

STATES OF JERSEY

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DRAFT PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 1) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 27th September 2005
by the Finance and Economics Committee**

STATES GREFFE



Jersey

DRAFT PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 1) (JERSEY) REGULATIONS 200

REPORT

The Public Finances (Jersey) Law 2005 (the “Finance Law”) has been approved by the U.K. Privy Council and registered in the Royal Court and is expected to come into force on the introduction of Ministerial Government.

The attached Regulations prescribe the transitional arrangements to enable the satisfactory and smooth transfer of the administration of public finances from the 1967 Public Finances (Administration) (Jersey) Law to the 2005 Finance Law.

The Regulations enable important administrative arrangements agreed under the 1967 Finance Law to continue as if these arrangements were agreed under the 2005 Law for example the appointment of the Treasurer of the States and Investment Managers; and the transfer of funds from the Capital fund and the general reserve which cease to exist under the 2005 Finance Law to the newly formed consolidated fund.

The Regulations also provide that should the 2005 Finance Law come into force before the end of 2005 certain provisions of the 1967 Law will continue to apply to the way in which States funds are handled.

The Finance and Economics Committee is aware that the Finance Law proposes quite radical changes in the roles and responsibilities allocated to Chief Officers with the introduction of the concept of Accounting Officers. The Committee acknowledges that it is unreasonable to retrospectively apply the responsibilities of this role and has agreed that they should apply from the start of the 2006 financial year.

The 2006 States Budget will be debated under the terms of the 1967 Law, however, these Regulations provide the necessary provision to ensure that all expenditure will automatically be approved in accordance with the 2005 Finance Law.

Conclusion

The Committee commends these Regulations to the States.

Financial and manpower statement

There are no financial or manpower implications for the States arising from these Draft Regulations.

Explanatory Note

These Regulations prescribe transitional arrangements for the changeover from the Public Finances (Administration) (Jersey) Law 1967 to the Public Finances (Jersey) Law 2005. They prescribe what is to happen when the new Law comes into force and also what is to happen during the first financial year after the new Law comes into force.

Regulation 1 - defines certain terms used in the Regulations.

Regulation 2 - continues the present Treasurer in office.

Regulation 3 - retains the States’ present bank accounts.

Regulation 4 - authorizes the States’ present investments of the States’ money.

Regulation 5 - makes money previously standing to the credit of the special fund for currency part of the new currency fund.

Regulation 6 - makes money previously standing to the credit of the Capital fund part of the new consolidated fund.

Regulation 7 - makes money previously standing to the credit of the strategic reserve part of the strategic reserve fund.

Regulation 8 - makes money previously standing to the credit of the general reserve part of the new consolidated fund.

Regulation 9 - makes certain funds held by the States for specific purposes into special funds for the purposes of the new Law.

Regulation 10 - allows certain carry forwards authorized under the 1967 Law to continue to be authorized under the new Law.

Regulation 11 - continues certain rechargeable accounts.

Regulation 12 - continues investment managers in office.

Regulation 13 - provides that the code of directions made under the 1967 Law continues under the 2005 Law as if it were a financial direction made under that Law.

Regulation 14 provides, in effect, that if the 1967 Law is repealed before the end of the 2005 financial year, the provisions of that Law shall continue to apply to the way in which the States handles States' money for the remainder of that year.

Regulation 15 provides that where under the 1967 Law expenditure by the States has been authorized for any period during which the 2005 Law is in force the expenditure shall be taken to have been approved in accordance with the 2005 Law. It also allows that Minister to assign such expenditure between States funded bodies where the functions of Committees have been divided between ministers.

Regulation 16 - provides for the citation and commencement of the Regulations.



Jersey

DRAFT PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 1) (JERSEY) REGULATIONS 200

Arrangement

Regulation

<u>1</u>	<u>Interpretation</u>
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<u>10</u>	<u>Carry forwards</u>
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<u>13</u>	<u>Code of directions</u>
<u>14</u>	<u>Continuing application of 1967 Law provisions during 2005</u>
<u>15</u>	<u>Application of 1967 Law provisions until the end of 2006</u>
<u>16</u>	<u>Citation and commencement</u>

SCHEDULE

SPECIAL FUNDS



Jersey

DRAFT PUBLIC FINANCES (TRANSITIONAL PROVISIONS) (No. 1) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 71 of the Public Finances (Jersey) Law 2005^[1] have made the following Regulations –

1 Interpretation

(1) In these Regulations –

“commencement day”, in respect of a provision of these Regulations, means the day when the relevant Article of the 2005 Law in respect of that provision comes into force in accordance with an Act of the States made under Article 73 of the 2005 Law;

“1967 Law” means the Public Finances (Administration) (Jersey) Law 1967,^[2] as in force immediately before the commencement day;

“2005 Law” means the Public Finances (Jersey) Law 2005.

(2) Words and expressions used in these Regulations and defined in the 1967 Law have the same meaning in these Regulations as they have or had in the 1967 Law.

2 Treasurer

On the commencement day the person who was the Treasurer of the States appointed under Article 3 of the 1967 Law immediately before that day shall be taken to have been appointed to hold the office of Treasurer in accordance with Article 29(1) of the 2005 Law.

3 Bank accounts

(1) On the commencement day a bank that immediately before that day was a selected bank for the purpose of Article 7(1)(b) of the 1967 Law shall be taken to be an approved bank for the purpose of Article 33(1) of the 2005 Law.

(2) On the commencement day a bank account operating under Article 7(1)(b) of the 1967 Law immediately before that day shall be taken to be a bank account opened by the Treasurer in accordance with Article 33(4) of the 2005 Law.

4 Investments

On the commencement day public monies invested in accordance with Article 7(1)(c) of the 1967 Law immediately before that day shall be taken to be money invested in accordance with the 2005 Law.

5 Currency fund

- (1) On the commencement day money that immediately before that day was standing to the credit of any special fund established in accordance with Article 7(3) of the 1967 Law shall be taken to be standing to the credit of the currency fund.
- (2) On the commencement day any investment purchased with money in any special fund mentioned in paragraph (1) and held by the States immediately before that day shall be taken to be money in the currency fund invested in accordance with the 2005 Law.

6 Capital fund

- (1) On the commencement day money that immediately before that day was standing to the credit of the Capital fund established by Article 12(1) of the 1967 Law shall be taken to be standing to the credit of the consolidated fund.
- (2) On the commencement day money that immediately before the commencement day was appropriated to a capital project and at that time was unspent on the project shall be taken to have been approved for withdrawal from the consolidated fund for use for that project by a head of expenditure contained in an expenditure approval.
- (3) Where, on the commencement day, the functions of a Committee are divided between States funded bodies, the Minister shall, as appropriate, assign between those bodies any authorized capital expenditure of the Committee to which paragraph (2) applies.

7 Strategic reserve

On the commencement day money that immediately before that day was standing to the credit of the strategic reserve maintained in accordance with Article 14(1) of the 1967 Law shall be taken to be standing to the credit of the strategic reserve fund.

8 General reserve

On the commencement day money that immediately before that day was standing to the credit of the general reserve maintained in accordance with Article 15 of the 1967 Law shall be taken to be standing to the credit of the consolidated fund.

9 Special funds

On the commencement day each fund specified in Column 1 of the Schedule shall be taken to be a special fund established by the States in accordance with Article 3(3) of the Law for the specific purpose set out in Column 2.

10 Carry forwards

On the commencement day any approval given under Article 19(6) of the 1967 Law to carry forward a surplus or a deficit in any revenue expenditure and in effect immediately before that day continues in effect as if given by the Minister under Article 15(1)(b) of the 2005 Law.

11 Rechargeable accounts

- (1) On the commencement day any rechargeable account approved under Article 7(1)(e) of the 1967 Law and in effect immediately before that day continues in effect as a rechargeable account for the

purpose of Article 33(3) of the 2005 Law.

- (2) Paragraph (1) does not prejudice the arrangements prescribed by Regulations 4(5) and 5(5) of the Public Finances (Transitional Provisions - States Trading Operations) (Jersey) Regulations 200-.^[3]

12 Investment managers

- (1) This Regulation applies where the terms and conditions of a person appointed to be an investment manager pursuant to Article 7(4) of the 1967 Law were still in effect immediately before the commencement day.
- (2) On the commencement day the person shall be taken to have been appointed on that day to be an investment manager pursuant to Regulations made under Article 6(2) of the 2005 Law.
- (3) The appointment shall be taken to have been made on the same terms and conditions as the appointment under the 1967 Law for a specified term ending on the same day as the appointment would have ended under the 1967 Law.
- (4) Despite paragraph (3), nothing in the terms and conditions mentioned in that paragraph authorizes the investment manager to manage, handle, invest or account for any money otherwise than in any manner prescribed by the 2005 Law or any other Law applicable to the money.
- (5) Despite paragraph (3), if the States make Regulations under Article 6(2) of the 2005 Law that are inconsistent with the terms and conditions mentioned in that paragraph (3), those terms and conditions shall, to the extent that they are inconsistent with the Regulations, be taken not to have effect from the day the Regulations come into force.

13 Code of directions

- (1) On the commencement day the code of directions made under the 1967 Law shall, except to any extent that the Treasurer otherwise directs and with any necessary amendments, be taken to be financial directions made under the 2005 Law.
- (2) Those financial directions may subsequently be amended by financial directions made by the Treasurer in accordance with Article 34 of the 2005 Law.

14 Continuing application of 1967 Law provisions during 2005

- (1) This Regulation has effect if Article 70 of the 2005 Law (which repeals the 1967 Law) comes into force before 1st January 2006 and, if it so has effect, it ceases to have effect on 1st January 2006.
- (2) The provisions of this Regulation shall apply instead of any provision of the 2005 Law to the contrary.
- (3) Money received by or on behalf of the States, money to which Article 6 of the 2005 Law applies and money expended by or on behalf of the States shall be accounted for and otherwise handled by the States or any person acting on behalf of the States in accordance with provisions that, with only the necessary amendments, are the same as those that would have applied to that money under the 1967 Law, had that Law not been repealed.
- (4) Accordingly money that under the 2005 Law is to be paid into or out of or which forms part of the consolidated fund, the strategic reserve fund, the currency fund or any special fund shall be accounted for and otherwise handled by the States or any person acting on behalf of the States in accordance with provisions that, with only the necessary amendments, are the same as those that would have applied under the 1967 Law to –
 - (a) the strategic reserve maintained in accordance with Article 14(1) of the 1967;
 - (b) the Capital fund established by Article 12(1) of the 1967 Law;

- (c) the general reserve maintained in accordance with Article 15 of the 1967 Law; and
 - (d) any special fund established in accordance with Article 7(3) of the 1967 Law.
- (5) Paragraph (4) includes provisions that relate to the investment of money standing to the credit of the funds mentioned.
 - (6) Money in the consolidated fund may be used in the circumstances to which Article 16 of the 2005 Law applies (emergency contingency expenditure).
 - (7) The accountability of an accounting officer under Article 38 of the 2005 Law shall not apply during any period this Regulation is in effect.

15 Application of 1967 Law provisions until the end of 2006

- (1) This Regulation has effect –
 - (a) if the commencement date is before 1st January 2006 – during any part of the year ending 31st December 2005 that is after the commencement day and also during the year commencing 1st January 2006; or
 - (b) if the commencement date is on or after 1st January 2006 - during any part of the year starting 1st January 2006 that is after the commencement day.
- (2) Paragraph (3) applies to any revenue expenditure of a Committee authorized under the 1967 Law for expenditure by the Committee during the period this Regulation has effect and not spent before the commencement of that period.
- (3) The authorized revenue expenditure shall be taken for the purposes of the 2005 Law to be a head of expenditure that relates to the revenue expenditure of the States funded body that acquired the functions of the Committee.
- (4) Where, on the commencement, the functions of a Committee are divided between States funded bodies, the Minister shall, as appropriate, assign between those bodies any authorized revenue expenditure of the Committee to which paragraph (2) applies.
- (5) Despite any provision of the 2005 Law to the contrary, the accounts of the States shall be audited in accordance with provisions that are the same as those of the 1967 Law that would have applied had that Law not been repealed.

16 Citation and commencement

- (1) These regulations may be cited as the Public Finances (Transitional Provisions) (No. 1) (Jersey) Regulations 200-.
- (2) They shall come into force on the seventh day after they are made.

SCHEDULE

(Regulation 9)

SPECIAL FUNDS

<i>Column 1</i>	<i>Column 2</i>
Name of fund	Specific purpose
Assisted House Purchase Fund	To aid the recruitment of staff from the UK by facilitating the purchase of suitable properties by the States on behalf of such employees.
99 Year Leaseholders Fund	To enable the minister with responsibility for housing to lend to individuals offering leasehold property as security.
Fish farmers Loans Fund	To facilitate the provision of loans to fish farmers.
Tourism Development Fund	To stimulate investment in the Tourism industry and infrastructure in order to improve Jersey's competitiveness and sustain the industry as a second pillar of the economy.
ICT Fund	To support the use of information systems and technology across Jersey in both public and private sectors with particular importance being placed on the education of the Island's young people.
Housing Development Fund	To help meet the requirements for the development of social rented and first-time buyer homes as identified in the Planning for Homes Report R/C 10/99.
Drugs Trafficking Confiscation Fund	<p>To promote and support measures that may assist in the prevention, suppression or otherwise deal with drug trafficking or the misuse of controlled drugs.</p> <p>To discharge the Island's obligations under the Asset Sharing Agreements and to meet any expenses in administering the Fund</p>
Postal Pension Fund	To provide pensions to those persons mentioned in Article 42(2)(b) of the Postal Services (Jersey) Law 2004. ^[4]

[1] L.14/2005.

[2] Chapter 24.900.

[3] P.210/2005.

[4] L.26/2004.