

STATES OF JERSEY



DRAFT AMENDMENT (No. 23) OF THE STANDING ORDERS OF THE STATES OF JERSEY 201-

Lodged au Greffe on 14th April 2014
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

DRAFT AMENDMENT (No. 23) OF THE STANDING ORDERS OF THE STATES OF JERSEY 201-

REPORT

Introduction

These miscellaneous amendments to Standing Orders arise partly from the work of the Privileges and Procedures Standing Orders and Internal Procedures Sub-Committee and from the work of the Committee's Public Elections Sub-Committee. They also include other miscellaneous proposed changes as explained below.

Amendment 2

The PPC Public Elections Sub-Committee recommended that more should be done to ensure that States' business was not conducted in an election period. At present, Standing Orders provide that the States Assembly cannot meet in the 21 day period before an election, but there is currently no prohibition on propositions being lodged during this period. In recent years a number of propositions have been lodged by members who are candidates in the elections, and it could be argued that this gives sitting members of the States an advantage over other candidates.

This amendment inserts new Standing Order 19A which will prevent any propositions being lodged during the 21 days leading up to an election. The Bailiff is nevertheless given a discretion to allow a lodging in cases of urgency or public importance and although, in practice, it is unlikely that this discretion will be needed, it is seen as essential to ensure that a proposition could be lodged to deal, for example, with an emergency situation.

Amendment 3

The Standing Orders Sub-Committee recommended that a proposer should be required to explain how the figures used in a proposition's statement of financial and manpower implications had been calculated, as this would help to ensure greater accuracy and allow other members to understand how the information had been worked out. This amendment gives effect to the recommendation of the Sub-Committee and will require all proposers to indicate how they have calculated the estimate of financial and manpower implications.

Amendment 4

This amendment inserts new requirements in Standing Orders relating to votes of censure. The changes are in 2 parts.

Paragraph (1) introduces a new requirement for a vote of censure to be signed by at least 3 members of the States in addition to the proposer. This mirrors the current requirement for votes of no confidence, and is being introduced in response to comments made to PPC at the time of the vote of censure in the Minister for Transport

and Technical Services that failed to obtain a seconder on the day of debate. A vote of censure is a serious parliamentary sanction, and PPC does not believe it is unreasonable to suggest that a vote of censure cannot be lodged unless at least 4 members of the States are supporting the proposal.

Paragraph (2) clarifies the circumstances in which a vote of censure can be brought. PPC is aware of concerns that were raised, both in relation to the vote of censure lodged in 2011 against the then Chief Minister, and also in the more recent vote of censure in the Minister for Transport and Technical Services. In both cases, the reasons for the vote of censure were effectively related to the manner in which the officeholders were undertaking their ministerial duties. PPC believes that in these cases a vote of no confidence is, in fact, more appropriate. A vote of censure should be related to a member's conduct or behaviour, and is not appropriate to use in relation to the manner in which a Minister or other officeholder is discharging his or her official duties. It was very apparent at the time that the 2 votes of censure were lodged that the Ministers involved would have felt obliged to resign from office if the propositions had been adopted and the votes were therefore, in practice, nothing more than a vote of no confidence. Through these amendments, Standing Orders will make it clear that a vote of no confidence is to be used if a Minister or other officeholder fails to undertake his or her duties effectively, whereas a vote of censure will be restricted to cases of inappropriate behaviour or conduct only.

Amendment 5

This amendment amends the current minimum lodging periods and the manner in which these can be reduced.

Paragraph (1) adds 2 categories of propositions to those that only have a 2 week lodging period. At present a 2 week lodging period applies only to propositions relating to "disciplinary" matters such as votes of no confidence or dismissal. The Standing Orders Sub-Committee considered that propositions to annul an Order or that seek to challenge a proposed land transaction notified to the States under the '15 day' rule in Standing Order 168 should be brought in the 2 week category, as there can occasionally be an urgency to address a matter and the requirement for a 4 week lodging period can cause unnecessary delay.

Paragraph (2) addresses a concern that has been expressed on a number of occasions about the current extremely high test that must be met before a lodging period can be reduced. At present, Standing Order 26(7) states that the States may reduce a minimum lodging period "if they are of the opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate." PPC does not want to encourage Ministers and others to seek to reduce lodging periods unnecessarily, but accepts that there are occasions when the States are willing to reduce a lodging period. Unfortunately, on some of the occasions in the past it is clear that the strict test of urgency and importance has not always been met when this has been done, and there has not been real evidence that it would have been 'prejudicial to Jersey' to delay certain debates where lodging periods have been reduced. The PPC Sub-Committee on Standing Orders recommended that Standing Order 26(7) should be amended to allow the States to reduce lodging periods and the wording in the amendment requires the States to agree that it is "in the public interest" to reduce the lodging period. This will hopefully ensure that members do not abuse the ability to reduce a lodging period, whilst giving greater flexibility than under the current provisions.

Amendment 6

This amendment introduces a new provision to allow a member of the States to propose that the 2 hours allowed for oral questions with notice be extended. PPC does not believe it would be appropriate for the 2 hour period to be extended systematically at every Sitting just because there are more questions than can be answered, but believes it is wrong at present that there is no ability for a member of the States to propose that the period be extended.

Amendment 7

This amendment relates to the time allowed for questions after a statement on a matter of official responsibility. PPC was approached by a member after the Minister for Treasury and Resources made an official statement in 2013 on the day in which the Draft Budget 2014 was lodged, to suggest that the time for questions after an official statement about the lodging of the Budget should be increased. PPC did not consider that it would be appropriate to make the change for one specific type of statement only, but agreed that it would be beneficial to increase the current 10 minutes allowed to 15 minutes. Part (b) of this amendment also inserts a new provision to allow a member of the States to propose that the time allowed for questions after a statement be extended for up to a further 15 minutes, namely up to a total of 30 minutes. Although PPC does not believe it would be appropriate for members to systematically propose that the time for questions after a statement is extended, there are clearly, on occasions, extremely significant statements such as that made at the time of the suspension of the former Chief Officer of the States of Jersey Police, or the lodging of the Budget, where members may feel it is appropriate to allow for a longer question period.

Amendment 8

At present, an Act under the Public Holidays and Bank Holidays (Jersey) Law 1951 must be lodged for 4 weeks before it can be debated. Although the normal annual bank holidays are fixed on a permanent basis, there are occasionally *ad hoc* holidays for matters such as the Royal Wedding or the Diamond Jubilee. These dates are known well in advance, and in practice there is no difficulty to meet the 4 week lodging period for the draft Act to grant the extra holiday. It is nevertheless apparent that there could be occasions when a public holiday might need to be called at short notice, particularly to mirror arrangements made in the United Kingdom in response to an unexpected event of national significance. This amendment gives a very limited ability to a Minister to propose without notice that the States make an Act declaring a public holiday, but the provisions make it extremely clear that the holiday can only be a "one-off" public holiday in a particular year and not an annual recurring holiday, and it is also necessary for the day to be appointed to be so imminent that it would not be possible to lodge the draft Act for the normal 4 weeks.

Amendment 9

The PPC Standing Orders Sub-Committee considered at considerable length the current provisions relating to land transactions in Standing Order 168. PPC has also held extensive discussions with the Sub-Committee and with representatives of Jersey Property Holdings in order to propose appropriate amendments. The amendments to Standing Order 168 bring into the scope of the Standing Order agreements over boundaries, the variation of rights or servitudes over land, the cancellation of leases and any other transaction for which consent is required on behalf of the public, namely third party transactions where the public may be a party. Standing Order 168(4) is also clarified to make it clear that States approval is not required for a cancellation of a tenancy that is terminable on giving 3 months' notice or less.

Financial and manpower implications

There are no financial or manpower implications for the States envisaged as a result of these amendments to Standing Orders.

Explanatory Note

Amendment 1 is the interpretation provision.

Amendment 2 introduces a prohibition on lodging propositions within the period of 21 days preceding an ordinary election. The Bailiff may, nevertheless, allow a proposition to be lodged if it relates to a matter that is so urgent and of such public importance that its lodging should not be delayed.

Amendment 3 introduces a requirement that anyone lodging a proposition must include, in his or her report, an explanation of how he or she has calculated his or her estimate of the financial and manpower implications of the proposition.

Amendment 4 makes new provision as to the proposal of a vote of censure. Firstly, the proposition cannot be lodged unless it is signed by 3 States members in addition to the proposer. Secondly, the reasons for proposing the vote are limited. They may relate to a matter of conduct but cannot relate to a person or body's performance in a public office.

Amendment 5 makes 2 changes concerning the minimum lodging period for a proposition.

Firstly, the minimum lodging period for a proposition to annul an Order or a proposition relating to a land transaction for which the States agreement is not required but which must be notified to the States is reduced from 4 to 2 weeks.

Secondly, the ground on which the States may reduce a minimum lodging period is altered. Currently, the States may only reduce the period if a proposition "relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate". The new ground allows the States to reduce the period if the States are of the opinion that it is in the public interest to do so.

Amendment 6 allows a States member to propose, without notice an extension of the 2 hours that are allowed for answering questions with notice.

Amendment 7 increases from 10 to 15 minutes the default time allowed for questions following a statement on a matter of official responsibility. It further allows a States member to propose, without notice, an extension of that time of up to 15 minutes.

Amendment 8 would allow a Minister to propose, without notice, an Act declaring a day that is to be observed as a public holiday or bank holiday. The proposal could only be made in relation to a one-off holiday, as opposed to a recurring holiday, and if the day proposed is so imminent that, if the minimum lodging period of 4 weeks was observed, the States could not debate the draft Act in time.

Amendment 9 widens the descriptions of transactions to which standing order 168 applies. The transactions added are agreements as to the route of a boundary which is otherwise uncertain, the variation or cancellation of rights or servitudes over land, the cancellation of leases, and any other transaction for which consent is required on behalf of the public of Jersey. The requirement in standing order 168(3) for the Minister for Treasury and Resources to give 15 days' notice of arrangements for the disposal, acquisition, letting or rental of land is disapplied to an agreement to alter a boundary, notwithstanding that it involves either or both of a disposal or acquisition of land. Standing order 168(4) is amended with the effect that States approval is not required for, and the Minister for Treasury is not required to present information regarding, the cancellation or a tenancy that is terminable on giving 3 months' notice or less.

Amendment 10 provides for the citation and commencement of these Amendments.



Jersey

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Arrangement

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Jersey

DRAFT AMENDMENT (No. 23) OF THE STANDING ORDERS OF THE STATES OF JERSEY 201-

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 2005¹, have made the following Amendments to the Standing Orders of the States of Jersey² –

1 Interpretation

In these Amendments a reference to a standing order by number is a reference to the standing order of that number in the Standing Orders of the States of Jersey³.

2 Standing order 19A inserted

After standing order 19 there shall be inserted the following standing order –

“19A Prohibition on lodging before ordinary election

A proposition may not be lodged during any period of 21 days ending with an ordinary election unless, in the opinion of the Bailiff, the proposition relates to a matter of such urgency and public importance that its lodging should not be delayed.”.

3 Standing order 21 amended

In standing order 21(2) for sub-paragraph (b) there shall be substituted the following sub-paragraph –

“(b) explain –

- (i) how the proposer has calculated his or her estimate of those implications, and
- (ii) how, when and from where, in the proposer’s opinion, they could be sourced.”.

4 Standing order 21B inserted

After standing order 21A there shall be inserted the following standing order –

“21B Additional requirement for and restriction upon proposition for the censure of any person or body

- (1) A proposition that the States censure any person or body of persons cannot be lodged unless it is –
 - (a) signed by at least 3 members of the States, in addition to the proposer; and
 - (b) accompanied by a report setting out why the proposer considers that it should be adopted.
- (2) The reasons for the proposition –
 - (a) may relate to the person’s or body of persons’ conduct;
 - (b) cannot relate to the person’s or body of persons’ performance in the discharge of the functions of a public office.”.

5 Standing order 26 amended

- (1) In standing order 26(3) after sub-paragraph (d) there shall be added the following sub-paragraphs –
 - “(e) a proposition for the annulment of an Order;
 - (f) a proposition opposing a land transaction to which standing order 168(3) applies.”.
- (2) For standing order 26(7) there shall be substituted the following standing order –
 - “(7) The States may reduce a minimum lodging period for a proposition if they are of the opinion that it is in the public interest to do so.”.

6 Standing order 63 amended

In standing order 63 –

- (a) after paragraph (1) there shall be inserted the following paragraph –
 - “(1A) A member of the States may propose without notice that the time allowed for such questions during a meeting is extended.”;
- (b) in paragraph (9) after the words “2 hours” there shall be inserted the words “or such extended period as the States have”.

7 Standing order 68 amended

In standing order 68 –

- (a) in paragraph (3) for the words “10 minutes” there shall be substituted the words “15 minutes”;
- (b) after paragraph (3) there shall be inserted the following paragraph –

“(3A) A member of the States may propose without notice that the time allowed for questions regarding the contents of the statement is extended by up to 15 minutes.”.

8 Standing order 80B inserted

After standing order 80A there shall be inserted the following standing order –

“80B Act under the Public Holidays and Bank Holidays (Jersey) Law 1951

Notwithstanding standing order 26, a Minister may propose, without notice, that the States make an Act under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951⁴ where –

- (a) the Act would be for the appointment of a day of a year and not for the appointment of the same day in each year; and
- (b) the day to be appointed is so imminent that it would not be possible for the States to make the Act before the day, if standing order 26 applied.”.

9 Standing order 168 amended

In standing order 168 –

- (a) in paragraph (1), for sub-paragraphs (a) to (c) of paragraph (1) there shall be substituted the following sub-paragraphs –
 - “(a) the acquisition, disposal letting or rental of land on behalf of the public of Jersey (other than the agreement of altered boundaries);
 - (b) the agreement of boundaries, or of altered boundaries, on behalf of the public of Jersey;
 - (c) the acquisition, grant, variation or cancellation of rights or servitudes over land on behalf of the public of Jersey;
 - (ca) the renewal, extension, variation or cancellation of any lease of land on behalf of the public of Jersey;
 - (cb) the provision of consent, on behalf of the public of Jersey, to a land transaction that is not included in sub-paragraph (a) to (ca);”;
- (b) in paragraph (3) for the words “the disposal, acquisition, letting or rental of land on behalf of the public of Jersey” there shall be substituted the words “an action described in paragraph (1)(a)”;
- (c) in paragraph (4), for the words “or variation” there shall be substituted the words “, variation or cancellation”;
- (d) after paragraph (5) there shall be added the following paragraph –
 - “(6) In paragraphs (1)(ca) and (4), the references to the renewal of a lease or tenancy includes a reference to the grant of a lease or tenancy of land to a person, where the term of the lease or tenancy commences on the expiry of the term of an earlier lease or tenancy

and the earlier lease or tenancy was of the same land and to the same person.”.

10 Citation and commencement

These Amendments may be cited as Amendment (No. 23) of the Standing Orders of the States of Jersey 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 16.800*
 - ² *chapter 16.800.15*
 - ³ *chapter 16.800.15*
 - ⁴ *chapter 15.560*