

# STATES OF JERSEY



## DRAFT AMENDMENT (No. 33) OF THE STANDING ORDERS OF THE STATES OF JERSEY

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Lodged au Greffe on 21st June 2017  
by the Privileges and Procedures Committee

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STATES GREFFE





Jersey

## **DRAFT AMENDMENT (No. 33) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

### **REPORT**

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The Commissioner for Standards (Jersey) Law 2017 was adopted by the States Assembly on 1st February 2017 and registered in the Royal Court on 21st April 2017. The Law provides for the creation of a new role of Commissioner for Standards, who will investigate complaints of alleged breaches of the Codes of Conduct applying to elected States Members and Ministers and report accordingly to the Privileges and Procedures Committee. The Law also sets out the Commissioner's powers in relation to summoning people and records required as part of an investigation. An Appointed Day Act (P.58/2017) has been lodged to bring the Law into force on 24th July 2017.

These Standing Order changes are necessary to remove the current process for investigating complaints of alleged breaches of the code of conduct applying to elected members (set out in Standing Orders 156, 157 and 158) and put in a place a new procedure which takes account of the role of the Commissioner.

The rules in Standing Order 156(2) about complaints which, under the current system, the Privileges and Procedures Committee must not accept (for example, if they are made anonymously) are now to be found in Article 9(2) of the Commissioner for Standards (Jersey) Law and have not been changed. New Standing Order 156 makes clear that complaints to the Commissioner can be made in relation to both the code of conduct for elected members and the code of conduct for Ministers and Assistant Ministers, in accordance with the terms of the Law following the debate in the Assembly on 1st February 2017.

New Standing Order 158 sets out the new procedure which the Privileges and Procedures Committee must follow when it receives a report from the Commissioner on the outcome of an investigation into an alleged infringement of the code of conduct for elected members. The Committee must –

- review the report
- give the Member who is the subject of the report the opportunity to address the Committee (accompanied, if they wish)
- decide whether or not the Code has been breached and what action should be taken as a result of this
- inform the Member of its decisions.

The Committee may report its opinion and reasons, and any action it thinks should be taken, or which has been taken, to the Assembly. The report may be made in writing, or orally, by the Committee Chairman. This is deliberately not a mandatory requirement, in line with practice elsewhere, in order not to create an incentive for

complaints to be made to the Commissioner which turn out to be groundless or trivial but which nevertheless, if not rejected at the outset, must be reported to the Committee and then reported to the Assembly. This would run the risk of giving undue and unfair prominence to spurious allegations. However, the Committee would expect to make public the outcome of all cases where the Commissioner expresses the view that the code of conduct has been breached.

The same procedure may apply to complaints made in relation to the Code of Conduct for Ministers and Assistant Ministers, except that the Committee has the additional option of publishing the Commissioner's report on the complaint without taking any action itself. This would provide the opportunity for the Chief Minister, rather than the Committee, to reach a decision on whether or not the Code had been breached and what action should follow.

If adopted, the Standing Orders would come into effect at the same time as the Commissioner for Standards (Jersey) Law 2017.

### **Financial and manpower implications**

The costs associated with the establishment of a Commissioner for Standards were estimated by the Privileges and Procedures Committee (in [P.87/2016](#)) to be of the region of £8,000 to £10,000 per annum, which PPC would find from within the existing States Assembly budget.

## Explanatory Note

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These amendments to the Standing Orders of the States of Jersey are in consequence of the establishment of the office of Commissioner for Standards under the Commissioner for Standards (Jersey) Law 2017.

*Amendment 1* is an interpretation provision.

*Amendment 2* defines “Commissioner for Standards” with reference to the Commissioner for Standards (Jersey) Law 2017.

*Amendment 3* substitutes standing order 156 so as to provide that any person can complain to the Commissioner for Standards (“Commissioner”) that there has been a breach of the code of conduct for elected members of the States or breach of the code of conduct and practice for Ministers and Assistant Ministers. The code of conduct for elected members of the States is set out in Schedule 3 to the Standing Orders. The code of conduct and practice for Ministers and Assistant Ministers is referred to in Article 18(3A) of the States of Jersey Law 2005. This amendment replaces the existing provision that allows a person to make a complaint relating to the code of conduct for elected members of the States to the Privileges and Procedures Committee (“PPC”). The existing provisions in standing order 156 setting out the circumstances in which a complaint must be refused are removed as equivalent provisions relating to complaints to the Commissioner are now provided for in Article 9 of the Commissioner for Standards (Jersey) Law 2017. Those circumstances are where the complaint is by a non-States member about conduct of a States member during a States meeting, is anonymous or is considered to be frivolous, vexatious or unsubstantiated.

*Amendment 4* revokes standing order 157 which sets out the procedures for investigation of a complaint by the PPC.

*Amendment 5* substitutes the existing standing order 158 so as to make provision for the action the PPC must take following a report to it by the Commissioner under the Commissioner for Standards (Jersey) Law 2017 that there has been a breach of one of the codes referred to above. Under Article 9 of that Law, the report must include the Commissioner’s conclusions and the action, if any, recommended by the Commissioner. Such conclusions and recommendations are not binding on the PPC. The new standing order 158 requires the PPC to review the Commissioner’s report where the report concerns the code of conduct for elected members and give the person whose action is investigated the right to address the PPC accompanied, if the person wishes, by someone of his or her choice. The PPC must, on the basis of the information before it, form its own opinion as to whether the relevant code has been breached and what action, if any, it thinks should be taken. The PPC must inform the persons concerned of its opinion with reasons and any action it thinks should be taken and, if it wishes, may report on such matters to the States. Where the Commissioner’s report concerns the code of conduct and practice for Ministers and Assistant Ministers, the PPC has a choice: it can review the report and take the same steps as it would take where the report concerns the code of conduct for elected members or it can simply make the report available to the States.

*Amendment 6* sets out the title of these Amendments to Standing Orders and provides that they will come into force on the same date that the Commissioner for Standards (Jersey) Law 2017 comes into force. That Law comes into force by an Appointed Day Act.





Jersey

## **DRAFT AMENDMENT (No. 33) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

### **Arrangement**

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#### **Amendment**

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Jersey

## **DRAFT AMENDMENT (No. 33) 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 amendments to the Standing Orders of the States of Jersey<sup>2</sup> –

### **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 Jersey<sup>3</sup>.

### **2 Standing order 1 amended**

In standing order 1(1) after the definition “Comité des Connétables” there shall be inserted the following definition –

“ ‘Commissioner for Standards’ has the same meaning as in the Commissioner for Standards (Jersey) Law 2017<sup>4</sup>;”.

### **3 Standing order 156 substituted**

For standing order 156 there shall be substituted the following standing order –

#### **“156 Complaints to the Commissioner for Standards**

Any person may complain to the Commissioner for Standards that an elected member has breached the code of conduct in Schedule 3 or that a Minister or Assistant Minister has breached the code of conduct and code of practice referred to in Article 18(3A) of the Law.”.

### **4 Standing order 157 revoked**

Standing order 157 shall be revoked.

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**5 Standing order 158 substituted**

For standing order 158 there shall be substituted the following standing order –

**“Outcome of investigation by the Commissioner for Standards**

- (1) When the Commissioner for Standards has reported the outcome of an investigation to the PPC under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017<sup>5</sup> in relation to the code of conduct for elected members of the States set out in Schedule 3, the PPC –
  - (a) shall review the Commissioner’s report;
  - (b) shall give the elected member whose act has been investigated the right to address the PPC, accompanied, if the elected member wishes, by a person of his or her choice;
  - (c) shall form an opinion, on the basis of the information before it, as to whether or not the elected member has breached the code of conduct and what action, if any, should be taken;
  - (d) shall inform the elected member of its opinion with reasons and what action, if any, it thinks should be taken; and
  - (e) may report its opinion and reasons, and any action it thinks should be taken, or which has been taken, to the States.
- (2) When the Commissioner for Standards has reported the outcome of an investigation to the States under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017 in relation to the code of conduct and code of practice for Ministers and Assistant Ministers referred to in Article 18(3A) of the Law, the PPC shall –
  - (a) follow the procedure set out in sub-paragraphs (a) to (e) of paragraph (1) in relation to that report; or
  - (b) make the report of the Commissioner for Standards available to the States.
- (3) The report by the PPC referred to in paragraph (1)(e) may be presented to the States in writing or made orally by the chairman of the PPC in a statement.”.

**6 Citation and commencement**

These Amendments may be cited as Amendment (No. 33) of the Standing Orders of the States of Jersey and shall come into force on the same date as the Commissioner for Standards (Jersey) Law 2017<sup>6</sup> comes into force.

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- <sup>1</sup> *chapter 16.800*
  - <sup>2</sup> *chapter 16.800.15*
  - <sup>3</sup> *chapter 16.800.15*
  - <sup>4</sup> *L.4/2017*
  - <sup>5</sup> *L.4/2017*
  - <sup>6</sup> *L.4/2017*