



Jersey

DRAFT JERSEY MUTUAL INSURANCE SOCIETY (TRANSFER) (JERSEY) LAW 202-

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DRAFT JERSEY MUTUAL INSURANCE SOCIETY (TRANSFER) (JERSEY) LAW 202-

A LAW to provide for the transfer of the undertaking of Jersey Mutual Insurance Society to Jersey Mutual Insurance Society Limited, a company limited by guarantee, on restructuring the Society to a guarantee company, and for connected purposes.

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

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

1 Interpretation

In this Law –

“commencement day” means the day this Law comes into force;

“document” has the meaning given by Article 1(1) of the [Electronic Communications \(Jersey\) Law 2000](#);

“existing” means existing, outstanding or in force, immediately before the commencement day;

“Jersey Mutual Insurance Society” means the Jersey Mutual Insurance Society incorporated as the Jersey Mutual Fire Insurance Society by Act of the States passed on 13 February 1908 and sanctioned by Order on 9 April 1908, the name of which was changed to Jersey Mutual Insurance Society by the Jersey Mutual Fire Insurance Society, Incorporated, (Alteration of Name and Rules) Law, 1952;

“liabilities” includes duties and obligations (whether present or future, actual or contingent);

“property” includes assets, immovable property, property held on trust and securities, rights, benefits and powers whether in Jersey or elsewhere;

“security” includes a hypothec (whether legal, judicial or conventional), a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment, indemnity, right of set-off, undertaking or other means of securing payment or discharge of a debt or liability (whether present or future, actual or contingent);

“transferee” means Jersey Mutual Insurance Society Limited, a guarantee company formed and registered under the [Companies \(Jersey\) Law 1991](#);

“transferor” means Jersey Mutual Insurance Society;

“transferred undertaking” means all existing property and liabilities of Jersey Mutual Insurance Society, whether Jersey Mutual Insurance Society holds or is subject to the property or liability beneficially or in a fiduciary capacity.

2 Transfer of transferred undertaking and related authorisation

- (1) On the commencement day, the transferred undertaking is under this Law transferred to, and vests in, the transferee with –
 - (a) the intention that the transferee succeeds to the whole business of the transferor; and
 - (b) the right of the transferee to use the name “Jersey Mutual”, as if the transferee is the same person under the law as the transferor.
- (2) An authorisation issued to the transferor by the Jersey Financial Services Commission or an administration of the States in respect of the transferor is –
 - (a) transferred to the transferee with effect from the commencement day; and
 - (b) continues in effect as if the authorisation was originally issued to the transferee.
- (3) In this Article, “authorisation” includes consent, licence, permit and registration.

3 Provisions as to trusteeships and executorships

- (1) Property that is transferred to and vested in the transferee under Article 2 or any other provision of this Law and that immediately before the commencement day was held by the transferor, whether alone or jointly with any other person, as trustee shall, on and from the commencement day, be held by the transferee –
 - (a) in the same capacity on trust; and
 - (b) subject to the powers, provisions and liabilities applicable to the property immediately before the commencement day.
- (2) An existing legal instrument or court order that transferred property to or vested property in the transferor in a fiduciary or trustee capacity has effect on and from the commencement day as follows –
 - (a) a reference to the transferor in the existing legal instrument or court order (except a reference to the transferor’s terms and conditions or fee scales) is replaced with a reference to the transferee; and
 - (b) the transferee may exercise the transferor’s right to change the terms and conditions or fee scales.
- (3) No testamentary gift is revoked under this Law and no testamentary gift shall be adeemed by reason only of the operation of any provision of this Law.
- (4) A legal instrument or court order referred to in paragraph (2) includes –
 - (a) a grant of probate for a will, codicil or other testamentary writing; and
 - (b) a provision relating to the legal instrument or court order, or an existing contract, for paying or retaining the transferor for their services.

4 Effect on contracts

- (1) An existing contract to which the transferor was a party (whether in writing or not), including a member's policy of insurance underwritten by the transferor, has effect on and from the commencement day as if –
 - (a) the transferee had been a party to the contract instead of the transferor;
 - (b) a reference (whether express or implied) to the transferor, regarding anything to be done on or after the commencement day, is a reference to the transferee;
 - (c) a reference (whether express or implied) to the transferor's directors is a reference to the transferee's directors; and
 - (d) a reference (whether express or implied) to a director, officer or employee of the transferor, regarding anything to be done on or after the commencement day, is a reference to –
 - (i) a director, officer or employee of the transferee that the transferee appoints for that purpose; or
 - (ii) in default of appointment, the director, officer or employee of the transferee who corresponds as far as possible to the director, officer or employee of the transferor.
- (2) In this Article, "member" means a person who has a policy of insurance underwritten by the transferor or the transferee.

5 Effect on existing instructions, powers of attorney, etc.

An existing instruction, order, direction, mandate, power of attorney, authority or undertaking of consent given to the transferor (whether in writing or not and whether relating to an account or not) has effect, on and from the commencement day, as if given to the transferee.

6 Effect on negotiable instruments

On and from the commencement day, a negotiable instrument or order for payment of money that was drawn on, given to, accepted or endorsed by the transferor, or payable at a place of business of the transferor, has the same effect as if it had been drawn on, given to, accepted or endorsed by the transferee, or payable at the same place of business as the transferee.

7 Custody of documents, goods or other things

On the commencement day –

- (a) the custody of a document, goods or other thing held by the transferor as bailee passes to the transferee; and
- (b) the rights and obligations of the transferor under a contract of bailment relating to the document, goods or thing are transferred to the transferee.

8 Liability for security

- (1) If immediately before the commencement day the transferor is under a liability to the transferee in respect of or in connection with which the transferor, or a nominee of or trustee for the transferor holds security, the liability, for the purpose of

enforcing or realising the security, continues in effect despite the transfer under this Law of –

- (a) that liability to the transferee;
 - (b) the transferred undertaking.
- (2) A security held immediately before the commencement day by the transferor, or by the transferor's nominee or trustee, as security for the payment or discharge of a debt or liability (whether present or future, actual or contingent) is, on and from the commencement day –
- (a) held by the transferee or that nominee, or trustee, for the transferee; and
 - (b) to the extent of that debt or liability, available to the transferee as security for the payment or discharge of the debt or liability.
- (3) In relation to a security transferred to the transferee under this Law and monies secured by the transfer, the transferee is entitled to the rights and priorities and subject to the obligations and incidents to which the transferor would have been entitled and subject if the transferor had continued to hold the security.
- (4) A security referred to in this Law that extends to future advances or liabilities is, on and from the commencement day, held by, and available to, the transferee as security for the payment or discharge of future advances by, and future liabilities to, the transferee to the same extent and in the same manner as future advances by, or liabilities to, the transferor or the transferee were secured immediately before that day.

9 Rights and remedies of transferee

On and from the commencement day, if a right or liability is transferred to the transferee under this Law, the transferee and all other persons have the same rights, powers and remedies to address that right or liability as if it had always been the transferee's right or liability, including –

- (a) the same rights and powers for taking or resisting legal proceedings; and
- (b) the same rights and powers for making or resisting applications to an authority.

10 Continuation of legal proceedings

- (1) A legal proceeding or application to an authority by or against the transferor, that is pending, current or stayed before the commencement day, may be continued by or against the transferee.
- (2) A legal proceeding or application to an authority that is stayed may only be continued under paragraph (1) after the stay is lifted.

11 Enforceability of judgment, award or order

An existing judgment, award or order of compensation obtained by, against or in favour of the transferor and not fully satisfied before the commencement day is, to the extent to which it is immediately before the commencement day enforceable by, against or in favour of the transferor, enforceable by, against or in favour of the transferee.

12 Retention of power to exercise supervisory or regulatory functions in respect of the Transferor, and access to records by supervisory bodies

- (1) On and from the commencement day, the Jersey Financial Services Commission and any other person having supervisory or regulatory functions retain their power to exercise any of their supervisory or regulatory functions which would, but for this Law, accrue, arise or become enforceable against the Transferor, and such power may be enforced against the Transferee.
- (2) The Jersey Financial Services Commission and any other person having supervisory or regulatory functions retain their power of access, under an enactment or order of a court or competent governmental, regulatory or supervisory body, to records held by the transferee that were held by the transferor immediately before the commencement day.

13 Reliance on prior disclosures under [Proceeds of Crime \(Jersey\) Law 1999](#)

- (1) On and from the commencement day, for all purposes under the [Proceeds of Crime \(Jersey\) Law 1999](#), the transferee is entitled to rely on and enforce a disclosure, statement or consent previously made by the transferor to the FIU or received by the transferor from the FIU relating to the transferred undertaking.
- (2) In this Article, “FIU” has the meaning given in Article 1(1) of the [Proceeds of Crime \(Jersey\) Law 1999](#).

14 Contracts of employment

- (1) Unless an employee objects under paragraph (4) –
 - (a) the relevant transfer does not operate to terminate the contract of employment of a person employed by the transferor that is subject to the relevant transfer; and
 - (b) the contract has effect after the transfer as if originally made between the transferred employee and the transferee.
- (2) On the completion of the relevant transfer –
 - (a) all the transferor's rights, powers and liabilities under or in connection with the contract of employment transfer to the transferee; and
 - (b) an act or omission by or relating to the transferor that occurred before the completion, in connection with the contract of employment or an employee, is an act or omission by or relating to the transferee.
- (3) Paragraph (2) does not transfer or otherwise affect a person's liability to prosecution, conviction or sentencing for an offence.
- (4) If an employee informs the transferor or the transferee that they object to becoming an employee of the transferee, paragraphs (1) and (2) do not transfer –
 - (a) the contract of employment of that employee; or
 - (b) the rights, powers and liabilities under or in connection with that contract.
- (5) If an employee objects to the transfer, the relevant transfer operates to terminate the employee's contract of employment with the transferor but the employee is not treated, for any purpose, as having been dismissed by the transferor.

- (6) No damages are payable by an employer because of a termination of employment under paragraph (5) in respect of a failure by the employer to pay wages to an employee in respect of a notice period that the employee has refused to work.
- (7) Paragraphs (1), (4) and (5) do not limit the right of an employee to terminate their contract of employment without notice in acceptance of a repudiatory breach of contract by their employer.
- (8) In this Article –
 - “contract of employment” includes a contract of service and a contract for services;
 - “relevant transfer” means the transfer of the transferred undertaking to the transferee under this Law.

15 Books and documents

All books and other documents admissible as evidence for or against the transferor before the commencement day are admissible in evidence for or against the transferee in the same matter.

16 Evidence of transfer

- (1) The production of a copy of an official version of this Law is, on and after the commencement day, for all purposes, conclusive evidence of the transfer of the transferred undertaking to the transferee and the vesting of the transferred undertaking in the transferee under this Law.
- (2) A document made or executed on or after the commencement day by which the transferee (either alone or jointly with another person) does an act described in paragraph (3) is sufficient evidence that the interests of the transferor in a property held by the transferor (whether alone or jointly) immediately before the commencement day became vested in the transferee under this Law.
- (3) The following is an act referred to in paragraph (2) –
 - (a) the transferee transfers or purports to transfer the property to a person (whether for consideration or not); or
 - (b) the transferee applies to be registered as the holder or proprietor of the property.

17 Provisions relating to transferred undertaking

- (1) The Royal Court must, when it orders the registration of this Law, also order the registration of a copy of an official version of this Law in the Public Registry of Contracts.
- (2) The registration of a copy of this Law in the Public Register of Contracts has the same effect as a contract passed before the Royal Court.
- (3) The title to property vested in, belonging to or held by the transferor immediately before the commencement day and which was registered in the Public Registry of Contracts before the commencement day, vests in, belongs to or is held by the transferee on and after the commencement day.
- (4) No fees are payable in relation to the registration of a copy under paragraph (1).
- (5) The transfer or vesting of an interest in land under this Law does not –

- (a) constitute an assignment, transfer, devolution, parting with possession or other disposition of that interest for the purposes of a provision relating to assignment, transfer, devolution, parting with possession or other disposition contained in an instrument concerning that interest;
- (b) give rise to a forfeiture; or
- (c) invalidate or discharge a contract or security.

18 Saving for statutory provisions regulating carrying on of business

Nothing in this Law exempts the transferee or transferor from an enactment regulating the carrying on of business in Jersey.

19 Non-application of Article 13 of [Legislation \(Jersey\) Law 2021](#)

Article 13 of the [Legislation \(Jersey\) Law 2021](#) does not apply to this Law.

20 Repeal

The following enactments are repealed –

- (a) Jersey Mutual Fire Insurance Society Incorporation Act 1908;
- (b) Jersey Mutual Fire Insurance Society, Incorporated, (Alteration of Name and Rules) Law, 1952;
- (c) Jersey Mutual Insurance Society, Incorporated, (Alteration of Rules) (Jersey) Law 1976;
- (d) Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 2) (Jersey) Law 1978;
- (e) Jersey Mutual Insurance Society, Incorporated, (Alteration of Rules) (No. 3) (Jersey) Law 1980;
- (f) Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 4) (Jersey) Law 1984;
- (g) Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 5) (Jersey) Law 1998;
- (h) Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 6) (Jersey) Law 2010; and
- (i) Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 7) (Jersey) Law 2014.

21 Citation and commencement

This Law may be cited as the Jersey Mutual Insurance Society (Transfer) (Jersey) Law 202- and comes into force on a day to be specified by the Minister for External Relations by Order.