

STATES OF JERSEY



STATES OF JERSEY LAW 2005: PROPOSAL TO AMEND BANKRUPTCY PROVISIONS (P.55/2016) – COMMENTS

Presented to the States on 27th June 2016
by the Council of Ministers

STATES GREFFE

COMMENTS

Any proposition which seeks to make important constitutional change should provide evidence for change, clearly outlining the problem the proposition seeks to address and, preferably, explaining how such matters work in other democracies. In this way, an informed, clear-sighted decision can be made. This proposition does not do these things.

For this reason, the Council of Ministers does not support this proposition.

Furthermore, part (a) of the Proposition is ambiguous as to its intention.

It is not clear whether the States Assembly is being asked to approve something which would mean that persons should be disqualified from seeking election as a Senator or Deputy until they are discharged from the désastre, other bankruptcy proceedings are concluded, or the conditions of a composition or arrangement with creditors are fulfilled, **or** whether a period of disqualification should continue to apply from the date of the discharge/proceedings concluding/conditions being fulfilled, but reduced from the current 5 year period to a 4 year period.

These are complex legal matters, within which certainty and clarity is needed. This is why we have a Privileges and Procedures Committee, whose responsibility is to consider, in receipt of advice, the election of members to the States Assembly. This process enables the fullest consideration, avoiding uncertainty wherever possible.

For this reason also, the Council of Ministers does not support this proposition.

Finally, and noting that it is difficult to understand the rationale, the evidence, the practice elsewhere, or the actual implications of the proposition, we should also be wary of any action, inadvertently or unclearly taken, which reduces standards.

For this reason too, this proposition is not supported.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were received by the States Greffe after the deadline set out in Standing Order 37A, due to other commitments of the Council of Ministers in the week commencing 20th June 2016.