STATES OF JERSEY

DRAFT COMPANIES (JERSEY) AMENDMENT NO.2 LAW 202- (P.49/2026): COMMENTS

Presented to the States on 20th March 2026
by the Economic and International Affairs Scrutiny Panel

STATES GREFFE

COMMENTS

Background

The Draft Companies (Jersey) Amendment Law 202- [P.49/2026] ("the draft Law") was lodged *au Greffe* on 17th February 2026 by the Minister for External Relations (hereafter the "Minister") and is scheduled for debate at the States sitting commencing 14th July 2026. The Economic and International Affairs Scrutiny Panel ("the Panel") anticipates, given the upcoming pre-election period, that the Minister will seek leave of the Assembly to reduce the lodging period for the Proposition to allow it to be debated on 24th March 2026

The Draft Law

The draft Law seeks to amend the Companies (Jersey) Law 1991 (the "Law") to introduce a new provisions enabling an applicant, typically the company itself, or a creditor with a liquidated claim of over £3,000, to apply to the Royal Court for an Administration Order and the appointment of an Administrator. This applies when there is a reasonable prospect of rescuing the company, or where placing the company into administration is likely to achieve a more favourable outcome for its creditors than would be obtained through the winding up of the company.

Panel Observations

The Panel received a briefing from Government of Jersey Officers on 13th February 2026. The Panel was advised that this proposition represents Phase 2 of the Amendments to the Companies (Jersey) Law 1991, approved by the Assembly on the 20 of January 2026, on which the Panel previously provided comments. The draft Law aims to introduce a new administration regime that would allow Jersey companies or creditors to apply for an Administration Order and appoint an Administrator. The purpose is to provide an opportunity to rescue a distressed company or, if that is not possible, to place its creditors in a better position. It was confirmed that this did not apply to banks, nor therefore depositor compensation, as these were dealt with under a separate regime.

Rationale

It was explained that although several older regimes are currently in place, they all operate as termination procedures. Under the current system, once a company becomes insolvent, it is typically placed into liquidation. In contrast, the purpose of administration is to attempt to rescue the company, something the Island does not currently provide for.

At present, companies either proceed to winding up, apply to the Court for a Désastre or seek a winding up on just and equitable grounds under Article 155 of the Law. These avenues have been used broadly, but none of them are designed to deal with corporate rescue. There have also been instances where letters of request were sent to the English courts asking them to place Jersey companies into administration when UK assets were involved.

The Panel asked why an administration process had not been introduced earlier. It was informed that parts of the industry had expressed a certain caution previously in the context of the wider corporate financial services industry and the ability of secured creditors being able to enforce their security. However, it was noted that provision has been made for secured creditors within the draft Law, and that Guernsey has operated a similar system successfully for many years, and the draft Law closely mirrors their legislation. This comparison has helped to alleviate the concerns that were initially raised.

The Panel asked whether there would be circumstances in which a company would not be placed into administration. It heard that in some cases, winding up the company may be the most appropriate outcome. The Court has full discretion to either grant or dismiss an application for administration. Furthermore, any application must be supported by an affidavit confirming that an administrator has been approached and that, in their view, administration is reasonably likely to achieve the desired outcome.

Administrators

The Panel was informed that the Administrators would come from the Viscount's approved list of liquidators (which will be renamed to List of Approved Liquidators and Administrators) and they would be a certified member of the Association of Chartered Certified Accountants or the other associations listed in the Companies (General Provisions) (Jersey) Order 2002 (as amended by the draft Law). The Panel asked if the Administrator had to be a Jersey resident and was informed that this was the case, but that a non-Jersey resident could be appointed alongside if required subject to their inclusion on the approved list. In such circumstances, the Panel asked how responsibilities were apportioned and was informed:

"The court may appoint more than 1 individual as an administrator and may provide whether any act to be done is to be done by all or by 1 or more of them and, in the absence of that provision, any act must be done by 2 or more of them."[1]

The Panel raised the matter of the management of potential conflicts of interest, and was assured that an Administrator must follow their professional code of conduct or decline the appointment if a conflict exists. In circumstances where an individual who previously advised the company is later appointed as Administrator, it was noted that an Administrator's duty would be to act specifically in the best interests of the creditors regardless of previous interactions with, for example, directors.

It was further highlighted that maintaining an approved list of practitioners, together with oversight from the Viscount, provides an important safeguard. This level of oversight is not present in England, where the appointment of Administrators is far more open.

The Panel asked who would be responsible for paying the Administrator's fees and whether any caps or specific charges applied. It was advised that the Administrator's costs would be paid from the company's assets, and that the Court is responsible for setting the level of remuneration. If concerns are raised about the fees, the Viscount may review them and refer the matter to the Court if necessary.

[1] Draft Companies (Jersey) Amendment Law 202-

The Panel also asked whether there would be any cost implications for the Viscount. It was informed that there is currently an annual fee of £800 for Liquidators and Administrators to remain on the approved list, which covers most associated expenses.

Administration and creditors

The Panel questioned whether an Administration Order could be imposed on a company and how this would be triggered. It was informed that the company does not have to agree and that this could be triggered by a creditor with a claim of over £3,000 who could apply to the Court.

The Panel asked why secured and unsecured creditors were not specified on the list of those to whom notice must be given of an application to the Court for an Administration Order, so that they are afforded the opportunity to make representations to the Court before the Order is made.

It was explained that the reason secured creditors were not included in the Law is due to the difficulty in defining them. Instead, it is intended to provide, by way of an Order, that notice of the application must be given to secured creditors, which would allow for any necessary adjustments if further clarification became needed. Secured creditors can be added by Order as per Article 143F (8), which states:

"The Minister may, by Order –
(a) amend the persons specified in paragraphs (2) and (5); and
(b) prescribe how and when notice of an application for an administration
order must be given, and the form and content of the notice."[2]

Unsecured creditors are also not listed, as their number may be large and the amounts involved may be relatively small. However, once appointed the Administrator is required to notify specified parties, publicise the appointment, and convene an initial meeting of creditors, which would include unsecured creditors. This process ensures that all creditors have the opportunity to engage with the Administrator.

The Panel asked whether any financial support would be available to the company. The Officer explained that the Administrator would determine the most appropriate course of action, which could include selling part of the business, investigating any potential director misconduct or seeking loan finance but that there is no Government support specifically because a company is in administration.

The Panel was further advised that once the administration process begins, no legal proceedings may be brought against the company, except that secured creditors retain the right to enforce their security and exercise their associated contractual rights. This protection provides the company with breathing space while the Administrator reviews its operations and develops a plan to support the business. The Administrator is required to report back to creditors after 12 months, and then every 12 months thereafter. The Panel was also informed that the administration will conclude when the Administrator applies for a discharge or variation either because the objectives have been achieved, are no longer achievable, or the Administrator otherwise considers it appropriate. This can occur at any time.

[2] Draft Companies (Jersey) Amendment Law 202-

Consultation

The Panel was also advised that the draft Law has been discussed by a Companies Law Working Group which comprises representatives from local law firms, the Association of Restructuring and Insolvency Experts, the Jersey Financial Services Commission and the Viscount, and was also consulted between October and December 2024. The Panel was advised that there was broad support for the proposals premised on due protection of the position of the secured creditors. Changes to the draft Law were made to reflect the feedback received from the consultation.

Conclusion

The Panel is satisfied that the draft Law is consistent with the approach taken in comparable jurisdictions and that the proposed administration procedure would provide an alternative mechanism to support distressed companies, rather than requiring their winding up. Accordingly, the Panel supports the proposition.