

STATES OF JERSEY



DRAFT AMENDMENT (No. 23) OF THE STANDING ORDERS OF THE STATES OF JERSEY (P.49/2014): AMENDMENT

**Lodged au Greffe on 25th April 2014
by Deputy G.C.L. Baudains of St. Clement**

STATES GREFFE

DRAFT AMENDMENT (No. 23) OF THE STANDING ORDERS OF THE STATES
OF JERSEY (P.49/2014): AMENDMENT

PAGE 12, ARTICLE 4 –

- (1) In the heading to the inserted standing order 21B delete the words “and restriction upon”.
- (2) In the inserted standing order 21B delete –
 - (a) the paragraph number “(1)”;
 - (b) paragraph (2).

DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT

REPORT

Given the tremendous amount of work done by the current (and previous incarnations) of PPC on the whole issue of Machinery of Government, I am surprised that they have seen fit to bring an amendment that could potentially exacerbate, rather than improve, the current problems. Further insulating the Executive from accountability to the States Assembly than they already are would not, in my view, be appropriate.

I have no problem with requiring a similar number of signatures as for a no confidence proposition (which I'll return to in a moment) but the ramifications of restricting a censure motion to personal issues and debarring performance ones could have far-reaching consequences in our present set-up.

PPC will be aware, from work done by its immediate predecessor, that under the previous Committee system, no confidence propositions were able to be brought in the confidence that they at least had a chance. In some cases the votes were pretty close. Now, under the Ministerial system, I am not aware of any no confidence Proposition being successful.

Because the Council of Ministers is a *de facto* political party, they clearly fear that losing one of their members would appear as a sign of weakness; maybe even the start of a disintegration of their team and, as such, they rally round any of their members under attack. That means any Minister can rely on the support of 10 fellow Ministers, his/her Assistant Ministers, plus a few other Assistant Ministers, as well as those who generally align themselves with 'the establishment'. Which means a Minister is substantially more insulated from accountability by the States than was the case previously.

Of course, when they want to remove one of their own – as we saw recently under that rather undignified political manoeuvring – it's a different matter. But that case is not relevant here.

What is relevant is the fact that what PPC are proposing would effectively remove part of States members' armoury. Only the 'nuclear option' of a no confidence proposition would remain and, as detailed above, the chance of that succeeding is virtually nil. On the other hand, a censure motion can be used in the spirit in which I brought one in recent times against the Minister for Transport and Technical Services. I was not seeking to remove him from office because, in my view, a no confidence proposition was not appropriate. If I had thought it was, then I would have brought one.

I believe what was needed at the time was a 'reprimand', a warning that the Assembly was less than satisfied with his performance. I thought I had made it clear in my opening speech at the time that this was the intention, and it was only if the Minister failed to 'up his game' that I would return with a no confidence proposition.

I referred above to Ministers 'sticking together' to protect one of their own. A fine example was the Chief Minister's 'unconditional support' for his Minister for Transport and Technical Services, despite the obvious failings outlined in my proposition. One can only presume from that, that individual Ministers will be defended no matter how bad their performance, in order to protect the team of Ministers as a whole.

I believe that is unacceptable and is the very reason why we need more, not less, tools.

I would also challenge the impression that PPC give on page 4 of their Report in relation to their Amendment No. 4. Firstly, the impression that because my censure proposition was not seconded, it had no support. That most definitely was not the case. I had several members who would have seconded but, because we were only just quorate at the time, it was unfortunate they were absent from the Chamber. Furthermore, I was approached afterwards by other members who were in the Chamber who told me that, although not asked, they would have seconded but, in their own words, 'were caught unawares because the presiding officer moved on so quickly'.

I would have had no difficulty obtaining an extra 3 signatures, had that been needed, and believe such a requirement is reasonable. After all, a censure proposition is a serious matter.

Another impression PPC gives is that in reality there is no difference between a censure and a no confidence Proposition, as those concerned would feel obliged to resign anyway. Of course, that is a matter for the person against whom the accusations are made, but there is no obligation under the former, whilst there is a clear implication under the latter. Are PPC suggesting that a vote of censure against a Minister's conduct is somehow completely divorced from his/her duties?

As we see so often in the UK, Ministers resign more often for reasons of conduct than for performance, so I struggle to understand PPC's logic.

With Ministers becoming increasingly insulated from meaningful accountability, I believe we need more options than just the 'nuclear option' – one that has been proven under ministerial government to be ineffective. We need other tools, and a Censure fills the gap quite nicely. It is a 'wake-up' call. A 'you must do better' instruction. If that is unclear in some quarters, then perhaps PPC should investigate ways of clarifying the meaning, rather than effectively doing away with it and thereby depriving the States of a tool when ordinary back-benchers are already at a distinct disadvantage.

Financial and manpower implications

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