

# STATES OF JERSEY



## **DRAFT FINANCIAL SERVICES OMBUDSMAN (JERSEY) LAW 201- (P.9/2014): SECOND AMENDMENT (P.9/2014 Amd.(2)) – COMMENTS**

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**Presented to the States on 28th March 2014  
by the Minister for Economic Development**

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**STATES GREFFE**

## COMMENTS

The Minister for Economic Development will oppose the proposition lodged by Deputy G.P. Southern of St. Helier on the following grounds –

There is a clear and logical rationale behind the time limits used in the draft Law.

The time limits are in line with those of financial Ombudsman schemes in other jurisdictions. The general time limit of 6 years after the act to which the complaint relates is consistent with that in place at existing financial ombudsman schemes including the UK, the Isle of Man and Ireland. The 2011 Economic Development consultation on the Financial Services Ombudsman included a specific consultation question on the suitability of a 6 or 10 year time limit. Economic Development proposed a 6 year time limit, for consistency with existing financial ombudsman schemes. The majority of responses supported this.

The “starting point” means that from the day that the Ombudsman service opens, complaints can be considered about events occurring on or after the 1st January 2010. This was chosen as the next start of the year after the States Members voted to introduce an Ombudsman. Economic Development could have chosen the date on which the Law is registered as the starting point, but instead has committed to the retrospective starting point of 1st January 2010 to give better consumer protection, even though there was little industry support for it in the 2011 consultation. Whatever the starting point, it may serve to disenfranchise and disappoint a small number of people; however the approach in the draft Law has a clear and justifiable rationale linked to when States Members voted to introduce an Ombudsman. Economic Development’s approach has also influenced Guernsey to have a degree of retrospection, even though theirs, at 2nd July 2013, will be shorter than that in Jersey’s draft Law.

It does not seem appropriate to increase the general time limit to 10 years across the whole financial services scope simply to cover a small number of potential PPI complaints, with the attendant potential difficulties with recall and record-keeping for that length of time. A 10 year general time limit would make the Jersey Ombudsman out of step with other jurisdictions, which could affect the competitiveness of financial services in Jersey. It would also make the joint arrangements with Guernsey more difficult, if they did not agree to the same time limits. Given that their approach is already to have a lower level of retrospection, they are unlikely to agree.

It is unclear how Deputy Southern has chosen his dates. Concerns about PPI mis-selling have existed for many years (UK consumer groups raised concerns before 2000), the UK Financial Ombudsman Service highlighted concerns in 2001 and 2005, then formally referred the issue to the UK regulator in 2008 (see “action taken by the regulator”<sup>1</sup>), so it is very hard to pinpoint a satisfactory date, other than that chosen in the draft Law linked to the decision to implement an Ombudsman.

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<sup>1</sup> [http://www.financial-ombudsman.org.uk/publications/technical\\_notes/ppi.html](http://www.financial-ombudsman.org.uk/publications/technical_notes/ppi.html)