previously, regulatory fees were “prescribed” by Ministerial Order.)

However, when that 2007 Law was enacted, a consequential amendment to the language of Article 9(4)(g) of the FSJL was overlooked. It still refers to regulatory fees being “prescribed” rather than being “published”. This will be corrected by the Miscellaneous Provisions Law.

The 2007 Law also repealed paragraph (7) of Article 9 of the FSJL but a consequential amendment to the wording of Article 9(4)(g) of the FSJL was not made. The Miscellaneous Provisions Law will correct that.

Commission Law – cross-reference correction

Currently, paragraph (2) of Article 21C, of the Commission Law incorrectly cross-refers to paragraph (2)(b) of that Article, instead of paragraph (1)(b). This will be corrected by means of Article 5(c) of the Miscellaneous Provisions Law.

SBJL – redundant provision

Article 7(d) of the Miscellaneous Provisions Law will delete paragraph (12) of Article 34 of the SBJL, which became redundant when amendments made by the [Proceeds of Crime \(Supervisory Bodies\) \(Amendment of Law\) \(Jersey\) Regulations 2008](#) came into force.

AIF Regulations – additional consequential amendments

When the AIF Regulations were enacted, 2 necessary consequential amendments were not made –

- a person granted a certificate under the AIF Regulations should have been included as an additional type of regulated business that the JFSC may make an application to the Royal Court, pursuant to the [Bankruptcy \(Désastre\) \(Jersey\) Law 1990](#), to be declared en désastre;
- a person granted a certificate under the AIF Regulations should have been included as an additional type of regulated business that the Commission Law states may be routinely examined by the JFSC.

The Miscellaneous Provisions Law will make the necessary consequential amendments to the Commission Law and the Bankruptcy Law.

Human Rights

The Commission Law and the regulatory Laws each contain a limitation of liability clause, which provides that the JFSC and its employees, etc., shall not be liable in damages for anything done or omitted in the discharge of their functions, unless it is shown that the act or omission was in bad faith.

The drafting convention for such limitation of liability clauses has recently been updated. They now routinely state that the limitation does not apply, so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#). That Article provides that it is unlawful for a public authority to act in a way which is incompatible with the Convention for the Protection of Human Rights and Fundamental Freedoms.

In line with this updated drafting convention, the limitation of liability clauses in the Commission Law and the regulatory Laws will be updated by the Miscellaneous Provisions Law.

Amendments to information gateways – enabling provisions

With the one exception referred to below, the regulatory Laws include a provision that enables all of the Articles related to ‘information gateways’ (a statutory provision that enables the JFSC to onward disclose confidential information to certain bodies specified in the regulatory Laws) to be amended by secondary legislation (Regulations), rather than by primary legislation.

However, in the CIFJL, one Article that relates to information gateways – Article 30 (“Attachment of conditions [to a disclosure of information]”) – can presently only be amended by primary legislation. This is inconsistent with the approach in the other regulatory Laws.

The Miscellaneous Provisions Law will remove this inconsistency.

Information-gathering provisions – minor clarificatory amendments

The Miscellaneous Provisions Law will make 2 minor clarificatory amendments to the statutory provisions in the regulatory Laws that give the JFSC the power to require certain defined persons to provide information and documents that the JFSC needs to perform its functions.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

Human Rights

No human rights notes are annexed because the Law Officers’ Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

Article 1 amends the Bankruptcy (Désastre) (Jersey) Law 1990 to enable the Jersey Financial Services Commission (the “Commission”) to make an application for a declaration that the property of a person is *en désastre* in the case of a person who holds or has held a certificate under the Alternative Investment Funds (Jersey) Regulations 2012.

The Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998, the Financial Services Commission (Jersey) Law 1998, the Insurance Business (Jersey) Law 1996 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 all contain a provision that has the effect of limiting liability for anything done or omitted in the discharge of purported discharge of any function under the particular Law or any enactment made under the particular Law (other than any act or omission that was in bad faith). This Law (*at Article 2(a), 3(d), 4(b), 5(b), 6(a) and 7(b)*) amends each of those laws to further provide that the provision limiting liability does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.

Article 2 further amends the Banking Business (Jersey) Law 1991 –

- (a) to provide that the Commission may refuse to grant an application for registration under that Law if the person has not paid a fee that is payable under that Law (*Article 2(b)*);
- (b) to enable the Commission to give directions to a liquidator of a person registered under that Law (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs (*Article 2(c)*);
- (c) to prohibit a person from becoming a liquidator of a person registered under that Law (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs unless the Commission has notified that person in writing that there is no objection to his or her becoming such a liquidator or administrator (*Article 2(d)*);
- (d) to require a liquidator of a person registered under that Law (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs to provide information or documents to the Commission or an officer or agent; to require any documents to be retained for the periods specified in that Law (*Article 2(e)*); and to give assistance to any person appointed to make a report in respect of a person who is or has been a registered person under that Law (*Article 2(f)*);
- (e) to increase the penalty, where a registered person fails to comply with the requirements of Article 32 to keep a copy of its most recent audited accounts and make them available at its offices in Jersey, from £2,000 to an unlimited fine (*Article 2(g)*);
- (f) to permit disclosure by an auditor of information about a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs (*Article 2(h)*); and
- (g) to provide that where an offence under that Law committed by a body corporate is proved to have been committed with the consent or connivance of, or

attributable to any neglect on the part of a liquidator or an administrator, then the liquidator or administrator, as the case may be will also be guilty of the offence and liable in the same manner as the company to the penalty provided for that offence (*Article 2(i)*).

Article 3 further amends the Collective Investment Funds (Jersey) Law 1988 –

- (a) to amend the definition “principal person so that it includes a person who has been appointed a liquidator of a person’s affairs (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person (*Article 3(a)*); and
- (b) to require any documents to be retained for periods specified in that Law (*Article 3(b)*);
- (c) to extend the power to make Regulations under Article 30A of the Collective Investment Funds (Jersey) Law 1988 so that the prohibition on disclosure of information by certain persons, unless the person to whom or which disclosure is made complies with certain conditions, can be extended by Regulations to other persons (*Article 3(c)*).

Article 4 further amends the Financial Services (Jersey) Law 1998 –

- (a) to amend the definition “principal person” so that it includes a person who has been appointed a liquidator of the person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person’s affairs (*Article 4(a)*);
- (b) to provide that the Commission may refuse to grant an application for registration under that Law if the person has not paid a fee that is payable under that Law (*Article 4(c)*); and
- (c) to require any documents to be retained for the periods specified in that Law (*Article 4(d)*).

Article 5 further amends the Financial Services Commission (Jersey) Law 1998 –

- (a) to provide that a person granted a certificate under Regulation 9 of the Alternative Investment Funds (Jersey) Regulations 2012 is a “supervised entity” with the consequence that the Commission may require such a person to supply information to and answer questions and allow officers or agents of the Commission to enter premises of that person (*Article 5(a)*); and
- (b) to correct a cross reference (*Article 5(c)*).

Article 6 further amends the Insurance Business (Jersey) Law 1996 –

- (a) to provide that the Commission may refuse to grant an application for registration under that Law if the person has not paid a fee that is payable under that Law (*Article 6(b)*);
- (b) to require any documents to be retained for the periods specified in that Law (*Article 6(c)(i)*);
- (c) to amend the definition “defined person” so that it includes a person who has been appointed a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder’s affairs (*Article 6(c)(ii)*);
- (d) to require a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder’s affairs to provide information, documents or assistance to competent persons ((*Article 6(d)*). Competent persons are appointed by the Commission to investigate and report

to the Commission on the nature conduct or state of the permit holder's insurance business or any particular aspect of it, and the integrity, competence, financial standing or organization of the permit holder.);

- (e) to permit disclosure by an auditor of information about a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder's affairs (*Article 6(e)*);
- (f) to prohibit a person from becoming a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder's affairs unless the Commission has notified that person in writing that there is no objection to his or her becoming such a liquidator or administrator (*Article 6(f)*);
- (g) to enable the Commission to give directions to a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder's affairs (*Article 6(g)*); and
- (h) to provide that where an offence under that Law committed by a limited liability partnership or company is proved to have been committed with the consent or connivance of, or attributable to the any neglect on the part of the liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of such a bankrupt permit holder's affairs, then the liquidator or administrator, as the case may be will also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence (*Article 6(h)*).

Article 7 further amends the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 to –

- (a) amend the definition “principal person” so that it includes a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs (*Article 8(a)*);
- (b) to require any documents to be retained for the periods specified in that Law (*Article 6(c)(i)*).

Article 8 gives the title of this Law and provides for it to come into force one month after it is registered.



Jersey

**DRAFT FINANCIAL REGULATION
(MISCELLANEOUS PROVISIONS No. 5) (JERSEY)
LAW 201-**

Arrangement

Article

1	Bankruptcy (Désastre) (Jersey) Law 1990 amended.....	13
2	Banking Business (Jersey) Law 1991 amended.....	13
3	Collective Investment Funds (Jersey) Law 1988 amended.....	16
4	Financial Services (Jersey) Law 1998 amended	16
5	Financial Services Commission (Jersey) Law 1998 amended	17
6	Insurance Business (Jersey) Law 1996 amended	17
7	Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 amended	20
8	Citation and commencement.....	20



Jersey

DRAFT FINANCIAL REGULATION (MISCELLANEOUS PROVISIONS No. 5) (JERSEY) LAW 201-

A LAW to further amend the Bankruptcy (Désastre) (Jersey) Law 1990, the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998, the Financial Services Commission (Jersey) Law 1998, the Insurance Business (Jersey) Law 1996 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

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

1 Bankruptcy (Désastre) (Jersey) Law 1990 amended

In Article 3(1)(c)(ii) of the Bankruptcy (Désastre) (Jersey) Law 1990¹, after the words “Law 1988” there shall be inserted the words “or the Alternative Investment Funds (Jersey) Regulations 2012²”.

2 Banking Business (Jersey) Law 1991 amended

In the Banking Business (Jersey) Law 1991³ –

(a) after Article 7(1) there shall be inserted the following paragraph –

“(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000⁴.”;

(b) in Article 10(3) –

(i) at the end of sub-paragraph (g), for the full-stop there shall be substituted a semi-colon, and

(ii) after sub-paragraph (g) there shall be added the following sub-paragraph –

- “(h) person A has failed to pay any fee published in accordance with Article 48E that is payable under Article 48E.”;
- (c) in Article 21(2)(b), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (d) in Article 24 –
- (i) in paragraph (1) after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (ii) in paragraph (1)(a) and (1)(b) for the words “or such a manager” there shall be substituted the words “, such a manager or such a liquidator or administrator”;
- (iii) in paragraph (3), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs”;
- (iv) in paragraph (4), after the words “the registered person” in the second place where it appears, there shall be inserted the words “, or a liquidator of the registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs,”;
- (v) for paragraph (9)(b) there shall be substituted the following subparagraph –
- “(b) becomes a director, controller, key person of any class, or manager, of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs, without having been served with a notice by the Commission under paragraph (1)(b) to the effect that the Commission does not object to the person’s so becoming a director, controller, key person of the relevant class or of any class, manager, liquidator or administrator,”;
- (vi) in paragraphs (10) and (11), after the words “registered person” there shall be inserted the words “, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs”;
- (e) in Article 26 –
- (i) for paragraph (4) there shall be substituted the following paragraph –
- “(4) The Commission, an officer or an agent may, by notice in writing served on any person who is, or is to be, a director, controller or manager of a registered person, or a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs, require the person to provide the Commission, an officer or an agent, at such times as may be specified in the notice, with such information or

- documents as the Commission, an officer or an agent may reasonably require for determining whether the person is a fit and proper person to be a director, controller, manager, liquidator or administrator (as the case may be) of that registered person.”,
- (ii) in paragraph (10) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words “whichever is the later.”,
 - (iii) in paragraph (15) –
 - (A) in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted,
 - (B) in the definition “defined person”, after sub-paragraph (l) there shall be inserted the following sub-paragraph –
 - “(m) any person who at any time has been appointed a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (f) in Article 28(5), after the words “Article 26(7)” there shall be inserted the words “, any liquidator or administrator”;
 - (g) in Article 32(3) the words “not exceeding £2,000” shall be deleted.
 - (h) in Article 34 –
 - (i) in paragraph (2) –
 - (A) in sub-paragraph (a) the word “or” that appears immediately after the semi-colon shall be deleted,
 - (B) in sub-paragraph (b), for the full-stop there shall be substituted a semi-colon followed by the word “or”,
 - (C) after sub-paragraph (b) there shall be inserted the following sub-paragraph –
 - “(c) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (ii) in paragraph (3) –
 - (A) in sub-paragraph (b) the word “or” that appears immediately after the semi-colon shall be deleted,
 - (B) in sub-paragraph (c), for the comma there shall be substituted a semi-colon followed by the word “or”,
 - (C) after sub-paragraph (c) there shall be inserted the following sub-paragraph –
 - “(d) a liquidator of a registered person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt registered person’s affairs.”;
 - (i) in Article 52(1), after the word “capacity,” there shall be inserted the words “or by a liquidator of a registered person (whether or not appointed

under a bankruptcy) or an administrator of a bankrupt registered person's affairs.”.

3 Collective Investment Funds (Jersey) Law 1988 amended

In the Collective Investment Funds (Jersey) Law 1988⁵ –

- (a) in Article 1(1), in the definition “principal person”, for paragraph (e) there shall be substituted the following sub-paragraph –
 - “(e) subject to paragraph (f), a person who has been appointed a liquidator of a person's affairs (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person;”;
- (b) in Article 9 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
 - “whichever is the later.”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer”, the words “, in any provision,” shall be deleted;
- (c) in Article 30A, for the words “Articles 27, 28 and 29” there shall be substituted the words “Articles 27, 28, 29 and 30”;
- (d) after Article 36(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000⁶.”.

4 Financial Services (Jersey) Law 1998 amended

In the Financial Services (Jersey) Law 1998⁷ –

- (a) in Article 1(1), in the definition “principal person” for the words “in relation to a person who has become bankrupt, includes a person who has been appointed as liquidator or administrator of the person's affairs;” there shall be substituted the words “includes a person who has been appointed a liquidator of the person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person's affairs;”;
- (b) after Article 6(1), there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000⁸.”;
- (c) for Article 9(4)(g) there shall be substituted the following sub-paragraph –

- “(g) if the registered person fails to pay any fee published under paragraph (6) that is payable.”;
- (d) in Article 32 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
 - “whichever is the later.”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted.

5 Financial Services Commission (Jersey) Law 1998 amended

In the Financial Services Commission (Jersey) Law 1998⁹ –

- (a) in Article 8(4) –
 - (i) at the end of sub-paragraph (d) for the full-stop there shall be substituted a semi-colon, and
 - (ii) after sub-paragraph (d) there shall be added the following sub-paragraph –
 - “(e) a person granted a certificate under Regulation 9 of the Alternative Investment Funds (Jersey) Regulations 2012¹⁰.”;
- (b) after Article 9(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000¹¹.”.
- (c) in Article 21C(2), for the word “(2)(b)” there shall be substituted the word “(1)(b)”.

6 Insurance Business (Jersey) Law 1996 amended

In the Insurance Business (Jersey) Law 1996¹² –

- (a) after Article 4(1) there shall be inserted the following paragraph –
 - “(1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000¹³.”.
- (b) in Article 7(4) –
 - (i) at the end of sub-paragraph (j), for the full-stop there shall be substituted a semi-colon, and
 - (ii) after sub-paragraph (j) there shall be inserted the following sub-paragraph –
 - “(k) if the applicant fails to pay any fee published under Article 43D that is payable.”;

- (c) in Article 10 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after paragraph (b) there shall be added the words –
“whichever is the later.”,
 - (ii) in paragraph (14) –
 - (A) in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted,
 - (B) in the definition “defined person”, after sub-paragraph (i) there shall be inserted the following sub-paragraph –
“(j) a person who at any time has been appointed a liquidator of a permit holder (whether or not appointed under a bankruptcy) or an administrator of a bankrupt permit holder’s affairs;”;
- (d) in Article 11(3), for the words “an employee, banker, auditor or legal adviser (subject to paragraph (9)) of a permit holder who is under investigation under paragraph (1) –” there shall be substituted the words “a director, shareholder controller, chief executive, employee, banker, liquidator (whether or not appointed under a bankruptcy), administrator of a bankrupt permit holder’s affairs, auditor or legal adviser (subject to paragraph (9)) of a permit holder who is under investigation under paragraph (1), or any person appointed to make a report in respect of that permit holder under Article 10(6) –”;
- (e) in Article 21 –
 - (i) in paragraph (2) –
 - (A) in sub-paragraph (b) the word “or” at the end shall be deleted,
 - (B) at the end of sub-paragraph (c) for the full-stop there shall be substituted a semi-colon followed by the word “or”,
 - (C) after sub-paragraph (c) there shall be inserted the following sub-paragraph –
“(d) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs.”,
 - (ii) in paragraph (3) –
 - (A) in sub-paragraph (e) the word “or” at the end shall be deleted,
 - (B) at the end of paragraph (f) there shall be inserted the word “or”,
 - (C) after sub-paragraph (f) there shall be inserted the following sub-paragraph –
“(g) a person who at any time has been appointed a liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs.”;

- (f) in Article 23 –
- (i) in paragraph (1), after the words “the permit holder” there shall be inserted the words “, liquidator of the permit holder (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs”;
 - (ii) in paragraph (4), after the words “permit holder” there shall be inserted the words “, or the permit holder’s liquidator (whether or not appointed under a bankruptcy) or administrator of a bankrupt permit holder’s affairs”;
 - (iii) in paragraph (5)(a), after the words “permit holder” there shall be substituted the words “or liquidator (whether or not appointed under a bankruptcy) or, where the person is bankrupt, the administrator of the bankrupt permit holder’s affairs”;
 - (iv) for sub-paragraph (6)(b) to the end of paragraph (6) there shall be substituted the following –
 - “(b) has been appointed as the permit holder’s actuary or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder’s affairs,
 - is not a fit and proper person to be (as the case requires) a director, chief executive, key person of that class, or shareholder controller, in relation to the permit holder, or the permit holder’s actuary or liquidator (whether or not appointed under a bankruptcy), or the administrator of the bankrupt permit holder’s affairs, the Commission shall serve on the person and on the permit holder a written notice of objection, directing that the person shall not, as the case requires –
 - (i) continue to be, or become, a director, chief executive, key person of the particular class, or shareholder controller, in relation to the permit holder, or
 - (ii) continue to be the permit holder’s actuary or liquidator or the administrator of the bankrupt permit holder’s affairs.”;
 - (v) in paragraph (7)(b) and (9)(b), after the word “actuary” there shall be inserted the words “or liquidator (whether or not appointed under a bankruptcy) or the administrator of the bankrupt permit holder’s affairs”;
- (g) in Article 28(4), after the word “liquidator” there shall be inserted the words “(whether or not appointed under a bankruptcy), by the administrator of the bankrupt permit holder’s affairs”;
- (h) in Article 36(2)(b), after the words “permit holder” there shall be inserted the words “the permit holder’s liquidator (whether or not appointed under a bankruptcy) or the administrator of a bankrupt permit holder’s affairs.”;
- (i) in Article 39(3) –
- (i) in sub-paragraph (a), the word “or” at the end shall be deleted, and
 - (ii) after sub-paragraph (a) there shall be inserted the following sub-paragraph –

“(aa) a liquidator (whether or not appointed under a bankruptcy) of such a person or an administrator of such a bankrupt person’s affairs; or”.

7 Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 amended

In the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁴ –

- (a) in Article 1(1) in the definition “principal person” for the words “in relation to a person who has become bankrupt, a person who has been appointed as liquidator or administrator of the persons’ affairs;” there shall be substituted the words “a person who has been appointed a liquidator of a person (whether or not appointed under a bankruptcy) or an administrator of a bankrupt person’s affairs;”;
- (b) for Article 9(1) there shall be substituted the following paragraphs –
 - “(1) No person or body to whom this Article applies shall be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made, or purportedly made, under this Law unless it is shown that the act or omission was in bad faith.
 - (1A) Paragraph (1) does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000¹⁵.”;
- (c) in Article 30 –
 - (i) in paragraph (9) –
 - (A) at the end of sub-paragraph (b) for the full-stop there shall be substituted a comma,
 - (B) after sub-paragraph (b) there shall be added the words –
“whichever is the later.”,
 - (ii) in paragraph (14), in the definitions “agent” and “officer” the words “, in any provision,” shall be deleted.
- (d) Article 34(12) shall be deleted.

8 Citation and commencement

This Law may be cited as the Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201- and shall come into force one month after it is registered.

-
- 1 *chapter 04.160*
 - 2 *chapter 17.245.51*
 - 3 *chapter 13.075*
 - 4 *chapter 15.350*
 - 5 *chapter 13.100*
 - 6 *chapter 15.350*
 - 7 *chapter 13.225*
 - 8 *chapter 15.350*
 - 9 *chapter 13.250*
 - 10 *chapter 17.245.51*
 - 11 *chapter 15.350*
 - 12 *chapter 13.425*
 - 13 *chapter 15.350*
 - 14 *chapter 08.785*
 - 15 *chapter 15.350*