

STATES OF JERSEY

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DRAFT PUBLIC FINANCES (AMENDMENT) (JERSEY) LAW 200-

**Lodged au Greffe on 28th June 2005
by the Finance and Economics Committee**

STATES GREFFE



Jersey

DRAFT PUBLIC FINANCES (AMENDMENT) (JERSEY) LAW 200-

European Convention on Human Rights

The President of the Finance and Economics Committee has made the following statement –

In the view of the Finance and Economics Committee the provisions of the Draft Public Finances (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

REPORT

Introduction

The Finance and Economics Committee is pleased to present this amendment to the recently States approved Public Finances (Jersey) Law 200-. The main Law was debated by the States at its meeting of 19th January, 2005 and has now been submitted for consideration and approval by the U.K. Privy Council.

During the course of the aforementioned debate the House agreed that two Articles should be withdrawn. The President of the Finance and Economics Committee agreed to bring these back at a later date and in a revised form to the Assembly because of the concerns that were being expressed by States Members.

The two Articles of concern were –

- restrictions on amending or proposing expenditure approvals; and
- restrictions on lodging taxation drafts.

States Members were concerned that the original draft of the Law prevented individual Members from bringing forward spending proposals as and when they wished, yet the Minister for Treasury and Resources appeared to be empowered to bring forward spending proposals at any time – this provision was actually only intended to relate to urgent expenditure but this matter was not made explicit in the Law as then drafted. Similar concerns about the freedom of States Members to bring forward taxation proposals were also expressed.

The Finance and Economics Committee has carefully reconsidered the issues highlighted during the debate and has consulted and discussed these matters with the Privileges and Procedures Committee, the Shadow Public Accounts Committee and individual States Members as well as scheduling informal sessions detailing the rationale behind the proposals now brought forward.

The Law amendment as now drafted provides that –

- the Minister for Treasury and Resources is the only States Member able to bring forward an amendment to an expenditure approval but **only** for genuinely urgent and unavoidable funding pressures which cannot be met from within existing budgets;
- States Members retain the right to bring forward expenditure requests or amendments during the course of the debate on the Annual Business Plan; and
- the Minister for Treasury and Resources is the States Member with responsibility for bringing forward taxation drafts. Individual States Members retain the right to bring forward taxation proposals which the Minister for Treasury and Resources then has to consider when bringing forward taxation drafts. Individual States Members retain the right to amend these taxation drafts.

Ultimately, the final decision on the allocation of expenditure or the approval of income lies with the States Assembly.

The Committee has already stated, and wishes to reiterate that the new Law should be based upon the principles of financial discipline, transparency and flexibility and that best financial practice should be followed wherever possible. After careful consideration the Committee decided that the amendments as now proposed are the most appropriate way forward and meet the overriding principles it wishes to achieve.

The Committee has not diluted the current powers of individual States Members, merely provided that those powers are maintained and exercised in a structured manner.

The Finance and Economics Committee believes that it is important to clarify that the Law and amendment, as now drafted, do not tie individual States Members hands from either –

- bringing forward expenditure proposals, it merely restricts the consideration of such to the debate on the Annual Business Plan; nor
- proposing amendments to the income generating proposals brought forward by the Minister in the Budget.

Neither of these are any different to the powers currently enjoyed by States Members.

1. Article 11 amended (requiring consequential amendment to Article 14)

In the case of additional in year expenditure approvals for urgent items of expenditure the new Law transfers approval for such from the Finance and Economics Committee (as was the case under the 1967 Public Finances (Administration) (Jersey) Law) to the States Assembly. The Finance and Economics Committee maintains that this approach is the correct way forward from a political perspective whilst also ensuring greater financial discipline and awareness throughout the States.

The Finance and Economics Committee believes that financial discipline can best be achieved through the agreement of an annual budget linked to States approved plans **and** the allocation of all resources without exception at **one point** during the year.

There are very strong reasons which support this approach – the main one being that this is the only possible means of prioritising competing demands for resources and fixing a total spending limit. A fundamental requirement of public finances and the taxpayer throughout the world is that government spends its money wisely in a prioritised and structured way and that this expenditure is well controlled. The States of Jersey must move in the same direction.

The Committee was aware that the original concept of the Law allowed individual States Members to bring propositions on expenditure proposals for “in principle” debate at any time of the year. Those propositions which gained “in principle” approval had to be considered as part of the Annual Business Plan considerations. However, it is apparent that in the past the States have approved propositions for expenditure and subsequently not been able to find the funds within the Budget to implement their earlier decision. This procedure has led to disappointment and to criticism of States procedures and the Finance and Economics Committee now believes that the “in principle” concession should be removed from the Law.

The Finance and Economics Committee is, however, acutely aware that there may be situations where there is an **urgent** need to meet unfunded expenditure. In these circumstances the amendment enables the Minister for Treasury and Resources to bring forward a proposition, at any time. The final decision on whether to approve such a funding request and amend an expenditure approval would rest with the States Assembly.

2. Article 17 amended (requiring consequential amendment to Article 1)

Turning to the issue relating to the lodging of taxation drafts, the Finance and Economics Committee maintains that this subject is not comparable with procedures for spending proposals.

The Committee believes that it should be the Minister for Treasury and Resources who lodges a taxation draft i.e. draft tax legislation. This approach reflects best practice followed in other jurisdictions and maintains the procedure followed in the current 1967 Public Finances (Administration) (Jersey) Law. The agreement of all income, in the main from taxation and borrowing, will therefore take place at the same time thereby following the same pattern for the agreement of expenditure.

Under the terms of the amendment any States Member may lodge a proposition that affects taxation or other income at any time. If the States subsequently agrees this proposal the Minister (for Treasury and Resources) must consider the proposal for inclusion in the next taxation draft. If it is not included a full explanation must be provided as to why this course of action has been taken.

Individual States Members also retain the right to lodge amendments to taxation and other income proposals put forward by the Minister for Treasury and Resources in the Budget, provided that any amendment is lodged within the specified lodging time periods. Any such amendment need not be limited to an amendment of the proposals put forward by the Executive, individual Members may make alternative proposals.

Conclusion

The Finance and Economics Committee believes it imperative that it presents a Law which meets the requirements of financial discipline, transparency and flexibility as well as reflecting best practice wherever possible. The Committee believes that the amendment as now presented meets these aims. The Committee commends the amendment to the States.

Financial implications

There are no additional direct costs associated with adopting this draft Law.

Manpower implications

There are no additional manpower implications associated with adopting this draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 3rd May 2005 the Finance and Economics Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Finance and Economics Committee the provisions of the Draft Public Finances (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Note: The Privileges and Procedures Committee supports the proposition.

Explanatory Note

This Law amends the Public Finances (Jersey) Law 200- in 2 ways.

First, it provides (*Article 3*) that if urgent expenditure is necessary and no expenditure approval is available an existing expenditure approval can be amended by the States to approve the expenditure on a proposition lodged by the Minister. A consequential amendment is made to the definition of “expenditure approval” (*Article 4*).

Secondly, it provides (*Article 5*) that taxation measures may only be lodged as part of a budget proposition or as part of the budget process. However, any approvals in principle of other taxation measures must be taken into account in the preparation of budget proposals. A consequential amendment is made to the definition of “Taxation draft” (*Article 2*).



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Arrangement

Article

- 1 Interpretation
- 2 Article 1 amended
- 3 Article 11 amended
- 4 Article 14 amended
- 5 Article 17 amended
- 6 Citation and commencement.



Jersey

DRAFT PUBLIC FINANCES (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Public Finances (Jersey) Law 200-.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law “the principal Law” means the Public Finances (Jersey) Law 200-. [\[1\]](#)

2 Article 1 amended

In Article 1(1) of the principal Law, in the definition “taxation draft”, for the word “means” there shall be substituted the words “means, except in respect of an amendment moved in accordance with Article 20,”.

3 Article 11 amended

For Article 11(8) of the principal Law there shall be substituted the following paragraphs –

“(8) Despite paragraph (1), the States may, at any time, amend an expenditure approval on a proposition lodged by the Minister on the grounds that –

- (a) there is an urgent need for expenditure; and
- (b) no expenditure approval is available.”.

4 Article 14 amended

In Article 14(1) of the principal Law, for the definition “expenditure approval” there shall be substituted the following definition –

“ ‘expenditure approval’ means –

- (a) a financial summary mentioned in Article 12(2) that has been approved by the States in accordance with Article 13; but
- (b) if the States subsequently amend that financial summary in accordance with Article 11(8), that summary as so amended?.”

5 Article 17 amended

Article 17 of the principal Law is amended by adding after paragraph (6) the following paragraphs–

- (7) A proposition that includes a taxation draft may only be lodged by the Minister in accordance with this Article.
- (8) However, if –
 - (a) at any other time the States approve a proposition that suggests that a specified taxation draft should be lodged; and
 - (b) the specified taxation draft is not included in the next budget proposition lodged in accordance with paragraph (1),the Minister must specify the reason for not doing so in the statement forming part of that budget proposition.”.

6 Citation and commencement.

- (1) This Law may be cited as the Public Finances (Amendment) (Jersey) Law 200.
- (2) It shall come into force 7 days after it is registered.

^[1] *Law currently awaiting Privy Council sanction.*