

STATES OF JERSEY



DRAFT EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (AMENDMENT No. 8) (JERSEY) REGULATIONS 201- (P.105/2016): SECOND AMENDMENT

**Lodged au Greffe on 31st January 2017
by the States Employment Board**

STATES GREFFE

1 PAGE 12, REGULATION 4 –

In the substituted Article 16 –

- (a) for paragraph (1) substitute the following paragraph –
“(1) The States Assembly shall agree, on a proposition lodged by the States Employment Board, a list of posts which are to be “senior posts” for the purposes of this Part.”;
- (b) after paragraph (1) insert the following paragraph –
“(2) Before lodging the proposition referred to in paragraph (1), the States Employment Board shall consult the Commission on the list of posts included in the proposition.”;
- (c) renumber the existing paragraph (2) as paragraph (3);
- (d) delete the existing paragraph (3).

2 PAGE 12, REGULATION 4 –

After Regulation 4 insert the following Regulation and renumber the subsequent Regulations accordingly –

“5 Article 18 amended

In Article 18 of the principal Law –

- (a) for paragraphs (4) and (5) there shall be substituted the following paragraphs –
 - ‘(4) Subject to paragraph (5), a Commissioner shall not hold office for a period exceeding 9 years regardless of whether, during the period of holding office, the Commissioner holds office for a term that is less than 9 years and is re-appointed and regardless of whether during all or any part of that period the Commissioner holds office as Chairman.
 - (5) In exceptional circumstances, a Commissioner’s appointment (whether or not as Chairman) may be extended by a period of not more than 12 months beyond the period of 9 years referred to in paragraph (4) for the purpose of facilitating a transition period before a replacement is appointed.
 - (5A) Where paragraph (5) applies, the total period for which a Commissioner holds office shall not, in any event, extend beyond a period of 10 years.’;
- (b) paragraphs (7) and (8) shall be deleted;
- (c) in paragraph (9) the words ‘For the purposes of paragraphs (7) and (8),’ shall be deleted.”.

3 PAGE 13, REGULATION 6 (RENUMBERED REGULATION 7) –

In the substituted Article 23 –

- (a) in the substituted paragraph (2) after the word “participate” insert the word “in”;
- (b) for the substituted paragraph (3) substitute the following paragraph –
 - “(3) The Commission may, if requested by any person or body conducting a recruitment to a post (whether or not the Commission otherwise has functions in relation to that post), oversee, observe or participate in that recruitment on such terms as the Commission agrees with the requesting person or body provided that such terms do not breach any other provision in this Part.”.

4 PAGE 14, REGULATION 9 (RENUMBERED REGULATION 10) –

For the substituted Article 26AA substituted the following Article –

“26AA Recruitment to the post of Chief Executive Officer

- (1) This Article applies when a recruitment is carried out for the appointment of a person to the post of Chief Executive Officer.
- (2) The States Employment Board shall require the Commission to nominate a Commissioner or Commissioners who are to be involved in the recruitment.
- (3) The Commissioner or Commissioners nominated under paragraph (2) shall be involved in deciding –
 - (a) which candidates for recruitment shall be interviewed;
 - (b) which candidates following interview have met the required standard for recruitment; and
 - (c) which candidate is to be offered the post.
- (4) The States Employment Board shall nominate a person other than a Commissioner who shall be responsible for overseeing the recruitment process to ensure that it complies with the guidelines produced under Article 24.
- (5) The person nominated under paragraph (4) shall chair any meeting at which candidates are interviewed, and Article 26(3), (4) and (5) shall apply as if that person were a Commissioner nominated to be an observer in a notice given under paragraph (1) of that Article.”.

STATES EMPLOYMENT BOARD

REPORT

Purpose

The States Employment Board (“SEB”) is proposing amendments to [P.105/2016](#) regarding changes concerning the functions of the Jersey Appointments Commission (“the Commission”) following a review of the relevant provisions of the Employment of States of Jersey Employees (Jersey) Law 2005 (“the Law”) by the SEB with the Commission, and initial consultation with independent bodies covered in the guidelines for recruitment produced by the Commission. This further amendment replaces a previously lodged amendment to P.105/2016 (i.e. P.105/2016 Amd.). This further amendment would make changes to P.105/2016, which in turn would amend the Law.

Background

A renewed focus in the function of the Commission has resulted in wider engagement with the SEB, the States of Jersey Human Resources Department (“HR”) and independent bodies. As a result, the Commission has looked to simplify its processes and provide greater clarity as to its role, and has produced a revised set of guidelines.

This replacement amendment to P.105/2016 has been lodged by the SEB following helpful discussions with the Corporate Services Scrutiny Panel and the Jersey Appointments Commission. This replaces a previously lodged amendment to P.105/2016 and has a narrower scope, being focussed on those changes required to support the forthcoming recruitment of a new Chief Executive Officer (“CEO”) and some other matters to support the functioning of the Commission.

Jersey Appointments Commission

Part 4 of the Law covers the function, responsibilities and ways of working of the Commission. The proposed amendments are outlined below under the relevant Article headings.

Article 16: Senior posts to which independent oversight applies

This amendment is being proposed so that the States Assembly can agree a list of those ‘senior posts’ which should be provided with independent oversight by the Commission as part of the recruitment process. In practice, this means that the SEB would table a proposition, after consultation with the Commission, listing the ‘senior posts’ that it is proposing be provided independent oversight by the Commission in relation to recruitment of specific posts. Once agreed by the States Assembly, the Commission would discharge its independent duties on this basis.

Article 18: Membership of Commission

This amendment is being proposed to achieve consistency and reflect the guidance being provided by the Commission in their guidelines to independent bodies in relation to the length of terms of office that may be held. As it is currently drafted, the legislation provides for different terms for the Commission, which has never been the intention of the Commission. The SEB and the Commission wish to remove this discrepancy by applying the same rules to the Commission. In summary, this amendment allows for a

Commissioner to be appointed for the same period (9 years) as any other independent body inclusive of time as the Chair.

Article 23: Function of Commission

The amendments made by P.105/2016 clarify the Commission's remit within the recruitment process so that it could, for example, be invited to play an active role in the recruitment of persons to posts which fall within its guidance, but which have not been designated as "senior posts". Under the existing legislation, the Commission can already be invited to take part in any recruitment process that is conducted by any person who is not otherwise subject to the Commission's functions. The purpose of this further amendment is to clarify that this existing function continues, whether or not the Commission has other functions in relation to recruitment for a post.

Article 26AA: Recruitment to the post of Chief Executive Officer

This amendment focuses on enabling the SEB to engage with the Commission to undertake the specific recruitment of the role of CEO for the States of Jersey. It allows for the appointment of an independent body to provide the oversight role that would ordinarily be provided by the Commission.

Financial and manpower implications

There are no direct financial or manpower implications for the States arising from the adoption of this draft amendment to P.105/2016.