

STATES OF JERSEY



DRAFT PUBLIC FINANCES (JERSEY) LAW 201- (P.28/2019): FIFTH AMENDMENT

**Lodged au Greffe on 21st May 2019
by the Corporate Services Scrutiny Panel**

STATES GREFFE

DRAFT PUBLIC FINANCES (JERSEY) LAW 201- (P.28/2019): FIFTH
AMENDMENT

1 PAGE 31, ARTICLE 14 –

- (a) In Article 14, before “The States may not” insert “(1)”.
- (b) After Article 14(c) insert –
 - “(d) authorise the obtaining, during the first financial year covered by the plan, of financing in an amount that would permit the total amount of financing obtained by the States (including financing obtained under Article 26(1)(b)) to exceed the estimated income of the States derived from taxes and duties during the financial year that is immediately before the first financial year covered by the plan.
- (2) The following are not to be taken into account in calculating the total amount of financing obtained by the States for the purpose of paragraph (1)(d) –
 - (a) any financing obtained from a third party by an organisation that is owned or controlled by the States; and
 - (b) any liability of an organisation owned or controlled by the States under any guarantee or indemnity given by the organisation; and
 - (c) for the avoidance of doubt, the amount of any transfer of money from one States fund to another.”.

2 PAGE 36, ARTICLE 26 –

- (a) After paragraph (1) insert –
 - “(2) The Minister is not permitted to arrange for a proposed bank overdraft or bank overdraft facility under paragraph (1)(a) in any given financial year if the total outstanding amount of bank overdrafts and bank overdraft facilities, including the proposed bank overdraft or bank overdraft facility, would exceed 25% of the estimated income of the States derived from taxes and duties during the previous financial year.”.
- (b) Renumber the existing paragraphs (2) and (3) accordingly.

3 PAGE 37, ARTICLE 30 –

- (a) In Article 30, before “The Minister must ensure” insert “(1)”.
- (b) After Article 30(1), insert –
 - “(2) The Minister must present to the States –
 - (a) a written statement of the policy of the Council of Ministers on obtaining financing, including with respect to –

- (i) the types and amounts of financing that might be included in a government plan, and
 - (ii) the process through which any risks associated with financing proposed in a government plan will be assessed; and
- (b) a notice of any amendments to that statement, as soon as practicable after they are made.”.

CORPORATE SERVICES SCRUTINY PANEL

REPORT

Borrowing and Financing Amendments

This report relates specifically to proposed amendments in relation to borrowing and financing.

Part 1 of this amendment introduces a statutory borrowing/financing limit back into the Law. This uses the same limit that is in the current Law – i.e. that financing must not exceed the States’ estimated income from taxes and duties in the previous financial year. For illustrative purposes, the current limit on borrowing is £767 million and the current level of borrowing is £243 million.

The Panel considers that it is appropriate that the States Assembly debates whether or not it wants a statutory limit on financing. This part of the amendment enables that debate.

The Panel understands that the draft Law uses “financing” in place of “borrowing” to include other types of financing that might fall outside of the definition of “borrowing” but are commonly used to structure financial transactions, and might therefore be considered by the States in the future.

The Panel’s intention is to place a statutory limit on the wider class of financing arrangements at the same level as the existing borrowing limit.

In Part 3 of this amendment below (to Article 30), the Panel is also proposing that the Minister be required to publish a general policy on financing (in addition to specific proposals that the Law would already require to be included in the Government Plan). This is intended to give Members options as to how they would like States’ borrowing and financing to be managed in the future.

Part 2 of this amendment places a limit on the total amount of overdrafts that the Minister is permitted to arrange. The limit is set at 25% of the States’ income from taxes in the previous year, which is the limit set in Regulations under the current Public Finances Law¹. The Panel understands that in practice, this limit is very unlikely to be reached, and the current States overdraft facility is capped at £5 million.

Part 3 of this amendment places a requirement on the Minister for Treasury and Resources to publish a policy on financing. In their [report to us](#), the Chartered Institute for Public Finance and Accountancy (“CIPFA”) commented that with the removal of the statutory limit on financing/borrowing, there is a lack of clarity over how control of financing could be achieved. Our amendment would provide a framework for the Minister to set out the Council of Ministers’ plans for financing. This policy could be based around CIPFA’s Prudential Code (as referenced in their report) if, after further investigation, the Minister considered this to be appropriate for Jersey.

This part of the amendment provides an alternative option to reinstating the statutory borrowing/financing limit proposed in Part 1 of this amendment above, or would add additional control to the States’ financing if Members decide to accept both parts of this amendment.

¹ [Article 9\(2\) Public Finances \(Transitional Provisions\) \(No. 2\) \(Jersey\) Regulations 2005](#)

Financial and manpower implications

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