

STATES OF JERSEY



DRAFT DORMANT BANK ACCOUNTS (JERSEY) LAW 201- (P.25/2016): AMENDMENT

**Lodged au Greffe on 14th June 2016
by the Chief Minister**

STATES GREFFE

PAGE 25, ARTICLE 20 –

For Article 20 substitute –

“20 Distribution of Fund money

- (1) The Minister must by Order, having consulted the Minister for Treasury and Resources, set out policies and procedures for determining whether to make any distribution from the Fund and, if so, the amounts that must be distributed for the purposes of this Article.
- (2) The purposes for which the monies may be distributed are –
 - (a) to defray the cost of the remuneration or other payment for the services of the Commissioner due under the terms of his or her appointment and the cost of providing staff, accommodation or equipment that are required for the proper and effective discharge of the Commissioner’s functions; and
 - (b) charitable purposes in accordance with paragraph (4).
- (3) The Minister must by Order appoint an organization independent of the Minister to determine the persons or bodies for whose charitable purposes money from the Fund must be distributed, and to distribute that money to those persons or bodies.
- (4) The independent organization must distribute such money as has been determined in accordance with an Order made under paragraph (1) for the following charitable purposes in such proportions as may be prescribed –
 - (a) the advancement of the arts in Jersey;
 - (b) the advancement of public participation in sport in Jersey;
 - (c) the advancement of the heritage of Jersey;
 - (d) the advancement of health, education, and environmental protection or improvement, in Jersey;
 - (e) any other charitable purpose carried on by a registered charity in Jersey.
- (5) A distribution under paragraph (4) may be in the form of either a grant or loan and may be subject to conditions (which may, in particular, include conditions as to repayment with interest).
- (6) For the purposes of this Part, distributing money for a purpose includes distributing money to establish, or contribute to, endowments (including permanent endowments) in connection with the purpose.

- (7) The independent organization must report annually to the Minister on its activities under this Article over the previous 12 months and such report, together with audited accounts relating to those activities, must be laid before the States as soon as practicable.
- (8) The States may amend this Article by Regulations.
- (9) In this Article –
 - (a) ‘Commissioner’, ‘charitable purpose’ and ‘registered charity’ have the same meaning as in Article 1 of the Charities (Jersey) Law 2014;
 - (b) ‘independent organization’ means the organization appointed under paragraph (3).”.

CHIEF MINISTER

REPORT

This amendment to the Draft Dormant Bank Accounts (Jersey) Law 201- (“the Draft”) is being lodged in response to comments made by the Economic Affairs Scrutiny Panel. For ease of reading, it is proposed to replace all of Article 20 in the Draft. There are important changes proposed which are described below. All the remaining clauses, such as the statement of what charitable purposes may be beneficiaries and the description of what is classed as a distribution, remain the same.

It is proposed to amend Article 20 in order to require an Order to be made. The Order would set out statutory policies and procedures concerning the decision as to the amount of funds to be held back for dormant account holders who claim their money back, and the amount available to be distributed. It is proposed to involve the Minister for Treasury and Resources as a second set of eyes to review the policies and procedures through a mandatory consultation process. This is similar to the obligatory requirement to consult the Jersey Financial Services Commission (“the Commission”) in relation to regulatory secondary legislation. This requirement operates as a check and balance. No sums could be distributed from the Jersey Reclaim Fund (“the Fund”) until an Order has been made. Further, the States would be able to strike down the Order if they did not support the prescribed policies and procedures. If this action was taken, no distributions could be made from the Fund, which acts as a further check and balance.

Secondly, it is proposed that the States should be able to amend all of Article 20 by Regulations. Previously, only two of the paragraphs in this Article could be amended by Regulations. This is to allow the States to review this important provision in the future if they wished to do so.

Thirdly, previously the wording of Article 20 of the Draft would have permitted the Chief Minister to make decisions as to the beneficiaries of monies distributed from the Dormant Accounts Fund. However, it was always intended that the Chief Minister would appoint an independent grant-awarding organisation to make such decisions. The revised Article 20 ensures that an organisation must be appointed, by Order, that is independent of the Minister, to make decisions and distribute the monies. The independent organisation would have to produce an annual report to present to the Chief Minister, who would lay such before the States for review. This requirement ensures that the decision as to who receives funds is not subject to political interference, and is made at arm’s length from the Chief Minister.

This amendment has been referred to the Law Officers’ Department, and no Human Rights issues have been identified. It has also been provided to the Economic Affairs Scrutiny Panel for their review.

Financial and manpower implications

There are no financial or manpower implications for the States as a result of the proposed amendment.