

STATES OF JERSEY



DRAFT MACHINERY OF GOVERNMENT (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 201- (P.1/2018): SECOND AMENDMENT (P.1/2018 Amd.(2)) – AMENDMENT

**Lodged au Greffe on 13th March 2018
by the Chairmen's Committee**

STATES GREFFE

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AMENDMENTS) (JERSEY) LAW 201- (P.1/2018): SECOND AMENDMENT
(P.1/2018 Amd.(2)) – AMENDMENT

PAGE 2, AMENDMENT 1 –

- (a) in paragraph (b)(i) for the words “paragraphs (2), (3) and (4)” substitute the words “paragraphs (2), (3), (4) and (5)”;
- (b) in paragraph (c), after the inserted paragraph (4), insert the following paragraph –
 - “(5) The PAO must not appoint an accountable officer for a body which is an independently audited States body or a States aided independent body unless that body is specified in paragraph (10).”;
- (c) for paragraph (d) substitute the following paragraph –
 - “(d) after paragraph (6) (renumbered as paragraph (9)) insert the following paragraphs –
 - “(10) For the purpose of paragraph (5), the specified bodies are –
 - (a) Andium Homes Limited, registered on 13th May 2014 under registration number 115713;
 - (b) Jersey Post International Limited, registered on 22nd September 2005 under registration number 91247;
 - (c) JT Group Limited, registered on 22nd October 2002, under registration number 84230 (including its subsidiary companies);
 - (d) Jersey Overseas Aid Commission, established under the Jersey Overseas Aid Commission (Jersey) Law 2005;
 - (e) Ports of Jersey Ltd, established under the Air and Sea Ports (Incorporation) (Jersey) Law 2015;
 - (f) States of Jersey Development Company Limited, registered on 21st February 1996 under registration number 64345 (including its subsidiary companies).
 - (11) The Minister may, by Order, amend paragraph (10).”.

CHAIRMEN’S COMMITTEE

REPORT

Independent States Bodies

The Draft Machinery of Government (Miscellaneous Amendments) (Jersey) Law 201- (P.1/2018), as currently lodged (“the draft Law”), contains a provision to allow an “accountable officer” to be appointed solely at the discretion of the Principal Accountable Officer in relation to independent States bodies¹.

This amendment requires that the independent bodies to which this provision applies are set out in law and amendable by Ministerial Order. This strengthens the amendment lodged by the Chief Minister (P.1/2018 Amd.(2)) which only requires the Principal Accountable Officer to publish and maintain such a list.

In undertaking scrutiny of the draft Law, the Panel was concerned at the wide definition of “States aided independent body”. This would mean that the PAO could, in theory, appoint an accountable officer for an organisation that receives as little as one pound from the States.

The Panel was concerned that this could lead to uncertainty among independent States bodies as to whether they might have an accountable officer appointed to them. The Panel considered that a published list of entities, which have been identified as requiring such oversight, would help to bring clarity and certainty.

The Panel questioned the Chief Minister and Chief Executive of the States about this in a public hearing –

“Deputy S.M. Brée of St. Clement:

You will be looking to lodge an amendment to clarify the situation on that question, is that correct?

Chief Executive:

I think in the light of the conversations that have taken place and the debate, that would be helpful for the purposes of ensuring that the threshold is at the right level. Because I think if you are referring back to what was raised in the States Assembly debate, which is the £1 example, that would not be of use of anybody’s time or effort, and that is not the intent here. But if you are talking about organisations in the £20 million, there is perhaps a different scale of where you would want to focus your energies.²”

The Panel was told that no consultation with independent bodies had taken place yet, as it was intended to consult once a Financial Direction had been drawn up setting out the responsibilities of an accountable officer.

It is understood that this consultation will take place once P.1/2018 has been debated. Until the relevant Financial Direction has been published, it is difficult to assess the functions that an accountable officer will undertake in relation to an independent body. The draft Law itself is not clear in this regard.

¹ Defined in the draft Law as an Independently audited States body or a States aided independent body

² [Public Hearing with the Chief Minister, 01/03/2018](#)

The Panel wrote to a number of independent bodies to seek their views on the proposed changes. The submissions that the Panel received were generally supportive of improving accountability and governance. However, concerns were expressed at any move to reduce the independence of bodies that the States had deliberately set up to be independent of government.

The Chief Minister's amendment proposes that a list be published by the PAO, setting out the independent bodies for which the PAO may appoint an accountable officer. In the Panel's view, this power should ultimately rest with the States Assembly. The Assembly has agreed to establish these bodies to be independent of direct government control. Any decision to impose an additional accountability structure on these bodies should be for the Assembly to make.

The initial list of independent bodies specified in the Panel's amendment mirrors the list proposed by the Chief Minister. If, after consultation, it is considered that one or more of the specified independent bodies should not be included on the list, the Minister would have the ability, by Order, to amend the list.

We believe this still allows the flexibility desired, but ensures that a level of awareness and oversight is retained by the States Assembly.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of this amendment.