

# STATES OF JERSEY



## DRAFT JERSEY APPOINTMENTS COMMISSION (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 201-

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Lodged au Greffe on 19th May 2016  
by the States Employment Board

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STATES GREFFE





Jersey

**DRAFT JERSEY APPOINTMENTS COMMISSION  
(MISCELLANEOUS AMENDMENTS) (JERSEY)  
LAW 201-**

**European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chief Minister, Chairman of the States Employment Board, has made the following statement –

In the view of the Chief Minister, Chairman of the States Employment Board, the provisions of the Draft Jersey Appointments Commission (Miscellaneous Amendments) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

*Chief Minister, Chairman of the States Employment Board*

Dated: 16th May 2016

## REPORT

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This Law amends various enactments which impose functions on the Jersey Appointments Commission (the “Commission”) established under Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005 (the “2005 Law”).

The principal function of the Commission, conferred by Article 23 of the 2005 Law, is having oversight of the recruitment of States’ employees and States’ appointees, for the purpose of ensuring –

- that recruitment is fair, efficient and conducted in accordance with best practice; and
- that appointments are made on merit.

As part of the discharge of those functions, the Commission is required to produce guidelines for the recruitment of States’ appointees and carry out audits of recruitment practices (see Articles 24 and 25 of the 2005 Law).

A list is prepared under Article 15 of the 2005 Law, identifying those offices to which persons are appointed or elected in or with independent bodies that are, for the purposes of the Commission’s functions described above, to be States’ appointees. The list is published as Appendix 1 to the Commission’s document “Guidelines for the recruitment of Senior States Employees, appointees and members of independent bodies” which may be accessed at –

<https://www.gov.je/Government/Departments/ChiefMinisters/ChiefMinistersSections/JerseyAppointmentsCommission/Pages/index.aspx> .

A list is also prepared under Article 16 of the 2005 Law, identifying offices of States’ employee and States’ appointee that are to be senior States’ offices for the purposes of the 2005 Law. The consequence of an office being a senior States’ office is that the Commission has a power to appoint a person to observe the recruitment.

In most cases, it is inappropriate for the Commission, as the overseer and auditor, to participate in the making of a decision about who is appointed. The amendments made by this Law remove provisions that require the Commission to make recommendations about, or otherwise express a view about, the appointment of a particular individual to an office. The provisions are replaced with a requirement that the office is included in the list of States’ appointees maintained under Article 15 of the 2005 Law, described above.

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from the adoption of the draft Law.

### **Human Rights**

No human rights notes are annexed because the Law Officers’ Department has indicated that the draft Law does not give rise to any human rights issues.

## Explanatory Note

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*Article 1* amends the Employment and Discrimination Tribunal (Jersey) Regulations 2014. The wording of Regulation 3 of those Regulations, as substituted by this draft Law, is revised to reflect the fact that the lists maintained under Articles 15 and 16 of the 2005 Law are no longer prescribed, but simply agreed between the States Employment Board and the Commission. Otherwise, the requirement for the offices of Chairman and member of the Tribunal to be included in the lists remains the same. In addition, the requirement for the Minister for Social Security to consult with the Commission before recommending an appointment to the States, or extending a term of office, is removed.

*Article 2* amends the Law Society of Jersey Law 2005. Currently, Article 18(2) of that Law provides that the lay members of the disciplinary panel of the Law Society are appointed by the States on the recommendation of the Commission, after consultation with the Law Society. The amendment removes the requirement for the Commission to make a recommendation about the appointment and provides instead that the office of member must be included in the list of States' appointees maintained under Article 15 of the 2005 Law. The amendment further requires the Chief Minister to consult with the Law Society before lodging a proposition for the appointment of a lay member by the States.

*Article 3* amends the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 so as to remove a requirement for the Chief Minister to consult with the Commission before making a recommendation to the States for the appointment of a person as a member of the Jersey Bank Depositors Compensation Board. Instead, the office of member of the Board must be included in the list of States' appointees maintained under Article 15 of the 2005 Law.

*Article 4* amends the Financial Services Ombudsman (Jersey) Law 2014. Under that Law, the Chairman of the board of the Office of the Financial Services Ombudsman nominates individuals for appointment as members of that board and the Minister for Economic Development, Tourism, Sport and Culture makes the appointment. Currently, both the Chairman, in making the nominations of members, and the Minister, in making the appointments, are required to seek the views of the Commission. Similarly, the Minister is required to seek the views of the Commission before appointing the Chairman. Both requirements to seek the views of the Commission are removed by this amendment and replaced with a requirement that the offices of Chairman and of member of the board must be included in the list of States' appointees maintained under Article 15 of the 2005 Law.

*Article 5* amends the Charities (Jersey) Law 2014. Under that Law, the Jersey Charity Commissioner and the members of the Charity Commission Tribunal are appointed by the Chief Minister, after seeking the views of the Commission on the appointment. The requirements to seek the views of the Commission are removed and replaced with a requirement that the offices of Commissioner and member of the Tribunal must be included in the list of States' appointees maintained under Article 15 of the 2005 Law.

*Article 6* amends the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015. Those Regulations provide for recruitment of the Chairman and members of the Committee of Management to be overseen by the Commission and conducted in accordance with the Commission's guidelines produced under Article 24 of the 2005 Law, but do not actually specify that the offices of Chairman and member

are States' appointees. As amended, the Regulations require that those offices are included in the list of States' appointees maintained under Article 15 of the 2005 Law.

*Article 7* amends the Regulation of Care (Jersey) Law 2014, which requires the Commission to oversee the selection of the Chairmen and Commissioners of the Health and Social Care Commission, replacing that requirement with a requirement that those offices are included in the list of States' appointees maintained under Article 15 of the 2005 Law.

*Article 8* amends the Planning and Building (Jersey) Law 2002 so as to remove provision for the appointment of an inspector being made following recommendations made by the Commission. Inspectors are States employees, so it is neither necessary nor appropriate for their posts to be included in the list maintained under Article 15 of the 2005 Law.

*Article 9* amends the States of Jersey Police Force Law 2012. Under that Law, the Chairman of the Police Authority is appointed by the Minister for Home Affairs and 4 members, who must not be members of the States, are appointed by the Minister and the Chairman. In each case, the Law requires the Minister, or the Minister and Chairman, to consult the Commission before making the appointment. The requirements for consultation are removed. As before, the amendment further provides that the office of Chairman of the Police Authority and the office of member (not being an elected member of the States) must be included in the list of States' appointees maintained under Article 15 of the 2005 Law. In addition, enabling powers that (a) would allow Regulations to be made imposing functions on the Commission in relation to the appointment of the Chief Officer and Deputy Chief Officer, and (b) would allow an Order to be made imposing functions on the Commission in relation to the appointment of other police officers, are removed. The scope of the Commission's functions is, therefore, determined solely under and in accordance with the 2005 Law.

*Article 10* amends the Comptroller and Auditor General (Jersey) Law 2014. The Comptroller and Auditor General is appointed by the States, on a proposition signed by the Chief Minister and the Chairman of the Public Accounts Committee. Currently, the Chief Minister and Chairman are required to take into account the views and recommendations of the Commission regarding the appointment. That requirement is removed. As before, the office of Comptroller and Auditor General must be included in the list maintained under Article 15 of the 2005 Law.

*Article 11* removes, from the Comptroller and Auditor General (Board of Governance) (Jersey) Order 2015, a like requirement to take into account the views and recommendations of the Commission when the Board of Governance for the Comptroller and Auditor General is appointed and replaces it with a requirement that the office of member of the Board must be included in the list maintained under Article 15 of the 2005 Law.

*Article 12* amends the Public Finances (Jersey) Law 2005. Under that Law, the Treasurer of the States is appointed by the Minister for Treasury and Resources, after consulting the Chief Minister. Before making the appointment, the Minister for Treasury and Resources is required to take into account the views and recommendations of the Commission. This requirement is removed. Although the post of Treasurer is customarily filled by a person who is a States' employee, the possibility of the post being filled by a person who is not a States' employee is covered by requiring the post to be included in the list maintained under Article 15 of the 2005 Law. The post is further required to be included in the list of senior States' offices maintained under Article 16 of the 2005 Law. In addition, a requirement for

the Minister for Treasury and Resources to seek the views of the Commission before appointing the members of the Fiscal Policy Panel is replaced by a requirement for the office of member to be included in the list maintained under Article 15 of the 2005 Law.

*Article 13* amends the Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 2014. A requirement for the Commission to oversee the selection of the members of the Performers List Appeals Panel is replaced by a requirement for the office of member to be included in the list maintained under Article 15 of the 2005 Law.

*Article 14* amends the Income Support (General Provisions) (Jersey) Order 2008. A requirement in that Order for the Minister for Social Security to consult with the Commission before recommending individuals for appointment as members of the Medical Appeal Tribunal is replaced with a requirement for the office of member of that Tribunal to be included in the list maintained under Article 15 of the 2005 Law.

*Article 15* amends the Social Security (Determination of Claims and Questions) (Jersey) Order 1974. A requirement for the Minister for Social Security to consult with the Commission before recommending a person to the States for appointment as a member of the Social Security Tribunal is replaced with a requirement that the office of member of that Tribunal is included in the list maintained under Article 15 of the 2005 Law.

*Article 16* provides for the citation and commencement of this Law.







Jersey

## **DRAFT JERSEY APPOINTMENTS COMMISSION (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 201-**

### **Arrangement**

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Jersey

## **DRAFT JERSEY APPOINTMENTS COMMISSION (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 201-**

**A LAW** to amend enactments regarding the functions of the Jersey Appointments Commission

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### **1 Employment and Discrimination Tribunal (Jersey) Regulations 2014 amended**

In the Employment and Discrimination Tribunal (Jersey) Regulations 2014<sup>1</sup> –

(a) for Regulation 3 there shall be substituted the following Regulation –

#### **“3 Appointment of members**

- (1) The members of the Tribunal shall be appointed to hold the offices specified in Regulation 2(1), in accordance with this Regulation.
- (2) The office of Chairman of the Tribunal must be included in the lists maintained under Articles 15(3) and 16(1) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>2</sup> (the ‘2005 Law’).
- (3) The offices of Deputy Chairman of the Tribunal, and Lay Member of the Tribunal, must be included in the list maintained under Article 15(3) of the 2005 Law.
- (4) The recruitment of members with the qualification, knowledge or experience of, or interest in the matters specified in Regulation 2, shall be conducted in accordance with the guidelines produced by the Commission under Article 24 of the 2005 Law.

- (5) The members of the Tribunal shall be appointed by the States on the recommendation of the Minister.”;
- (b) in Regulation 5(2) for the words “upon the written request of a member and after consultation with the Jersey Appointments Commission,” there shall be substituted the words “upon the written request of a member.”.

## **2 The Law Society of Jersey Law 2005 amended**

For Article 18(2) of The Law Society of Jersey Law 2005<sup>3</sup> there shall be substituted the following paragraphs –

- “(2) The lay members of the disciplinary panel shall be appointed by the States, on the recommendation of the Chief Minister made after he or she has consulted with the Law Society.
- (2A) The office of lay member of the disciplinary panel must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>4</sup>.”.

## **3 Banking Business (Depositors Compensation) (Jersey) Regulations 2009 amended**

For Regulation 10(2) of the Banking Business (Depositors Compensation) (Jersey) Regulations 2009<sup>5</sup> there shall be substituted the following paragraphs –

- “(2) The members of the Board shall be appointed by the States on the recommendation of the Minister.
- (2A) The office of member of the Board must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>6</sup>.”.

## **4 Financial Services Ombudsman (Jersey) Law 2014 amended**

In Schedule 1 to the Financial Services Ombudsman (Jersey) Law 2014<sup>7</sup> –

- (a) paragraph 1(2) shall be deleted;
- (b) paragraph 2(2) shall be deleted;
- (c) after paragraph 2 there shall be inserted the following paragraph –

### **“2A Oversight of appointments**

The office of member of the board and the office of Chairman of the board must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>8</sup>.”.

## **5 Charities (Jersey) Law 2014 amended**

In the Charities (Jersey) Law 2014<sup>9</sup> –

- (a) in Schedule 1, paragraph 1(2) shall be deleted;

- (b) in Schedule 1, after paragraph 1 there shall be inserted the following paragraph –

**“1A Oversight of appointment of Commissioner**

The office of Commissioner must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>10</sup>.”;

- (c) in Schedule 2, paragraph 1(2) shall be deleted;
- (d) in Schedule 2, after paragraph 1 there shall be inserted the following paragraph –

**“1A Oversight of appointment of member of tribunal**

The office of member of the tribunal must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005.”.

**6 Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015 amended**

For Regulation 3(1) of the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015<sup>11</sup> there shall be substituted the following paragraph –

- “(1) The offices of Chairman of the Committee and of member of the Committee must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>12</sup>.”.

**7 Regulation of Care (Jersey) Law 2014 amended**

In Schedule 2 to the Regulation of Care (Jersey) Law 2014<sup>13</sup> –

- (a) paragraph 1 shall be deleted;
- (b) for paragraph 2(3) there shall be substituted the following sub-paragraph –

“(3) The office of Chairman of the Commission must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>14</sup>.”;

- (c) for paragraph 3(3) there shall be substituted the following sub-paragraph –

“(3) The office of Commissioner must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005.”.

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**8 Planning and Building (Jersey) Law 2002 amended**

In the Planning and Building (Jersey) Law 2002<sup>15</sup> –

- (a) in Article 106(1) the definition “Jersey Appointments Commission” shall be deleted;
- (b) in Article 107(1) for the words “Jersey Appointments Commission,” there shall be substituted the word “Minister,”;
- (c) Article 107(2) shall be deleted.

**9 States of Jersey Police Force Law 2012 amended**

In the States of Jersey Police Force Law 2012<sup>16</sup> –

- (a) in Article 1 the definition “Appointments Commission” shall be deleted;
- (b) for Article 5(2) there shall be substituted the following paragraph –
  - “(2) The offices of Chairman of the Police Authority and of member of the Police Authority (not being an elected member of the States) must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>17</sup>.”;
- (c) Article 9(3)(e) shall be deleted;
- (d) Article 10(3)(b) shall be deleted.

**10 Comptroller and Auditor General (Jersey) Law 2014 amended**

In the Comptroller and Auditor General (Jersey) Law 2014<sup>18</sup> –

- (a) in Article 1(1) the definition “Jersey Appointments Commission” shall be deleted;
- (b) for Article 3(3) there shall be substituted the following paragraph –
  - “(3) The office of Comptroller and Auditor General must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>19</sup>.”.

**11 Comptroller and Auditor General (Board of Governance) (Jersey) Order 2015 amended**

For Article 2(4) of the Comptroller and Auditor General (Board of Governance) (Jersey) Order 2015<sup>20</sup> there shall be substituted the following paragraphs –

- “(4) The Chief Minister and the Chairman must, in selecting an individual to be recommended for appointment under paragraph (2)(a), follow guidelines produced, under Article 24 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>21</sup>, by the Jersey Appointments Commission established under Article 17 of that Law.
- (4A) The office of member of the Board appointed by the States (including the appointment of one of those members as chairman)

must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005.”.

**12 Public Finances (Jersey) Law 2005 amended**

In the Public Finances (Jersey) Law 2005<sup>22</sup> –

(a) for Article 29(2) there shall be substituted the following paragraph –

“(2) The office of Treasurer must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>23</sup> and in the list maintained under Article 16(1) of that Law.”;

(b) for Article 56A(5) there shall be substituted the following paragraph –

“(5) The office of member of the Panel must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005.”.

**13 Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 2014 amended**

For Regulation 39(2) of the Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 2014<sup>24</sup> there shall be substituted the following paragraph –

“(2) The office of member of the Performers List Appeals Panel must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>25</sup>.”.

**14 Income Support (General Provisions) (Jersey) Order 2008 amended**

For Article 15(2) of the Income Support (General Provisions) (Jersey) Order 2008<sup>26</sup> there shall be substituted the following paragraphs –

“(2) The members shall each be appointed by the States on the recommendation of the Minister.

(2A) The office of member of the Medical Appeal Tribunal must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>27</sup>.”.

**15 Social Security (Determination of Claims and Questions) (Jersey) Order 1974 amended**

For Regulation 8(2) of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974<sup>28</sup> there shall be substituted the following paragraphs –

“(2) The members shall each be appointed by the States on the recommendation of the Minister.

- (2A) The office of member of the Social Security Tribunal must be included in the list maintained under Article 15(3) of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>29</sup>.”.

**16 Citation and commencement**

This Law may be cited as the Jersey Appointments Commission (Miscellaneous Amendments) (Jersey) Law 201- and shall come into force 7 days after it is registered.



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1	<i>chapter 05.255.70</i>
2	<i>chapter 16.325</i>
3	<i>chapter 07.570</i>
4	<i>chapter 16.325</i>
5	<i>chapter 13.075.30</i>
6	<i>chapter 16.325</i>
7	<i>chapter 13.255</i>
8	<i>chapter 16.325</i>
9	<i>chapter 15.070</i>
10	<i>chapter 16.325</i>
11	<i>chapter 16.640.10</i>
12	<i>chapter 16.325</i>
13	<i>chapter 20.820</i>
14	<i>chapter 16.325</i>
15	<i>chapter 22.550</i>
16	<i>chapter 23.820</i>
17	<i>chapter 16.325</i>
18	<i>chapter 24.140</i>
19	<i>chapter 16.325</i>
20	<i>chapter 24.140.10</i>
21	<i>chapter 16.325</i>
22	<i>chapter 24.900</i>
23	<i>chapter 16.325</i>
24	<i>chapter 26.500.20</i>
25	<i>chapter 16.325</i>
26	<i>chapter 26.550.20</i>
27	<i>chapter 16.325</i>
28	<i>chapter 26.900.28</i>
29	<i>chapter 16.325</i>