A SYNOPSIS OF THE COMPANIES (JERSEY) LAW 1991

This guide will help you grasp the basic components of the Companies (Jersey) Law 1991 as of 1 December 2020.

For further information, please contact your usual advisor at Lexstone Lawyers. We would be delighted to assist you.

Kindly note that this guide is intended to provide general guidance and does not represent Jersey legal advice.

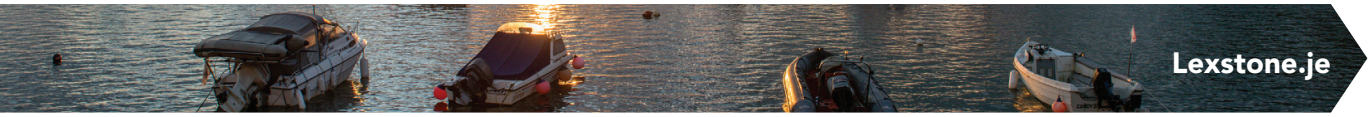
INTRODUCTION

The Companies (Jersey) Law 1991 (the **Companies Law**) provides for the incorporation, regulation and winding up of companies. It also provides guidelines regarding the activities which Jersey registered companies are legally obliged to undertake such as audits, meetings and regulation. The Companies Law is a very far-reaching law covering almost every topic where a Jersey company may be involved.

Subjects covered by the Companies Law include but aren't limited to: -

- incorporation;
- directors and officers;
- shares and shareholders;
- meetings and resolutions;
- annual filing costs, records and accounts;
- continuance to another jurisdiction or as a different entity;
- regulation; and
- dissolution.

An officer known as the registrar of companies (the **Registrar**) of the Jersey Financial Services Commission (the **JFSC**) deals with Jersey registered companies, any administration and other necessary functions under the Companies Law. Any documents delivered to the Registrar must be completed using the relevant form published by the JFSC or otherwise written in a manner authorised by the Registrar. The JFSC may also require the payment of fees or charges regarding its services. The Registrar keeps a record of documents delivered to him or her which may be inspected or produced as evidence of the Registrar's function. Those records may be destroyed



after ten years if they relate to accounts, annual returns or a company which has been dissolved for ten years or more.

JERSEY COMPANIES

A company shall be a **public company** if it has or had over 30 members on or after 30 March 1992 (the date on which the Companies Law came into force) or its memorandum states that it is a public company. If a company is not a public company or its memorandum states that it is a private company, it is a **private company**. A company can change from private to public by amending its memorandum or can change from public to private if it has fewer than 31 members and amends its memorandum.

The number of members is calculated for this purpose by reference to certain rules including: -

1. any member who is a director is not counted;
2. any member who is an employee is not counted; and
3. joint holders are treated as one member.

If a private company has more than 30 countable members or it circulates a prospectus, it is treated for the purposes of the Companies Law as if it were a public company.

The circulation of prospectuses is subject to the consent of the JFSC under the Control of Borrowing (Jersey) Order 1958. There are additional controls applying to the circulation of a prospectus such as the Companies (General Provisions) (Jersey) Order 2002.

A company shall be a **limited company** if its members' liability is limited by shares or paid by guarantee, or an **unlimited company** if there is no limit on its liability.

A company shall be a **par value company**, meaning that it is registered with share capital as stated in its memorandum, a **no-par value company**, meaning that it is registered with shares of no-par value which shall be stated in its memorandum or **a guarantee company** consisting of only guarantor members.

A company shall be a **limited life company** if its memorandum or articles include a provision that the company be wound up and dissolved upon a given event, such as upon bankruptcy or the resignation of any member of the company, or after a fixed period of time.

A company's memorandum can provide that it is an **incorporated cell company** or a **protected cell company**. A cell company may apply by special resolution to the Registrar to create one or more cells of the company, assigning a name, memorandum of association and articles to each proposed cell. Provided by the memorandum, a cell company may be public or private, limited or unlimited, par value or no par value, limited life or not. On creation of the cell, a certificate of recognition is issued rather than a certificate of incorporation. Cells of a cell company are not companies but are treated as companies under the Companies Law, therefore shall have all the same responsibilities and duties as companies do under this law unless stated otherwise. A cell of a cell company may own shares in any other cell of the overlying cell company but may not own shares in the overlying cell company itself. A cell must have the same registered office and secretary as its overlying cell company. A cell of a cell company shall be named to distinguish it from other cell companies' cells.

The Companies Law abolished the doctrine of ultra vires and deemed notice of public records. The capacity of a company is not limited by anything in its memorandum and articles of association.

SUBSIDIARIES

If a body corporate holds majority voting rights of a second body corporate, or is a member of a second body corporate and holds the right to appoint or remove a majority of the board of directors, the second company is considered a **subsidiary** of the first.

If a body corporate and/or person acting on behalf of the body corporate or its wholly-owned subsidiaries are the only members of a second body corporate, that second body corporate is considered a **wholly-owned-subsidiary** of the first body corporate.

A body corporate is considered a holding body of a second body corporate if the second-body corporation is a subsidiary of the first-body corporation. A body corporate which is a holding body is known as a **holding company**.

FORMATION OF A COMPANY

Any two or more persons associated for a lawful purpose may apply for the formation of an incorporated company. This is carried out through signing and delivering to the Registrar a memorandum of association stating whether the company will be public or private. An application made by over 30 persons for an incorporated private company will not be accepted, unless the JFSC notifies the Registrar, and has satisfied itself, that the nature of the company's intended activities is of domestic concern to its members.

On the registration of a company's memorandum, the Registrar shall issue a certificate that the company is incorporated. From the date of issue of the certificate, all subscribers of the memorandum, and persons who become members of the company, shall be a body corporate of the name specified on the memorandum and capable of exercising the functions of an incorporated company. The certificate of incorporation states whether the company is public or private, limited or unlimited, par value or no par value, limited life or not. Every company incorporated shall be allocated a registered company number by the Registrar of the JFSC.

Cells of cell companies are not required to have any subscribers. On registration, a cell of a cell company receives a certificate of recognition rather than a certificate of incorporation.

MEMORANDUM AND ARTICLES OF ASSOCIATION

The **memorandum** of a Jersey company shall be in English or French language, be printed and signed by or on behalf of each subscriber. The memorandum shall state: -

- the name of the company;
- whether it is a private or public company;
- whether it is a limited or unlimited company;

- whether it is a par value, no par value or guarantee company;
- that it is a limited life company if it is a limited life company;
- whether it is a protected cell company or an incorporated cell company if it is a cell company;
- any limit on the liability of members of the company;
- if the company is a par value company the authorised share capital of the company, the number of authorised shares of each class and the value of those shares held by the company;
- the full name and address of each subscriber who is a natural person; and
- the name and address of the registered office or principal office of each subscriber which is not a natural person. A Jersey company must have a Jersey registered office.

The **articles of association**, together with the memorandum of a company to be formed, must be delivered to the Registrar. The articles shall specify the regulations of the company and be signed by each subscriber of the memorandum.

A standard set of articles of association has been prescribed by the Companies Law by the Companies (Standard Table) (Jersey) Order 1992 (the **Standard Table**). The Standard Table applies to every company incorporated under the Companies Law to the extent that it is not specifically modified or excluded. Companies may adopt the Standard Table, with any modifications deemed appropriate, or a full set of articles of associations specifically excluding the Standard Table.

If a company is a par value company, the memorandum shall state the amount of authorised share capital and the amounts of shares of each class with which it is to be registered. If a company is a no-par value company, the memorandum shall state the limit on the number of shares of each class to be authorised to issue. If the company is to be registered with any limited or unlimited shares, the memorandum shall state that a member's liability from holding such a share is either limited to any amount unpaid on it or is unlimited respectively.

If a company is a guarantee company, its memorandum shall state that each guarantor member undertakes to contribute to the company's assets and the payment of its debts or liabilities, costs of winding up, and the adjustment of the right of the contributories among themselves. The memorandum shall also state who subscribes as a guarantor member, and the maximum amount specified in relation to them.

If a company is a limited life company, its memorandum or articles will specify the event or period of time, which will trigger the winding up and dissolution of that company.

DIRECTOR

A private company must have at least one director, and a public company must have at least two directors. A director has a duty to act honestly with a view to the company's best interests and exercise care, diligence, and skill that a reasonably prudent person would exercise. Directors owe duties to their company, but become personally liable to third parties for their activities only in limited circumstances such as wrongful or fraudulent trading.

A director of a company has a duty to disclose any direct or indirect interest in a transaction to be entered into by the company which conflicts with the company's interests.

The responsibility for the daily business operations of a company vest in the directors. They may be of any nationality and, subject to other legal and regulatory requirements, need not be resident in Jersey.

SECRETARY

Every company must have a secretary. The sole director of a company may not be the secretary of the same company. A director must secure that the company's secretary has the requisite knowledge and experience to discharge the secretary's functions. The secretary shall be a member of a professional body related to chartered accountancy, an advocate or solicitor of the Royal Court, or appears to be capable of discharging those functions.

MEETINGS

Every public company and relevant private company shall hold a general meeting every year as its annual general meeting (**AGM**) in addition to other meetings during that year. A relevant private company is a private company which is required to hold an AGM by a provision in its articles. Before an AGM notice shall be given specifying the meeting as such. Not more than 18 and 22 months shall elapse between AGMs' dates of a public or relevant private company respectively.

A meeting is deemed to be taking place if any member of a company is in communication with one or more other members of the company such that each member participating can hear what is said by any other of them.

Every company shall record minutes for every general meeting, meeting of directors and meeting of any class members to be entered into books for that purpose. The directors' names present at the meeting, each meeting's time and location shall all be recorded in the minutes as evidence of the proceedings.

Resolutions, special resolutions or agreements shall be recorded in minutes.

A vote by special resolution is required for a crucial decision such as an amendment of the articles of association or a voluntary winding-up. A majority of at least 75% in favour of the order to pass is needed to validate a special resolution. This rule aims to highlight and protect minority shareholders' voices against important decisions without proper consideration or consent.

The special resolution shall be printed together with the memorandum and articles and presented to the Registrar; otherwise, the company will be guilty of an offence and is liable to a late filing fee.

ACCOUNTS

The Company Law dealing with bookkeeping and accounting contain only very general requirements, which in practice, can be met by keeping the records normally prepared for business use. Every company must keep accounting records which sufficiently show and explain its transactions. This includes providing reasonable accuracy of the company's financial position at the time of review and enabling the directors of the company to ensure that the preparation of the accounts complies with all requirements of the Companies Law.

Financial statements, beginning the date of incorporation of intervals of not more than 18 months, showing the company's profit and loss, must be approved and signed by a director of the company. Every public company must produce a set of accounts for each financial period, signed by a director, and, together with an auditor's report, have them delivered to the Registrar within seven months of the financial period to which they relate.

If, not more than 11 months after the end of any financial period of the company, a member of the company makes a written request to the company, the accounts for that financial period must be prepared, examined by an auditor, and presented before a general meeting together with the auditor's report on them.

Financial statements must be prepared in accordance with generally accepted accounting principles for each financial period of a company, which show a true and fair view of the profit or loss of the company for the period and state of the company's affairs at the end of the period.

AUDIT

Some companies (including public companies) as defined by Article 11(1), must be audited. This means that a recognised auditor must carry out an audit of the company.

Any company required to be audited must present their accounts in a true and fair view in all material aspects, showing its profit and loss and its state of affairs at the end of the financial period being audited.

The purpose of an audit is to make an investigation into the company, which includes an inspection into whether the company has kept proper accounting records, whether all branches have made proper returns of the company, and whether all of the company's accounts are in agreement with its accounting records and returns. To carry out the audit, the auditor has the right to access to the company's records at all times. An audit report must state whether the accounts were presented, giving a true and fair view of the company's state of accounts and whether the accounts were properly prepared per the Companies Law. The auditor's report must also be dated and signed by or on behalf of the auditor.

An individual or firm is permitted to be an auditor if they are listed on the Register of Recognized Auditors, which lists auditors who have applied and are qualified and approved to be on the register. The Register of Recognized Auditors ensures that audit work is carried out properly, with integrity and prevents any auditor from being appointed to audit a company with which they have a conflict of interests.

SHARES

MEMBERS

The subscribers of a company's memorandum agree to become members of the company, and on registration are entered into the register of members. Any other person who agrees to become a member of a company also has their name entered onto the register of members. A body corporate cannot be a member of its own holding company, unless it was already a member of that company on 30 March 1992. Such a member has no right to vote at a meeting of that company and shall not acquire any further shares of that company. Members of companies with any authorised shares must also be the shareholder of at least one share; their name, address and shareholding appearing in the company's securities register.

Any person who is a member of a public company that operates for more than six consecutive months with fewer than two members shall be liable for the debts that the company contracted during that period.

SHARE CAPITAL

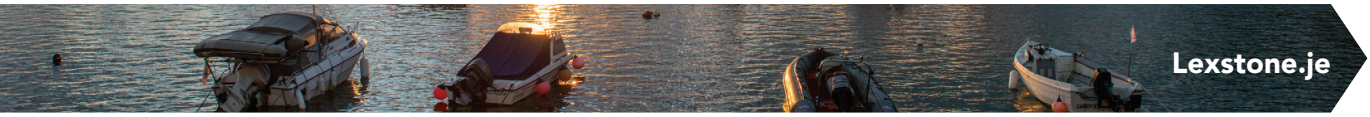
Any issued shares of a company are numbered, recorded in the register of members and evidenced by certificates.

Where its articles authorise a company, it may make arrangements on the allotment of shares, creating differences between shareholders classing the amounts and times that dividends are payable on their shares. Where shares are paid up for varying amounts, the company may pay dividends in proportion to the amount paid up on each share.

A par value company may increase or decrease its share capital by altering its memorandum by creating or cancelling shares. They can also be divided, consolidated, converted it into stock, and vice-versa.

A no par value company may increase or decrease the number of shares authorised, consolidate or divide shares into fewer or more shares through altering its memorandum.

A company may utilise a share premium account to amend the company's share capital. Where shares are issued at a premium, that premium shall be paid into a share premium account. Different share premium accounts shall be used for premiums caused by issuing different classes of shares.



On condition that a company has non-redeemable shares in issue, it may issue redeemable shares. With authorisation by a director, a company's redeemable limited shares shall be capable of being redeemed from any source if they are fully paid up. An open-ended investment company may not redeem shares at a price lower than their net asset value. Upon redemption of a par value company's limited shares, the amount of issued share capital shall be diminished by the nominal value of those shares, but there shall be no change to the company's authorised share capital.

Every year every company shall deliver to the Registrar a return disclosing the number of shares of each class held by each member, giving each member's name and address. In the case of a company with grantor members, each such member's name and address shall be included in the return. Where a company has converted any of its shares to stock, the return shall include information on the amount of stock instead of the number of shares held by each member.

DISTRIBUTIONS

A distribution is an issue of shares as part of a reduction of capital or assets to the company's members. A distribution shall not reduce the net assets of the company.

In making a distribution, the directors of the company must make a statement that they have formed the opinion that the company will be able to discharge its liabilities as they fall due and that it will be able to continue business as usual in the 12 months following the date that the distribution was made.

TAKEOVERS

An offer to acquire all the shares of every class, other than treasury shares, in a company that have been issued as at the date the offer was made is known as a takeover offer. An offeror may be any individual or body corporate or more than one person jointly and severally. A takeover offer can be made by persons outside of the jurisdictional law of Jersey; however, that offer cannot be accepted by a Jersey company. An offeror must acquire at least nine-tenths of the company's shares to make a successful takeover.

Although the offeror is entitled to all shares within the terms of the offer, they must notify all holders of shares to which the offer relates declaring that they desire to acquire those shares and for what price. If no notice is given, the offeror will be guilty of an offence. To accept the offer, the holder of the shares must return the notice within six weeks. An instrument of transfer will then be sent to the company, and upon receipt of that, the company will register the offeror as the holder of those shares. After the notice was made at the end of the six weeks, the offeror must pay the company as set out in terms of the offer. The company holds that sum on trust for the shareholders. If a merging company holds shares, the merger agreement shall provide for the cancellation of those shares without any capital repayment when the merger is complete.

ARRANGEMENT OR COMPROMISE

If a company and its creditors or a class of them or members make a proposal for an arrangement or a compromise to the court, the court may order a meeting of those representatives. If three-

fourths of the value of the creditors or of the creditors of that class or of the voting rights of the members agree to the arrangement or compromise, it becomes binding on all creditors or creditors of that class or members and on the company.

MERGER

A merger is the acquisition of one corporate body by another, thus, merging them. A merger can occur as part of a takeover if the offeror is a corporate body. Once a merger has taken place, the merging bodies continue as a single merged body under the law of the jurisdiction of one of the merging bodies or of Jersey. In Jersey, companies eligible to merge include any Jersey company and any company incorporated in a jurisdiction where merging isn't prohibited.

Before any merger, company directors must hold a meeting, and pass a resolution providing that the merge is in the company's best interests. A solvency statement will be issued until the merger is complete.

Each company shall then sign a written with the merging body. A meeting must be held to approve the merger agreement, during which the proposed directors or managers of the new body formed by the merger must sign a solvency statement on behalf of the merged body. The agreement shall state details of the new body, its memorandum and articles, the names and addresses of the persons proposed to be its directors and/or managers, details of how the merger will be completed, details of payment, any existence of securities and how they will be dealt with following the merger. Each body taking place in the merger must then submit the agreement to a meeting of its members for special resolution approval.

If any of the bodies taking part in the merger are not a company, the merging bodies shall apply jointly to the JFSC for consent, and, if approved, keep the JFSC updated as to the status of the process and inform them of all necessary details of the merger. If the JFSC does not grant the consent, they are prohibited from merging.

To carry out a merger, the applicant must pay a fee to the JFSC, which may be followed by request from the JFSC for further security if it believes it is necessary to administer the merger. If the payment is not made, a notice shall be issued by the JFSC to the applicant as warning that the application will be refused until such payment is received.

DEMERGER

A company may also divide its undertaking, property and liabilities into two companies following a similar process called a demerger.

CONTINUANCE

Under the Companies Law, a company or body corporate may apply to continue as a company under a different jurisdiction as long as it is permitted by the laws of the other jurisdiction.

The Companies Law does allow companies or body corporates incorporated under a foreign jurisdiction to continue in Jersey. A body corporate may apply to continue as a company.

A continuance requires the approval of the company's or body corporate's members of each class.

A company or body corporate cannot apply for a continuance if it is in or pending liquidation, winding up, insolvency, any compromise or arrangement, or has been declared „*en désastre*".

As with a merger application, on application to the JFSC for continuance, a company or body corporate must provide a memorandum and articles (and, if applicable, articles of continuance stating any amendments to be made to the memorandum), a solvency statement, its name or proposed name, registers of directors and secretary and an application fee. Following receipt of the relevant documents and approval of the application, the Registrar of the JFSC shall register the application and issue a continuance certificate. If a company applied to continue under a different jurisdiction, it would also cease to be incorporated under its former jurisdiction.

CELLS

Independence

A cell of a cell company may apply to the Registrar to become an independent company if approved by its members' special resolution and as long as its articles do not provide it.

When a cell is registered as a separate company, the property and rights to which the cell was entitled to remain the separated company's property and rights. Once separated, a cell company is still liable for all civil and criminal liabilities, contracts, debts, and other obligations to which the cell was subject immediately before its separation.

Cell transfer

A cell company's cell may be transferred to a different company if the two cell companies make a written agreement setting out the transfer terms. The agreement will need to be approved by the cell companies by special resolution.

A copy of the special resolutions, the transfer agreement, the cell's memorandum and articles of association will need to be delivered to the Registrar to apply for the transfer.

If the transfer is approved, the Registrar will issue a certificate of incorporation (if transferring to an incorporated cell company) or registration (if transferring to a protected cell company) of the cell.

All of a cell's property, rights, liabilities, contracts, debts and other obligations will remain of the cell following a transfer.

By the same process, A company which is not a cell company may become a cell of a cell company by being transferred to the cell company.

INSPECTION

The Registrar, the Minister or the JFSC may appoint one or more inspectors to investigate

a company's affairs. If the inspectors think it necessary for their investigation, they may also investigate other companies' affairs or body corporates connected to the initial applicant. If necessary, the inspectors may also require any person to produce or make available to them all records in their custody or power or to answer any question relating to the matter under investigation. Any person who knowingly or recklessly withholds information or makes a false statement to the inspectors is guilty of an offence. The only information or records that a person may withhold from the inspectors is that which they would be entitled to refuse to disclose on the grounds of legal professional privilege during court proceedings. If there are reasonable grounds for suspecting that immediate entry to the premises must be gained, the inspectors may apply to the Bailiff for a warrant in relation to the specified premises. If directed by the Minister or the JFSC, the inspectors may make interim reports and a final report of their investigation given to the Minister or the JFSC.

DISSOLUTION

The Companies Law provides the process to close a company. This includes determining the company's solvency, which in turn determines the method of winding up, which involves distributing all of the company's assets through discharging its debts. A liquidator, which must be a member of one of the English accountancy bodies, may be appointed to manage the company's winding up. Once the company has no more assets, it can be dissolved by the Registrar.

SOLVENCY

The directors of a company will issue a solvency statement to show that they have formed the opinion that the company can discharge its liabilities as they fall due and will be able to continue the business. The statement is valid for 12 months from the date of issue or until the company is dissolved under article 150, whichever first occurs.

REDUCTION OF CAPITAL

A solvency statement must be issued to support capital reduction. The statement and a minute detailing the amounts of the company's capital accounts, how the share capital will be divided and the remaining value of unissued shares shall be given to the Registrar to be registered. Thereupon the resolution for reducing the capital will take effect.

Where the court confirms the reduction of a company's capital account, the company must deliver to the Registrar the Act of the Court (the Act) confirming reduction and a minute approved by the court showing the solvency statement and members' resolution approving the reduction of capital in respect of the company.

Every person who was a member of the company on the date of registration of the Act and minute is liable to contribute to the debt payment. Each member's contribution shall not exceed the amount of difference between the value of the share as at registration of the Act and the amount paid on the share.

WINDING-UP

It is up to Court discretion to decide the company's wind-up; the decision will need to be just and equitable and consider the public interest. An application to the court to wind up a company may be made by it, its director, the Minister or the JFSC. If the court orders a company to be wound up, it may make such orders as it sees fit to ensure that the winding-up is conducted in an orderly manner.

OF A LIMITED LIFE COMPANY

Upon the event or expiration date stated in a limited life company's memorandum or articles, it shall begin to be wound up and dissolved by passing a special resolution which is then passed to the Registrar.

OF A COMPANY

Upon the occurrence of a closure trigger specified in the memorandum or articles of a company other than a limited life company, the company shall deliver to the Registrar a notice stating that the time period has expired and the date of that expiration. Within 28 days following delivery of the special resolution or notice to the Registrar, the company shall issue a solvency statement, after which it shall be wound up and dissolved. If it fails to issue a solvency statement within 28 days or passes a resolution favouring a creditors' winding up, it will undertake a creditors' winding up.

Any costs, charges and expenses incurred during winding up, including remuneration of any liquidator, shall be prioritised over other claims and payable out of the company's assets. The role of the liquidator is to exercise the powers of the company as required for its beneficial winding up, including paying creditors (if part of a creditors' winding-up), making a list of contributories, paying the company's debts, disposing of or disclaiming property, and summoning general meetings of the company.

OF A CELL COMPANY

In the case of a cell company winding-up, insofar as any cell of the cell company continues to exist, the cell company shall not be considered to have no assets or liabilities. For a cell company to be wound up, each cell must be transferred to another cell company, wound up, continued independently of the cell company or continued under a different jurisdiction.

SUMMARY WINDING UP

A **summary winding up** is the distribution of a company's assets.

A company may only undertake a summary winding up if it will be able to discharge its liabilities in full or if it has no liabilities. Within 28 days after issuing a solvency statement, the company

must pass a special resolution that the company shall be wound up summarily. A copy of that resolution and the solvency statement must be delivered to the Registrar.

Once the special resolution passed, the company may appoint a liquidator, on whose appointment the directors of the company cease to be authorised to exercise their power, and those powers become the powers of the liquidator. During winding up, the company's powers shall not be exercised except so far as is required to realise its assets, discharge its liabilities and distribute its assets as part of the winding-up process. If a company's directors reasonably believe that it will be able to pay its liabilities as they fall due, or if it has assets and no liabilities, the company may distribute those assets among its members according to their rights. Once the company has no assets and no liabilities remaining, it shall deliver a statement signed by each of its directors or the liquidator to the Registrar.

On registration, the company is dissolved.

If the directors of the company or the liquidator form the opinion that the company will not be able to discharge its liabilities as they fall due after the commencement of a summary winding up, the winding up shall become a creditors' winding-up, deemed to have commenced on the date of a creditors' meeting held in Jersey called for that purpose.

Where a company has commenced a summary winding up, has not distributed any of its assets, is still solvent and it is no longer in the best interests of the company to be wound up and dissolved, termination of the winding-up may be approved by special resolution. In the event of termination of winding up, any liquidator appointed will cease to hold office and the company may conduct business affairs again.

Where a company has commenced a summary winding up and is declared „*en désastre*" under the Bankruptcy (Désastre) (Jersey) Law 1990, the winding-up shall terminate and any liquidator appointed will cease to hold office.

CREDITORS WINDING UP

A **creditors' winding up** is deemed to commence when the special resolution is passed in favour of it or where the company is insolvent but has not been declared „*en désastre*". At the commencement of the creditors' winding up, the company must cease to carry on business except that which would be beneficial for its winding up.

Notice shall be given to each creditor of the company calling a meeting of creditors to be held in Jersey, at which the directors of the company shall provide a statement of the company's affairs, which shall be verified by an affidavit. The creditors should also appoint a liquidator and may appoint a liquidation committee consisting of up to five persons.

In setting off debts, priority should be made regarding secured and unsecured creditors' respective rights and the order of provable debts, paying off interest to those debts last. Once the company's affairs have been wound up, the liquidator shall make an account to show how winding up was conducted, including how any property was disposed of. Two meetings shall be held laying out the account, one meeting held for each of the company and the creditors. Following each meeting a return that the meeting was held and a copy of the account shall

be delivered to the Registrar. Three months following the registration of the meetings and the account, the company will be deemed to have been dissolved unless the court makes an order to defer the dissolution.

As part of a creditors' winding up, the persons who have at any time been an officer or secretary to the company have a duty to cooperate with the liquidator. This may include giving over information, assisting with any investigation, attending meetings with the liquidator or giving the liquidator notice of their address. If any of the above-mentioned persons do not comply with the liquidator's requests, that person or the company shall be guilty of criminal offence, and the liquidator may report the matter to the Attorney-General.

If a creditors' winding-up has commenced and a declaration is made under the Bankruptcy (Désastre) (Jersey) Law 1990, the winding-up shall immediately terminate. On termination, any liquidator appointed shall cease to hold office, and the company shall be in a position as if winding up had never commenced.

DISPOSAL OF COMPANY RECORDS

Once a company has been wound up and is about to be dissolved, its records must be disposed of directed by a special resolution in the case of a summary winding up or in a way directed by the liquidation committee in the case of a creditors' winding up. Any person who has custody of any company records shall no longer hold responsibility after ten years following company dissolution by reason that no person is interested in making a claim. After a period of time determined by the JFSC (not more than ten years), the company records may be destroyed.

Where a company has been dissolved for less than ten years, an order can be made on such terms as the court thinks fit declaring the dissolution void, placing the company in the same position as if the company had never been dissolved. Where a company was dissolved but the value of its assets was not sufficient to discharge all of its liabilities, and the liquidator or director of that company has no reasonable grounds for being satisfied that all of the companies' liabilities had been discharged at the time, the liquidator and/or director may be ordered to contribute their assets to enable the insufficiency to be met. (lifting the veil).

STRIKING OFF

If the Registrar believes that a company has ceased to carry out business, is no longer in operation or if the event specified in a limited life company's articles to trigger winding up has happened, but no notice has been sent to the Registrar, the Registrar may issue an enquiry letter asking for confirmation. If no response is received after one month, a notice shall be sent to the company and published in the Jersey Gazette, stating that it shall be dissolved three months from the notice date. Unless the company has been non-compliant with the Companies Law and it has still not complied, or if a reason is given by the company or a member, creditor or liquidator of the company, the company will be dissolved. If a company cannot be dissolved, the Registrar will strike the company's name off the register. A company struck off the register is by operation dissolved; however, the company's directors and members shall remain liable and can continue to be enforced as if the company was not dissolved.

OFFENCES

Schedule 1 of the Companies Law provides details of the punishments for different offences under it, detailing the offence and the corresponding punishment by way of fine or imprisonment and the amount or duration of each punishment respectively. An officer in default is any officer of the company or body corporate who knowingly or wilfully authorises or permits an offence to be made and an accessory or arbitrator is any person who aids, abets, counsels, or procures an offence to be made. However, the Companies Law does allow that any person in breach of duty shall be given the opportunity to make the breach good, to adduct any evidence or to be made heard in relation to the matter. The Companies Law also clarifies that the States of Jersey, the JFSC, the Minister or any person acting as an officer for the States of Jersey for which the Minister is assigned cannot be made liable to any damages under the Companies Law.

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