

STATES OF JERSEY



DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 7) (ECONOMIC DEVELOPMENT TO EXTERNAL RELATIONS) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 15th April 2014
by the Chief Minister

STATES GREFFE



Jersey

DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 7) (ECONOMIC DEVELOPMENT TO EXTERNAL RELATIONS) (JERSEY) REGULATIONS 201-

REPORT

On 10th September 2013, the States adopted P.67/2013, which was the proposition to establish the office of Minister for External Relations. At that time, a number of functions of the Chief Minister were transferred to the new office, including matters relating to civil aviation safety and security.

As a consequence, the Minister for External Relations has political responsibility for aviation safety and security. The Director of Civil Aviation, as the independent regulator, is accountable to the Minister and has a duty to report and to advise the Minister on international civil aviation matters, including air navigation services, aviation security and measures to promote the safety of aviation.

In accordance with the principles of the previous transfer of functions, it is considered that political responsibility for certain further regulatory functions in relation to civil aviation should be transferred from the Minister for Economic Development to the Minister for External Relations.

The proposed transfers concerned are responsibilities under –

- **The Civil Aviation Act 1982 (Jersey) Order 1990**, which includes, amongst other matters, provisions in connection with –
 - the safety of air navigation
 - implementation of the Chicago Convention on International Civil Aviation
 - restrictions on unlicensed carriage by air for reward
 - enforcement of air navigation route charges
 - investigation of air accidents
 - regulation of nuisance, noise and vibration caused by aircraft.
- **The Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2008**, which includes provisions in connection with –
 - ensuring the investigation and prevention of air accidents or incidents
 - reporting on the outcome of investigations
 - ensuring implementation of recommendations for safety improvements.

The above matters should fall within the political authority of the Minister for External Relations to the extent that they fall within the accountability of the Director of Civil Aviation, and with regard to his responsibilities for the regulation of civil aviation and air traffic control, investigation of air accidents and implementation of the International Civil Aviation Convention (Chicago, 1944).

The Draft States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201- make provision for the transfer of the above functions and for the construction of both Orders in Council so as to assign responsibilities to the Minister for External Relations.

Financial and manpower implications

There are no financial or manpower implications arising from the transfer of functions from the Minister for Economic Development to the Minister for External Relations.

Explanatory Note

These Regulations transfer the functions of the Minister for Economic Development under the Civil Aviation Act 1982, as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990 (the “1982 Act”) and the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 (the “2000 Order”), to the Minister for External Relations.

Regulation 1, accordingly, defines the Minister for Economic Development as the “transferring Minister” and the Minister for External Relations as the “receiving Minister”.

Regulation 2 effects the transfer of the functions to the Minister for External Relations. If, at the time of the transfer, the Minister for Economic Development has incurred any liabilities or acquired any rights in connection with the functions, those liabilities and rights also transfer to the Minister for External Relations, irrespective of any restriction on assignment or transfer imposed by any contract or other instrument relating to the liability or right, and the transfer does not constitute a breach of any such contract or instrument.

The 1982 Act and 2000 Order, being an Act and an Order in Council of the United Kingdom respectively, cannot be directly amended by a Jersey enactment and *Regulation 3*, instead, makes provision as to their construction.

At the time of the move to Ministerial government in 2005, the States of Jersey (Amendments and Construction Provisions No. 10) (Jersey) Regulations 2005 (the “2005 Regulations”) provided for all references in the 1982 Act and the 2000 Order, to the Harbours and Airport Committee to be construed as references to the Minister for Economic Development.

Regulation 3 now provides for references to the Harbours and Airport Committee in the 1982 Act and the 2000 Order to be construed, instead, as references to the Minister for External Relations.

Regulation 4 amends the 2005 Regulations so as to remove the rule for construction of the 1982 Act and the 2000 Order, which is superseded by the rule in *Regulation 3*.

Regulation 5 provides for the continuity of any appointment, approval or other decision made, or authority to do anything given, by the Minister for Economic Development in exercise of the functions under the 1982 Act and the 2000 Order that are transferred by these Regulations. In the event that any legal proceedings are pending at the time these Regulations come into force to which the Minister for Economic Development is a party in his capacity as functionary under the 1982 Act or the 2000 Order, the Minister is substituted as a party to the proceedings.

Regulation 6 sets out the title of the Regulations and provides for the Regulations to come into force 7 days after the day they are made.



Jersey

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Arrangement

Regulation

1	Interpretation	9
2	Functions and connected rights and liabilities transferred	9
3	Civil Aviation Act 1982, as extended to Jersey and Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 construed	10
4	States of Jersey (Amendments and Construction Provisions No. 10) (Jersey) Regulations 2005 amended.....	10
5	Transitional provisions.....	10
6	Citation and commencement.....	11



Jersey

DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 7) (ECONOMIC DEVELOPMENT TO EXTERNAL RELATIONS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 29 and 50 of the States of Jersey Law 2005¹, have made the following Regulations –

1 Interpretation

In these Regulations –

“receiving Minister” means the Minister for External Relations;

“transferring Minister” means the Minister for Economic Development.

2 Functions and connected rights and liabilities transferred

- (1) There shall be transferred to the receiving Minister the functions of the transferring Minister under –
 - (a) the Civil Aviation Act 1982 (c.16) of the United Kingdom, as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990²; and
 - (b) the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000³.
- (2) All rights enjoyed and liabilities incurred by the transferring Minister in connection with the functions transferred by paragraph (1) shall be transferred to the receiving Minister and become the rights and liabilities of the receiving Minister.
- (3) A provision of a contract or other instrument that specifies that a right or liability of the transferring Minister is incapable of transfer shall, to the extent that it applies to a right or liability transferred by paragraph (2), be of no effect.
- (4) The operation of paragraph (2) shall not be regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;

- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
- (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

3 Civil Aviation Act 1982, as extended to Jersey and Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 construed

All references to the Committee in –

- (a) the Civil Aviation Act 1982 (c.16) of the United Kingdom, as extended to Jersey with the exceptions modifications and adaptations listed in Schedule 1 to the Civil Aviation Act 1982 (Jersey) Order 1990⁴; and
- (b) the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000⁵,

shall be construed as references to the Minister for External Relations.

4 States of Jersey (Amendments and Construction Provisions No. 10) (Jersey) Regulations 2005 amended

In Schedule 1 to the States of Jersey (Amendments and Construction Provisions No. 10) (Jersey) Regulations 2005⁶, the words “7 Civil Aviation Act 1982 (Jersey) Order 1990” and “8 Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000” shall be deleted.

5 Transitional provisions

- (1) The transfer effected by Regulation 2 shall not prejudice the operation of any appointment, approval, authorization, consent, delegation, determination, direction, instruction, requirement or other thing that is, before these Regulations come into force, made, given or done by the transferring Minister in relation to the functions, rights and liabilities so transferred, but such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (2) Anything commenced before these Regulations come into force by or under the authority of the transferring Minister may, so far as it relates to any of the functions, rights and liabilities transferred by Regulation 2, be carried on and completed by or under the authority of the receiving Minister.
- (3) Where, at the coming into force of these Regulations, any legal proceeding is pending to which the transferring Minister is a party and the proceeding has reference to any of the functions, rights and liabilities transferred by Regulation 2, the receiving Minister shall be substituted in the proceeding for the transferring Minister and the proceeding shall not abate by reason of the substitution.

6 Citation and commencement

These Regulations may be cited as the States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201- and shall come into force 7 days after the day they are made.

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- ¹ *chapter 16.800*
² *chapter 03.805*
³ *chapter 03.525*
⁴ *chapter 03.805*
⁵ *chapter 03.525*
⁶ *R&O.50/2005*