

STATES OF JERSEY

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DRAFT STATES OF JERSEY (AMENDMENT No. 5) LAW 200- (P.183/2007): SECOND AMENDMENTS (P.183/2007 AMD.(2))– COMMENTS

**Presented to the States on 11th January 2007
by the Privileges and Procedures Committee**

STATES GREFFE

COMMENTS

Deputy de Faye is proposing 3 amendments to PPC's proposals –

- (1) to increase the mandate of Senators to 8 years;
- (2) to restrict the senatorial position to candidates who have been States members for at least 12 months; and
- (3) to allow the Chief Minister to propose a ministerial 'reshuffle' after any by-election.

The Privileges and Procedures Committee does not support these amendments even though they do not fundamentally undermine the Committee's proposal to move to a 4 year cycle for the Assembly.

In relation to the first proposed amendment PPC believes that an 8 year term for Senators would be far too long. The Committee considers that an effective parliamentary democracy requires the renewal of the mandate of elected members at regular intervals. Issues of concern and circumstances can change quickly in any society and are unlikely to remain constant over an 8 year period.

Research undertaken by PPC (see Appendix) shows that most Commonwealth parliamentarians are required to face the electorate at intervals of between 3 to 5 years with only a few having terms of 6 years. A senatorial term in Jersey of 8 years would therefore appear to be almost unique in the Commonwealth. It is of note that the French Presidential term of 7 years was reduced to 5 years in 2002 and the 9 year term of French Senate reduced to 6 years in 2003. In Jersey the 9 year term of Senators established in 1948 was, of course, reduced to 6 years in the 1960s.

As mentioned by Deputy de Faye in his report PPC did initially oppose the proposition of Deputy Troy on increasing the term of office of Deputies to 4 years when P.98/2007 was debated in September. PPC nevertheless accepts the decision of the States in that case and this draft Law is the Committee's response to the decision. PPC is somewhat concerned that Deputy de Faye has been somewhat selective in quoting from PPC's comments on P.98/2007 at the end of his report on this amendment. The extract that he quotes actually ends as follows (sentence omitted by Deputy de Faye shown in bold italics) –

“The only reform option for Senators that would appear to work alongside Deputy Troy's proposal and that has not yet been considered would be an extension of the term of office to 8 years, with 6 Senators elected every 4 years. ***A term of office of this length seems extremely undesirable and PPC cannot imagine that it would be acceptable to members or to the public.***”

In the second aspect of his amendments Deputy de Faye is proposing that a person would only be eligible to be a Senator if he or she had already been a States member for an aggregate period of 12 months (this would not have to be immediately before the senatorial election and former members would be able to stand as Senator if they had previously served for at least 12 months).

PPC cannot believe that this restriction, which would severely restrict voters' choice at election time, would be acceptable to the electorate. If there was severe public disillusionment with the entire States the public would not be able to elect new members from outside and the senatorial position might be seen as an inner 'club' because sitting members could not be challenged on the election platform by outsiders. It is also of note that certain members who have risen to positions of responsibility in the Assembly were elected directly as Senators (e.g. Senators R.J. Shenton, N.L. Querée, W. Kinnard, B.E. Shenton, F.E. Cohen and J.L. Perchard).

Deputy de Faye's third amendment allows the Chief Minister to propose a reshuffle of the Council of Ministers after the filling of any casual vacancy in a by-election. This would be a new mechanism which would allow the Chief Minister to propose new Ministers without the need to ask the States to dismiss a Minister that he or she wished to remove from the Council of Ministers.

PPC considers that it is not logical to give this ability to the Chief Minister only after a by-election. It is of note that under Deputy de Faye's amendment the Chief Minister would not have to include the person elected in the by-election as part of the reshuffle, so the by-election would simply provide a random 'window of opportunity'

for the Chief Minister to do this. The Committee does not believe it is appropriate to institute a mechanism that allows the Chief Minister to seek to remove a Minister from his or her post without going through the current statutory procedure on dismissal that requires the Council of Ministers to hear the views of the Minister concerned and requires the Chief Minister to set out in a proposition the reasons for dismissal. It is also of note that the proposed ability to reshuffle the Council of Ministers would not extend to other important positions of responsibility such as Chairman of PPC, PAC or of a scrutiny panel.

APPENDIX

MAXIMUM TERMS OF OFFICE OF COMMONWEALTH PARLIAMENTARIANS

Anguilla	5 years
Antigua and Barbuda (both Houses)	5 years
Australia – House of Representatives	3 years
Australia – Senate	6 years
Australia – Capital Territory	3 years
Australia – Norfolk Islands	3 years
Australia – Northern Territory	4 years
Australia – New South Wales (both Houses)	4 years
Australia – Queensland	3 years
Australia – South Australia (both Houses)	4 years
Australia – Tasmania - House of Assembly	4 years
Australia – Tasmania – Legislative Council	6 years
Australia – Victoria (both Houses)	4 years
Australia – Western Australia (both Houses)	4 years
Bahamas (both Houses)	5 years
Bangladesh	5 years
Barbados	5 years
Belize (both Houses)	5 years
Bermuda (both Houses)	5 years
Botswana (both Houses)	5 years
British Virgin Islands	4 years
Cameroon	5 years
Canada – House of Commons	5 years
Canada – Senate (Senators appointed not elected)	Until age of 75
Canada – Alberta	5 years
Canada – British Columbia	5 years
Canada – Manitoba	5 years
Canada – New Brunswick	5 years
Canada – Newfoundland and Labrador	5 years
Canada – Nova Scotia	5 years
Canada – Ontario	5 years
Canada – Prince Edward Island	5 years
Canada – Quebec	5 years
Canada – Saskatchewan	5 years
Canada – Northwest Territories	4 years
Canada – Nunavut	5 years
Canada – Yukon	4 years
Cayman islands	4 years
Cook Islands	5 years
Cyprus	5 years
Dominica	5 years
Falkland Islands	4 years
Gambia	5 years
Ghana	4 years
Gibraltar	4 years
Grenada	5 years
Guernsey	4 years
Guyana	5 years
India – Lok Sabha (House of the People)	5 years
India – Rajya Sabha (Council of States)	6 years

India – Andhra Pradesh	5 years
India – Arunachal Pradesh	5 years
India – Assam	5 years
India – Bihar (both Houses)	5 years
India – Chhattisgarh	5 years
India – Delhi	5 years
India – Goa	5 years
India – Gujarat	5 years
India – Haryana	5 years
India – Himachal Pradesh	5 years
India – Jammu and Kashmir (both Houses)	6 years
India – Karnataka Legislative Assembly	5 years
India – Karnataka Legislative Council	6 years
India – Kerala	5 years
India – Madhya Pradesh	5 years
India – Maharashtra Legislative Assembly	5 years
India – Maharashtra Legislative Council	6 years
India – Manipur	5 years
India – Meghalaya	5 years
India – Mizoram	5 years
India – Nagaland	5 years
India – Orissa	5 years
India – Pondicherry	5 years
India – Punjab	5 years
India – Rajasthan	5 years
India – Sikkim	5 years
India – Tamil Nadu	5 years
India – Tripura	5 years
India – Uttar Pradesh (both Houses)	5 years
India – West Bengal	5 years
Isle of Man	5 years
Jamaica (both Houses)	5 years
Kenya	5 years
Kiribati	4 years
Lesotho (both Houses)	5 years
Malawi	5 years
Malaysia – Dewan Rakyat (Lower House)	5 years
Malaysia – Dewan Rakyat (Upper House)	6 years
Malaysia – Kelantan	5 years
Malaysia – Johore	5 years
Malaysia – Kedah Darulaman	5 years
Malaysia – Malacca	5 years
Malaysia – Negeri Sembilan	5 years
Malaysia – Pahang	5 years
Malaysia – Penang	5 years
Malaysia – Perak	5 years
Malaysia – Perlis	5 years
Malaysia – Sabah	5 years
Malaysia – Sarawak	5 years
Malaysia – Selangor	5 years
Maldives	5 years
Malta	5 years

Mauritius	5 years
Montserrat	5 years
Mozambique	5 years
Namibia – National Assembly	5 years
Namibia – National Council	6 years
Nauru	3 years
New Zealand	3 years
Nigeria (both Houses)	4 years
Niue	3 years
Papua New Guinea	5 years
Samoa	5 years
Seychelles	5 years
Sierra Leone	5 years
Singapore	5 years
Solomon Islands	4 years
South Africa (both Houses)	5 years
South Africa – Eastern Cape	5 years
South Africa – Free State	5 years
South Africa – Gauteng	5 years
South Africa – Kwazulu-Natal	5 years
South Africa – Limpopo	5 years
South Africa – Mpumalanga	5 years
South Africa – Northern Cape	5 years
South Africa – North-West	5 years
South Africa – Western Cape	5 years
Sri Lanka	6 years
St Helena	4 years
St Christopher and Nevis	5 years
Nevis Island Assembly	5 years
St Lucia	5 years
St Vincent and the Grenadines	5 years
Swaziland (both Houses)	5 years
Tanzania	5 years
Zanzibar	5 years
Tonga	3 years
Trinidad and Tobago (both Houses)	5 years
Turks and Caicos	4 years
Tuvalu	4 years
Uganda	5 years
United Kingdom – House of Commons	5 years
United Kingdom – National Assembly of Wales	4 years
United Kingdom – Northern Ireland Assembly	4 years
United Kingdom – Scotland	4 years
Vanuatu	4 years
Zambia	5 years