

STATES OF JERSEY



Jersey

DRAFT STATES OF JERSEY POLICE FORCE (AMENDMENT No. 3) LAW 202- (P.10/2021): SECOND AMENDMENT

**Lodged au Greffe on 27th April 2021
by the Children, Education and Home Affairs Scrutiny Panel
Earliest date for debate: 11th May 2021**

STATES GREFFE

DRAFT STATES OF JERSEY POLICE FORCE (AMENDMENT No. 3) LAW 202-
(P.10/2021): SECOND AMENDMENT

1 PAGE 16, ARTICLE 4 –

For Article 4 substitute –

“4 Article 5A (Review of membership of Police Authority) inserted

After Article 5 there is inserted –

“5A Review of membership of Police Authority

- (1) The Minister must commission reviews of the appropriateness of members of the States being members of the Police Authority.
- (2) Reviews must –
 - (a) be performed by an independent body that, in the Minister’s opinion, is suitably qualified;
 - (b) consider whether there has been, or is likely to be, undue influence on the Police Authority or interference with its operational independence; and
 - (c) be performed at least once every 3 years, with the first review to be completed no later than 30th June 2024.
- (3) As soon as practicable after receiving the findings of a review, the Minister must –
 - (a) provide a copy of the findings to the Police Authority; and
 - (b) present the findings to the States.
- (4) The States may make Regulations amending this Law to remove members of the States from being members of the Police Authority.
- (5) Regulations made under paragraph (4) may include any consequential, incidental, supplementary, transitional and savings provisions as the States think necessary or expedient (including repealing this Article).”.”.

2 PAGE 17, ARTICLE 10 –

In Article 10, in the inserted Article 28AA(2)(b), for “subject to the Police Authority having adequate resources to commission an inspection” substitute “which must be at least once every 4 years”.

CHILDREN, EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

REPORT

Introduction

The Draft States of Jersey Police Force (Amendment No. 3) Law 202- ([P.10/2021 Re-issue](#)) (hereafter ‘the draft Law’) was lodged by the Minister for Home Affairs on 17th February 2021 and is due for debate by the States Assembly on 11th May 2021. The draft Law, if adopted by the States Assembly, would change arrangements between the States of Jersey Police Force and the Jersey Police Authority (JPA) in relation to governance of the force.

The draft Law if adopted, would amend the [States of Jersey Police Force Law 2012](#) (the “principal Law”) to –

- realign the governance powers and duties of the Minister, the Police Authority and the Chief Officer;
- change the membership of the Police Authority;
- require regular inspection of the States Police Force; and
- require the Annual Policing Plan to cover 4 years, rather than one.

The Children, Education and Home Affairs Scrutiny Panel (hereafter ‘the Panel’) received a briefing on the draft Law on 5th February 2021 and agreed subsequent to this briefing to review the proposals further. The Panel intends to provide comments on the draft Law prior to the debate, however, agreed that two specific amendments to the draft Law were required as a result of its review to date. This report shall, therefore, cover the amendments and rationale for them only. There are two aspects to the Panel’s amendment; firstly, the status of States Members as members of the JPA and secondly the proposed timing for the JPA to commission inspections of the States of Jersey Police Force.

States Members as Members of the Jersey Police Authority

The Comptroller and Auditor General’s (C&AG) report on governance within the States of Jersey Police Force was presented on 22nd March 2018. In the [report](#), the C&AG identified 14 recommendations to improve governance and accountability within the States of Jersey Police Force. The Minister for Home Affairs duly accepted all of the recommendations with a view to bringing forward changes in order to address them.

One specific recommendation of the C&AG was recommendation 3 which stated:

“Review whether it remains appropriate for the States Assembly to elect two members of the Police Authority”¹

Within the draft Law, the Minister for Home Affairs has brought forward proposals that would remove the two Members of the States appointed to the Jersey Police Authority. Throughout its review, the Panel undertook to ascertain whether or not the recommendations of the C&AG were being implemented in full (noting of course that not all of the recommendations required legislative changes) and noted that the Minister’s proposals did not tally directly with the recommendation made by the C&AG.

Deputy Scott Wickenden of St. Helier lodged his [amendment](#) to the draft Law on 24th March 2021. The Deputy’s amendment was brought in order to remove the new Article 4 of the draft Law, and in turn retain the two States Members as members of the

¹ [C&AG report – Governance of the States of Jersey Police – 22nd March 2018](#)

JPA. The Panel met with Deputy Wickenden on 12th April 2021 in order to discuss his amendment further.

During the meeting, the Panel requested Deputy Wickenden to clarify whether his amendment was suggesting that the role of the elected States Members should be retained subject to a review of the current JPA structure or retained regardless of any review. Deputy Wickenden explained that the role of the elected States Members on the board of the JPA should remain, however, that he would be satisfied with a review being undertaken as any changes should be evidence based. It was Deputy Wickenden's view that the proposed removal of the elected States Members from the board had been proposed without any review and without any evidence to back the proposed change. He emphasised that he was not aware of any reference that had been made by the Minister for Home Affairs in relation to a review of the JPA board's structure.

The Panel, therefore, agreed that a middle ground in relation to the matter of States Members remaining on the JPA should be brought forward for consideration by the States Assembly. Accordingly, the Panel proposes with the first part of its amendment, that States Members should be retained as members of the JPA, subject to a review which must take place every 3 years and prior to 30th June 2024. The Panel agreed that a review should be undertaken every 3 years so that a review of the role played by States Members would be undertaken within the lifetime of each States Assembly (noting that membership of the JPA is subject to States approval and could lead to different members serving in different Assembly's).

The Amendment as constructed, places a duty on the Minister for Home Affairs to commission a review from an independent body or the appropriateness of States Members being members of the JPA and requires that this review must consider whether there has been, or is likely to be, undue influence on the Police Authority or interference with its operational independence. The Minister would then be required to provide a copy of the report to the JPA and States Assembly as soon as practicable after its completion.

Should the review identify that it is not appropriate for States Members to remain as members of the JPA, the amendment allows the States to make Regulations that would remove them from the membership. The Amendment also allows those Regulations to make any consequential amendments as required, including repealing the new Article 5A proposed in this amendment.

The Panel believes this is a fair middle ground which is in the spirit of the C&AG's recommendation, but also provides for the removal of States Members as members of the JPA should the review deem this the correct course of action.

Inspection of the States of Jersey Police Force

Article 10 of the draft Law creates a new Article 28AA(2)(b) which requires the Police Authority to arrange for the States Police Force to be inspected by a suitably qualified independent body at regular intervals. The Panel notes that the wording of the Article within the draft Law states that this shall take place subject to the Police Authority having adequate resources to commission an inspection. Whilst the Panel understands that it is not possible direct funding through legislation, it is concerned that the wording as stated in the draft Law is too open and could provide for potential slippage in regular inspection processes with lack of funding being used as the reason.

Accordingly, the Panel agreed that a timescale for inspections should be placed in statute so that the onus is placed on the Minister to ensure that funding for inspections is readily available and planned within existing budgets. The Panel, therefore, has suggested within its amendment that the JPA must arrange for inspections of the States of Jersey

Police Force to be undertaken at regular intervals determined by the Police Authority, which must be at least once every 4 years in line with the requirements around the policing plan as per the draft Law.

The Panel believes that by stipulating the minimum timescale for inspections this places greater emphasis on the JPA undertaking its role to commission an inspection as well as provide further governance of the States of Jersey Police Force.

Conclusion

The Panel believes that its amendment provides further strength to the draft Law and would urge Members to support it. The Panel would like to place on record its thanks to the Minister for Home Affairs for deferring the debate date in order to allow it to complete its review and also to Deputy Wickenden for engaging with it in relation to his own amendment. Finally, the Panel would like to thank the JPA and the C&AG for providing views in relation to the draft Law which have helped shape the amendment.

Financial and manpower implications

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