

# **STATES OF JERSEY**

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## **DRAFT STATES OF JERSEY (AMENDMENT) LAW 200**

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**Lodged au Greffe on 26th April 2005  
by the Policy and Resources Committee**

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**STATES GREFFE**





Jersey

## **DRAFT STATES OF JERSEY (AMENDMENT) LAW 200**

### **European Convention on Human Rights**

The President of the Policy and Resources Committee has made the following statement –

In the view of the Policy and Resources Committee the provisions of the Draft States of Jersey (Amendment) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

## REPORT

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This is a revised version of the draft States of Jersey (Amendment) Law that was lodged 'au Greffe' on 8th February 2005 and given initial consideration by the States on 22nd March. The purpose of the draft Law is to make certain changes to the arrangements for the appointment of ministers, including the nomination of ministers for appointment on an individual basis rather than *en bloc*. In addition, it is proposed that the Chief Minister should be prohibited from taking on an additional ministerial office.

During the States debate on 22nd March the question was raised as to whether the draft Law actually achieved the desired purpose of preventing the Chief Minister from taking on additional ministerial office. The Attorney General advised the Assembly that the draft Law did not, in his opinion, achieve this end, and in the light of this advice, the President of the Policy and Resources Committee agreed that debate on this matter should be deferred.

The Policy and Resources Committee has since reviewed this matter in the light of the Attorney General's advice, and it agrees that the draft Law as previously lodged did not achieve its desired purpose in this respect. The Committee has accordingly withdrawn the original draft and is lodging this revised version which should remove any uncertainty in this matter. The revised draft Law now contains a new Article (Article 19A) in which it is stated that the Chief Minister shall be ineligible for appointment as a Minister or Assistant Minister.

The Committee has given further thought to the comments of a small number of members on the last occasion that the flexibility to expand the Chief Minister's portfolio by transferring functions by Regulations might be undesirable. The Committee does not share this view, and believes that it is desirable to retain some flexibility, even if it would seem unlikely, certainly in the short to medium term, that the Chief Minister would think it appropriate to seek further functions. It should be pointed out that any proposed transfer of functions would have to be approved by the States, and the transfer would not be approved if the States were concerned about such a proposal.

Members will recall that the question was raised during the debate on 22nd March about the order in which the nominations would be made. This is a matter that will be set out in Standing Orders, and it is understood that the Privileges and Procedures Committee will be proposing that the Chief Minister designate would indicate the sequence in which the ministerial nominations will be made. The Policy and Resources Committee supports this approach, as it will provide members with a clear indication of the sequence of appointments.

The Committee's report which accompanied the previous version of the draft Law remains valid, and is reproduced below for information –

*'During the States' debate in November 2004 on the Draft States of Jersey Law 200- (P.124/2004), the President of the Policy and Resources Committee undertook to report back to the Assembly within three months on the following –*

- *the eligibility for election of public sector employees; and*
- *the arrangements for the appointment of ministers.*

*In relation to the eligibility for election of public sector employees, the Policy and Resources Committee has given further consideration to this matter and will shortly be presenting an R.C. to the States which will set out a proposed way forward. (Note: This R.C. has since been published under the title 'States Employees Engaging in Political Activities: draft proposals', R.C.18/2005).*

*The proposed revised arrangements for the appointment of ministers are set out in this amending law. It will be recalled that Article 19 of the States of Jersey Law, as adopted by the States in November 2004, provides for the Chief Minister designate to nominate his or her ministerial team *en bloc* and for the States to accept or reject the team as a whole. Under the proposed amendment, the Chief Minister designate will nominate candidates individually for appointment to specific Ministerial office, and the States will be asked to vote on each nomination separately. In the event that the Chief Minister designate's nominations for a particular Ministerial office should be rejected by the States, on a number of occasions to be specified in standing orders, the Chief Minister designate would cease to be such and the process of selecting a Chief Minister and ministers would recommence.*

*The Policy and Resources Committee believes that this change will provide for greater transparency, as States*

members will be able to express their preferences in relation to each candidate and their suitability for the office for which they have been proposed. A further benefit of this arrangement is that a majority vote will be required to elect each of the candidates as a minister, and the successful candidates will therefore know that they have the confidence of the majority of members.

The Committee also recommends that provision should be made in Standing Orders for the Chief Minister designate to present a list of his or her proposed candidates, together with their proposed Ministerial offices, at the beginning of the nomination process. In this way, States members will be able to vote on each candidate in the knowledge of who is being proposed for all the Ministerial offices. In the event of one or more of his or her candidates not being accepted by the States, the Chief Minister designate would need to present a revised list of candidates for the information of members. It is suggested that the Chief Minister designate should be able to make up to three nominations for each Ministerial office and, as noted above, this would also need to be provided for in Standing Orders. Subject to any views that members might wish to express during the States' debate on this amending law, it is suggested that the Privileges and Procedures Committee should be requested to include these provisions in the work that they are currently undertaking on Standing Orders.

Finally, the Committee has also considered the question of whether the Chief Minister designate should be able to propose during the nomination process that he or she should take on an additional Ministerial office. The States of Jersey Law, as adopted by the States in November 2004, allows for the Chief Minister designate to be assigned an additional Ministerial office, but on reflection the Committee believes that such a provision is undesirable. Firstly, the Chief Minister will have a varied and demanding role, and it therefore seems unlikely that he or she will be in a position to take on the additional responsibility. Secondly, there may be concerns about too much authority being concentrated in one individual, particularly as this person will already be exercising the responsibilities of Chief Minister. The Committee is accordingly proposing in the amending law that the ability of the Chief Minister designate to take on additional responsibility should be removed. Article 28 of the States of Jersey Law would still provide the flexibility to expand the Chief Minister's portfolio, by transferring functions between Ministers by Regulations, but this would require the approval of the States.

*This Draft Law has no implications for the financial or manpower resources of the States.'*

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 21st April 2005 the Policy and Resources Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Policy and Resources Committee the provisions of the Draft States of Jersey (Amendment) Law 200- are compatible with the Convention Rights.

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### **Re-issue Note**

Square brackets included in the projet when issued have been removed in this re-issued version.

## Explanatory Note

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*Article 1* is the interpretation provision.

*Article 2* amends Article 19 of the States of Jersey Law 2005 (the ‘principal Law’), which sets out the process for selection and appointment of the Council of Ministers.

The principal Law provides for the Chief Minister designate to nominate and propose his or her ministerial team *en bloc* and for the States to accept or reject the team as a whole. In the event that the team as a whole was rejected by the States on a number of occasions which would be prescribed in standing orders, the Chief Minister designate would cease to be such and the process for selecting a Chief Minister would recommence.

This amending Law would have the effect that the Chief Minister designate would propose each of his or her nominations for assignment to a Ministerial office in turn, and the States would vote on each nomination separately. In the event that, on a number of occasions to be prescribed in standing orders, the States rejected the Chief Minister designate’s nominations for assignment to a specific Ministerial office, the Chief Minister designate would, as before, cease to be such and the process for selecting a Chief Minister would recommence.

This amending Law would also enable the Chief Minister designate to stand down before the process for selection of the 9 Ministers has been completed. In that event, the process for selecting a Chief Minister, again, recommences.

*Article 3* inserts Article 19A in the principal Law. Article 19A places it beyond doubt that the Chief Minister is ineligible for appointment as a Minister.

*Article 4* is the citation and commencement provision.





Jersey

## DRAFT STATES OF JERSEY (AMENDMENT) LAW 200

### Arrangement

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#### Article

- 1      Interpretation
- 2      Article 19 amended
- 3      Article 19A inserted
- 4      Citation and commencement







Jersey

## STATES OF JERSEY (AMENDMENT) LAW 200-

A LAW to amend the States of Jersey Law 2005.

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*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### 1 Interpretation

In this Law “principal Law” means the States of Jersey Law 2005.<sup>[1]</sup>

### 2 Article 19 amended

In Article 19 of the principal Law<sup>[2]</sup> for paragraphs (3) to (7) there shall be substituted the following paragraphs –

- “(3) The Chief Minister designate shall, within the prescribed period and in accordance with the prescribed procedures –
  - (a) nominate elected members for appointment as Ministers; and
  - (b) propose the Ministerial office to which each nominee would be assigned.
- (4) The States shall, within the prescribed period, accept or reject a nomination and proposal under paragraph (3), but may not amend it.
- (5) Subject to paragraph (6), where the States reject a nomination and proposal under paragraph (3), the Chief Minister designate shall make a further nomination and proposal under that paragraph.
- (6) Where –
  - (a) on the prescribed number of occasions, the States reject the Chief Minister designate’s nomination and proposal for assignment to a particular Ministerial office;
  - (b) the Chief Minister designate does not make a nomination and proposal under paragraph (3) within the prescribed period; or
  - (c) the Chief Minister designate informs the Bailiff, in writing, that he or she no longer wishes to be Chief Minister designate,that person shall cease to be Chief Minister designate.

- (7) Upon the States accepting the last of the Chief Minister designate’s nominations and proposals under paragraph (3) required to complete the constitution of the Council of Ministers, that person and the persons nominated are appointed to office.”.

**3 Article 19A inserted**

After Article 19 of the principal Law<sup>[3]</sup> there shall be inserted the following Article –

**“19A Chief Minister ineligible for other ministerial office**

The Chief Minister shall be ineligible for appointment as a Minister or Assistant Minister.”

**4 Citation and commencement**

This Law may be cited as the States of Jersey (Amendment) Law 200- and shall come into force on the same day as Article 19 of the States of Jersey Law 200.

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[1] *Volume 2005, page 345.*

[2] *Volume 2005, page 357.*

[3] *Volume 2005, page 358.*