

STATES OF JERSEY



DRAFT PUBLIC FINANCES (AMENDMENT No. 5) (JERSEY) LAW 201-

Lodged au Greffe on 7th November 2017
by the Minister for Treasury and Resources

STATES GREFFE



Jersey

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European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Assistant Minister for Treasury and Resources has made the following statement –

In the view of the Assistant Minister for Treasury and Resources, the provisions of the Draft Public Finances (Amendment No. 5) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Connétable J.M. Refault of St. Peter**

Assistant Minister for Treasury and Resources

Dated: 2nd November 2017

REPORT

This draft Law proposes amendments to the Public Finances (Jersey) Law 2005 (“the Law”) which are a direct consequence of the States adopting [P.107/2017](#) ‘Future Hospital: approval of preferred scheme and funding’.

The draft Law –

- provides that any money raised from States’ borrowing for the Preferred Scheme for a new Hospital (the “Preferred Scheme”) will be paid into the Strategic Reserve Fund and be allocated to the Hospital Construction Fund when required; and
- provides that all payments (including principal and interest and costs of administration) associated with the borrowing for the Preferred Scheme can be met directly from the Strategic Reserve Fund;
- facilitates the direct transfer of funds from the Strategic Reserve Fund to the Hospital Construction Fund without a further proposition of the Minister for Treasury and Resources, provided that any transfer is in line with the financial limits and parameters agreed by the States Assembly in the proposition and covering report within P.107/2017;
- ensures that the States Assembly is kept informed of transfers from the Strategic Reserve Fund for the Preferred Scheme through the inclusion of a requirement for the Minister to report to the Council of Ministers, and then to the States, details of any transfers in each successive 6 month period (within 2 months of the relevant 6 month period); and
- guarantees, on the winding-up of the Hospital Construction Fund, that any money remaining in that Fund is transferred to the Strategic Reserve Fund.

The proposals referred to above relate to changes to Part 2 of the Law, and require UK Privy Council consideration and consent prior to commencement. In order to streamline the process and to bring Part 2 of the Law into line with Parts 3 and 4, the draft Law also proposes that future changes to Part 2 can be achieved via Regulations brought forward for the States’ approval by the Minister for Treasury and Resources.

Collective responsibility under Standing order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Minister for Treasury and Resources, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

The funding and cost limits of the Preferred Scheme are detailed in P.107/2017, and there are no further financial or manpower implications arising from the adoption of this draft Law.

Human Rights

No human rights notes are annexed because the Law Officers’ Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This Law amends the Public Finances (Jersey) Law 2005 (“principal Law” as defined by *Article 1*).

Article 2 amends the principal Law so that money can be transferred from the strategic reserve fund established under Article 4 of the principal Law directly into the special fund known as the Hospital Construction Fund established under Article 3 of the principal Law in accordance with the Proposition set out in P.107/2017 as adopted by the States. Under Article 4(3) of the principal Law money cannot be withdrawn from the strategic reserve fund otherwise than in accordance with a decision of the States made on a proposition lodged by the Minister for Treasury and Resources which provides for the amount withdrawn to be credited to the consolidated fund. The amendment made by *Article 2* allows for money to be withdrawn from the strategic reserve fund and credited to the Hospital Construction Fund without such a proposition provided that this is done in accordance with the P.107./2017 as adopted by the States. The Proposition and Report in P.107/2017 set out the circumstances in which money may be transferred from the strategic reserve fund to the Hospital Construction Fund including limits on the amounts that may be transferred. The Minister must report to the Council of Ministers and then the States the amounts transferred from the strategic reserve fund to the Hospital Construction Fund during each successive period of 6 months. Although Article 4(1) prohibits the strategic reserve fund from being used to defray directly States’ expenditure, provision is made so that such funding may be used to meet the costs of borrowing as referred to in P.107/2017. Upon the winding up of the Hospital Construction Fund any balance must be transferred to the strategic reserve fund.

Article 3 amends the principal Law so that the States may, by Regulations, amend Part 2 of the principal Law. Part 2 of the principal Law makes provision for different descriptions of fund and for the investment of money held in such funds. The principal Law currently provides that the States may by Regulations amend Parts 3 and 4 (dealing with financial planning and budgeting and States trading operations).

Article 4 sets out the title of this Law and provides that it will come into force 7 days after it is registered.



Jersey

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Arrangement

Article

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Jersey

DRAFT PUBLIC FINANCES (AMENDMENT No. 5) (JERSEY) LAW 201-

A LAW to amend further the Public Finances (Jersey) Law 2005

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law “principal Law” means the Public Finances (Jersey) Law 2005¹.

2 Article 4 amended

In Article 4 of the principal Law after paragraph (3) there shall be added the following paragraphs –

- “(4) Notwithstanding paragraph (3), following the States’ adoption of P.107/2017, money may be withdrawn from the strategic reserve fund, without a further proposition lodged by the Minister, and credited to the special fund known as the ‘Hospital Construction Fund’ provided that this is done in accordance with P.107/2017.
- (5) No later than 2 months after the end of each successive 6 month period starting from the first withdrawal referred to in paragraph (4), the Minister shall report to the Council of Ministers and then to the States the amount withdrawn from the strategic reserve fund during each such 6 month period.
- (6) Notwithstanding anything to the contrary in this Law or any other enactment, all monies borrowed for the ‘Preferred Scheme’ referred to in P.107/2017 shall be credited to the strategic reserve fund provided that such borrowing is in accordance with P.107/2017.
- (7) Notwithstanding paragraph (1), money from the strategic reserve fund may be used to defray directly expenditure of the States to

meet the costs of borrowing for the ‘Preferred Scheme’ referred to in P.107/2017 and any ongoing finance and administration costs related to that borrowing, provided that the use of that money for those purposes is in accordance with P.107/2017.

- (8) Notwithstanding Article 3(5), upon the winding up of the Hospital Construction Fund any balance of that Fund shall be transferred to the strategic reserve fund.
- (9) In this Article references to ‘P.107/2017’ are to the Proposition lodged au Greffe on 31st October 2017 “Future Hospital: approval of preferred scheme and funding” as adopted by the States and to the Report, including Appendices, to that Proposition.”.

3 Article 69A amended

In Article 69A of the principal Law –

- (a) in paragraph (1) for the words “Parts 3 and 4” there shall be substituted the words “Parts 2, 3 and 4”;
- (b) in paragraph (3) for the words “Part 3 or 4” there shall be substituted the words “Part 2, 3 or 4”.

4 Citation and commencement

This Law may be cited as the Public Finances (Amendment No. 5) (Jersey) Law 201- and shall come into force 7 days after it is registered.

¹ *chapter 24.900*