

STATES OF JERSEY

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DRAFT STATES OF JERSEY (AMENDMENT No. 5) LAW 200

Lodged au Greffe on 4th December 2007
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

DRAFT STATES OF JERSEY (AMENDMENT No. 5)LAW 200

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Privileges and Procedures Committee has made the following statement –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft States of Jersey (Amendment No. 5) Law 200 are compatible with the Convention Rights.

(Signed) **Connétable D.F. Gray of St. Clement**

REPORT

Introduction

This draft Law is being brought to the States for consideration as the Privileges and Procedures Committee's response to the decision of the States taken on 26th September 2007 to extend the term of office of Deputies to 4 years from 2008.

In its comments on the proposition of Deputy Troy (P.98/2007 Com.) PPC made it very clear that, in its opinion it would be unsatisfactory for the term of office of Deputies to be extended without reform in parallel of the position of Senator. Notwithstanding the decision of the States to approve Deputy Troy's proposition, PPC maintains the view that the extension of Deputies' terms cannot be made in isolation and it is for this reason alone that the Committee considers that a comprehensive package of reform must now be proposed. PPC therefore feels it is important to set out in detail its reasons for bringing forward reform for Senators as well as Deputies.

After the States decision to lengthen the term of office of Deputies, PPC considered that it had 3 options.

Firstly, in light of its stated opposition to the proposal, PPC could simply have decided to ignore the States decision. PPC cannot imagine that members would have found it acceptable for the Committee to simply ignore the mandate of the States to bring forward the necessary legislation to implement the States decision.

The second option for the Committee would have been to bring forward legislation to increase the term of Deputies and Connétables without bringing forward any proposals on the position of Senator. For the Committee this would, in some ways, have been the simplest option. The decisions of the States would have been implemented and it would have been for other members to consider the other consequences.

Having discussed this second option PPC decided that it was not prepared to be responsible for bringing forward legislation that would, in its view, not have been conducive to good government in the Island. The Committee has already published the table below, but believes that it is worthwhile to reproduce it again to draw attention to the problems that would have arisen with reform to Deputies and Connétables only.

Cycle of elections and appointments

2008	6 Senators elected for 6 years (2008 – 2014)	Connétables and 29 Deputies elected for 4 years (2008–2012)	New Chief Minister, Ministers and other officeholders appointed.
2011	6 Senators elected for 6 years (2011 – 2017)		Possibly a number of casual ministerial/scrutiny, etc. vacancies to fill.
2012		12 Connétables and 29 Deputies elected for 4 years (2012 – 2016)	New Chief Minister, Ministers and other officeholders appointed.
2014	6 Senators elected for 6 years (2014 – 2020)		Possibly a number of casual ministerial/scrutiny, etc. vacancies to fill.
2016		12 Connétables and 29 Deputies elected for 4 years (2016 – 2020)	New Chief Minister, Ministers and other officeholders appointed.
2017	6 Senators elected for 6 years (2017 – 2023)		Possibly a number of casual ministerial/scrutiny, etc. vacancies to fill.
2020	6 Senators elected for 6 years (2020 – 2026)	12 Connétables and 29 Deputies elected for 4 years (2020 – 2024)	New Chief Minister, Ministers and other officeholders appointed.

PPC believes it is worth giving some examples of the type of issues that would arise if the above schedule of

elections and appointments was introduced. In 2014, for example, 6 Senators would be elected halfway through the States 4 year cycle and yet no new appointments of Ministers, Chairmen of Panels, etc. would be made after these Island-wide elections (apart from, perhaps, some casual vacancies to fill if some sitting Senators left office). Conversely, in 2016, after the Deputies elections, new appointments would be made but, at this stage, 6 Senators would have been in office for 2 years and 6 others for 5 years. PPC is convinced that the constant changes in membership of the Assembly as elections happened randomly over the years (except once every 12 years when they would all take place together) would not be in the interest of good government. The constant changes in membership of the Council of Ministers, scrutiny panels, etc. would make it very hard for proper long-term programmes to be planned and the fact that Island-wide elections took place without any immediate new appointments may simply lead to disillusionment for the public.

Having discounted these first 2 options PPC considered that the only realistic and workable option was to fulfil its mandate to implement the decision on Deputies in conjunction with new proposals on the reform of the term of office of Senator. Under the Committee's proposals a workable 4 year States cycle will be introduced after a one off transitional change in 2011 which it is impossible to avoid because of the position of the 6 sitting Senators. Under the Committee's proposals the schedule of elections and appointments would be as follows –

2008	4 Senators elected for 4 years (2008 – 2012)	Connétables and 29 Deputies elected for 4 years (2008 – 2012)	New Chief Minister, Ministers and other officeholders appointed.
2011	4 Senators elected for 5 years (2011 – 2016)		Possibly a number of casual ministerial/scrutiny, etc. vacancies to fill.
2012	4 Senators elected for 4 years (2012 – 2016)	12 Connétables and 29 Deputies elected for 4 years (2012 – 2016)	New Chief Minister, Ministers and other officeholders appointed.
2016 and every 4 years thereafter	8 Senators elected for 4 years	Connétables and 29 Deputies elected for 4 years	New Chief Minister, Ministers and other officeholders appointed.

At present, despite the different 3 and 6 year terms for Deputies and Senators, the fact that elections are held every 3 years allows a standard 3 year cycle of appointments to be made. These proposals would simply change this to 4 years. If effective government is to be possible in the Island, it is clearly important that members appointed to positions of official responsibility have sufficient time to undertake a programme of executive work or scrutiny as appropriate. A 3 year cycle is already considered by many to be too short, and one of the reasons given for an extension of terms of office to 4 years was that this would give longer a period for a full Strategic Plan and associated scrutiny reviews to be completed.

When the Chairman announced the Committee's proposals in a statement on 9th October 2007 several members were critical, in the question period that followed, that these new plans would severely damage the position of Senator. PPC cannot deny that any reform to the position of Senator may impact on the nature of the rôle, but the Committee considers that the decision that has actually impacted on the senatorial role was the initial decision to lengthen the term of office of Deputies. As shown above, the option of making that change in isolation would inevitably have had an impact on the position of Senator. If the term of Deputies was lengthened in isolation of senatorial reform, Island-wide elections would take place with no subsequent change in the make-up of the Council of Ministers apart from the possible need to fill some casual vacancies arising from changes in the senatorial ranks. It is easy to imagine that many members of the public would find it hard to see the point of an Island-wide election in these circumstances, and this could have as much impact on the senatorial position as other forms of reform. PPC therefore considers that members who have serious concerns about the future of the senatorial position may need to consider whether the September decision on Deputies should be reversed.

Details of the draft Law

The contents of this draft Law are hopefully reasonably self-explanatory. It is set out in 5 Parts with the provisions of the transition between 2008 and 2016 being found in Parts 2, 3 and 4.

The change for Deputies is extremely simple as their term of office is increased to 4 years from 2008.

The provisions for Senators are as follows –

- 4 Senators will be elected in October 2008 for a period of 4 years;
- 4 Senators will be elected in October 2011 for a period of 5 years;
- 4 Senators will be elected in October 2012 when the term of office of those elected in 2012 expires;
- 8 Senators will be elected for 4 years in October 2016 and every 4 years thereafter.

The number of Senators (with the consequential reduction in the overall reduction in the total membership of the Assembly) is reduced to 10 from 2008 and 8 from 2011.

Articles 5 and 6 of this draft Law make some amendments to the States of Jersey Law 2005 which are consequential on the reduction in overall membership of the Assembly. Article 5 replaces the present quorum of 27 with a new definition referring to ‘a majority of elected members’. This provision will therefore fix the quorum at 26 between 2008 and 2011 and at 25 from that year.

Articles 6 and 8 refer to the total number maximum number of Ministers and Assistant Ministers that will be permitted from 2008 and 2011 respectively. In order to maintain the correct balance between Executive and non-Executive, the maximum number of Ministers and Assistant Ministers is reduced by one in 2008 and by a further one in 2011. In both years there will also be one less non-Executive member meaning that the relationship between Executive and non-Executive will change as follows –

	Maximum permitted Ministers and AMs	Minimum non-Executive
Current	23 (43.4%)	30 (56.6%)
2008 – 2011	22 (43.1%)	29 (56.9%)
From 2011	21 (42.9%)	28 (57.1%)

As can be seen, the Executive will be a smaller percentage of the total membership as the number of members is reduced.

Part 4 of the draft Law might be colloquially described as a Part to ‘tidy up’ the States of Jersey Law in 2016 when all the changes have come into full effect. Articles 9 and 10 remove from the principal Law spent provisions relating to transitional provisions that will have had their full effect.

The commencement of the Law is covered in Part 5. Detailed provisions are included so that the various changes take place at appropriate times to ensure that the transition to the new system takes place as planned. In addition, a fallback provision is included in case the Law is not registered by 8th August 2007. If this draft Law is adopted by the States in early 2008 the Committee sees no reason why it should not be sanctioned by Her Majesty in Council and registered by the Royal Court in good time to allow the proposed system to be implemented as planned from the autumn of 2008. Article 12(3) nevertheless provides a fallback position if, for any reason, the Law is not registered by 8th August 2008. After that date it would be too late for the system to be implemented for 2008 and the Law would then only come into force through an Appointed Day Act. In addition the States would then be able, by Regulation, to amend the Law to make sense it for a later commencement date.

Reallocation of Deputies’ seats across the Parishes

Although it is not covered by this Law, PPC notes that the issue of the reallocation of Deputies’ seats across the Island has been raised by some members and the Committee wishes to make its position clear on this matter.

PPC accepts the need for a review of the way in which Deputies’ seats are allocated across the Island. The Committee did not give this matter priority in its earlier work on reform as, at that time, the Committee believed that an overall package of reform of the entire composition of the States should be undertaken. Now that the Committee’s proposals for overall reform have been rejected, the Committee is willing to undertake a full review of the allocation of Deputies’ seats but it would be naive to claim that the detailed work on this that will be required could be undertaken in time to be in place by the next elections. Proper statistical information on population across individual *vingtaines/cueillettes* would be needed, giving a breakdown of registered electors and the potential voters that are not registered. PPC would remind members that it has been charged by the States to bring forward an extension of the term of Deputies by 2008 and the 2 issues cannot therefore be seen as part of

the same reform package. PPC is willing to begin an exercise on reallocating Deputies' seats that will allow reform, if approved, to be in place by 2012.

Financial and manpower implications

PPC has not in any way brought forward these proposals for financial reasons, but is required by Standing Orders to give an assessment of financial and manpower implications. If the frequency of elections is reduced there will be some saving – each senatorial election costs approximately £15,000. If the reduction in the overall membership of the Assembly goes ahead as planned, there will be a saving of £84,144 per annum at 2007 prices from 2008, and a further £84,144 from 2011. This figure could, of course, be reduced if any increase in the number of Deputies came about as a result of the exercise to review the allocation referred to earlier. There are no manpower implications.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 30th November 2007 the Chairman of the Privileges and Procedures Committee made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft States of Jersey (Amendment No. 5) Law 200 are compatible with the Convention Rights.

Explanatory Note

Part 1 – Interpretation

Article 1 is the interpretation provision.

Part 2 – Amendments in 2008

Article 2 reduces the number of Senators from 12 to 10. The amendment will take effect when the Senators and Deputies are sworn in following the 2008 ordinary elections.

Article 3 provides for Senators and Deputies to hold office for 4 years. However, as part of the arrangements for the transition to the new terms of office, Senators elected in the ordinary election in 2011 are to be elected for 5 years. Paragraph (2) makes it clear that the terms of office of existing Senators and Deputies are not affected by the new provision.

Article 4 provides for ordinary elections for Senators and Deputies to be held in every fourth year. In addition, the years in which ordinary elections for Senators are to be held, and the number of Senators to be elected at each ordinary election, are specified as part of the transitional arrangements for the reduction in the term of office for Senators and the reduction in their number from 12 to 8.

Article 5 restates the quorum for the States as being the majority of the elected members (the Senators, Connétables and Deputies). The present quorum achieves the same effect, but is expressed as a number of elected members (27). The change takes effect following the ordinary election in 2008.

Article 6 lowers the limit on the number of Assistant Ministers that may be appointed following the ordinary election in 2008 by one, having regard to the reduction in the number of Senators, from 12 to 10.

Part 3 – Amendments in 2011

Article 7 reduces the number of Senators from 10 to 8. The amendment will take effect when the Senators and Deputies are sworn in following the 2011 ordinary elections.

Article 8 further lowers the limit on the number of Assistant Ministers that may be appointed following the ordinary election in 2011 by one, having regard to the second reduction in the number of Senators, from 10 to 8.

Part 4 – Amendments in 2016

By 2016, the reduced constitution of the States and the change in the terms of office for Senators and Deputies will have had full effect. *Articles 9 and 10*, therefore, do no more than remove or substitute provisions which will have given effect to the transitional arrangements and are spent.

Part 5 – Supplemental provision and closing

Article 11 enables the States, by Regulations, to make further supplemental, consequential or transitional provision in respect of the foregoing amendments.

Article 12 provides for the citation of the Law and for its commencement. *Articles 3 and 4* need to be in force before the process commences for the ordering of the ordinary elections in 2008 and are therefore expressed to come into force at the earliest possible time, being on the day the Law is registered in the Royal Court. However, contingency provisions are needed in the event that the Law is not registered before the election process commences. Accordingly, if the Law is not registered on or before 8th August 2008, the whole of the Law will, instead, be brought into force by Appointed Day Act and the States will have power to defer the changes made by it, by making Regulations amending any expressions of number, time and date in the Law.



Jersey

DRAFT STATES OF JERSEY (AMENDMENT No. 5)LAW 200

Arrangement

Article

PART 1

INTERPRETATION

1 Interpretation

PART 2

AMENDMENTS IN 2008

2 Article 2 amended
3 Article 5 substituted
4 Article 6 amended
5 Article 15 amended
6 Article 25 amended

PART 3

AMENDMENTS IN 2011

7 Article 2 amended
8 Article 25 amended

PART 4

AMENDMENTS IN 2016

9 Article 5 amended
10 Article 6 amended

PART 5

SUPPLEMENTAL PROVISION AND CLOSING

11 Supplemental and consequential powers
12 Citation, commencement and consequential powers



Jersey

DRAFT STATES OF JERSEY (AMENDMENT No. 5) LAW 200

A LAW to amend further the States of Jersey Law 2005

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION

1 Interpretation

In this Law, “principal Law” means the States of Jersey Law 2005^[1].

PART 2

AMENDMENTS IN 2008

2 Article 2 amended

In Article 2(1) of the principal Law, for the words “12 Senators,” there shall be substituted the words “10 Senators.”

3 Article 5 substituted

(1) For Article 5 of the principal Law there shall be substituted the following Article–

“5 Terms of office of Senators and Deputies

- (1) Senators shall be elected for a term of 4 years.
- (2) Deputies shall be elected for a term of 4 years.
- (3) Notwithstanding paragraph (1), Senators elected in the ordinary election in 2011 shall be elected for a term of 5 years.
- (4) Notwithstanding the term of office stated for a Senator or Deputy in paragraph (1), (2) or

(3), a Senator or a Deputy shall retire upon the persons elected as Senators or, as the case requires, Deputies, in the ordinary election held in the year that the Senator's or Deputy's term of office expires taking their oath of office.”.

- (2) The amendment in paragraph (1) does not affect the term of office of Senators or Deputies elected in an ordinary election before this Article comes into force, or filling a casual vacancy in such an office.

4 Article 6 amended

In Article 6 of the principal Law–

- (a) for paragraph (1) there shall be substituted the following paragraph–

“(1) An ordinary election for Senators shall be held in the period of 7 days beginning on the 15th October –

- (a) in 2008, to elect 4 Senators;
- (b) in 2011, to elect 4 Senators;
- (c) in 2012, to elect 4 Senators;
- (d) in 2016 and in every fourth year after that, to elect 8 Senators.”;

- (b) in paragraph (2), for the words “third year” there shall be substituted the words “fourth year”.

5 Article 15 amended

In Article 15 of the principal Law, for the words “if there are no less than 27 elected members present” there shall be substituted the words “if the majority of the elected members are present”.

6 Article 25 amended

In Article 25(3) of the principal Law, for the number “23” there shall be substituted the number “22”.

PART 3

AMENDMENTS IN 2011

7 Article 2 amended

In Article 2(1) of the principal Law, for the words “10 Senators,” there shall be substituted the words “8 Senators,”.

8 Article 25 amended

In Article 25(3) of the principal Law, for the number “22” there shall be substituted the number “21”.

PART 4

AMENDMENTS IN 2016

9 Article 5 amended

In Article 5 of the principal Law–

- (a) paragraph (3) shall be deleted;

- (b) in paragraph (4), for the words “paragraph (1), (2) or (3)” there shall be substituted the words “paragraph (1) or (2)”.

10 Article 6 amended

In Article 6 of the principal Law, for paragraph (1) there shall be substituted the following paragraph–

- “(1) An ordinary election for Senators shall be held in the period of 7 days beginning on 15th October in every fourth year.”.

PART 5

SUPPLEMENTAL PROVISION AND CLOSING

11 Supplemental and consequential powers

The States may by Regulations amend the principal Law and this Law so as to make further provisions which are supplemental to or consequential upon, or make transitional arrangements in respect of, the amendments made by Parts 2, 3 and 4 of this Law.

12 Citation, commencement and consequential powers

- (1) This Law may be cited as the States of Jersey (Amendment No. 5) Law 2008.
- (2) Subject to paragraph (3)–
- (a) Articles 1, 3 and 4 and this Part shall come into force on the day this Law is registered;
 - (b) Articles 2, 5 and 6 shall come into force on the day on which the Senators and Deputies elected in the ordinary elections in 2008 take the oath of their office;
 - (c) Part 3 shall come into force on the day on which the Senators and Deputies elected in the ordinary elections in 2011 take the oath of their office;
 - (d) Part 4 shall come into force on the day on which the Senators and Deputies elected in the ordinary elections in 2016 take the oath of their office.
- (3) In the event that this Law is not registered on or before 8th August 2008–
- (a) this Law shall come into force on such day or days as the States by Act appoint; and
 - (b) the States may, by Regulations, amend this Law so as to substitute any number, date or period of time mentioned in the amendments made by it.

