

STATES OF JERSEY

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DRAFT AMENDMENT (No. 4) OF THE STANDING ORDERS OF THE STATES OF JERSEY

**Lodged au Greffe on 8th November 2005
by Deputy R.G. Le Hérisier of St. Saviour**

STATES GREFFE



Jersey

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REPORT

Introduction

It has been argued, particularly in the wider community, that the public should know how members have voted in the appointment of the Chief Minister. As a member of the Privileges and Procedures Committee, I accepted the need for a secret ballot but, upon reflection, think it is unsuited to such an important position and, once the principle is conceded, I see no compelling arguments for its retention in other appointments.

Given that the recent adoption of new Standing Orders represented one of the most widespread and fundamental changes to how the States operates, it was inevitable that the Orders would need revisiting.

Rationale

It is undoubtedly a different situation given that there will now be a chief political executive, leading a Council of Ministers. Despite some revisions to the proposed Clothier model, this person will exercise a considerable degree of influence and will play a crucial leadership rôle in setting the policy direction of the new States.

The writer underestimated how different the situation will be. The votes of members will therefore be crucial and it seems bizarre, given the need for accountability, that we should keep our votes secret. In any event, the secrecy is only partial. For example, if 2 candidates come forward, 14 votes are known (the votes of the 12 persons nominating the candidates, and the 2 candidates themselves).

Implications

The open ballot should be extended to all other appointments made by the States.

Although it could be argued (as the writer has in his initial comments) that the office of Chief Minister is special, it is difficult to see how secret ballots can be justified for the other positions upon which votes may be taken. If the principle of openness is conceded for the Chief Minister, it must be conceded for other positions.

It may be argued that to reveal votes for “non-political” positions, particularly where they are close, could undermine confidence in the position and/or office-holder. Although a tradition exists of voting for such positions on a Standing Vote, there has always existed the provision for a formal vote and given the increasing calls for appeals it is unrealistic to think that this tradition will continue. As such, I believe the same provision for an open ballot should apply.

Furthermore, if it is thought close votes could undermine a position and/or office-holder, this should raise serious questions in the minds of those proposing such persons.

Fears

It will doubtless be argued that once members’ votes are known, they will be subject to lobbying and to other kinds of influence.

That may happen. However, it happens now, often before a crucial vote.

If there is to be lobbying, surely it is better it happens in the full knowledge of where a member stands rather than as a covert process. Furthermore, it should be remembered that members are not being asked to reveal their voting intentions. Indeed, it could be argued strongly that members should keep an open mind until the candidates have taken part in the selection process.

Should the process work as intended, members’ votes will only be known after the vote has taken place.

Conclusion

There is a sea-change in Jersey politics. The post of Chief Minister is significantly different. Public expectations are significantly different. The issue is not whether secret ballots should be retained. The issue is the need to recognise these sea-changes.

Financial/manpower implications

There are no financial or manpower implications for the States arising from this draft Amendment to Standing Orders.

Explanatory Note

Amendment 1 is to standing orders 93 and 94. What was previously described as an ‘open ballot’ will be known simply as a ‘ballot’. The opportunity is taken to revise standing order 94 to reflect the fact that a ballot may not result in a simple vote ‘Pour’ or ‘Contre’ but may result in votes being cast for one or more candidates for appointment to an office.

Amendment 2 repeals standing order 96 (secret ballots) so that there will be a single ballot process, described in standing order 94.

Amendment 3 amends all references to the taking of a secret ballot with the effect that the ballot procedure in standing order 94, as amended, will apply in every case. In particular, every selection and appointment under Part 6 of standing orders will be taken by a simple ballot.

Amendment 4 amends standing order 165 so as to bring into force the voting procedures in standing orders 90 to 96 into force on the first day of the first meeting of the new States. Part 6 of the new Standing Orders comes into force on 24th November.

Amendment 5 cites the name of this Amendment and provides for it to come into force on the day after it is made by the States.



Jersey

DRAFT AMENDMENT (No. 4) OF THE STANDING ORDERS OF THE STATES OF JERSEY

Arrangement

Amendment

- 1 Standing orders 93 and 94 amended
- 2 Standing order 96 repealed
- 3 Standing order 90 and Part 6 amended
- 4 Standing order 165 amended
- 5 Citation and commencement



Jersey

DRAFT AMENDMENT (No. 4) 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 47 of the States of Jersey Law 2005,^[1] have made the following amendment to Standing Orders^[2] –

1 Standing orders 93 and 94 amended

- (1) In standing order 93 and the heading to and standing order 94 the word “open” in each place where it appears, shall be deleted.
- (2) In standing order 94(2)(a) after the words “‘Pour and ‘Contre’ respectively” there shall be inserted the words “or, as the case may require, voting ‘Pour’ each candidate in the ballot,”.
- (3) At the end of standing order 94(3)(a) there shall be added the words “or, as the case may be, ‘Pour’ a candidate in the ballot”.

2 Standing order 96 repealed

Standing Order 96 shall be repealed.

3 Standing order 90 and Part 6 amended

- (1) In the standing orders listed in paragraph (2) –
 - (a) for the words “secret ballot”, in each place where they appear, there shall be substituted the word “ballot”;
 - (b) for the words “a further secret ballot”, in each place where they appear, there shall be substituted the words “a further ballot”.
- (2) The standing orders are –
 - (a) standing order 90(3);
 - (b) standing order 113(7), (9) and (10);
 - (c) standing order 114(9), (11) and (12);
 - (d) standing order 115(6), (8) and (9);
 - (e) standing order 116(6), (8) and (9);
 - (f) standing order 117(6), (8) and (9);
 - (g) standing order 117A(6), (8) and (9);
 - (h) standing order 118(5) and (7);

- (i) standing order 119(4) and (6);
- (j) standing order 120(7) and (9);
- (k) standing order 121(4) and (6);
- (l) standing order 122(4) and (6).

4 Standing order 165 amended

After paragraph (1) of standing order 165 there shall be inserted the following paragraph–

“(1A) Standing orders 90 to 96 inclusive shall come into force on 5th December 2005.”.

5 Citation and commencement

This Amendment may be cited as Amendment (No. 4) of the Standing Orders of the States of Jersey and shall come into force on the day after it is made by the States.

[1] L.8/2005.

[2] R&O.109/2005.