

STATES OF JERSEY

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DRAFT AMENDMENT (No. 8) OF THE STANDING ORDERS OF THE STATES OF JERSEY

**Lodged au Greffe on 23rd October 2007
by Senator M.E. Vibert**

STATES GREFFE



Jersey

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REPORT

Major changes to the composition and election of the States are perhaps the closest equivalent for Jersey of internal constitutional reform.

In many democratic jurisdictions any major changes to their constitutions are safeguarded by parliamentary devices designed to ensure such changes have general assent and consensus. Many jurisdictions insist such changes require a majority vote of two thirds of their parliaments.

As it is accepted that not all States sittings will be attended by all States Members, some are invariably absent through illness, attending States business outside the Island or other reasons, there is a quorum set for the minimum number of members who must be present at any one time during a States sitting. This minimum number or quorum is currently set at 27, being one more States Member than half of the full complement of 53 States Members.

Article 16(1) of the States of Jersey Law 2005 provides that at present propositions can be approved on a simple majority of the States. That Article reads as follows –

- (1) *Subject to this Law and any other enactment, whenever passed, all matters coming or arising before the States shall be done and decided by a majority of the members present and voting on them.*

At the extreme, with the States quorum being 27 members this could result in a proposition being passed by 14 votes in favour to 13 against, or an even smaller overall number in favour if one or more members abstain.

There is currently one exception to the normal rule and that is under Standing Order 85(4) relating to moving one to the next item of States business which requires at least 20 Members support such a motion for it to be passed.

The Standing Order actually reads:

- (4) *Notwithstanding Article 16(1) of the Law, the proposal is not adopted if less than 20 elected members vote in favour of it.*

It was included in the new Standing Orders on an amendment of Deputy Gerard Baudains of St. Clement and acts as a safeguard against the rights of an individual member being abused.

My proposition seeks to introduce a similar safeguard in relation to propositions relating to the composition and election of the States.

I believe that any changes to issues of such constitutional importance should have an even greater safeguard. My proposition would ensure that any proposed change to the composition and election of the States should at least command an absolute majority of States Members, that is at least one more than half of all States Members, which is currently 27 Members.

A number of successful votes on composition and election issues recently have produced various results. The proposition relating to extending the term of office of Connétables from 3 to 4 years was passed by on 19th July 2007 by 35 votes ‘pour’ to 12 votes ‘contre’, which easily exceeds an absolute majority but the proposition relating to the extension of the term of Deputies from 3 to 4 years approved on 26th September 2007 did not command an absolute majority of the Assembly, being passed 22 votes ‘pour’ to 18 ‘contre’.

I believe matters relating to constitutional issues need a greater safeguard than other issues coming before the States as they allow Members to make changes to how and when the public have the opportunity to elect them.

Many jurisdictions require a two thirds majority in their parliaments to approve such changes. These are

jurisdictions the vast majority are party political and the two thirds majority rule helps ensure constitutional changes cannot be simply pushed through by the party in power at any one time.

In Jersey which at present is not dominated by party politics, I do not believe a two thirds majority is necessary to safeguard the public interest and could be counter-productive, allowing a small minority of States Members to block any reform. I do however believe a safeguard of requiring an absolute, as opposed to a simple, majority would help ensure any changes to the composition and election of the States were at least supported by over half of all States Members.

There are no financial and manpower implications arising from this proposition.

Explanatory Note

Article 16 of the States of Jersey Law 2005 provides that any matter coming or arising before the States shall be done and decided by a majority of the members present and voting on it. However, the rule is expressed to be subject to the provision of any other enactment. This amendment to the Standing Orders of the States of Jersey would provide an exception to the rule. The amendment imposes a different majority in the case of any proposition (whether an 'in principle' motion or a draft enactment) described in paragraph (2) of the inserted standing order 89A. The majority required is a majority of the elected members (being the Senators, Deputies and Connétables) and therefore would currently require 27 votes.

If adopted, the amendment would come into force immediately.



Jersey

DRAFT AMENDMENT (No. 8) 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 2005^[1], have made the following amendment to Standing Orders^[2] –

1 **Cross heading substituted and standing order 89A inserted**

- (1) For the cross heading preceding standing order 90 of the Standing Orders of the States of Jersey^[3] there shall be substituted the following cross heading –

“Voting”.

- (2) After the cross heading substituted by paragraph (1) there shall be inserted in the Standing Orders of the States of Jersey the following standing order –

“89A Decisions

- (1) Notwithstanding Article 16 of the Law, any matter coming or arising before the States to which this standing order applies shall be done and decided by a majority of the elected members of which the States are constituted.
- (2) This standing order applies to –
- (a) a proposition to alter, in any way, the membership of the States of Jersey;
 - (b) a proposition to lengthen or shorten the term of office of any class of elected member;
 - (c) a proposition to alter, add to or extinguish the constituencies of any class of elected member.”.

2 **Citation and commencement**

This amendment may be cited as Amendment (No. 7) 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*