

# **STATES OF JERSEY**

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## **DRAFT STATES OF JERSEY (AMENDMENT No. 5) LAW 200- (P.183/2007): SECOND AMENDMENTS**

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**Lodged au Greffe on 31st December 2007  
by Deputy G.W.J. de Faye of St. Helier**

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**STATES GREFFE**

(1) PAGE 14, ARTICLE 3 –

*In paragraph (1) of the substituted Article 5, for the words “4 years” substitute the words “8 years”.*

(2) PAGE 14, ARTICLE 4 –

*In paragraph (a), in the substituted paragraph (1) –*

(a) *delete sub-paragraph (c);*

(b) *in sub-paragraph (d), for the words “fourth year” substitute the words “eighth year”.*

(3) PAGE 14, NEW ARTICLE –

*After Article 4 insert the following Article and renumber the remaining Articles and all internal cross-references accordingly –*

**“[-] Article 7 amended**

After paragraph (2) of Article 7 of the principal Law there shall be inserted the following paragraph –

‘(2A) A person shall be disqualified for election as a Senator if he or she has not previously been an elected member for a period, or an aggregate of periods, of 12 months.’”

(4) PAGE 14, NEW ARTICLES –

*After Article 5 insert the following Articles and renumber the remaining Articles and all internal cross-references accordingly –*

**“[-] Article 19A inserted**

After Article 19 of the principal Law there shall be inserted the following Article –

**‘19A Selection and appointment of Ministers following casual vacancy**

- (1) The Chief Minister may, within the prescribed period following the filling of a casual vacancy in the office of Senator, Connétable or Deputy and in accordance with the prescribed procedures, nominate up to 9 elected members for appointment as Ministers.
- (2) Where the Chief Minister makes a nomination under paragraph (1) he or she shall also –
  - (a) indicate which Minister or Ministers shall cease to hold office upon the appointment of a person as a Minister pursuant to this Article; and
  - (b) propose the Ministerial office to which, following the appointment or appointments under this Article, each of the 9 Ministers is to be or will remain, assigned.
- (3) Where the Chief Minister makes a nomination under paragraph (1), an elected

member may, within the prescribed period and in accordance with the prescribed procedures –

- (a) nominate up to the same number of elected members, for appointment as Ministers, as has been nominated by the Chief Minister under paragraph (1);
  - (b) subject to paragraph (4)(c), propose the Ministerial office to which any Minister is to be assigned.
- (4) An elected member –
- (a) may, under paragraph (3)(a), nominate for appointment as Minister an elected member who would cease to hold office as described in paragraph (2)(a);
  - (b) may not, under paragraph (3), propose that any Minister shall cease to hold office as described in paragraph (2)(a);
  - (c) may not, under paragraph (3)(b), propose any change in the Minister assigned to a Ministerial office, unless the Chief Minister has proposed such a change for that office under paragraph (2)(b).
- (5) The States shall then, in accordance with the prescribed procedures –
- (a) select, for appointment as Ministers, the same number of elected members as the number nominated by the Chief Minister under paragraph (1);
  - (b) for each Ministerial office for which the Chief Minister has, under paragraph (2)(b), proposed a change in the Minister assigned to it, select a Minister for such assignment.
- (6) A person is appointed to office as a Minister under this Article upon the last selection being made under paragraph (5).
- (7) Nothing in this Article affects Article 21(4) to (7) or Article 29(1).'

**[-] Article 21 amended**

In Article 21(1) of the principal Law, for sub-paragraph (b) there shall be substituted the following sub-paragraph –

- (b) a Minister shall continue in office –
- (i) until a further appointment takes effect under Article 19(7) or 23(3), or
  - (ii) where the Chief Minister has indicated, under Article 19A(2)(a), that the Minister is to cease to hold office, until a further appointment takes effect under Article 19A;'

**[-] Article 23 amended**

At the end of Article 23(2) of the principal Law there shall be added the words 'or the Chief Minister makes a nomination and proposal under Article 19A in respect of the vacant office'.

*In the substituted paragraph (1), for the words “fourth year” substitute the words “eighth year”.*

(6) PAGE 16, ARTICLE 12 –

*For paragraph (2)(a) there shall be substituted the following sub-paragraph –*

“(a) This Law, apart from the provisions mentioned in the following sub-paragraphs, shall come into force on the day this Law is registered.”.

DEPUTY G.W.J. DE FAYE OF ST. HELIER

## REPORT

In its report to accompany Amendment No. 5 to the States of Jersey Law 2005, the Privileges and Procedures Committee (PPC) maintains a view “that the extension of Deputies’ terms (of office) cannot be made in isolation” and it is for that reason **ALONE** that the current package of reforms are being proposed.

This is an entirely baffling and illogical position in view of the fact that the extension to the Deputies’ terms of office was not made in isolation, but followed on from a previous and relatively recent vote to extend the term of office of the Connétables from 3 to 4 years. That States’ decision was largely based on a general sentiment that the role of the Parish Connétable was highly valued by the electorate, with particular respect to its parochial and traditional characteristics and, consequently, it should clearly be distinguished in some particular way. Thus, the effect of that earlier decision was to effectively re-categorise all classes of elected representatives sitting in the States of Jersey by virtue of term of office; with the senior group of Senators serving 6 year terms, Connétables serving 4 year terms and the Deputies, originally conceived to operate in a support role to their respective parish Connétable, serving 3 year terms.

However, this apparently supplicant position did not find favour on the Deputies benches and measures to redress the balance appeared in P.98/2007, proposed by Deputy Peter Troy, who argued that it was only equitable that Deputies should also serve a 4 year term. Regrettably, the basis of this argument was not expanded in any detail, even though it was the only significant ground for further change being put forward. In that light, it has to be stated that the powers, responsibilities and roles of Connétables and Deputies are very significantly different and the greater the level of analysis that is applied to that subject, the harder it is to see why an equitable position is required in respect of tenure of office. It is also worth noting that PPC urged all members to reject P.98/2007.

The main plank of PPC’s opposition to P.98/2007 was Deputy Troy’s failure to deal with the tenure of Senators, which he left for PPC to review.

This concern for the continuation of the Senators’ term of 6 years was based on PPC’s hysterical notion that absence of reform would, “quite literally, lead to electoral chaos”. This bizarre statement was founded upon the concept that some election phases might be as close together as ONE year and PPC has produced a number of tables to portray this doom laden scenario.

In an attempt to bolster an argument founded on “the confusion that would arise with elections at such random intervals”, PPC further claimed that it would be “difficult to manage the appointment of Ministers, Committee and Panel Chairmen and other officeholders in a sensible way”.

This relates to current Standing Orders linking the ministerial and allied appointment processes to the Deputies election, held previously on a rolling cycle of 3 years, which would now become 4. This would leave Senatorial elections marginally out of step, as they would continue on the current 3 year cycle.

Unfortunately, very little explanation was given as to why this was such a major and vexing problem. Study of the matter seemed to distil down to the potential for 6 Senators having to wait for up to one, 2 or 3 years before they could be nominated for an appointment as Minister, Committee or Panel Chairman. Apart from other considerations, this view overlooked the situation where a re-elected Senator might already hold such a position. It also did not appear to be especially onerous.

The amendments being put forward attempt to address the proposed reforms with the application of straightforward logic to the existing evidence.

To date, the States have approved the extension of terms of office of two of its cadre of membership. This implies that existing terms are too short and that there is merit in allowing politicians to serve for longer. The new tenure for Connétables and Deputies represents an increase of one third of the current time span. The same measure applied to the tenure of a Senator produces a term of office of 8 years.

The question immediately arises as to whether this is too long a period. Undoubtedly, that is likely to be the case for an untried and untested newcomer to the States of Jersey and its procedures and processes, though not

necessarily, as some first time Senators have demonstrated. Alternatively, for any Member of the States who has won the trust of the electorate by virtue of being re-elected on one or more occasions, it could be considered appropriate that such a member had acquired a level of status that allowed for a longer term of office.

Accordingly, an amendment is being put forward to limit the opportunity of gaining a Senatorial position solely to nominees who have already been States members for at least one year. This amendment addresses a number of issues.

Firstly, it assures the seniority of the Senators, who remain the only elected representatives approved by the entire Jersey electorate.

Secondly, it provides considerable motivation for candidates to undergo the rigorous, time consuming and potentially expensive exposure to the process of the all-Island franchise.

Thirdly, it eliminates any possibility of a candidate gaining a senior political position without having been previously tested “on the job” and having completed what many electors regard as an appropriate period of “apprenticeship” on the Deputies or Connétables benches.

Fourthly, the 8 year term Senators will come into cycle with the Deputies elections by 2016. The longer Senatorial term provides an important level of continuity within government and, at the time that the major Senatorial and Deputies Elections come around, the 12 Parish Connétables will maintain continuity in office, having been elected separately, if current circumstances pertain.

The assertion, made by PPC in its report on Amendment No. 5, that “ constant changes in membership of the Council of Ministers, scrutiny panels etc. would make it very hard for proper long-term programmes to be planned...” is disputed. The strategies and policies contained within “long-term programmes” are either approved by the States or not and Ministers or Scrutiny panellists conduct their roles accordingly. Variation in personnel occupying particular positions has no general relevance to executing agreed States policies. However, there is merit in considering the potential for disillusionment for the electorate when by-elections of one of more vacancies, or sub-groups of elections, are held without any new appointments being made to, for example, the Council of Ministers.

Accordingly, a further amendment is proposed, so that any by-election acts as a trigger mechanism for the Jersey equivalent of a “Cabinet reshuffle”. The amendment assumes a variety of scenarios, one of which may be the retirement of a States member, possibly a Minister, who may be succeeded by an eminently popular or uniquely talented successor, displaying all the criteria of eligibility for a ministerial role. The Chief Minister, at his or her sole discretion, would then have the option to re-nominate one or more of the ministerial positions that form the Council of Ministers. Given the requirement to have every re-nomination agreed by the States and the possible need to hold elections for each “reshuffled” post, it is unlikely that significant numbers of ministerial positions would be affected, but the option to reshuffle the entire Council of Ministers would be feasible. This Chief Ministerial discretionary power would be in addition to the Chief Minister’s appointment role at the proposed “General Elections”.

To conclude, members may care to consider PPC’s latest proposition – P.183/2007 - in the light of part of PPC’s comments on P.98/2007 –

“PPC would remind members that propositions and amendments, **rejected** in recent months, relating to Senators, include proposals to –

- Reduce the number of Senators to 8;
- Reduce the term of office of Senators to 4 years;
- Elect all Senators on one day;
- Abolish the position completely.

The only reform that would appear to work alongside Deputy Troy’s [*accepted*] 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”.

Clearly that was not the only other reform that could work and members are invited to consider an option for 8 Senators to be elected every 8 years.

### **Financial and manpower implications**

There would be a reduction in the number of Senatorial elections over time. These currently cost in the region of £15,000 to stage.