

# **STATES OF JERSEY**



## **JERSEY COMPETITION REGULATORY AUTHORITY: APPOINTMENT OF NON-EXECUTIVE CHAIRMAN**

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**Presented to the States on 20th July 2004  
by the Economic Development Committee**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

in accordance with Article 3(1)(a) of the Competition Regulatory Authority (Jersey) Law 2001, to appoint the Rt. Hon. The Lord Kingsland as a member and non-executive Chairman of the Jersey Competition Regulatory Authority for a period of 3 years with effect from 20th July 2004.

**ECONOMIC DEVELOPMENT COMMITTEE**

## REPORT

1. The States approved the Competition Regulatory Authority (Jersey) Law in November 2000. It received Royal Assent on 14th March and came into force on 1st May 2001.
2. Under Article 3(1)(a) it is for the States to appoint one member of the Authority as its Chairman upon the recommendation of the Economic Development Committee. Other members of the Authority are then appointed by the Committee, after consultation with the member appointed as Chairman. It is the Committee's intention to appoint 2 other Non-Executive members, once a Chairman has been appointed.
3. Under Article 4(2) a member shall be appointed for a period not exceeding 5 years and upon expiry of such period shall be eligible for reappointment.
4. The Committee enlisted the help of search consultants, Veredus Executive Resourcing, in order to identify potential candidates as non-executive members of the Authority (JCRA). The brief was to find individuals who could demonstrate the ability to understand complex commercial, legal and economic regulatory issues and an ability to be responsible for taking forward and maintaining momentum on priority projects. Important attributes were the ability, stature and personal authority to establish credibility with the executive and key stakeholders and be respected by peer groups on the wider international scene.
5. Advertisements in the national and local press and the Economist, together with Veredus' own database, yielded an impressive field of candidates. Out of 71 applications submitted, 14 were shortlisted. It was at this stage, as a result of significant weaknesses in governance issues identified in an Internal Audit report of the JCRA, that the proposition to reappoint the previous Chairman was withdrawn. Following consultation with and approval by the Appointments Commission, it was agreed that in the circumstances and in view of the high calibre of the shortlisted candidates, the position of Chairman should not be advertised separately and that the non-executive candidates be offered the opportunity to put themselves forward for Chairman.
6. A selection board was formed, comprising the President of the Committee, the Acting Chief Executive of Economic Development and a member of the Appointments Commission. With assistance from Veredus, a shortlist of 3 candidates was prepared and interviews took place on July 6th and 7th. The Appointments Commission has actively participated throughout the recruitment process.
7. A *curriculum vitae* for the Rt. Hon. The Lord Kingsland is attached.
8. The Committee is of the opinion that under the guidance and leadership of the Rt. Hon. The Lord Kingsland, the JCRA will be re-established as a credible and competent Authority. Furthermore, the governance issues raised during the recent Audit will be addressed as a matter of high priority.
9. As for the financial implications of this proposal, an independent remuneration survey has been carried out on behalf of the Committee into the proposed remuneration for the incoming non-executive Chair and how it compares with that offered by a number of comparable organisations and elsewhere across the public sector in the U.K. The conclusion of the survey is that the fee of £37,000, which has been determined by the Committee, to be paid by the JCRA to the Chair is fair and equitable in the current market for a non-executive Chair of a public body.
10. Accordingly, the Economic Development Committee recommends that the States appoint the Rt. Hon. The Lord Kingsland as a member and non-executive Chairman of the Jersey Competition Regulatory Authority for a period of 3 years commencing on 20th July 2004.
11. There are no financial or manpower implications for the States other than those detailed in this report.

## **The Rt. Hon. The Lord Kingsland**

Before completing his legal studies, Lord Kingsland's intellectual interests were in the field of economics, a subject in which he completed 3 university degrees. His doctoral thesis at Oxford concerned the operation of markets in a self-managed economy – a study which he later expanded into a book published by Oxford University Press. Lord Kingsland also spent 3 years at the International Bank for Reconstruction and Development, a specialised agency of the United Nations, in Washington.

On returning to the United Kingdom, Lord Kingsland was appointed Leverhulme Research Fellow at Sussex University, subsequently became a lecturer in law there, following his call to the Bar in 1969, and at the same time, began to practise at the Bar in the field of European competition law.

In 1979 Lord Kingsland was elected Member of the European Parliament for Shropshire and Stafford and served until 1994. Throughout his time in the European Parliament, Lord Kingsland served on the Parliament's Legal Affairs Committee (becoming Chairman in 1987) and has played a prominent role in all matters concerning competition law.

Lord Kingsland continued to practise at the European Competition Bar to the extent that his parliamentary responsibilities allowed. He appeared in 2 of the leading cases of that decade, Stanley Adams -v- The Commission [1985] ECR 3539, on confidentiality, and Ahlstrom and Others -v- The Commission [1988] ECR 5193, concerning extra-territoriality. During that time he also contributed to the European Community editions of Halsbury's Laws of England.

On his departure from the European Parliament, Lord Kingsland returned to full-time practise at the Bar and, at the same time, was appointed to the House of Lords. As far as his legal work is concerned, while he continues to advise on competition law, his main practise has expanded into the area of environmental law. *Chambers Guide to the U.K. Legal Profession* for the years 2002/3 and 2003/4 indicates his rating in this field.

In 2002, he was appointed Chairman of Plymouth Marine Laboratory, clg., a recently privatised marine research institution, which is a world leader in the science of estuarine and continental shelf systems.

Meanwhile, in the House of Lords, Lord Kingsland served for a year as Chairman of Sub-Committee F of the European Communities Select Committee, before being appointed Shadow Lord Chancellor in 1997, a position which he continues to hold. In that capacity he has played a leading role on all competition legislation introduced by the Government, a great deal of which, such as the Competition Act, 1998, and the Enterprise Act, 2002, is concerned with competition in the public utilities sectors.

As far as the Shadow Lord Chancellorship is concerned, it is unpaid and mainly concerns issues which are not party political. The fact that he has continued to sit as a Crown Court Recorder (a Judge of the Crown Court) throughout his time in the position is powerful evidence that the position of Shadow Lord Chancellor is not regarded as in any way compromising the independent judgement of the person holding the office.

As far as his legal practice is concerned, its recent movement away from mainstream competition law into environmental law would be an advantage in performing the role of Non-Executive Member. On the one hand, since Lord Kingsland would be unlikely to be representing organizations subject to the jurisdiction of the Competition Regulatory Authority, there is little likelihood that he might be conflicted out of any matter. On the other hand, his familiarity with environmental regulatory regimes, in addition to competition regulatory regimes, ensures that he will have a thorough grasp of the legal and public interest issues to which modern regulatory systems give rise.

## **Curriculum Vitae**

Born: 1.1.42. Christopher James Prout

- Educated:** Sevenoaks School; Manchester University (BA);  
The Queen's College, Oxford (B.Phil., D. Phil.);  
The Middle Temple (Barrister at Law).
- Scholarship:** English-Speaking Union Fellow, Columbia University, NY 1963-64.
- Military:** T.A. Service: OUOTC, 1966-73; 16/5 The Queen's Royal Lancers 1974-82; Staff Officer, 3rd Armoured Division, 1982-88; RARO, 1988-2002.
- Career:** Staff Member, International Bank for Reconstruction and Development, Washington DC, 1966-69.
- Barrister and Lecturer in Law, Sussex University 1969-79.
- Barrister and Member of the European Parliament for Shropshire and Stafford, 1979-94; Chief Whip, the Conservative Group, 1983-87; Chairman, European Parliament's Legal Affairs Committee, 1987; Leader of the Conservative Group, 1987-94.
- Barrister 1994-date (4 Bream's Buildings, EC4A 1AQ , until 2002 and thereafter, 2 Harcourt Buildings, London, EC4Y 9DB).
- Crown Court Recorder 1997-date
- Shadow Lord Chancellor, 1997-date.
- Publications:** *Market Socialism in Yugoslavia*, OUP, 1985; *Halsbury's Laws of England*, 4th edition (contrib.), Vols. 8, 51 and 52, Butterworths, 1986 and 1995; various chapters and articles in books and academic journals.
- Appointments:** Territorial Decoration (1987); Queen's Counsel (1988); Knight Bachelor (1990); Privy Counsellor (1994); Baron (1994); Bencher, Middle Temple (1996); Deputy Lieutenant, Shropshire (1997); Recorder (Wales & Chester Circuit) 1997-date; Master of the Garden (Middle Temple), 1999-date.
- Corporate:** Chairman, Plymouth Marine Laboratory, clg. 2002-date.