

# STATES OF JERSEY



Jersey

## DRAFT OFFICIAL ANALYST (JERSEY) LAW 202-

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Lodged au Greffe on 7th March 2022  
by the Chief Minister  
Earliest date for debate: 25th April 2022

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STATES GREFFE





Jersey

## **DRAFT OFFICIAL ANALYST (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chief Minister has made the following statement –

In the view of the Chief Minister, the provisions of the Draft Official Analyst (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Senator J.A.N. Le Fondré**  
*Chief Minister*

Dated: 4th March 2022



## REPORT

### Section 1: Introduction

1. The draft Official Analyst (Jersey) Law 202- (the “draft Law”) would, if adopted, repeal Article 2 of the [Food Safety \(Jersey\) Law 1966](#) (the “1966 Law”) to provide an updated statutory basis for the Official Analyst (OA), ensuring that they, as well as officers working under their direction, are able to carry out their work independently. The draft Law would –
  - (a) provide for the appointment and dismissal of the OA;
  - (b) establish the overarching functions of the OA; and
  - (c) provide for the resourcing and accountability of the OA.

### Section 2: Background

2. The 1966 Law is due to be repealed and as part of the review of the sufficiency of this Law, the present statutory arrangements for the Official Analyst have been reviewed. The relevant Article is copied below:

#### Article 2 of the Food Safety (Jersey) Law 1966

##### “2 Official Analyst

- (1) The Minister for Treasury and Resources shall appoint an officer, to be known as the Official Analyst, to perform the functions entrusted to that officer by or under this Law, or by or under any other enactment.
- (2) Article 2 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) shall apply to the appointment of the Official Analyst.
- (3) If the Official Analyst is found guilty of any malpractice, or is considered to be incapable or, for any other reason unsuitable, for the appointment, the Minister for Treasury and Resources may remove the Official Analyst from office and Article 3 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) shall apply to the removal.
- (4) The Minister for Treasury and Resources shall appoint one or more officers to deputise for the Official Analyst in the event of the Official Analyst’s illness, incapacity or absence, or in the event of a vacancy in the office of Official Analyst, and an officer so appointed shall, while so deputising, perform the same functions as the Official Analyst.
- (5) No person who is engaged, directly or indirectly, in any trade or business connected with the sale of food in Jersey shall be appointed under this Article.”

2. The position of Official Analyst was first established in 1884, since which time the role has evolved so that it no longer centres on the analysis of food samples. The office of the OA provides analysis across a wide range of sectors, including samples of fertilisers and feeds, forensic samples in criminal cases, gas, water and medicines. This work relies on an appropriately qualified analytical chemist to provide impartial scientific advice.

3. The OA performs functions which are equivalent to that of public analysts elsewhere in the British Isles. Public analysts are highly skilled scientists who form the primary scientific base of the UK's public protection enforcement services where chemical analysis and related testing are appropriate. In Scotland, public analysts are also responsible for microbiological examination of food. According to the Association of Public Analysts, the UK professional association which represents appointed public analysts, there are currently 24 public analyst laboratories in the UK. A further 7 laboratories from outside the UK are members of the Association, including the laboratory of the OA in Jersey.
4. All food authorities in England and Wales and all local authorities in Scotland are required to appoint at least one Public Analyst under Section 27 of the [Food Safety Act 1990](#). The [Food Safety \(Sampling and Qualifications\) \(England\) Regulations 2013](#) apply in England. These Regulations set out the required qualifications of and restrictions on public analysts.
5. The Official Analyst is referenced in several pieces of Jersey legislation, in addition to the 1966 Law, conferring the OA with specific statutory functions to, for example, examine medicinal products under the [Medicines \(Jersey\) Law 1995](#). However, the majority of the OA's work is non-statutory. Given the wide range of both statutory and non-statutory work which the OA performs, it has been deemed appropriate that the OA should be established under a standalone Law.
6. The Office of the Official Analyst is currently listed as a non-Ministerial department. However, of itself, non-Ministerial status does not provide the OA with the professional independence necessary to carry out their analytical work free from interference. While, in practice, the OA performs chemical and microbiological analysis independently, making findings and publishing reports without reference to or interference from other entities, including ministers and officials in the Government of Jersey, Article 2 of the 1966 Law does not provide the OA with legal protections to do so. It is for this reason that it is necessary to update the current statutory position of the OA.
7. It is not intended for these changes to have any practical effect on the day-to-day operations of the office of the OA. When the draft Law comes into force, the incumbent OA will remain in post and there will be a continuation of the office, as set out under Article 13(1).

### **Section 3: Draft Official Analyst (Jersey) Law 202-**

#### **Appointment and Dismissal of the Official Analyst**

8. Under the draft Law, the Chief Minister would hold responsibility for appointing the OA – a responsibility which is currently exercised by the Minister for Treasury and Resources. This is consistent with the position under legislative provisions underpinning certain other independent bodies and functions which operate across multiple areas of Government work, including the appointment of the Chief Statistician (under the [Statistics and Census \(Jersey\) Law 2018](#)).
9. The appointment of the OA will be overseen by the Jersey Appointments Commission. Article 2 of the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#) will continue to apply to the appointment of the OA. This will ensure that the Chief Minister provides the States Assembly with at least 2 weeks' notice of their intention to appoint the OA upon completion of the recruitment process.

10. The role of the Official Analyst is a specialist position. Under UK legislation, public analysts must hold a Mastership in Chemical Analysis (MChemA) awarded by the Royal Society of Chemistry<sup>1</sup>. There are currently fewer than thirty individuals who have attained this qualification (including the current Official Analyst in Jersey). To ensure that future office holders have the requisite knowledge to perform the role, Article 2(5)(a) of the draft Law provides that a person must hold a MChemA in order to qualify for appointment as the OA. As the name and nature of this qualification may change over time, this provision is amendable by Order.
11. Under Article 2(5)(b) of the draft Law, it would be possible for the Chief Minister to appoint an individual who has not obtained this qualification, providing that they both:
  - demonstrate the necessary level of knowledge, skill and experience in analytical chemistry and microbiological examination necessary to perform the functions of the Official Analyst under Jersey legislation; and
  - hold a qualification in analytical chemistry.
12. If the Chief Minister determines that it is reasonable to appoint someone who does not hold a MChemA, there is a further requirement, under Article 2(6) of the draft Law, for the Chief Minister to publish the reasons why it is deemed reasonable to appoint an OA who does not hold a Mastership in Chemical Analysis. It is necessary to provide a power to appoint an OA who does not hold a MChemA because there are so few individuals who hold this qualification. The requirement to publish the reasons for appointing a candidate who does not hold a MChemA is provided to ensure that it can be demonstrated that the most qualified candidate was appointed, following a recruitment process.
13. Article 3(1) of the draft Law protects the OA's position by providing that they can only be dismissed from office on 4 grounds, including:
  - incapacity by physical or mental illness;
  - failing to discharge the functions of the office without reasonable excuse;
  - behaving in a way that is not compatible with their continuing in office; or
  - being otherwise unable or unfit to discharge the functions of the OA.
14. Article 3 of the draft Law provides that the OA may only be dismissed following the conclusion of a robust process to investigate any allegations made against them. The OA must be provided with the opportunity to respond to any allegations raised and their response must be taken into account during the investigation. If the OA is dismissed, the States must be notified no later than 2 weeks after the dismissal has taken place. This provides significant protection to the office holder's position, in addition to contractual protections in employment law, which is necessary for independent office holders who perform public functions.
15. Under Article 3(3) of the draft Law, the OA may be suspended while an investigation into their conduct is taking place. The OA must be restored to office without loss of remuneration or of any benefits if, following an investigation, it is determined that the OA should not be dismissed.
16. The OA may be appointed on a permanent or a fixed-term contract – there is no term limit to their appointment under the draft Law. This is because of the highly specialised nature of the role and the limited number of individuals across the

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<sup>1</sup> [Regulation 4 of the Food Safety \(Sampling and Qualifications\) \(England\) Regulations 2013](#)

British Isles who currently have the requisite qualifications. Under Article 4(a) of the draft Law, the OA may resign from office under the terms of their contract. Under Article 8 of the draft Law, it is possible to appoint an acting Official Analyst when the office is vacant or there is a relevant need to do so, for example if the OA is incapacitated.

### **Functions and Independence of the Official Analyst**

17. As noted above, the OA performs both statutory and non-statutory functions. Specific statutory functions will continue to be provided for under relevant legislation – it is not intended to replicate these under the draft Law. Instead, Article 5(1) of the draft Law sets out the overarching function of the OA which covers all aspects of the work that the OA undertakes. The OA is required to report any potential risks to public health which they encounter while pursuing these functions, to the Medical Officer for Health, under Article 5(2) of the draft Law.
18. The professional independence of the OA and any person (including officers working under the OA) who performs the functions of the Official Analyst is provided for under Article 6 of the draft Law. This sets out that the OA must not be directed on how any function of the office – as defined under Article 5(1) of the draft Law – is to be carried out by any person, including by ministers and government officials.

### **Resourcing and Accountability of the Official Analyst**

19. Under Article 7(3) of the draft Law, any officers working under the direction of the OA would be treated as members of the OA's staff if they perform or assist in performing the OA's functions. While the OA holds statutory responsibilities under the Law in their own right, they may delegate any of these functions, including to a deputy Official Analyst, under Article 7(4) and (5) of the draft Law, as they so determine.
20. The Chief Minister must provide the OA with the resources they require to discharge their functions economically, effectively and efficiently, under Article 7(1) of the draft Law. In effect, it provides that the Chief Minister will make an assessment of the funding (and other resources) which the Official Analyst requires to carry out their work economically, effectively and efficiently.
21. Article 7(2) of the draft Law in effect provides that, as part of this assessment of the OA's funding requirements and before any bid for funding is submitted for consideration by the Council of Ministers as part of the Government Plan process, the Chief Minister must consult the OA. The amendment to Article 10(1) of the 2019 Law, under Article 15 of the draft Law, would provide that the Government Plan must set out the amount which the Chief Minister determines is required by the OA to discharge their functions. The Council of Ministers may issue a statement indicating its disagreement with the Chief Minister's submission, but the submission would still go forward into the Government Plan which is submitted by the Council of Ministers to the States Assembly. The Assembly would ultimately determine whether to approve or to amend the level of funding for the Official Analyst which the Chief Minister has proposed under the Government Plan.



**Article 10 of the Public Finances (Jersey) Law 2019, *as amended by Article 15(3) of the draft Law***

**10 Proposed appropriations for non-Ministerial States bodies *or other bodies***

- (1) A government plan lodged by the Council of Ministers must set out, as the proposed amount referred to in Article 9(2)(g) to be appropriated in relation to the operations of a non-Ministerial States body *or body listed in Schedule 6* for the next financial year, the amount that is submitted to the Council of Ministers by –
  - (a) the chairman of the States’ Public Accounts Committee, in the case of the office of the Comptroller and Auditor General;
  - (b) the chairman of the States’ Privileges and Procedures Committee, in the case of the States Greffe;
  - (c) the non-Ministerial States body, in the case of any other non-Ministerial States body; or
  - (d) *the Minister responsible for ensuring the proper resourcing of the body under the enactment that establishes the body, in the case of a body listed in Schedule 6.*
- (2) The Council of Ministers may include, in the government plan, a statement indicating whether or not the Council supports any of the submitted amounts referred to in paragraph (1).
- (3) For the avoidance of doubt, the amounts set out in the government plan under this Article may be the subject of an amendment under Article 13.

22. Article 15 of the draft Law would remove the office of the Official Analyst from Schedule 1 to the 2019 Law, which is the list of non-Ministerial States bodies. The office of the OA was included under Schedule 1 under an amendment to the 2019 Law brought by the Corporate Services Scrutiny Panel (CSSP). In the report accompanying the third amendment to the draft Public Finances (Jersey) Law 201- (P.28/2019), the CSSP stated that, if an appropriate alternative proposal is brought to the States Assembly, the office of the OA could be removed from Schedule 1 to the Public Finances (Jersey) Law 2019<sup>2</sup>. As the draft Law would guarantee the professional independence and impartiality of the office of the Official Analyst, it is now appropriate to adopt alternative arrangements.
23. Instead, the governance of the public finances of the office of the Official Analyst will sit within the Accountable Officer structure provided by the 2019 Law. The draft Law establishes this position by placing the office of the OA under a new Schedule 6 to the 2019 Law and defines bodies listed in Schedule 6 as States bodies, under Article 15(2) of the draft Law.
24. Under Article 9(1), the OA would be required to produce an annual report for each financial year. The specific requirements for the contents of the OA’s annual report would be set out under a new part of the Public Finances Manual, which will include guidance on the contents of annual reports for other States entities. While the accounts for the office of the OA would be included and audited under the Government of Jersey’s accounts, the OA would also be required to include

<sup>2</sup> See [Draft Public Finances \(Jersey\) Law 201- \(P.28/2019\): third amendment \(gov.je\)](#)

these under their annual report. This will ensure that there is complete transparency in relation to:

- the funding received by the OA under the Government Plan, which must be set out under each Government Plan, as provided under new Article 10(1)(d) of the 2019 Law;
  - the funding received by the OA in fee income, with the schedule of charges set out under a fees Order made by the Chief Minister under Article 12 of the draft Law; and
  - the costs of the office of the OA.
25. The OA's annual report must be presented to the States by the Chief Minister as soon as is practicable after receiving it, under Article 9(4) of the draft Law. The power to amend the annual reporting requirements for the office of the OA by Order, under Article 9(5) of the draft Law, is required to ensure these can be updated in line with best practice principles, as these inevitably change over time.
26. The power for the Chief Minister to request reports, under Article 10(1) of the draft Law, is required to enable the Government to commission the OA to conduct scientific investigations and to report on their findings. The OA may prepare and publish their own reports, under Article 10(3) of the draft Law. This is required to ensure that their independence to make and publish scientific findings, unfettered and without further reference to other parties, is fully protected under the Law.

#### **Section 4: Financial and Staffing Implications**

27. There are no financial implications or staffing costs associated with adopting this Law. As stated at paragraph 7, above, and provided in the transitional arrangements under the draft Law at Article 13, it is not intended for the draft Law to have any practical effect on the day-to-day operations of the office of the OA. This includes the finances and present funding model of the OA.
28. The office of the Official Analyst is currently funded by the States, and it also charges fees for the performance of certain services on an estimated cost recovery basis. The draft Law will place the OA's fees on a statutory footing, providing for appropriate oversight and enabling the Chief Minister to set those fees by Order under Article 12.
29. In bringing forward that Order, the Official Analyst's existing fee structure, which has evolved in an ad hoc manner over a number of years, will be simplified into four service categories. Each category, and the fee associated with that category, will be based on the amount of resource required to deliver that service. In determining those four service categories, three variable factors have been taken into account –
- (a) Equipment – equipment can vary between items costing a few thousand pounds to complex equipment costing £500,000 or more. Fees should be higher when specialist and complex apparatus is required over standard laboratory equipment;
  - (b) Analyst resource – analyst time can vary from requiring minutes to hours or days per sample and the level of expertise required increases too; and
  - (c) Number of parameters – some analyses can be for a single parameter whilst others require a suite of parameters to enable interpretation. For example,

numerous parameters are needed to assess whether water is suitable for drinking. Fees must account for this.

30. Fees are and will continue to be charged to private clients. Existing arrangements with public authorities for which the Official Analyst performs a significant amount of work will be maintained. These public authorities will be exempted from paying fees under the Order, including the States of Jersey Police, Customs and Immigration, States of Jersey Prison Service, the Viscount's Department and the Department for Infrastructure, Housing and Environment.
31. The four service categories and fees to be provided for by Order are:

	Description of service	Examples of service	Fee
1	Samples requiring standard laboratory equipment and moderate analyst time for analysis of one or two parameters	<ul style="list-style-type: none"> <li>Drinking water for nitrate analysis</li> <li>Drinking water for iron analysis</li> </ul>	£30+GST
2	Samples requiring standard laboratory equipment and average analyst time and expertise and/or analysis of multiple parameters	<ul style="list-style-type: none"> <li>Drinking water for routine chemical analysis</li> <li>Drinking water for routine microbiological analysis</li> <li>Environmental or wastewater for hydrocarbon analysis</li> <li>Swimming pool water for microbiological analysis</li> </ul>	£60+GST
3	Samples requiring standard laboratory equipment and enhanced analyst time and expertise and/or analysis of multiple parameters	<ul style="list-style-type: none"> <li>Drinking water for routine chemical and microbiological analysis</li> <li>Environmental sample for metals analysis</li> </ul>	£120+GST
4	Samples requiring complex laboratory equipment and enhanced analyst time and expertise for each parameter	<ul style="list-style-type: none"> <li>Forensic sample for alcohol analysis</li> <li>Forensic sample for drug toxicology analysis</li> <li>Alcohol technical defence calculations and expert report</li> </ul>	£240+GST

32. It is anticipated that the fee income raised under the new fee structure will generate a total fee income which is broadly equivalent to that currently generated via the existing ad hoc, non-statutory fee structure. The four service categories, and the fees associated with each category will be kept under continual review and will be adjusted via Order if they prove, in operational practice, to be too rigid, for example, where it transpires that the service provided falls between categories.

**Human Rights**

33. The Law Officers' Department has reviewed the draft Law and there are no human rights implications arising from it.

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## EXPLANATORY NOTE

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This Law if passed will make provision for the Official Analyst and the office of the Official Analyst.

*Article 1* is an interpretation provision.

*Article 2* makes provision for the Appointment of the Official Analyst by the Chief Minister. Article 2 of the States of Jersey (Appointment Procedures) (Jersey) Law 2018 (“2018 Law”), which requires advance notice of the appointment to be given to the States, applies to the appointment and the Chief Minister must consult the Jersey Appointments Commission before making an appointment. It also sets out the qualifications a person must have to be appointed as the Official Analyst.

*Article 3* sets out the circumstances in which the Official Analyst may be dismissed by the Chief Minister. The Official Analyst must be given an opportunity to respond to any allegations and Article 3 of the 2018 Law, which requires notice of the termination to be presented to the States, applies to the dismissal. The Chief Minister may suspend the Official Analyst pending an investigation under this Article.

*Article 4* provides that the Official Analyst’s appointment terminates if they resign, are dismissed by the Chief Minister or their term of office ends in accordance with any provision in their terms and conditions of appointment.

*Article 5* sets out the function of the Official Analyst. This is to use chemical and microbiological analysis to advise on and investigate matters where it is in the public interest to do so. If the Official Analyst considers a matter poses a risk to public health, they must inform the Medical Officer of Health of that risk as soon as practicable.

*Article 6* provides for the independence of the Official Analyst when discharging their functions under this Law or any other enactment.

*Article 7* makes provision for the office of the Official Analyst. The Chief Minister must ensure that the Official Analyst is provided with the financial and administrative resources to enable the discharge of their functions. The Official Analyst may delegate any of their functions to a member of staff in the office of the Official Analyst and may designate a deputy Official Analyst.

*Article 8* allows the Chief Minister to appoint an acting Official Analyst in the event that the Official Analyst is unable to discharge their functions.

*Article 9* requires the Official Analyst to produce an annual report which the Chief Minister must present to the States. It sets out what the report must contain.

*Article 10* allows the Chief Minister to require a report to be produced by the Official Analyst on any aspect of their functions. It also allows the Official Analyst to prepare and publish a report on aspects of their functions.

*Article 11* provides that the Official Analyst or any person working under their direction is not liable in damages for anything done or omitted in the discharge of any function under this Law unless it is shown that the act or omission was in bad faith.

*Article 12* allows the Chief Minister to provide for the payment of such fees as may be prescribed, including fees that must be paid in advance.

*Article 13* provides that the appointment of the Official Analyst under the Food Safety (Jersey) Law 1966 may continue and that anything done by the Official Analyst under that Law is treated as having been done under this Law.

*Article 14* contains amendments to the Food Safety (Jersey) Law 1966. It repeals Article 2 of that Law, which previously made provision for the establishment of the Official Analyst, and amends the definition of “Official Analyst” so that it refers to this Law.

*Article 15* contains amendments to the Public Finances (Jersey) Law 2019 to make provision for the resourcing of the Official Analyst to be included in the government plan as a States body (but one that is not a non-Ministerial body).

*Article 16* introduces the Schedule, which contains consequential amendments. It also allows the States to make further amendments by Regulations.

*Article 17* gives the short title by which the Law may be known and provides that it comes into force 7 days after it is registered.



Jersey

## DRAFT OFFICIAL ANALYST (JERSEY) LAW 202-

### Contents

#### Article

1	Interpretation.....	17
2	Appointment of Official Analyst.....	17
3	Dismissal from office as Official Analyst .....	18
4	Termination of office as Official Analyst .....	19
5	Function of the Official Analyst.....	19
6	Independence of the Official Analyst.....	19
7	Office of the Official Analyst .....	19
8	Acting Official Analyst .....	20
9	Annual report .....	20
10	Other reports.....	20
11	Limitation of liability.....	21
12	Fees .....	21
13	Transitional provisions .....	21
14	Food Safety (Jersey) Law 1966 amended.....	21
15	The 2019 Law amended .....	21
16	Consequential amendments .....	22
17	Citation and commencement.....	22

#### SCHEDULE 23

CONSEQUENTIAL AMENDMENTS		23
1	Article 1(1) (general interpretation) of the Medicines (Jersey) Law 1995 amended .....	23
2	Schedule 2 (exemption for certain persons from Article 57(2) of the Law) of the Medicines (Prescription Only) (Jersey) Order 1997 amended.....	23
3	Misuse of Drugs (General Provisions) (Jersey) Order 2009 amended .....	23
4	Article 65(7) (gas examiner) of the Jersey Gas Company (Jersey) Law 1989 amended .....	23
5	Regulation 8 (Official Analyst and staff) of the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 amended.....	23
6	Article 34(6) (documentary evidence as to specimens in such proceedings) of the Road Traffic (Jersey) Law 1956 amended .....	24







Jersey

## DRAFT OFFICIAL ANALYST (JERSEY) LAW 202-

A LAW to provide for the establishment and functions of an office of Official Analyst to the States of Jersey; and for connected purposes.

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her 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 Her Most Excellent Majesty in Council, have adopted the following Law –

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### 1 Interpretation

In this Law –

“2005 Law” means the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);

“2018 Law” means the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#);

“2019 Law” means the [Public Finances \(Jersey\) Law 2019](#);

“functions of the Official Analyst” means the function set out in Article 5 and functions conferred on the Official Analyst by any other enactment;

“Minister” means the Chief Minister;

“office of the Official Analyst” means the staff, services, equipment and accommodation provided to the Official Analyst in accordance with Article 7;

“Official Analyst” means the Official Analyst appointed under Article 2.

### 2 Appointment of Official Analyst

- (1) The Minister must appoint an officer as the Official Analyst for the discharging of the functions of the Official Analyst.
- (2) Before appointing an Official Analyst the Minister must consult and take into account the views of the Jersey Appointments Commission established under Article 17 of the 2005 Law.

- (3) Article 2 of the 2018 Law (which requires advance notice of the appointment to be given to the States) applies to the appointment of the Official Analyst.
- (4) The Official Analyst must hold and vacate office in accordance with the terms and conditions of the Official Analyst's appointment.
- (5) The Minister may appoint a person as the Official Analyst only if the person –
  - (a) holds a Mastership in Chemical Analysis awarded by the Royal Society of Chemistry; or
  - (b) both –
    - (i) demonstrates the necessary level of knowledge, skill and experience in analytical chemistry and microbiological examination necessary to perform the functions of the Official Analyst under Jersey legislation, and
    - (ii) holds a qualification in analytical chemistry.
- (6) If the Minister appoints a person who does not satisfy paragraph (5)(a), the Minister must set out in writing the reasons why the Minister determines that it is reasonable to appoint someone who does not satisfy that paragraph and must publish those reasons.
- (7) The Minister may, by Order, amend paragraph (5)(a).

### **3 Dismissal from office as Official Analyst**

- (1) The Minister may dismiss the Official Analyst only if the Official Analyst –
  - (a) is incapacitated by physical or mental illness;
  - (b) has, without reasonable excuse, failed to discharge the functions of the Official Analyst;
  - (c) has otherwise behaved in a way that is not compatible with the Official Analyst continuing in office; or
  - (d) is otherwise unable or unfit to discharge the functions of the Official Analyst.
- (2) Before dismissing the Official Analyst, the Minister must provide the Official Analyst with an opportunity to respond to the allegations and must take account of any response.
- (3) Where the Minister is considering whether to dismiss the Official Analyst, the Minister may suspend the Official Analyst from office until the Minister has decided whether to dismiss the Official Analyst.
- (4) If the Minister decides not to dismiss the Official Analyst, the Official Analyst must be restored to office without loss of remuneration or any other benefits.
- (5) Article 3 of the 2018 Law (which requires notice of the termination to be presented to the States) applies to the dismissal of the Official Analyst under paragraph (1).

#### **4 Termination of office as Official Analyst**

The Official Analyst ceases to hold office –

- (a) if the Official Analyst resigns by giving, in writing, such notice as is required under the terms and conditions of appointment;
- (b) if the Minister has dismissed the Official Analyst under Article 3; or
- (c) on the expiry of the term of office, if any, stated in the terms and conditions of appointment.

#### **5 Function of the Official Analyst**

- (1) The function of the Official Analyst is to use chemical and microbiological analysis to advise on and investigate matters where it is in the public interest to do so, including in relation to –
  - (a) law and order;
  - (b) public health and safety;
  - (c) environmental protection;
  - (d) consumer interests;
  - (e) government policies and functions.
- (2) Where, in the exercise of the functions of the Official Analyst, the Official Analyst considers that a matter poses a risk to public health, the Official Analyst must inform the Medical Officer of Health appointed under the [Loi \(1934\) sur la Santé Publique](#) of that risk as soon as practicable.

#### **6 Independence of the Official Analyst**

The Official Analyst, or a person discharging or performing the functions of the Official Analyst, must not be directed on how any function of the Official Analyst, or the office of the Official Analyst, is to be carried out.

#### **7 Office of the Official Analyst**

- (1) The Minister must ensure that the Official Analyst is provided with the financial and administrative resources, and other support, including staff, services, equipment and accommodation, necessary to enable the Official Analyst to discharge the functions of the Official Analyst economically, effectively and efficiently.
- (2) Before the Council of Ministers includes a statement in a government plan under Article 10(2) of the 2019 Law that relates to an amount submitted by the office of the Official Analyst, the Minister must consult the Official Analyst.
- (3) A States' employee (within the meaning of the 2005 Law) provided under paragraph (1) is a member of the Official Analyst's staff for the purposes of this Article if, under the direction of the Official Analyst, that employee performs, or assists in the performance of, a function of the Official Analyst.
- (4) The Official Analyst may delegate any of the functions of the Official Analyst to a member of the Official Analyst's staff.

- (5) The Official Analyst may designate as a deputy Official Analyst a member of the Official Analyst's staff.

## **8 Acting Official Analyst**

- (1) The Minister may appoint an acting Official Analyst responsible for discharging the functions of the Official Analyst if the Official Analyst –
  - (a) dies;
  - (b) is incapacitated;
  - (c) is suspended under Article 3(3);
  - (d) has been dismissed under Article 3(1);
  - (e) has resigned; or
  - (f) is unable for any reason to discharge the functions of the Official Analyst.
- (2) The appointment of an acting Official Analyst ends with the appointment of a new Official Analyst.

## **9 Annual report**

- (1) The Official Analyst must produce an annual report on the performance of the functions of the Official Analyst for each financial year.
- (2) The report must –
  - (a) set out why the work undertaken in the financial year is in the public interest;
  - (b) comply with the Public Finances Manual issued under Article 31 of the 2019 Law as it applies to the annual reports of public bodies listed in Schedule 6 to that Law; and
  - (b) include the accounts of the office of the Official Analyst included in the financial statement under Article 37 of the 2019 Law.
- (3) The Official Analyst must present the report to the Minister as soon as practicable after the end of the financial year to which it relates.
- (4) The Minister must present a copy of the report to the States as soon as is practicable after receiving it.
- (5) The Minister may, by Order, amend the requirements set out in paragraph (2).

## **10 Other reports**

- (1) The Minister may request that the Official Analyst prepare a report upon any aspect of the functions of the Official Analyst or the work undertaken in discharge of those functions.
- (2) Where the Minister requests a report under paragraph (1), the Official Analyst must prepare a report and submit it to the Minister.
- (3) The Official Analyst may prepare and publish reports on any aspect of the functions of the Official Analyst or the work undertaken in discharge of those functions.

## 11 Limitation of liability

- (1) The Official Analyst or any person working under the Official Analyst's direction is not liable in damages for anything done or omitted in the discharge of any function under this Law unless it is shown that the act or omission was in bad faith.
- (2) Paragraph (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).

## 12 Fees

- (1) The Minister may, by Order, provide that the Official Analyst may charge such fees as the Order prescribes in the discharge of the functions of the Official Analyst.
- (2) Without limiting paragraph (1), the Order may prescribe that the fee is payable in advance.

## 13 Transitional provisions

- (1) The appointment of the Official Analyst appointed under the [Food Safety \(Jersey\) Law 1966](#) continues under this Law.
- (2) Anything done by the Official Analyst under the [Food Safety \(Jersey\) Law 1966](#) is to be treated as having been done under this Law.

## 14 [Food Safety \(Jersey\) Law 1966](#) amended

- (1) The [Food Safety \(Jersey\) Law 1966](#) is amended as follows.
- (2) In Article 1 (interpretation) for the definition "Official Analyst" there is substituted –
  - “ “Official Analyst” means the Official Analyst appointed under Article 2 of the Official Analyst (Jersey) Law 202-, or any person appointed under that Law to deputise for the Official Analyst;”.
- (3) Article 2 (Official Analyst) is deleted.

## 15 The 2019 Law amended

- (1) The 2019 Law is amended as follows.
- (2) In Article 1 (interpretation) in the definition "States body" after sub-paragraph (d) there is inserted –
  - “(e) a body listed in Schedule 6;”.
- (3) In Article 10 (proposed appropriations for non-Ministerial bodies) –
  - (a) in the heading, after “non-Ministerial bodies” there is inserted “or other bodies”;
  - (b) in paragraph (1) –
    - (i) after “a non-Ministerial States body” there is inserted “or body listed in Schedule 6”,

- (ii) after sub-paragraph (c) there is inserted –
  - “(d) the Minister responsible for ensuring the proper resourcing of the body under the enactment that establishes the body, in the case of a body listed in Schedule 6.”.
- (4) In Article 55(1) (power to amend Law by Regulations) for “Schedules 1 to 5” there is substituted “Schedules 1 to 6”.
- (5) In Schedule 1 (non-Ministerial States bodies) “Office of the Official Analyst” is deleted.
- (6) After Schedule 5 there is inserted –

## **“SCHEDULE 6**

(Article 10)

### **OTHER STATES BODIES**

Office of the Official Analyst”.

## **16 Consequential amendments**

- (1) The Schedule contains consequential amendments.
- (2) The States may by Regulations make such amendments to any enactment as appear to the States to be expedient –
  - (a) for the general purposes, or any particular purpose, of this Law; or
  - (b) in consequence of any provision made by or under this Law.

## **17 Citation and commencement**

This Law may be cited as the Official Analyst (Jersey) Law 202- and comes into force 7 days after the day on which it is registered.

## SCHEDULE

(Article 16)

### CONSEQUENTIAL AMENDMENTS

**1 Article 1(1) (general interpretation) of the [Medicines \(Jersey\) Law 1995](#) amended**

In Article 1(1) of the [Medicines \(Jersey\) Law 1995](#) in the definition “Official Analyst” for “in pursuance of Article 2 of the [Food Safety \(Jersey\) Law 1966](#)” there is substituted “under the Official Analyst (Jersey) Law 202-”.

**2 Schedule 2 (exemption for certain persons from Article 57(2) of the Law) of the [Medicines \(Prescription Only\) \(Jersey\) Order 1997](#) amended**

In column 1 of entry 2 of the table in Part 1 of Schedule 2 of the [Medicines \(Prescription Only\) \(Jersey\) Order 1997](#) for “Article 2 of the [Food Safety \(Jersey\) Law 1966](#), or any person appointed under that Article to deputise for him or her” there is substituted “the Official Analyst (Jersey) Law 202-, or any person appointed under that Law to deputise for the Official Analyst”.

**3 [Misuse of Drugs \(General Provisions\) \(Jersey\) Order 2009](#) amended**

In the [Misuse of Drugs \(General Provisions\) \(Jersey\) Order 2009](#) –

- (a) in Article 2(5)(b)(i) (exemptions from certain provisions of Law) for “Article 2 of the [Food Safety \(Jersey\) Law 1966](#)” there is substituted “the Official Analyst (Jersey) Law 202-”;
- (b) in Article 6(4)(g) (production and supply of Schedule 2, 3, 4, and 5 drugs) for “, as defined by the [Food Safety \(Jersey\) Law 1966](#)” there is substituted “appointed under the Official Analyst (Jersey) Law 202-”.

**4 Article 65(7) (gas examiner) of the [Jersey Gas Company \(Jersey\) Law 1989](#) amended**

In Article 65(7) of the [Jersey Gas Company \(Jersey\) Law 1989](#) for “[Food Safety \(Jersey\) Law 1966](#)” there is substituted “Official Analyst (Jersey) Law 202-”.

**5 Regulation 8 (Official Analyst and staff) of the [Rehabilitation of Offenders \(Exceptions\) \(Jersey\) Regulations 2002](#) amended**

In Regulation 8 of the [Rehabilitation of Offenders \(Exceptions\) \(Jersey\) Regulations 2002](#) –

- (a) in paragraph (1)(b) for “employment in the laboratory of the Official Analyst” there is substituted “employment in the office of the Official Analyst”;

- (b) in paragraph (3) for “has the same meaning as in the [Food Safety \(Jersey\) Law 1966](#)” there is substituted “means the Official Analyst appointed under the Official Analyst (Jersey) Law 202-”.

**6 Article 34(6) (documentary evidence as to specimens in such proceedings) of the [Road Traffic \(Jersey\) Law 1956](#) amended**

In Article 34(6) of the [Road Traffic \(Jersey\) Law 1956](#) for “has the meaning assigned to it by the [Food Safety \(Jersey\) Law 1966](#)” there is substituted “means the Official Analyst appointed under the Official Analyst (Jersey) Law 202-”.