

STATES OF JERSEY

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DRAFT INSURANCE BUSINESS (AMENDMENT No. 5) (JERSEY) LAW 200

**Lodged au Greffe on 4th July 2006
by the Minister for Economic Development**

STATES GREFFE



Jersey

European Convention on Human Rights

The Minister for Economic Development has made the following statement –

In the view of the Minister for Economic Development the provisions of the Draft Insurance Business (Amendment No. 5) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

REPORT

The Insurance Business (Jersey) Law (the “Law”) requires persons carrying out certain types of insurance business from or within Jersey to hold a permit issued under the Law. In the event that a permit holder wishes to transfer its insurance business to another entity, Schedule 2 of the Law provides a mechanism that requires the consent of the Royal Court to be obtained prior to the transfer. As part of the process of seeking consent, the Minister is currently invited to comment on the proposed transfer.

The transfer of insurance business from a permit holder under the Law is invariably a complex matter. In order to ascertain whether existing policy holders remain adequately protected following the proposed transfer, it is necessary to commission and study an actuarial report in relation to the insurance companies in question. This is evaluated by the Jersey Financial Services Commission which then makes recommendations in relation to the proposed transfer to the Minister.

The Minister is reliant upon the technical advice received from the Jersey Financial Services Commission in relation to any proposed insurance transfer. Given the specialist nature of insurance business generally, it is difficult for the Minister or his officers to critically evaluate the advice given by the Commission. Experience has shown that invariably, the Minister (and his predecessor, the Economic Development Committee) adopt the recommendations of the Commission and request that the Commission inform the Royal Court that the Minister has no comment to make in relation to the proposed transfer.

This being the case, the Amendment recommends amending Schedule 2 of the Law to require the Royal Court to ask the views of the Commission, rather than the Minister, in relation to proposed transfers of insurance business. This change simply reflects the reality of existing practice: namely, that the Commission is best placed to provide advice to the Royal Court on the potential prejudice caused to existing policyholders by the proposed transfer. The Commission and the Royal Court will both provide safeguards to ensure that policyholders are not prejudiced by any transfer scheme.

The Amendment also takes the opportunity of including a provision in the Law permitting subsequent changes to the Schedules to the Law to be made by Regulations.

Financial and manpower implications

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

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Minister in charge of a *Projet de Loi* to make a statement about the compatibility of the provisions of the *Projet* with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 28th June 2006 the Minister for Economic Development made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Minister for Economic Development the provisions of the Draft Insurance Business (Amendment No. 5) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 provides for the definition of the Insurance Business (Jersey) Law 1996.

Article 2 amends Article 2(1) of that Law. The existing power of the States under Article 2(1) is to amend, by Regulations, definitions and ancillary provisions in Article 1 of, and Schedules 1 and 2 to, that Law. This amendment will allow the States to amend all of the provisions in Schedule 1 and 2 (Schedule 1 to that Law sets out classes of insurance business and Schedule 2 sets out the procedures for the transfer of insurance business).

Article 3 amends Schedule 2 to the 1996 Law by substituting the word “Minister” in Schedule 2, in each place where it appears, with the word “Commission”. Schedule 2 of that Law provides for the transfer of insurance business from a permit holder under the Law to an insurance company or a different permit holder. The effect of this amendment is to transfer to the Financial Services Commission the functions of the Minister for Economic Development that relate to the transfer of insurance business.

Article 4 provides for the name of this Law and that it will come into force 7 days after it is registered.



Jersey

DRAFT INSURANCE BUSINESS (AMENDMENT No. 5)(JERSEY) LAW 200

A LAW to amend further the Insurance Business (Jersey) Law 1996.

Adopted by the States [date to be inserted]

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

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law, “principal Law” means the Insurance Business (Jersey) Law 1996^[1].

2 Article 2 amended

For Article 2(1) of the principal Law, there shall be substituted the following paragraph –

“(1) The States may by Regulations amend –

- (a) a definition and an ancillary provision in Article 1;
- (b) Schedule 1; and
- (c) Schedule 2.”.

3 Schedule 2 amended

In paragraphs 4(c), 6(a) and 11 of Schedule 2 to the principal Law, for the word “Minister” in each place where it appears, there shall be substituted the word “Commission”.

4 Citation and commencement

This Law may be cited as the Insurance Business (Amendment No. 5) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

