

STATES OF JERSEY



DRAFT TREATIES (JERSEY) LAW 202- (P.122/2025): COMMENTS

Presented to the States on 12th February 2026
by the Corporate Services Scrutiny Panel

STATES GREFFE

COMMENTS

Introduction and Context

1. The proposition entitled *Draft Treaties (Jersey) Law 202- [P.122/2025]* – (hereafter “the draft Law”), which was lodged by the Chief Minister on 24th December 2025, is intended to ensure that “*international treaties that are to be entered into by, or applied or extended to Jersey*”, are referred to the States Assembly.
2. The draft Law “*addresses the various treaty types under consideration*” which includes entrusted treaties, extended treaties and Free Trade Agreements and “*sets out how their application or extension to Jersey will be dealt with by the Assembly*”.
3. On 7th February 2023, the States Assembly voted to adopt the Proposition entitled ‘Assembly Consideration of the Bilateral Investment Treaty with the United Arab Emirates’ [P.6/2023], lodged by Deputy Sam Mezec. P.6/2023, which requested the then Minister for External Relations and Financial Services to “*take the necessary steps to ensure the Bilateral Investment Treaty with the United Arab Emirates does not come into force until such time as the Treaty has been considered by the States Assembly*” and requested that the Council of Ministers “*bring forward a process by which all Bilateral Investment Treaties are subject to full consultation with, and approval by, the States Assembly before they come into force*”.
4. The Government had intended to follow a ‘negative resolution procedure’, as commonly takes place in the United Kingdom (UK) for statutory instruments¹. However, P.6/2023 was subsequently amended by ‘*Assembly Consideration of the Bilateral Treaty with the UAE (P.6/2023): Amendment*’ [P.6/2023 Amd.], which changed the approach to the development of the draft Law. The States Assembly’s approval of P.6/2023 (as amended) demonstrated support for developing a more consistent approach to the approval of treaties. Therefore, this change was taken into account when developing the draft Law.
5. The Amendment to P.6/2023 requested that the Legislation Advisory Panel (hereafter the “LAP”), in consultation with the Privileges and Procedures Committee (hereafter the “PPC”), bring forward legislation by which all “*Treaties and International Agreements signed by a Minister under entrustment from the United Kingdom Government or to be extended to Jersey under the United Kingdom Government’s ratification process, are subject to ratification by the States Assembly before they come into force*”.
6. The draft Law therefore reflects the conclusion of a significant piece of work undertaken by Government, the LAP and the Law Officers’ Department (hereafter the “LOD”) in bringing forward legislation requiring that international treaties are referred for consideration by the States Assembly.

¹ [UK Parliament](#): “An SI laid under the negative procedure becomes law on the day the Minister signs it and automatically remains law unless a motion – or ‘prayer’ – to reject it is agreed by either House within a specified period (usually 40 days). Certain SIs on financial matters are only considered by the Commons”.

Scrutiny of the Draft Law

7. On 13th January 2026, the Panel received the Assistant Chief Minister, Government Officers and Officers from the LOD for a private briefing on the draft Law.
8. The Panel was provided with key milestones in the development of the draft Law. These detailed the in-depth work undertaken between March 2023 and December 2025 to address the associated nuances and complexities with its development and introduction. The Panel understands that the UK Government and its counterparts, external council and Scrutiny have been engaged during the process.
9. The Panel learned that the draft Law is the first of its kind to be proposed by a Crown Dependency or British Overseas Territory in relation to treaties or international agreements. The draft Law aims to strike an appropriate balance between upholding Jersey's sovereignty, whilst ensuring that there is not overreach in relation to the Island's involvement in international affairs.
10. As outlined in the accompanying report to the proposition, "*the draft Law addresses the various treaty types under consideration and sets out how their application or extension to Jersey will be dealt with by the Assembly*". The Panel was informed of the three types of treaties to be addressed by the draft Law (Entrusted Treaties, Extended Treaties and Free Trade Agreements) and provided with examples to demonstrate how they would work in practice:

	'Entrusted' Treaties	Extended Treaties	Free Trade Agreements
<i>Example</i>	Jersey-UAE Bilateral Investment Treaty	UN CEDAW Convention	UK-Australia Free Trade Agreement
<i>What is covered?</i>	Treaties signed under a Letter of Entrustment from the UK Government	Treaties ratified by the UK which do not apply to Jersey	UK-negotiated trade agreements which Jersey has asked to apply
<i>Who negotiates?</i>	Jersey	United Kingdom	United Kingdom
<i>How Jersey becomes bound</i>	Domestic ratification in Jersey and ratification by partner	Following request, UK extends ratification to the Bailiwick of Jersey	Treaty applies to Jersey following UK ratification and/or subsequent extension
<i>Role of the States Assembly</i>	Approves text of treaty before ratification but after signing	Approves for the Minister to request extension	Receive treaty text and explanatory memorandum when available
<i>Role of the Minister</i>	Signs treaty and lodges text and explanatory memorandum	Lodges treaty text and explanatory memorandum	Lay treaty text and explanatory memorandum within 28 days of UK ratification
<i>Safeguard</i>	Jersey cannot be bound by the treaty without States Assembly approval	Minister cannot request extension without States Assembly approval	Underpinning FTA Principles and cross-departmental compliance exercise.
<i>Rationale</i>	These are new Jersey Agreements which the States Assembly should approve before ratification.	Treaty the UK has ratified. Decision on whether to extend the provisions of existing treaties to Jersey.	UK-negotiated treaty. Jersey's role is limited. Treaty text is confidential.
<i>Amendments</i>	No re-approval if amendment not "material" to Jersey's obligations	No re-approval if amendment not "material" to Jersey's obligations	For information only

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11. The Panel asked whether the types of treaties and international agreements could include provision for decisions made by the Council of Europe. It was advised that there was scope to include provision for decisions made by the Council of Europe - but that this was subject to the specific agreement.

² Table provided by the External Relations Department

12. The Panel understands that a key approach to the draft Law, is the positioning of Jersey in relation to the negotiation of international treaties. Whilst Jersey can discuss its interests with the UK during a process of negotiation on such matters, it does not have ownership or control over the process and is only party to such international treaties.
13. Therefore, the Panel was informed that the focus for Jersey is to obtain as much flexibility as possible in relation to the outcomes of any negotiations that may impact the interests of the Island. For example, the UK would consult Jersey in relation to negotiations on post-Brexit Free Trade Agreements, and on the UK's negotiations with the European Union. However, the Panel understands that consultation with Jersey will only take place on such agreements when they are relevant to Jersey.
14. The Panel also understands that the approach taken in relation to the draft Law was to ensure the maximum choice or possible participation by Jersey in international treaties. The Panel has been advised that the draft Law has been designed to align with how treaties and international agreements are negotiated and concluded.
15. However, the Panel has been advised that Jersey does have a greater degree of control in relation to treaties signed under a Letter of Entrustment. Furthermore, the Panel understands that Jersey also retains the ability to make representations for itself in the negotiation of treaties that the Island will be impacted by.
16. However, the Panel notes that Jersey's participation in any international treaty that it has consulted on, or has engaged with the UK, is a binary decision for the Island. The Panel understands that once negotiations have concluded on an international treaty, Jersey will be provided with the option to participate or exit from the arrangement entirely.

Key Provisions within the Draft Law

17. The Panel was informed that the draft Law makes clear Jersey's constitutional relationship with the UK. Through the preamble of the draft Law, Jersey's international identity and domestic autonomy are recognised. Furthermore, **Article 1** of the draft Law provides clear definitions of important terminology (not provided for in the current process) such as the meaning of 'treaties', 'ratification' and 'state' in the context of the draft Law.
18. Whilst current processes involve presentation of international treaties to the States Assembly for approval, particularly when changes are required to domestic legislation, these are not standardised. The Panel has been informed that **Article 2** of the draft Law will introduce a clear process, with the requirement for States Assembly approval prior to Jersey being bound by treaties signed under a Letter of Entrustment.
19. The Panel was informed that the current position allows for the UK's ratification of an international treaty to be requested for extension by Jersey's Government through official Jersey and UK communication channels. However, **Article 3** of the draft Law requires that the States Assembly is to

provide its approval before the relevant Minister can request an extension of an international treaty to Jersey.

20. The Panel learned that the introduction of **Article 4** of the draft Law reflects a more consistent approach in relation to Free Trade Agreements, when compared with entrusted and extended treaties provided for within current procedures. The Panel understands that due to the nature of Free Trade Agreements, that Jersey is generally required to provide its consent to be bound to the treaty obligations before the treaty in question has been ratified by the UK. The Panel also understands that the draft Law therefore distinguishes from Free Trade Agreements, as it would not be possible for the States Assembly to vote on a Free Trade Agreement in a meaningful way, due to the sensitivity of information contained within such agreements.
21. Furthermore, the Panel also understands that an ‘exit’ mechanism is available for Jersey’s participation in Free Trade Agreements. The exit mechanism remains available should the States Assembly choose to reject Jersey’s participation in an agreement negotiated on its behalf.

Amendment to the Draft Law: Removal of Article 5

22. The draft Law contains a ‘carve out’ for the application of law enforcement treaties to Jersey in relation to asset sharing between jurisdictions, provided through Article 5, with a similar process followed in relation to Free Trade Agreements.
23. The Panel was informed that the Article 5 proposals related to scenarios that may include where Jersey’s authorities freeze or confiscate assets, and where another jurisdiction may have an interest, and could request a share of the assets. The Panel understands that whilst asset returns have traditionally been completed through Asset Sharing Agreements, a more recent convention has been established for asset returns to be completed by Memoranda of Understanding, which is a non-binding instrument and not a treaty.
24. The Panel was also informed that the Article 5 proposals within the draft Law are surplus to its requirements. Therefore, it was explained that an Amendment to the draft Law would be lodged by the Chief Minister to remove the Article 5 proposals. The Panel understands that the Article 5 proposals would also create an unnecessary risk of misleading in relation to the powers of the Attorney General regarding the application of the draft Law in respect of asset sharing. The Amendment [[P.122/2025 Amd.](#)] to the draft Law was subsequently lodged by Government on 2nd February 2026.
25. The Panel was informed that whilst there is the possibility that a small number of binding Asset Sharing Agreements may arise, these could instead be addressed through the Article 2 process, rather than through the creation of a separate ‘carve out’ within the draft Law.

Implementation of the Draft Law and Key Risks

26. Whilst the draft Law provides a framework for the Island to manage its involvement in future international treaties, the Panel wishes to highlight that

the proposed approach carries some risks, and that these have been considered by the Panel during its scrutiny of the proposals.

27. The Panel understands that key risks may include increased demands on the time of States Members and the States Assembly. Additionally, the risks associated with the draft Law include the inflexibility of the process during urgent scenarios, or the pre-election period, and the possibility that Jersey may not be able to react as quickly to international developments.
28. The Panel was advised that a further key risk included the possibility that States Members reject an international treaty put before the States Assembly. The Panel understands that such a scenario may affect the diplomatic considerations made by other jurisdictions, and that this may have an impact on confidence in Jersey.

Implementation of the draft Law: Stakeholder Engagement and Guidance

29. The Panel has been assured by Government that the draft Law satisfies the concerns of key stakeholders and is appropriate for Jersey. Government has engaged with the UK, to ensure that the draft Law provides an acceptable balance between the need to respect the constitutional relationship between Jersey and the UK, with Jersey's right to exercise an appropriate degree of autonomy regarding its participation in international affairs.
30. The Panel also sought to understand the engagement between Government and the other Crown Dependencies when developing the draft Law. Government has engaged with other Crown Dependencies, at a high-level and has considered the autonomy of Crown Dependencies in relation to their participation in international treaties.
31. The Panel notes that the PPC was briefed on the draft Law by the LAP and the LOD on 10th November 2025, and that the PPC is "*therefore satisfied that the provisions of P.6/2023 have been met, in that the Committee was consulted during the development of the Draft Law*".³
32. The Panel also notes that guidance will be developed in relation to the draft Law, in addition to support provided by the External Relations Department, in working with other Government departments to implement the new procedures introduced by the draft Law.

Conclusion

33. The Panel wishes to acknowledge the significant and complex work undertaken by the LAP, Government and the LOD to develop the draft Law and welcomes the draft Law as the conclusion of this work.
34. The Panel also wishes to acknowledge an important aspect of the rationale for the introduction of the draft Law, namely that the draft Law creates a framework with processes for including the States Assembly in the approval of international treaties. However, the Panel also understands that the draft Law is

³ [Privileges and Procedures Committee: Draft Treaties \(Jersey\) Law 202- \[P.122 Com.\]](#)

broad in scope, and that some treaties may not be explicitly covered by the draft Law.

35. In relation to the Government's decision to remove the Article 5 provision within the draft Law, the Panel is satisfied that the small number of binding Asset Sharing Agreements can follow the process set out under Article 2 of the draft Law. The Panel is content with the rationale behind the decision to remove the Article 5 'carve out' provision through the proposed amendment to the draft Law.
36. The Panel wishes to highlight that Jersey's participation in international treaties is a binary choice, and that Jersey will be required to either participate in a treaty, as the Proposition will set out, or to not.
37. However, the Panel welcomes the draft Law as a "*natural next step in supporting Jersey's separate international identity from that of the UK*", with Jersey's constitutional relationship with the UK clearly set out in the preamble to the draft Law.⁴
38. The Panel is satisfied that the draft Law provides greater clarity in relation to Jersey's involvement in, and treatment of, different types of international treaties.

⁴ Draft Treaties (Jersey) Law 202- [[P.122/2025](#)]