

STATES OF JERSEY



DRAFT PUBLIC FINANCES (AMENDMENT No. 4) (JERSEY) LAW 201- (P.73/2013): AMENDMENT

**Lodged au Greffe on 27th August 2013
by the Corporate Services Scrutiny Panel**

STATES GREFFE

PAGES 27–28, ARTICLE 19 –

In the inserted Article 56A –

- (a) in paragraph (3) –
 - (i) for the word “Minister” substitute the word “States”,
 - (ii) at the end, add the words “on a proposition signed by the Chief Minister and the Minister for Treasury and Resources and lodged by the Chief Minister”;
- (b) in paragraph (4) delete the words “by the Minister”;
- (c) in paragraph (5) for the words “Before appointing a member of the Panel, the Minister” substitute the words “Before signing a proposition under paragraph (3), the Chief Minister and Minister for Treasury and Resources”;
- (d) delete paragraph (6);
- (e) in paragraph (7) –
 - (i) delete the words “The Minister shall appoint”,
 - (ii) after the words “a member of the Panel” insert the words “shall be appointed”;
- (f) in paragraph (8) –
 - (i) delete the words “The Minister may appoint”,
 - (ii) after the words “a person” insert the words “may be appointed”;
- (g) in paragraph (9) for the word “Minister” substitute the words “Chief Minister”;
- (h) after paragraph (9) insert the following paragraph –

“(10) If a member of the Panel resigns, the Chief Minister shall notify the States of the resignation at their next meeting.”;
- (i) in paragraph (10) for the words “the Minister” substitute the word “the States, on a proposition lodged by any member of the States.”;
- (j) delete paragraph (11);
- (k) in paragraph (12) for the word “Minister” substitute the words “Minister for Treasury and Resources”;
- (l) In paragraph (13) for the words “The Minister” substitute the words “The Chief Minister and the Minister for Treasury and Resources”.

And renumber the paragraphs in Article 56A accordingly.

CORPORATE SERVICES SCRUTINY PANEL

Note: The Draft Public Finances (Amendment No. 4) (Jersey) Law 201- as it would read if amended by this amendment is set out for convenience in the attached **Appendix**.

REPORT

During the review there was concern that the draft amendment, brought forward by the Minister in regard to the appointment of Fiscal Policy Panel (FPP) Members, would compromise the independence of the Panel. For example, Article 56A proposes that the Minister shall appoint FPP Members without States approval. The Panel was advised that this amendment had been proposed as a result of the States' decision to adopt P.205/2009 which suggested a revised procedure in relation to certain appointments made by the States. The Privileges and Procedures Committee (PPC) recommended that, rather than making appointments through the debate of a Proposition, it would be beneficial to introduce a new system whereby the Minister, body or person responsible for making the appointment concerned would present a report to the States setting out the details of the proposed nomination. However, within its Proposition, PPC made it clear to the States that it would be inappropriate for certain positions to be appointed using the new procedure. In this regard, PPC felt that the States Assembly's responsibility for appointing the Comptroller and Auditor General and Greffier of the States should remain, as both post-holders report directly to the Assembly.

The Fiscal Policy Panel is an independent advisory body to the States, and this position must be reflected in every aspect of the primary legislation. In order to maintain its independence, the Panel propose an approach which follows a similar process to the appointment of the Comptroller and Auditor General. It is based on the requirement that following a selection process, a Proposition that has been signed by both the Chief Minister and the Minister for Treasury and Resources should be brought to the States for its approval of appointment.

The Panel note that this suggested approach for the appointment of FPP Members has not only been endorsed by The Chartered Institute of Public Finance and Accountancy (CIPFA), but has also been recommended within its own report.

Financial and manpower implications

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

**DRAFT PUBLIC FINANCES (AMENDMENT No. 4) (JERSEY) LAW 201-
AS AMENDED BY THE AMENDMENT PROPOSED BY THE
CORPORATE SERVICES SCRUTINY PANEL**

PART 6A

FISCAL POLICY PANEL

56A Establishment of Fiscal Policy Panel

- (1) There shall be a Fiscal Policy Panel.
- (2) There shall be at least 3 members of the Panel.
- (3) The States shall appoint the members of the Panel on a proposition signed by the Chief Minister and the Minister for Treasury and Resources and lodged by the Chief Minister.
- (4) The Persons appointed as members of the Panel must have the appropriate qualifications and experience to discharge the functions described in Articles 56C, 56D and 56E.
- (5) Before signing a proposition under paragraph (3), the Chief Minister and Minister for Treasury and Resources must seek the views of the Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005 on the appointment.
- (6) A member of the Panel shall be appointed for a period not exceeding 5 years.
- (7) A person may be appointed as a member of the Panel more than once.
- (8) A member of the Panel may resign by notice in writing given to the Chief Minister.
- (9) If a member of the Panel resigns, the Chief Minister shall notify the States of the resignation at their next meeting.
- (10) The appointment of a member of the Panel may be terminated by the States, on a proposition lodged by any member of the States, on any of the following grounds –
 - (a) that the person is incapable, by reason of illness, of discharging his or her duties as a member;
 - (b) that the person has been made bankrupt;
 - (c) that the person has not, through absence, discharged his or her duties as a member; or
 - (d) that the person is otherwise unable or unfit to discharge his or her duties as a member.
- (11) The Minister for Treasury and Resources must ensure that the Panel is provided with appropriate and sufficient resources to discharge its functions.

- (12) The Chief Minister and the Minister for Treasury and Resources must provide the Panel with such information as it reasonably requires to discharge its functions.