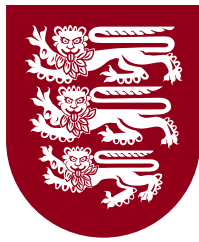


STATES OF JERSEY



Jersey

DRAFT STATISTICS AND CENSUS (JERSEY) AMENDMENT LAW 202- (P.29/2024): AMENDMENT (P.29/2024 Amd.) – AMENDMENT

**Lodged au Greffe on 19th June 2024
by the Chief Minister
Earliest date for debate: 16th July 2024**

STATES GREFFE

DRAFT STATISTICS AND CENSUS (JERSEY) AMENDMENT LAW 202- (P.29/2024):
AMENDMENT (P.29/2024 AMD.) – AMENDMENT

PAGE 2, ARTICLE 21A –

For the substituted Article 21A substitute –

“21A Limitations of liability

- (1) The Chief Statistician, the staff of the OCS, other producers of tier 1 statistics and the Statistics Council are not liable in damages in respect of loss resulting from reliance on information or statistics produced in the discharge, or purported discharge, of any of their functions under this Law unless paragraph (2) applies.
- (2) This paragraph applies –
 - (a) if the information or statistics were produced in bad faith; or
 - (b) to allow an award of damages if that production constitutes an act that is unlawful under Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).”.

CHIEF MINISTER

REPORT

Article 16 of the draft [Statistics and Census \(Jersey\) Amendment Law 202-](#) (the “**draft Law**”) would add a new Article 21A to the [Statistics and Census \(Jersey\) Law 2018](#) (the “**Statistics Law**”). The purpose of Article 21A is to limit the liability for damages of the Chief Statistician, the staff working for the OCS, other producers of Tier 1 statistics and the Statistics Council.

Provisions like those in draft Article 21A, which limit liability for damages, are included in several enactments establishing independent public bodies to ensure that their ability to carry out their public functions are not prejudiced by the fear of incurring liabilities for damages that may overwhelm the funds available to the entity and therefore have a chilling effect on the ability of the entity to perform its functions properly.

The Chief Minister recognises the concern set out in the Report to Deputy Bailhache’s amendment that, while a limitation of liability may be appropriate, the breadth of draft Article 21A as originally proposed could, in this context, unnecessarily limit the ability for litigants to recover damages for some types of negligent or unlawful acts.

The Chief Minister is grateful to Deputy Bailhache for highlighting this issue and accepts that, in the context of the functions performed under the Statistics Law, draft Article 21A inserted by the draft Law should be amended to narrow its scope.

The main concern of the Government in this case is that the Chief Statistician, the staff of the OCS, producers of Tier 1 statistics and the Statistics Council should be able to produce information or statistics properly and without fear of being liable for damages if they produce a statistic that, in future, is found to be erroneous. It was not necessarily the intention of the Government to limit the ability to recover damages for other negligent acts of the relevant public authorities that might cause damage to an individual.

Deputy Bailhache’s amendment is intended to narrow the limitation on liability so that it would only apply where the damages in respect of a particular claim exceed an amount that is prescribed by the Chief Minister. The Government’s concern with this approach is that if a statistic that is relied on by many people (e.g. the RPI figure) is produced properly, but is later found to be erroneous, then there may be many people who are affected by that. The potential for a large number of claims may render a limit on the amount of damages in individual cases ineffective as a check against the risk to the relevant public authorities.

Further, if the Chief Minister prescribed a limit on the amount of damages that is low, in order to address that concern, then that may not be fair to individual claimants where the cause of the complaint is something that just affects one individual to a significant degree.

This amendment to Deputy Bailhache’s amendment is therefore designed to narrow the scope of the limitation on liability in new Article 21A so that the relevant public authorities may not be liable in damages in respect of loss resulting from reliance on information or statistics produced in the discharge of any of their functions under the Statistics Law unless the information or statistics were produced in bad faith or an award of damages is necessary to address a breach of human rights. This narrows the provision to address the risk of claims being brought that may have a chilling effect on the proper production of information and statistics under the Statistics Law.

The Chief Minister would, again, like to thank Deputy Bailhache for raising this important aspect of the Law, and is grateful to him for his dialogue in respect of this matter. It is understood that this amendment is agreeable to Deputy Bailhache and, accordingly, the Chief Minister asks members to accept this amendment to Deputy Bailhache’s amendment.

Financial and staffing implications

There are no financial or staffing implications arising from this amendment. The aim of this amendment is to limit the liability of public authorities and their officials for damages for loss resulting from the production of statistics.

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.