

# STATES OF JERSEY



## DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY) ACT 201- (P.5/2013): AMENDMENT

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Lodged au Greffe on 8th February 2013  
by Deputy G.P. Southern of St. Helier

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STATES GREFFE

DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY)  
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**1 PAGE 11, ARTICLE 1 –**

In Article 1(1) –

- (a) delete the definitions “first choice vote” and “second choice vote”;
- (b) for the definition “option” substitute the following definition –
  - “ ‘option’ means the options to vote ‘yes’ or ‘no’ to the question in the ballot paper;”.

**2 PAGE 12, ARTICLE 4 –**

For the words “the options,” substitute the words “the question,”.

**3 PAGE 13, ARTICLE 8 –**

For Article 8 substitute the following Article –

**“8 Vote**

- (1) A vote is recorded by making a cross in the blank square opposite one of the options in the ballot paper.
- (2) A ballot paper is invalid if it records more than one vote.”.

**4 PAGE 13, ARTICLE 9 –**

Delete Article 9.

**5 PAGE 13-14, ARTICLE 10 –**

In Article 10 –

- (a) in paragraphs (2), (3), (4), (5) and (6)(a) delete the words “first choice” wherever they appear;
- (b) delete paragraphs (7) to (13).

**6 PAGE 15, ARTICLE 11 –**

In Article 11 –

- (a) in paragraph (1) –
  - (i) delete the words “or counts”,
  - (ii) for the words “referendum are” substitute the words “referendum is”;
- (b) in paragraph (2) –

- (i) in sub-paragraph (a) delete the words “first choice”;
- (ii) delete sub-paragraph (b).

**7 PAGE 15- 16, ARTICLE 12 –**

In Article 12 –

- (a) delete paragraphs (1) and (2);
- (b) in paragraph (4)(c) delete the words “first choice” and “and”;
- (c) delete paragraph (4)(d).

**8 PAGE 17, ARTICLE 13 –**

In Article 13(1)(n) for the words “paragraph (1)(e), (f) and (g)” substitute the words “paragraph (1)(f) and (g)”.

**9 PAGE 19, SCHEDULE –**

For the ballot paper in the Schedule substitute the following ballot paper –

**“BALLOT PAPER**

<p><b>The States Assembly currently has 51 members elected in 3 different ways. This will be reduced to 49 members in 2014.</b></p> <p><b>The Electoral Commission has put forward a way of changing this system.</b></p> <p><b>This reform option would reduce the number of States members to 42 and introduce 6 large electoral districts, each choosing 7 Deputies. Parish Constables would no longer be members of the States.</b></p> <p><b>Place a cross in one of the boxes below.</b></p>	
<p>Should the States Assembly be reformed so that it is comprised of 42 States Members known as Deputies, elected from 6 large districts with each district choosing 7 Deputies?</p>	<p>YES <input style="width: 40px; height: 25px; border: 1px solid black;" type="checkbox"/></p> <p>NO <input style="width: 40px; height: 25px; border: 1px solid black;" type="checkbox"/> ”</p>

and renumber the provisions of the Act and internal cross references accordingly.

DEPUTY G.P. SOUTHERN OF ST. HELIER

## REPORT

When the States agreed to establish an Electoral Commission they also committed to holding a referendum on the Commission's proposals. Paragraph 4 of the Commission's terms of reference states –

*“At the conclusion of its investigation, the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee to enable the Committee to present the Commission's proposals to the States for approval prior to the submission of the proposals to the electorate in a referendum under the Referendum (Jersey) Law 2002.”*

Despite the Commission's commitment to the principles of “equal votes of equal weight” for electors, laid out in its consultations, something went wrong in the transfer of principles into practice, and the resulting proposition, P.5/2013, is a set of options which are unbalanced.

The Commission failed in its recommendations to resolve the dichotomy between the principle of equal votes and the place of the Constables, whose electorates may vary from 2,000 to over 30,000. The Commission failed to come up with a recommendation to deal with this.

Instead, in devising the referendum questions, the Commission has produced 2 options; one with Constables and one without. This immediately introduces an element of complexity into the referendum vote.

The guidelines of the UK Electoral Commission on the structure of referenda states –

*“that a question should be clear and simple, that is, easy to understand; to the point; and not ambiguous. It should also be neutral, which means it should not encourage voters to consider one response more favourably than another or mislead voters.”*

The point here is that a referendum question should be one in which there is a proposal for change, and voters are asked to vote YES or NO to the proposal. In this case, the proposal is to –

- (a) reduce the number of States members, and to alter their constituencies;

this is then compounded by the variation,

- (b) to do so with or without Constables;

this is no longer a “clear and simple” question.

This is then made worse by the inclusion of option C, which leaves the structure of the States unchanged. We now have 3 options, 2 of which (options B and C) leave the Constables position untouched, and only one changes their role.

A 3-way choice, on its own, is unlikely to produce a clear verdict. The Commission therefore has suggested a single transferable vote for the first time in Jersey in an

attempt to achieve a clear majority. In doing so, the Commission has made things worse, not better. Having 3 options, where 2 of those leave the Constables' position unchanged, is already incorrect.

The introduction of second choice "transferable vote" introduces clear bias into the process since those in support of no change for the Constables, can safely use their second choice votes, either for B or C to prevent option A. In effect, they have 2 votes. There is no such option for those who wish to remove the Constables. The referendum proposal put forward by the Commission is unfortunately so flawed numerically that it cannot be supported.

In its response to the Scottish Government's request to provide advice and assistance by considering the wording and intelligibility of the proposed question for the referendum on independence for Scotland –

*"Do you agree that Scotland should be an independent country? Yes/No"*

The UK Commission judged that the proposed question was not neutral because the phrase 'Do you agree ...?' could lead people towards voting 'yes'.

In the UK Commission's words –

*"The referendum result should be one that all voters and referendum campaigners can accept and have confidence in. For that reason, we recommend changing the way the question is asked, so that it is more neutral."*

Instead of asking 'Do you agree..?' The UK Commission recommended the following wording –

*"Should Scotland be an independent country? Yes/No"*

This finding has now been accepted by all parties in the Scottish referendum.

I ask the States to consider the criterion expressed by the UK authority "*The referendum result should be one that all voters and referendum campaigners can accept and have confidence in.*" and ask themselves how a 3-way question with an inbuilt statistical bias to one outcome could be one in which the voters and campaigners have confidence. The reality is that the referendum wording devised by the Electoral Commission is statistically unsound and structurally unsafe. It must be rejected.

In its place there should be a single question to which the electorate is asked to accept or reject with a single YES/NO answer. This proposition replaces the Schedule of P.5/2013 and lays out the form of the ballot paper with the wording shown in my amendment.

### **Financial and manpower implications**

There are no additional resources implications and the amendment would, in fact, simplify the referendum process.