



Jersey

PUBLIC EMPLOYEES (PENSIONS) (JERSEY) LAW 2014

Arrangement

Article		
	<i>Introduction</i>	3
1	Interpretation	3
	<i>Provision of pensions</i>	5
2	Pension Scheme.....	5
3	Power to extend application of Scheme	6
	<i>Governance and administration</i>	6
4	Management of Scheme	6
5	Pension fund.....	7
	<i>Cost control</i>	8
6	Valuations	8
7	Contributions cost cap.....	8
	<i>Supplementary</i>	9
8	Procedure for retrospective provision	9
9	Normal pension age – link to pensionable age.....	9
	<i>Closing and transitional provisions</i>	10
10	Closure of the 1967 Scheme and transitional provisions	10
11	1967 Scheme – protection of link to final earnings.....	11
12	Amendment of enactments.....	12
13	Citation and commencement.....	12
 SCHEDULE 1		 13
SCOPE OF SCHEME REGULATIONS: SUPPLEMENTARY MATTERS		13
 SCHEDULE 2		 15
AMENDMENT OF ENACTMENTS		15
1	Public Employees (Retirement) (Jersey) Law 1967.....	15
2	Public Employees (Investment of Fund) (Jersey) Act 1972.....	16
3	Telecommunications (Jersey) Law 2002.....	16
4	Employment of States of Jersey Employees (Jersey) Law 2005.....	16

5 Goods and Services Tax (Jersey) Regulations 2007 16



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PUBLIC EMPLOYEES (PENSIONS) (JERSEY) LAW 2014

A LAW to make new provision in relation to pensions and other benefits payable to or in respect of, certain employees and for connected purposes.

Adopted by the States

21st May 2014

Sanctioned by Order of Her Majesty in Council

16th July 2014

Registered by the Royal Court

25th July 2014

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

Introduction

1 Interpretation

(1) In this Law, unless the context indicates otherwise –

“1967 Scheme” means the pension Scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967¹;

“1967 Scheme benefits” means a person’s pension rights accrued under the 1967 Scheme;

“1967 Scheme Regulations” means any of the following Regulations –

- (a) the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967²;
- (b) the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989³;
- (c) the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989⁴;
- (d) the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989⁵; and
- (e) the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992⁶;

“2005 Law” means the Employment of States of Jersey Employees (Jersey) Law 2005⁷;

“appointed day” means such day or days as the States may by Act appoint for the coming into force of this Law or a provision of it;

“Committee of Management” shall be construed in accordance with Article 4;

“employer” means –

- (a) the States Employment Board;
- (b) any employer who is admitted to the Scheme pursuant to Scheme Regulations under Article 2; or
- (c) any employer who is admitted to the 1967 Scheme pursuant to Regulations under Article 4 of the Public Employees (Retirement) (Jersey) Law 1967⁸;

“functions” includes any powers or duties;

“fund” shall be construed in accordance with Article 5;

“Jersey Appointments Commission” means the Commission established by Article 17 of the 2005 Law;

“Minister” means the Chief Minister;

“normal pension age” has the meaning given in Article 9;

“pensionable earnings” means a person’s earnings by reference to which a pension or other benefits under the Scheme are calculated;

“pension rights accrued” shall be construed in accordance with Article 10(6);

“pensionable service” in relation to the Scheme, means service which qualifies a person to accrue a pension or other benefits under the Scheme;

“prescribed” means prescribed by Scheme Regulations under Article 2;

“respective schemes” means the 1967 Scheme and the Scheme;

“Scheme” means the Public Employees Pension Scheme established by Scheme Regulations under Article 2;

“Scheme Regulations” has the meaning given in Article 2(2);

“States Employment Board” means the States Employment Board established under Article 4 of the 2005 Law.

- (2) For the purposes of this Law the following are to be taken to be employed by the States Employment Board, namely –
- (a) officers referred to in Article 1(1)(a) to (d) of the Departments of the Judiciary and the Legislature (Jersey) Law 1965⁹;
 - (b) the holder of the office of Data Protection Commissioner (within the meaning of Article 6 of the Data Protection (Jersey) Law 2005¹⁰);
 - (c) the Greffier of the States and Deputy Greffier of the States (within the meaning of Article 41 of the States of Jersey Law 2005¹¹);

- (d) the Magistrate (and Assistant Magistrate) (within the meaning of Article 1(1) of Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949¹²);
- (e) the Master of the Royal Court;
- (f) police officers in the States of Jersey Police Force;
- (g) a "délégué" as defined by Article 1(2) of the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée¹³ (a probation officer).

Provision of pensions

2 Pension Scheme

- (1) The States shall by Regulations establish a pension scheme which shall be known as the Public Employees Pension Scheme, for the payment of pensions and other benefits to or in respect of –
 - (a) persons or classes of persons who are employed by the States Employment Board;
 - (b) other persons, or classes of persons, for whom the States consider it appropriate to provide pensions or other benefits.
- (2) In this Law, Regulations under this Article are called "Scheme Regulations".
- (3) Without prejudice to the generality of paragraph (1), Scheme Regulations may, subject to this Law, make such provision as the States consider expedient including in particular –
 - (a) provision as to any of the matters specified in Schedule 1;
 - (b) consequential, supplementary, incidental, transitional or saving provision in relation to –
 - (i) the Scheme,
 - (ii) the 1967 Scheme, or
 - (iii) any provision of this Law;
 - (c) different provision for different purposes or cases (including different provision for different descriptions or classes of persons);
 - (d) retrospective provision, subject to Article 8;
 - (e) confer on such persons as may be specified, such functions as the States consider necessary or expedient for the purposes of the Regulations.
- (4) The consequential provision referred to in paragraph (3)(b) includes consequential provision amending any enactment –
 - (a) for the general purposes, or any particular purpose of this Law;
 - (b) in consequence of any provision made by or under this Law;
 - (c) for giving full effect to this Law or any provision of it.

3 Power to extend application of Scheme

- (1) The States may make Scheme Regulations under Article 2 that make provision for the admission of certain employers to participate in the Scheme and for their employees to become members of the Scheme.
- (2) Without prejudice to the generality of paragraph (1), the Regulations may include provision –
 - (a) specifying a description, class or category of employer that the Minister considers is appropriate to admit to the Scheme;
 - (b) specifying the arrangements for admission to the Scheme;
 - (c) specifying the terms and conditions on which an employer and the employees respectively may participate in the Scheme, or specifying which terms and conditions must be contained in any contract or agreement relating to admission to the Scheme under this Article;
 - (d) so as to secure appropriate protection against additional costs or risks to the Scheme that might result from –
 - (i) the admission to the Scheme of an employer or his or her employees, or
 - (ii) the winding up or liquidation of the employer;
 - (e) imposing certain obligations on any person as may be prescribed.
- (3) A term and condition referred to in paragraph (2)(c) includes a provision specifying which of an employer's employees of a particular description, class or category are or are not eligible (as the case may be) to become members of the Scheme.

*Governance and administration***4 Management of Scheme**

- (1) Subject to paragraph (2), a Committee of Management shall manage the Scheme.
- (2) The Committee of Management established for the purposes of managing the 1967 Scheme, shall, on the appointed day continue as the Committee of Management (the "Committee") for the purposes of managing the respective schemes.
- (3) Scheme Regulations under Article 2 –
 - (a) shall make provision concerning the discharge of the Committee's functions in relation to the management of the respective schemes; and
 - (b) may amend the 1967 Scheme Regulations for the purposes of the discharge of the Committee's functions in relation to the management of the 1967 Scheme.
- (4) Subject to Article 10, Scheme Regulations under Article 2 shall –
 - (a) provide for the recruitment of the Chairman of the Committee and members of the Committee;

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- (b) provide for the Minister to appoint the Chairman of the Committee and members of the Committee on such terms and conditions as may be prescribed;
 - (c) make provision to ensure –
 - (i) that a person to be appointed as the Chairman or as a member of the Committee does not have a conflict of interest,
 - (ii) from time to time that none of the persons serving on the Committee has a conflict of interest;
 - (d) provide for the Committee's membership to include employer representatives and member representatives in equal numbers.
- (5) In this Law –
- “conflict of interest” in relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the Committee (but does not include a financial or other interest arising merely by virtue of membership of the 1967 Scheme, or the Scheme);
- “employer representatives” means persons appointed to the Committee on behalf of employers for the respective schemes;
- “member representatives” means persons appointed to the Committee on behalf of members of the respective schemes.

5 Pension fund

- (1) There shall be a pension fund for the Scheme which for the purposes of the Scheme, shall be the pension fund (“fund”) established for the purposes of the 1967 Scheme.
- (2) The fund shall, on the appointed day, operate as the fund for the purposes of the respective schemes.
- (3) Scheme Regulations under Article 2 –
 - (a) shall make provision concerning the management of the fund for the purposes of the respective schemes; and
 - (b) may amend the 1967 Scheme Regulations for the purposes of the management of the fund in so far as it operates for the purposes of the 1967 Scheme.
- (4) Scheme Regulations under Article 2 shall make provision –
 - (a) about what money must be paid into the fund;
 - (b) about how (including in what amounts) money in the fund is to be applied –
 - (i) in payment of pensions and other benefits under the respective schemes,
 - (ii) for meeting the expenses of administering the respective schemes, and
 - (iii) for other purposes relevant to the respective schemes;

- (c) about how money in the fund that is not for the time being required for the purposes mentioned in sub-paragraph (b) may, with the approval of the Minister for Treasury and Resources, be invested by the Committee of Management;
- (d) for the appointment of –
 - (i) an actuary for the fund,
 - (ii) one or more investment managers, for the purposes of managing and investing money in the fund, and
 - (iii) one or more custodians, for the purposes of storing and safeguarding the assets of the fund.
- (5) Scheme Regulations may further provide that any one or more of the matters referred to in paragraph (4)(b) shall be subject to the prior approval of the Minister for Treasury and Resources.
- (6) Without prejudice to the generality of paragraph (4)(c), where Scheme Regulations provide that money in the fund referred to in that paragraph, is paid over to the Treasurer of the States for the purposes of investment, that money shall be taken to be money to which Article 6(1)(b) of the Public Finances (Jersey) Law 2005¹⁴ applies.

Cost control

6 Valuations

- (1) Scheme Regulations under Article 2 shall provide for regular actuarial valuations of the fund.
- (2) The Regulations may in particular make provision about –
 - (a) how and when a valuation is to be carried out;
 - (b) the time in relation to which a valuation is to be carried out;
 - (c) the determination of data, methodology and assumptions which may be applied in respect of the valuation; and
 - (d) the matters to be covered by a valuation.

7 Contributions cost cap

- (1) Scheme Regulations under Article 2 shall provide for –
 - (a) the setting of an employer contribution cost cap which shall operate as a cap on the cost of funding the pensions and other benefits granted under the respective schemes, attributable to the employer; and
 - (b) the setting of a member contribution cost cap which shall operate as a cap on the cost of funding the pensions and other benefits granted under the respective schemes, attributable to the contributing members of the respective schemes.
- (2) The caps referred to in paragraph (1) shall be rates expressed as a percentage of pensionable earnings of contributing members of the respective schemes, provided that in the case of the employer

contribution cost cap, the rate that is set shall not exceed 16.5% of pensionable earnings.

- (3) The Regulations may make further provision about the action to be taken, or the procedures to be followed to keep the cost of funding the respective schemes within the prescribed caps.
- (4) The expression “contributing members” means members who are making payments towards the receipt of future pensions or other benefits and includes members of the Scheme who are entitled to receive 1967 Scheme benefits.

Supplementary

8 Procedure for retrospective provision

- (1) Where Scheme Regulations under Article 2 propose making retrospective provision which appears to the Minister –
 - (a) to have significant adverse effects in relation to –
 - (i) the pension payable to or in respect of members of the Scheme or other persons in receipt of benefits under the Scheme, or
 - (ii) the entitlement to a pension in respect of members of the Scheme or other persons entitled to benefits under the Scheme,the Minister shall first obtain the consent of the persons specified in paragraph (2); or
 - (b) not to have significant adverse effects as specified in subparagraph (a), but to have effects which may be otherwise unfavourable, the Minister shall first consult with the persons specified in paragraph (2) with a view to reaching agreement with them.
- (2) The persons referred to in paragraph (1) are the persons (or representatives of the persons) in receipt of, or entitled to benefits under the Scheme who appear to the Minister to be likely to be affected if the provision were made.

9 Normal pension age – link to pensionable age

- (1) Subject to paragraph (4), the normal pension age of a person entitled to a pension or other benefits under the Scheme must be the same as the person’s pensionable age.
- (2) Where a person’s pensionable age changes, the consequential change to the person’s normal pension age must, under the Scheme, apply in relation to all the benefits (including benefits already accrued under the Scheme) which may be paid to or in respect of the person under the Scheme and to which the normal pension age is relevant.
- (3) In this Law –

- (a) “normal pension age” in relation to a person, means the age at which the person is entitled to receive a pension under the Scheme (without actuarial adjustment and disregarding any special provision as to early payment of pension or other benefits on the grounds of ill-health or otherwise);
 - (b) “pensionable age” in relation to a person, means the pensionable age of the person as specified from time to time in the Social Security (Jersey) Law 1974¹⁵.
- (4) Scheme Regulations under Article 2 may provide that paragraph (1) does not apply in relation to prescribed classes or description of person and shall specify the normal pension age that is to apply in relation to such a person.

Closing and transitional provisions

10 Closure of the 1967 Scheme and transitional provisions

- (1) On the appointed day, no person is eligible to become a member of the 1967 Scheme and that scheme shall be declared closed.
- (2) Notwithstanding Article 4(4), the persons who, immediately before the appointed day, constitute the Committee of Management established for the purposes of managing the 1967 Scheme, shall –
 - (a) constitute the Committee (within the meaning of this Law); and
 - (b) continue to serve their appointed term of office until –
 - (i) that period expires in accordance with Regulation 3(3) of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989¹⁶, or
 - (ii) they resign, are removed from office or die (if earlier).
- (3) The persons to whom paragraph (2) applies, shall –
 - (a) resign or be removed from office; or
 - (b) be eligible (or not, as the case may be) for re-appointment, in accordance with Scheme Regulation under Article 2.
- (4) Scheme Regulations under Article 2 may, in particular, provide –
 - (a) for the transfer of a person’s membership of the 1967 Scheme to membership of the Scheme on an automatic or optional basis; and
 - (b) in the case of a person whose membership is transferred under Scheme Regulations, for the protection of his or her –
 - (i) membership accrued in respect of service, and
 - (ii) pension rights accrued,under the 1967 Scheme up to and including the day before that scheme is declared closed under paragraph (1).
- (5) Any employer admitted to the 1967 Scheme who on the appointed day employs a person whose membership of the 1967 Scheme is transferred under Scheme Regulations under Article 2, shall be taken to be an

employer admitted to the Scheme as if that employer had been admitted to the Scheme under Scheme Regulations.

- (6) The expression “pension rights accrued” includes any right to any pension, lump sum or other benefit due to or in respect of a person described in paragraph (4)(b), but excludes any special provision under the 1967 Scheme as to the early payment of benefits on the grounds of ill-health or otherwise.
- (7) Scheme Regulations under Article 2 may (without prejudice to paragraph (6)) make further provision in respect of the meaning of “pension rights accrued”.
- (8) Nothing in this Law shall be taken to affect the continued operation of the 1967 Scheme in respect of any person whose membership of that scheme is not transferred under Scheme Regulations under Article 2.

11 1967 Scheme – protection of link to final earnings

- (1) This Article applies to a person who immediately before the appointed day is a member of the 1967 Scheme and who, on the appointed day, transfers to the Scheme.
- (2) A person’s 1967 Scheme benefits accrued immediately before the appointed day, shall be calculated by reference to the person’s –
 - (a) service accrued in respect of membership of the 1967 Scheme; and
 - (b) final pensionable earnings received at the point the person –
 - (i) reaches the normal retiring age at which he or she is entitled to receive his or her 1967 Scheme benefits, notwithstanding that he or she remains in Scheme employment but chooses to receive those benefits at that point,
 - (ii) leaves Scheme employment at any time after reaching the age referred to in paragraph (2)(b)(i), or leaves the Scheme on reaching normal pension age (if later), where he or she has decided to defer receiving his or her 1967 Scheme benefits until that point, or
 - (iii) leaves Scheme employment at any other time, regardless of whether or not he or she is entitled to receive his or her 1967 Scheme benefits (with or without the application of an actuarial reduction) at that point.
- (3) Scheme Regulations under Article 2 may make further provision about linking a person’s final pensionable earnings to past service in respect of the 1967 Scheme.
- (4) The expression –
 - (a) “final pensionable earnings” means the highest or average pensionable earnings in a prescribed period, ending at any of the points described in paragraph (2)(b);
 - (b) “normal retiring age” has the meaning given in whichever of the 1967 Scheme Regulations applies in relation to a member, or a particular category of member;

- (c) “Scheme employment” means an employment by virtue of which a person is entitled to be a member of the Scheme.

12 Amendment of enactments

The enactments specified in Schedule 2 are amended in the manner specified in that Schedule.

13 Citation and commencement

This Law shall be cited as the Public Employees (Pensions) (Jersey) Law 2014 and shall come into force on such day or days as the States may by Act appoint, and different days may be appointed for different provisions and for different purposes.

M.N. DE LA HAYE

Greffier of the States

SCHEDULE 1

(Article 2(3)(a))

SCOPE OF SCHEME REGULATIONS: SUPPLEMENTARY MATTERS

Scheme Regulations under Article 2 may make provision for –

- 1 the eligibility and admission to membership of the Scheme, which includes –
 - (a) specifying who, of the persons in relation to whom the Scheme Regulations may be made, is eligible for membership;
 - (b) conditions of eligibility;
- 2 the benefits which must or may be paid under the Scheme, which may include –
 - (a) pensions and other benefits on leaving service to which the Scheme relates (whether before, at or after normal pension age);
 - (b) pensions and other benefits payable on death (in service or otherwise);
 - (c) discretionary payments and concessions;
- 3 the persons to whom pensions or other benefits under the Scheme may be payable;
- 4 the conditions subject to which pensions or other benefits are payable;
- 5 the assignment of pensions or benefits, including restrictions on assignment;
- 6 where a lump sum becomes payable on the death of a member, to determine –
 - (a) the recipients (whether individuals or persons);
 - (b) whether the lump sum is to be paid wholly to one recipient or in parts to more than one recipient;
 - (c) whether the lump sum is to be paid in full, partially or not at all;
- 7 specified matters to be determined by the Committee of Management, the actuary for the fund or any investment managers;
- 8 the forfeiture or suspension of pensions or benefits, whether accrued or in payment;
- 9 the recovery of overpaid pensions or benefits;
- 10 contributions, including –
 - (a) the making of contributions by employers and members of the Scheme towards the cost of funding the pensions and other benefits granted under the respective schemes;
 - (b) contribution rates;
 - (c) interest on late payment of contributions;
 - (d) the return of contributions (with or without interest);

- 11 the determination of the amounts of pension accrued each year by reference to the member's pensionable earnings in that year of service, and the revaluation each year of the amounts thus accrued until the member leaves pensionable service;
 - 12 the payment or receipt of transfer values or other lump sum payments for the purpose of creating or restoring rights to pensions or other benefits (under the Scheme or otherwise);
 - 13 the administration, management and winding-up of the fund;
 - 14 the administration and management of the respective schemes, including –
 - (a) the giving of advice or the issuing of guidance by the Minister, the Minister for Treasury and Resources or the Treasurer of the States to the Committee of Management or to the States Employment Board;
 - (b) the giving of advice by the Treasurer of the States to the Minister, or the Minister for Treasury and Resources;
 - (c) the appointment of professional advisers;
 - (d) the provision of individual pension or other benefit information to members of the respective schemes or other persons in receipt of a pension or other benefits under the respective schemes;
 - (e) the publication of information about the respective schemes, including –
 - (i) accounts,
 - (ii) funding, assets and liabilities,
 - (iii) membership,
 - (iv) employer and member contributions,
 - (v) administration and governance;
 - 15 the delegation of functions, including –
 - (a) delegation of functions by the Committee of Management, the Minister, the Minister for Treasury and Resources and the Treasurer of the States;
 - (b) further delegation of functions by any delegatee;
 - 16 the payment by an employer of –
 - (a) any costs relating to the administration of the Scheme;
 - (b) any costs incurred because of a failure by the employer to comply with the employer's obligations under the Scheme;
 - (c) interest relating to payments to be made by virtue of this paragraph;
 - 17 pension increases which may be payable out of the fund, including the criteria upon which such increases are calculated, and the arrangements for defraying the costs of such increases;
 - 18 the entering into reciprocal arrangements with other employers;
 - 19 the resolution of disputes and appeals (including the referral to the Royal Court of questions of law).
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SCHEDULE 2

(Article 12)

AMENDMENT OF ENACTMENTS**1 Public Employees (Retirement) (Jersey) Law 1967**

- (1) In this paragraph, “Law” means the Public Employees (Retirement) (Jersey) Law 1967¹⁷.
- (2) In Article 1(1) of the Law, before the definition “Committee of Management” there shall be inserted the following definition –
“ ‘appointed day’ means such day or days as the States may by Act appoint for the coming into force of the Public Employees (Pensions) (Jersey) Law 2014¹⁸, or a provision of it; and”.
- (3) In Article 2 of the Law –
 - (a) in paragraph (2) –
 - (i) in sub-paragraph (b), the words “to be” shall be deleted, and
 - (ii) sub-paragraphs (g) and (i) shall be deleted; and
 - (b) paragraphs (3) to (6) shall be deleted.
- (4) For Article 3 of the Law, there shall be substituted the following Article –

“3 Management of fund and scheme

- (1) The fund and the scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967¹⁹ pursuant to the powers conferred under Article 2, shall on the appointed day, be managed in accordance with Regulations made under Article 2 of the Public Employees (Pensions) (Jersey) Law 2014²⁰.
- (2) Nothing in this Article shall be taken to affect anything done by the Committee of Management or the Minister under Regulations made under Article 2, in respect of the management of the fund and the scheme immediately before the appointed day.”.
- (5) In Article 4 of the Law –
 - (a) in paragraph (2), for sub-paragraph (b) there shall be substituted the following sub-paragraph –
“(b) impose additional obligations on any person as may be specified, or specify any other manner in which such additional obligations shall be imposed on any such person.”; and
 - (b) paragraph (4) shall be deleted.

2 Public Employees (Investment of Fund) (Jersey) Act 1972

The Public Employees (Investment of Fund) (Jersey) Act 1972²¹ shall be repealed.

3 Telecommunications (Jersey) Law 2002

In Article 46(1), (2), (3), (4)(a) and (6) of the Telecommunications (Jersey) Law 2002²², after the words “Public Employees (Retirement) (Jersey) Law 1967²³”, there shall be inserted the words “or the Public Employees (Pensions) (Jersey) Law 2014²⁴”.

4 Employment of States of Jersey Employees (Jersey) Law 2005

In Article 36(3) of the Employment of States of Jersey Employees (Jersey) Law 2005²⁵, after the words “Public Employees (Retirement) (Jersey) Law 1967²⁶” there shall be inserted the words “, the Public Employees (Pensions) (Jersey) Law 2014²⁷”.

5 Goods and Services Tax (Jersey) Regulations 2007

In Regulation 6(3) of the Goods and Services Tax (Jersey) Regulations 2007²⁸, for sub-paragraph (a) there shall be substituted the following sub-paragraph –

- “(a) the Committee of Management established under the Public Employees (Retirement) (Jersey) Law 1967²⁹ for the purposes of managing the scheme established under that Law and the scheme established under the Public Employees (Pensions) (Jersey) Law 2014³⁰”.

1	<i>chapter 16.650.48</i>
2	<i>chapter 16.650.48</i>
3	<i>chapter 16.650.12</i>
4	<i>chapter 16.650.60</i>
5	<i>chapter 16.650.36</i>
6	<i>chapter 16.650.24</i>
7	<i>chapter 16.325</i>
8	<i>chapter 16.650</i>
9	<i>chapter 16.300</i>
10	<i>chapter 15.240</i>
11	<i>chapter 16.800</i>
12	<i>chapter 07.595</i>
13	<i>chapter 08.020</i>
14	<i>chapter 24.900</i>
15	<i>chapter 26.900</i>
16	<i>chapter 16.650.36</i>
17	<i>chapter 16.650</i>
18	<i>L.18/2014</i>
19	<i>chapter 16.650.48</i>
20	<i>L.18/2014</i>
21	<i>R&O.5728 (chapter 16.650.84)</i>
22	<i>chapter 06.288</i>
23	<i>chapter 16.650</i>
24	<i>L.18/2014</i>
25	<i>chapter 16.325</i>
26	<i>chapter 16.650</i>
27	<i>L.18/2014</i>
28	<i>chapter 24.700.30</i>
29	<i>chapter 16.650</i>
30	<i>L.18/2014</i>