

STATES OF JERSEY



Jersey

DRAFT OFFICIAL ANALYST (JERSEY) LAW 202- (P.41/2022): AMENDMENT

Lodged au Greffe on 11th April 2022
by the Corporate Services Scrutiny Panel
Earliest date for debate: 25th April 2022

STATES GREFFE

DRAFT OFFICIAL ANALYST (JERSEY) LAW 202- (P.41/2022): AMENDMENT

1 PAGE 17, ARTICLE 2 –

For paragraph (6) substitute –

“(6) If the Minister appoints a person who does not satisfy paragraph (5)(a), the Minister must –

- (a) include in the advance notice required under Article 2 of the 2018 Law the qualifications the person has and the reasons the Minister determines that it is reasonable to appoint someone who does not satisfy that paragraph; and
- (b) set out in writing the reasons why the Minister determines that it is reasonable to appoint someone who does not satisfy that paragraph and publish those reasons.”.

2 PAGE 18, ARTICLE 3 –

After paragraph (5) insert –

“(6) Within 6 months of the commencement of this Law, or before exercising the powers under this Article if earlier, the Minister must commission an independent evaluation of the procedure for dismissing the Official Analyst under this Article and present it to the States as soon as practicable after receiving it.”.

3 PAGE 19, ARTICLE 7 –

In paragraph (1) after “The Minister must” insert “make an annual assessment of the funding required to”.

4 PAGE 20, ARTICLE 9 –

In paragraph (2) renumber the second sub-paragraph (b) as sub-paragraph (c).

5 PAGE 20, ARTICLE 9 –

In paragraph (2) after the renumbered sub-paragraph (c) insert –

- “(d) set out the fees prescribed under Article 12 (if any) that have been charged in the financial year.”.

CORPORATE SERVICES SCRUTINY PANEL

REPORT

1. Following examination of the [Draft Official Analyst \(Jersey\) Law 202- \(P.41/2022\)](#) the Corporate Services Scrutiny Panel (the Panel) has identified five areas which require amendment to support the aim of the draft legislation in providing 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.
2. Further information on the Panel's scrutiny of the draft Law can be found in its Comments Paper, to be lodged following this Amendment.

Part 1 - Official Analyst qualification

3. The Panel acknowledges that the States Assembly would be granted two weeks' notice of the Chief Minister's intention to appoint an Official Analyst in the draft Law. The Panel understands that the Chief Minister will be able to make an appointment to an individual who does not hold a master's degree in Chemical Analysis awarded by the Royal Society of Chemistry if the Chief Minister sets out their reasoning for doing so. However, the draft Law does not appear to clarify the method of setting out the reasoning to the States Assembly.
4. Therefore this amendment, if adopted by the States Assembly, will ensure that should the Chief Minister appoint an individual who does not hold a master's degree in Chemical Analysis awarded by the Royal Society of Chemistry that there will be an obligation to include the reasoning in the two weeks advance notice of the appointment to the States to ensure the Assembly hold sufficient awareness of the appointment in line with the [States of Jersey \(Appointment Procedures\) \(Jersey\) Law 2018](#).

Part 2 - Dismissal Powers

5. The Panel holds concerns in relation to the dismissal powers granted to the Chief Minister in Article 3 of the draft Law as the responsibilities of the Official Analyst do not appear to have been defined in the draft Law and subsequently the framework for the Chief Minister to dismiss the Official Analyst appears unclear.
6. The Panel would highlight examples such as the [Statistics and Census \(Jersey\) Law 2018](#), which requires every person employed or engaged under that Law to sign a declaration that he or she will faithfully and honestly fulfil his or her duties for Statistics Jersey as required under that Law. Moreover that Law identifies standards of work in depth, for example Article 12 necessitates official statistics to be relevant, accurate, and reliable; objective and comprehensive; compiled, reported and documented in a scientific and transparent manner; disseminated impartially and in a timely manner; readily accessible to all who wish to access them; in accordance with appropriate national and international standards and classifications; and clearly and objectively displayed (whether by means of text, graphics or other method). This clearly outlines the expectations for Statistics Jersey and the Chief Statistician.
7. Therefore, the Panel has proposed an amendment which requires the Chief Minister to commission an independent evaluation of the process for dismissal of an Official Analyst, to be done within 6 months of the draft Law coming into force or before

dismissing the Official Analyst if that is earlier, and present that evaluation to the States as soon as practicable after receiving it.

Part 3 – Funding the office of the Official Analyst

8. The Panel is concerned by the wording of section 7 (1) of the draft Law in which the Chief Minister ‘must ensure that the Official Analyst is provided with the financial and administrative resources’ as the States Assembly are ultimately the sovereign in decisions over the funding and oversight of the Official Analyst and therefore the Chief Minister is in the position of assessor rather than decision maker.
9. The Panel considered amending the draft Law to match existing legislation, such as Article 9 (1) of the [Comptroller and Auditor General \(Jersey\) Law 2014](#) which identifies that “The States must ensure that the Comptroller and Auditor General is provided with sufficient resources to carry out his or her functions.” However, upon further advice and reflection have proposed amending Article 7 (1) of the draft Law to require the Chief Minister to make an annual assessment of the funding required for the Office of the Official Analyst. As defined in the report to accompany the proposition the Assembly will ultimately determine whether to approve or to amend the level of funding for the Official Analyst following the Council of Ministers proposed allocation as part of the Government Plan.

Part 4 – Renumbering

10. The amendment makes a minor alteration to amend wrong numbering in Article 9(2).

Part 5 - Transparency of fees prescribed

11. To ensure transparency is provided to the Assembly the Panel has proposed amending Article 9 of the draft Law to require the annual report of the Official Analyst to set out the fees prescribed under Article 12 (if any) that have been charged in the financial year.
12. The report which accompanied the draft Law set out the fees but to ensure that the States are aware of these on a yearly basis the inclusion in the annual report will be of relevance to the States.

Conclusion

13. This Amendment will strengthen the draft Law in the following areas:
 - States notification of Official Analyst qualifications and related reasoning prior to appointment by Chief Minister.
 - Require an independent evaluation report of Article 3 which relates to the dismissal from office of Official Analyst within 6 months of the Law coming into force, commissioned by the Chief Minister and laid before the States for its consideration.
 - Redrafting of Article 7 (1) to require the Chief Minister to make an annual assessment of the funding required for the Office of the Official Analyst as

it is the States who will ultimately determine whether to approve or to amend the level of funding for the Official Analyst.

- Require a schedule of charges under Article 12 of the Law be provided within the Annual Report of the Official Analyst to the States.

Financial and manpower implications

The Panel has identified that no financial and manpower implications will be caused by this amendment, other than Part 2. The Panel has been informed it will cost around £12,000 in order to carry out a review as identified in this amendment.