

# STATES OF JERSEY



## DRAFT AMENDMENT (No. 16) OF THE STANDING ORDERS OF THE STATES OF JERSEY

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Lodged au Greffe on 7th September 2011  
by the Privileges and Procedures Committee

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STATES GREFFE





Jersey

## **DRAFT AMENDMENT (No. 16) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

### **Introduction**

This very brief but extremely important amendment to Standing Orders is being brought forward to correct an oversight that has only just been noticed in relation to the date of the first meeting of the new States after the elections. Under the Standing Orders as currently drafted, that first meeting must be held within 14 days of the Deputies' elections, and that is not possible under the timetable for this autumn as already agreed by the States.

PPC wishes to apologize to members that this amendment is being brought forward at this late stage but, as explained below, the oversight was only noticed by chance very recently and the Committee considers that it would be irresponsible not to take action to rectify it.

### **Background**

When the Draft States of Jersey (Period for Election) (Jersey) Regulations 201-(P.56/2010) to give effect to the agreed proposals for the single election day were lodged for debate in May 2010, the accompanying report from PPC set out the proposed timetable for the lodging and debate of the Annual Business Plan and Budget, for the single election day and for the subsequent swearing-in of new members this autumn. The timetable set out was as follows –

|                     |  |
|---------------------|--|
| 12th July 2011      | 2012 ABP lodged.                                     |
| 26th August 2011    | 2012 ABP amendments deadline.                        |
| 13th September 2011 | 2012 ABP debate (old States).                        |
| 27th September 2011 | 2012 Budget lodged.                                  |
| 19th October 2011   | Election day.  |
| 25th October 2011   | 2012 Budget amendments deadline.                     |
| 8th November 2011   | 2012 Budget (old States).                            |
| 14th November 2011  | Swearing-in new members, election of Chief Minister. |

As explained in the report accompanying P.56/2010, discussions between PPC and the Treasury and Resources Department had concluded that, because of the constraints of the required statutory timetable for the Annual Business Plan and Budget, there was, unfortunately, no alternative other than to ask the ‘old’ States, after the elections on 19th October 2011, to debate the Budget 2012. In order to allow members time to lodge amendments after the elections, the date of the Budget was fixed for 8th November 2011. It was then proposed that the swearing-in of new members and the election of the Chief Minister (which takes place on the same day) should be fixed for Monday 14th November. In P.56/2010, PPC commented on the proposed timetable as follows –

“The old States would be required to remain in office for some 3 weeks after the elections in order to debate the 2012 Budget; and although at first this may not appear to be ideal, it should be pointed out that the old States currently remains in office for some 8 weeks after the senatorial and Connétables’ elections even though there is, of course, only some 10 days between the Deputies’ elections and the swearing-in of the new States. The 3 week period will provide additional time for the start of the induction programme for new members before they are sworn in and this will be a benefit, as the current system where very little time is available between the Deputies’ elections and the start of the new States is far from ideal.

PPC and the Minister for Treasury and Resources considered a number of different scenarios for the timing of the single election day and the budgetary processes and are satisfied that the timetable above is undoubtedly the most appropriate one.”.

Since the approval of the above Regulations on 23rd June 2010, the necessary practical arrangements have been made to implement the agreed timetable –

- The 2011 States dates, issued by PPC on 21st July 2010 (R.106/2010), took account of the decision and fixed the last meeting of the ‘old States’ for 8th November 2011 with the first meeting of the ‘new’ States to elect the Chief Minister listed for Monday 14th November 2011.
- The Annual Business Plan 2012 was lodged in accordance with the agreed timetable for debate on 13th September 2011, and PPC understands that the Treasury and Resources Department is on target to lodge the Draft Budget 2012 on 27th September 2011 for debate on 8th November.
- The Royal Court, when ordering the elections on 5th August 2011, fixed 14th November as the swearing-in day for the members elected on 19th October 2011.

The oversight that has just been noticed is found in the table in Standing Order 112(1), which lists the timetable for the various appointments that must be made after each ordinary election for Deputies. Item 1 in that table currently requires the first meeting of the new States to be held within 14 days of the ordinary election (which is defined in Standing Order 1 as referring to the Deputies’ elections) –

**112 Order of and time for selection and appointment following ordinary election**

- (1) When, by virtue of the Law and standing orders, selections and appointments must be made following an ordinary election, they shall be made in the order and at the meeting described in the following table –

| <i>Order of selection or appointment</i> | <i>When</i>  |
|--|--|
| 1. selection of Chief Minister designate | Meeting commenced within the period of 14 days following the ordinary election (1st meeting) |

The 14 day period was obviously appropriate in the past when the ordinary elections for Deputies were held very shortly before the new States convened for the first time, even though there was then a much longer gap than this year between the ordinary elections for Senators and Connétables and the start of the new States. The timetable followed in 2005 and 2008 was as follows –

**2005**

Ordinary election for Senators – Wednesday 19th October 2005

Ordinary election for Deputies – Wednesday 23rd November 2005

All members sworn in and Chief Minister selected – Monday 5th December 2005

**2008**

Ordinary election for Senators – Wednesday 15th October 2008

Ordinary election for Deputies – Wednesday 26th November 2008

All members sworn in and Chief Minister selected – Monday 8th December 2008

On 31st August 2011, the Greffier of the States noticed, purely by chance, that when the States had been asked to approve the necessary legislation to implement the agreed timetable for the 2011 single election day, there had been an oversight because the 14 day period in Standing Order 112(1) had not also been amended. This year, the period between the Deputies' elections on 19th October and the meeting on 14th November will be 26 days. On noticing the error, the Greffier immediately took appropriate advice and brought the matter to PPC's attention.

PPC believes that it would be extremely irresponsible not to take action to amend Standing Order 112(1) now that the oversight has come to light. If the current provision remains unchanged and is ignored, there could be ongoing uncertainty about the validity of the appointment of a Chief Minister made after the prescribed 14 day period. Alternatively, if the provision was followed as required, there would be no option other than to convene the 'old' States within the 14 day period to elect a new Chief Minister. This would clearly be a totally ridiculous and unacceptable option and may not even be possible because of other requirements of the States of Jersey Law 2005 and Standing Orders.

As this matter has arisen simply as a result of an unfortunate oversight, PPC believes that the sensible and correct action to take is to ask members to amend the provision so that the required period is extended from 14 to 28 days. That is the sole purpose of this amendment. If the amendment is approved, the agreed timetable can be implemented without any legal hurdles this autumn and there will be no possibility of a challenge to the validity of the process.

### **Minimum lodging period**

As mentioned above, the oversight was first noticed by the Greffier on 31st August 2011. Although he took action immediately to seek advice and to request the Law Draftsman to prepare this amendment, there is unfortunately not time for this amendment to be lodged for the full 4 week period as required by Standing Order 26(3A)(b). The amendment must be debated by the Assembly in September, before the elections, as the next meeting after the elections will be on 8th November 2011 when the 14 day period specified in Standing Orders will already have expired. PPC will therefore be asking the States to agree to reduce the minimum lodging period to allow this proposition to be debated in September. PPC does this with some reluctance, as the Committee has often been at the forefront of moves to resist requests from Ministers and other members to reduce minimum lodging periods, but on this occasion the Committee considers that its request is justified.

The 'test' for the States (Standing Order 26(7)) when deciding whether to reduce the minimum lodging period is that "the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate.". As explained above, the consequences of doing nothing in this case are either: (i) that the validity of the appointment of Jersey's most senior officeholder, the Chief Minister, could be questioned (if the current prescribed timetable was ignored); or (ii) that the 'old' States would have to select the new Chief Minister. PPC believes that both scenarios are sufficiently serious to fulfil the requirement that it would be seriously 'prejudicial to Jersey' to take no action.

### **2014 and beyond**

PPC has brought this urgent amendment to correct the oversight and to ensure that the 2011 timetable can be implemented as necessary. The Committee accepts that the current situation, with the 'old' States meeting during the election campaign and again after the elections, is far from ideal, and the Committee therefore recommends that the new PPC elected in November looks again at the whole issue of States meetings around the election day, to see if any alternative is possible to allow the 'old' States to stop its work before the election campaign and not then to reconvene at all after the elections. If changes are possible, it will be simple to amend Standing Orders again and the insertion of the 28 day period through this amendment should hopefully be in force for 2011 only.

### **Financial and manpower implications**

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

## **Explanatory Note**

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This Order amends the Standing Orders of the States of Jersey by changing the period following an ordinary election within which the meeting for selecting a Chief Minister designate must commence. The period for commencing such a meeting is changed from a period of 14 days following such an election to a period of 28 days.







Jersey

## **DRAFT AMENDMENT (No. 16) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 48 of the States of Jersey Law 2005<sup>1</sup>,  
have made the following amendment to Standing Orders –

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### **1 Standing Order 112 amended**

In standing order 112 in the Standing Orders of the States of Jersey<sup>2</sup>, in the table in paragraph (1), in column 2 relating to item 1, for the number “14” there shall be substituted the number “28”.

### **2 Citation and commencement**

This amendment may be cited as Amendment (No. 16) of the Standing Orders of the States of Jersey and shall come into force on the day after it is made.

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- <sup>1</sup> *chapter 16.800*  
<sup>2</sup> *chapter 16.800.15*