

STATES OF JERSEY



DRAFT AMENDMENT (No. 31) OF THE STANDING ORDERS OF THE STATES OF JERSEY

Lodged au Greffe on 23rd May 2017
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

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REPORT

1. The majority of the draft amendments to Standing Orders here being proposed by the Privileges and Procedures Committee arise from recommendations made to the Committee in 2016 by the Standing Orders and Internal Procedures Sub-Committee (which comprised Senator P.F.C. Ozouf and Deputy J.A. Martin of St. Helier).
2. The Sub-Committee was established to examine a number of areas, including the requirements for answering questions and the procedures governing the nomination and election of candidates. During the course of its work, the Sub-Committee canvassed the views of members on these and other areas: it held a workshop, consulted the Chairmen's Committee and received written responses on the matters under consideration.
3. The amendments here proposed do not represent the entirety of the Sub-Committee's recommendations which the Committee has taken forward. Further work is required in relation to other recommendations, and the Committee intends to bring forward subsequent amendments for debate and approval in due course.
4. Although the majority of the amendments currently being proposed relate to recommendations from the Sub-Committee, the opportunity has also been taken to propose other, minor amendments to ensure clarity and consistency in the application of existing Standing Orders.

Amendment 1 – Questions with notice may be addressed to an Assistant Minister

5. It was a recommendation of the Sub-Committee that –
“Members should be able to specify during questions with notice if they wish their question to be answered by the Assistant Minister, rather than the Minister, in cases where the subject matter relates to a function which has been formally delegated to the Assistant Minister.”
6. An amendment to Standing Order 9(3) is therefore proposed to ensure questions may be addressed to Assistant Ministers with delegated responsibilities. At present, this Standing Order states that such questions “shall be answered” either by the Minister or the Assistant Minister with delegated authority. In practical terms, this means that the States Greffe cannot direct a question towards an Assistant Minister and it cannot be shown as such on the Order Paper (albeit that, at the relevant meeting of the

Assembly, the Minister can delegate responsibility for responding to the Assistant Minister). The proposed amendment rectifies that situation and will allow members to submit questions for answering by Assistant Ministers with delegated responsibilities.

7. An amendment to Standing Order 9(2) is also proposed to show that questions relating to the functions of the Council of Ministers “*shall be addressed*” to the Chief Minister; at present, it is stated such questions “*shall be answered*” by the Chief Minister. This amendment will ensure consistency of terminology throughout the entirety of Standing Order 9 and it will therefore relate solely to how questions are addressed, instead of containing a mixture of provisions covering how questions are both addressed and answered.
8. Consequential amendments are proposed to Standing Order 11 (which relates to the procedure for written questions) to ensure a questioner may direct that a written question be answered by the member to whom it is addressed. This will ensure that written questions are treated in the same way as oral questions where, under Standing Order 13(3A), members may already direct that an oral question be answered by the member to whom it is addressed. A similar consequential amendment to Standing Order 12 is proposed to ensure procedural consistency between the answering of written and oral questions.
9. Members should be aware that these amendments relate to the submission of questions and that the submission of a question does not in itself mean the question will automatically be answered by the person to whom it is addressed. For example, under the proposed Standing Order 9(2), questions regarding the functions of the Council of Ministers shall be addressed to the Chief Minister. However, the Chief Minister may feasibly be able to delegate responsibility for answering the question, unless the member submitting the question clearly specifies that the Chief Minister must answer.
10. Similarly, under the proposed Standing Order 9(3), questions may in future be directed to an Assistant Minister. However, unless the member submitting the question clearly specifies that it should also be answered by that Assistant Minister, it could feasibly either be the Assistant Minister or the Minister who answers.
11. The Committee would therefore remind members of the importance when submitting questions of specifying whom they wish to answer it, should they have a clear intention as to who should answer. That intention must be made explicitly clear to the States Greffe at the time the question is submitted as, otherwise, the member may find that the question is answered by a Minister or Assistant Minister to whom the question was not specifically directed.

Amendment 2 – Requirement for statement of collective responsibility to accompany Ministerial propositions only

12. This was not a recommendation of the Standing Orders and Internal Procedures Sub-Committee. However, it has become apparent that an amendment to the recently-introduced Standing Order 21(3A), which states that propositions must be accompanied by a statement as to whether collective responsibility applies, is required. It is necessary to clarify that this provision should only apply to propositions lodged by the Council of Ministers, the Chief Minister or another Minister. This was the initial intention of the policy underpinning the introduction of Standing Order 21(3A). However, as currently worded the Standing Order could be applied to all propositions, including those lodged by members in their own right where collective

responsibility does not apply. The proposed amendment rectifies that situation.

Amendment 3 – Assistant Minister able to act as rapporteur

13. This amendment arises from a recommendation of the Sub-Committee, which was that –

“The Chief Minister should be able to name an Assistant Minister to act as rapporteur in respect of propositions brought by the Chief Minister or the Council of Ministers which relate to an area which has been delegated to an Assistant Minister.”

14. Amendments to Standing Orders 68A(1) and 68A(2) are therefore proposed to ensure that Assistant Ministers with delegated responsibility may act as rapporteur for propositions lodged by either the Council of Ministers or the Chief Minister (in the way that Ministers already can), provided that the Assistant Minister in question has delegated responsibility for the subject matter of the proposition.

Amendment 4 – Absence provisions for proposer

15. This stems from the eighth recommendation of the Sub-Committee, which was that *“proposers should be able to name colleagues to act as rapporteur in their absence.”*
16. A second amendment to Standing Order 68A is therefore proposed to ensure that propositions lodged by members of the States in their own right may be proposed by another member where the member who lodged the proposition will be absent. This will resemble provision which is already made under Standing Order 70(1A) in relation to the proposing of amendments.
17. There will be a requirement for the member who lodged the proposition to provide notice of their absence to the Greffier before 9:30 a.m. on the day on which the proposition is due to be debated. Another member would not be able to act as proposer, however, if the member who lodged the proposition were marked *en défaut* at that meeting. This means that the new provisions would only apply where the member who lodged the proposition was ill, absent on States business or excused. In practical terms, this will place an additional requirement on any member due to be absent for one of those reasons. At present, a member must ensure a colleague advises the Assembly of their absence (and the reasons for it) during the roll call. With the insertion of these Standing Orders, the member will also need to ensure the Greffier is advised before the meeting starts in order that any proposition they have lodged, and which is due to be debated on that day, may be taken.
18. For the avoidance of doubt, this provision will apply to a proposition lodged by a member who is a Minister if the proposition is lodged in the member’s own name (rather than in their capacity as Minister). For example, ‘Electoral Reform’ (P.10/2017) was lodged by Senator L.J. Farnham in his own right. If the provisions here proposed had been in force, they could feasibly have been applied to that proposition – as it had been lodged in the Senator’s own name in his capacity as an independent member.

Amendment 5 – Procedures when a position is uncontested

19. The fifth recommendation of the Sub-Committee was that *“all candidates for the position of Minister and Chairman should make a speech and answer questions, whether or not the position is contested.”*

20. Amendments to Standing Orders 116, 117, 118, 119, 120, 120AA, 120A and 121 are therefore proposed to ensure that, when a position is uncontested, the sole candidate is nevertheless required to speak for up to 10 minutes and may then be questioned afterwards (for a period of up to 20 minutes or 1 hour in the case of the Chief Minister). This would apply to sole candidates for the following positions –
- a. Chief Minister;
 - b. All other Ministers;
 - c. Chairman of the Privileges and Procedures Committee;
 - d. Chairman of the Public Accounts Committee;
 - e. All Scrutiny Panel Chairmen;
 - f. Chairman of the Planning Committee;
 - g. Chairman of the Jersey Overseas Aid Commission; and
 - h. President of the Chairmen’s Committee.
21. In theory, this will mean the meetings where elections are held could last longer than they have previously; as there will always be at least one speech for each position and a consequent opportunity for questions afterwards. However, the time limits specified in Standing Orders are maximum limits and sole candidates could choose to speak for less time than the maximum; and members might not wish to question the candidate for the maximum time available. It will be for members to judge at the time how much is necessary but the Committee does not anticipate that there will be a significant impact on the Assembly’s time. Indeed, some time may be saved, as the introduction of these provisions will mean scenarios where a member stands simply to avoid an uncontested election and to ensure the other candidate is questioned need not arise.

Amendment 6 – Consistency of terminology relating to the remit of Scrutiny Panels

22. This amendment does not arise from a recommendation of the Sub-Committee. However, an amendment to Standing Order 135(1)(d) is proposed to ensure consistency of terminology in references to the remits of Scrutiny Panels. The remit of the Environment, Housing and Infrastructure Scrutiny Panel is currently still worded to include a reference to “*technical services*”. This amendment, if adopted, would replace that term with the word ‘infrastructure’ to reflect the changes made elsewhere to the names of the relevant Minister and of the Panel itself.

Financial and manpower implications

23. There are no financial and manpower implications arising from these amendments. Any impact on the administration by the States Greffe of members’ questions or on the length of the Assembly’s meetings can be accommodated within existing resources.

Explanatory Note

These Amendments of the Standing Orders of the States of Jersey principally change the requirements for answering questions; change the procedures governing the nomination and election of members to Ministerial offices and set out who may propose a proposition.

Amendment 1 is an interpretation provision.

Amendment 2 amends Standing Order 9 to require a question relating to a function or matter for which the Council of Ministers is responsible to be addressed to the Chief Minister and to permit a question relating to a function or matter delegated to an Assistant Minister to be addressed either to the Minister who delegated it or to the Assistant Minister.

Amendment 3 amends Standing Order 11 so that where a questioner wishes to have a question answered by the member to whom it is addressed the questioner must, when giving notice of the question to the Greffier, indicate that wish. In such circumstances, once the question has been approved the Greffier must, as soon as practicable, forward a copy of the question to the member to whom it is addressed and inform that member that the questioner has indicated that he or she wishes the member to answer the question himself or herself.

Amendment 4 substitutes Standing Order 12. Substituted Standing Order 12 provides that a question relating to a function or matter delegated to an Assistant Minister may be answered by the Minister who delegated it or by the Assistant Minister, unless the questioner has indicated that he or she wishes the Assistant Minister to answer the question himself or herself, in which case the Assistant Minister must answer the question. In any other case, the member to whom a question is addressed must answer the question. Where a question is to be answered by the tabling of a written reply, the person giving the reply must give it to the Greffier before the commencement of the meeting at which the reply is to be tabled.

Amendment 5 amends Standing Order 21 to provide that if a draft proposition is one that the Council of Ministers, the Chief Minister or any other Minister wishes to lodge, the draft must be accompanied by a statement as to whether or not the principle of collective responsibility has been waived in respect of the whole or any specified part of the proposition; and if and to the extent that the principle has not been waived, it must set out the Ministers and Assistant Ministers who are bound by that principle to support the proposition.

Amendment 6 amends Standing Order 68A to set out who may propose a proposition that has been lodged. A proposition lodged by the Council of Ministers may be proposed by the Chief Minister, any other Minister or an Assistant Minister with delegated responsibility for the matter being proposed. A proposition lodged by the Chief Minister may be proposed by any other Minister or an Assistant Minister with delegated responsibility for the matter being proposed.

Amendment 7 also amends Standing Order 68A to provide that a proposition lodged by a member in his or her own right may be proposed by another member if the member who lodged the proposition has given notice to the Greffier before 9.30 a.m. on the day in which the proposition is intended to be read that the member will be absent and has provided to the Greffier the name of the member who will propose the proposition in his or her absence. However, the proposition may not be proposed by

another member at any time after the Greffier has recorded in the minutes that the member who lodged the proposition is en défaut.

Amendments 8, 9 10, 11, 12, 13, 14 and 15 amend Standing Orders 116, 117, 118, 119, 120, 120AA, 120A and 121 respectively to provide that where there is only one candidate for the office of the Chief Minister or other Minister, or chairman of the PPC, PAC, a scrutiny panel, the Planning Committee or the Jersey Overseas Aid Commission, or president of the chairmen's committee, as the case may be, the presiding officer shall invite the candidate to speak for up to 10 minutes. After the candidate has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the candidate (and up to one hour for elected members to question the candidate for the office of Chief Minister) and when the candidate's speech and the members' questions are concluded, the candidate is taken to have been selected for the office for which he or she was the sole candidate.

Amendment 16 amends Standing Order 135(1), which describes the topics assigned to each scrutiny panel, to replace the reference to "technical services" with the correct reference to "infrastructure".

Amendment 17 gives the citation of these Amendments and provides for them to come into force forthwith.



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Amendment

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Jersey

DRAFT AMENDMENT (No. 31) 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 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 9 amended

For Standing Order 9(2) and (3) there shall be substituted the following paragraphs –

- “(2) A question relating to a function or matter for which the Council of Ministers is responsible shall be addressed to the Chief Minister.
- (3) A question relating to a function or matter delegated to an Assistant Minister may be addressed to the Minister who delegated it or to the Assistant Minister.”.

3 Standing Order 11 amended

In Standing Order 11 –

- (a) after paragraph (1B) there shall be inserted the following paragraph –
 - “(1C) If a questioner wishes to have a question answered by the member to whom it is addressed the questioner must, when giving notice of the question to the Greffier, indicate that he or she wishes to have the question answered by the member to whom it is addressed, and not by any other member on behalf of the member to whom it is addressed.”;
- (b) for paragraph (7) there shall be substituted the following paragraph –

- “(7) When a question has been approved, the Greffier shall, as soon as practicable –
- (a) forward a copy of the question to the member to whom it is addressed; and
 - (b) inform the member if the questioner has indicated that the questioner wishes the member to answer the question himself or herself.”.

4 Standing Order 12 substituted

For Standing Order 12 there shall be substituted the following Standing Order –

“12 Written reply to question

- (1) A question relating to a function or matter delegated to an Assistant Minister may be answered by the Minister who delegated it or by the Assistant Minister, unless the questioner has indicated that he or she wishes the Assistant Minister to answer the question himself or herself, in which case the Assistant Minister must answer the question.
- (2) In any other case, the member to whom a question is addressed must answer the question.
- (3) Where a question is to be answered by the tabling of a written reply, the person giving the reply shall give it to the Greffier before the commencement of the meeting at which the reply is to be tabled.”.

5 Standing Order 21 amended

In Standing Order 21(3A), for the words “The draft must be accompanied” there shall be substituted the words “If the draft is of a proposition that the Council of Ministers, the Chief Minister or any other Minister wishes to lodge, the draft must be accompanied”.

6 Standing Order 68A amended – paragraphs (1) and (2) substituted

In Standing Order 68A, for paragraphs (1) and (2) there shall be substituted the following paragraphs –

- “(1) A proposition lodged by the Council of Ministers may be proposed by –
- (a) the Chief Minister;
 - (b) any other Minister; or
 - (c) an Assistant Minister with delegated responsibility for the matter being proposed.
- (2) A proposition lodged by the Chief Minister may be proposed by –
- (a) any other Minister; or

- (b) an Assistant Minister with delegated responsibility for the matter being proposed.”.

7 Standing Order 68A amended – paragraphs (5) and (6) added

In Standing Order 68A, after paragraph (4) there shall be added the following paragraphs –

- “(5) A proposition lodged by a member in his or her own right may be proposed by another member of the States if the member who lodged the proposition –
 - (a) has given notice to the Greffier before 9.30 a.m. on the day in which the proposition is intended to be read that the member will be absent; and
 - (b) has provided to the Greffier the name of the member who will propose the proposition in his or her absence.
- (6) The proposition may not be proposed by another member at any time after the Greffier has recorded in the minutes that the member who lodged the proposition is en défaut.”.

8 Standing Order 116 amended

For Standing Order 116(2) there shall be substituted the following paragraph –

- “(2) If there is only one candidate –
 - (a) the presiding officer shall invite the candidate to speak for up to 10 minutes;
 - (b) after the candidate has spoken, the presiding officer shall allow up to one hour for elected members to question the candidate;
 - (c) when the candidate’s speech and the members’ questions are concluded, the candidate is taken to have been selected as the Chief Minister designate.”.

9 Standing Order 117 amended

For Standing Order 117(5) there shall be substituted the following paragraph –

- “(5) If only one person is nominated for appointment as a Minister and assignment to the Ministerial office proposed –
 - (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been selected for appointment as the Minister and assignment to the Ministerial office proposed.”.

10 Standing Order 118 amended

For Standing Order 118(2) there shall be substituted the following paragraph –

- “(2) If only one person is nominated for the office of chairman of the PPC –
 - (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as chairman of the PPC.”

11 Standing Order 119 amended

For Standing Order 119(2) there shall be substituted the following paragraph –

- “(2) If only one person is nominated for the office of chairman of the PAC –
 - (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as chairman of the PAC.”

12 Standing Order 120 amended

For Standing Order 120(2) there shall be substituted the following paragraph –

- “(2) If only one person is nominated for the office of chairman of a scrutiny panel –
 - (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as chairman of that scrutiny panel.”

13 Standing Order 120AA amended

For Standing Order 120AA(2) there shall be substituted the following paragraph –

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- “(2) If only one person is nominated for the office of chairman of the Planning Committee –
- (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as chairman of the Planning Committee.”.

14 Standing Order 120A amended

For Standing Order 120A(2) there shall be substituted the following paragraph –

- “(2) If only one person is nominated for the office of chairman of the Jersey Overseas Aid Commission –
- (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as chairman of the Jersey Overseas Aid Commission.”.

15 Standing Order 121 amended

For Standing Order 121(2) there shall be substituted the following paragraph –

- “(2) If only one person is nominated for the office of president of the chairmen’s committee –
- (a) the presiding officer shall invite the nominated person to speak for up to 10 minutes;
 - (b) after the nominated person has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the nominated person;
 - (c) when the nominated person’s speech and the members’ questions are concluded, the nominated person is taken to have been appointed as president of the chairmen’s committee.”.

16 Standing Order 135 amended

In Standing Order 135(1)(d), for the words “technical services” there shall be substituted the word “infrastructure”.

17 Citation and commencement

These Amendments may be cited as Amendment (No. 31) of the Standing Orders of the States of Jersey and shall come into force forthwith.

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