STATES OF JERSEY

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201-

Lodged au Greffe on 3rd June 2013
by the Privileges and Procedures Committee

STATES GREFFE

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201-

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. 7) Law 201- are compatible with the Convention Rights.

Signed: **Connétable A.S. Crowcroft of St. Helier**

Chairman of the Privileges and Procedures Committee

Dated: 31st May 2013

REPORT

This draft amendment to the States of Jersey Law 2005 implements the recommendations of the Electoral Commission that was established by the States in 2012 to review the composition of the Assembly.

The Electoral Commission worked for some 8 months and undertook the widest consultation that has taken place on the composition of the Assembly for many years. At the conclusion of its work, the Electoral Commission recommended that the Assembly should be comprised of 42 members with the abolition of the office of Senator and with Deputies being elected in 6 new large districts. The Commission set out 2 options within this overall recommendation, Option A being a system of 42 Deputies and Option B being a system of 30 Deputies together with 12 Connétables elected as at present in the 12 parishes.

The Electoral Commission's recommendations were supported by almost exactly 80% of those voting in the referendum that was held on 24th April 2013. Option B, which included the 12 parish Connétables, was supported by a majority in the referendum and PPC has therefore concluded that it is correct to ask the States to implement that option of the Electoral Commission. Despite the disappointing turnout in the referendum, PPC believes it is important to respect and implement the views of the majority of those voting in the referendum as to do otherwise would no doubt increase further the scepticism of the electorate, as it would be perceived that the States were not willing to take note of the views of the public.

One of the most significant recommendations of the Electoral Commission was that the Assembly should be comprised of 42 members. In its final report, the Electoral Commission made it clear that the overwhelming majority of those who had given evidence to it wished to see some reduction in the size of the Assembly and this recommendation was clearly supported by the vast majority of those who voted in the Referendum. PPC believes it is important to implement this recommendation to respect the public view, even if this means that some amendments to the machinery of government will be needed to work within the smaller membership. PPC concurs with the view of the Electoral Commission that an Assembly of 42 members will be able to operate effectively and has set out further information on this topic in Appendix 1 to this report, as promised in response to a recent question from Deputy G.C.L. Baudains of St. Clement.

The amendments to the States of Jersey Law 2005 made by this amending Law are relatively straightforward. Article 2 of this Law refers to the abolition of the office of Senator and the amendments set out in Article 2 remove all reference to Senators in the States of Jersey Law 2005.

Article 3 of this amending Law refers to the position of Deputies under the proposed new structure. PPC is aware that the Electoral Commission was disappointed that it could not find a better name for the "new" Deputies to make it clear that the Deputies would, under the new structure, have a much more wide-ranging role than Deputies in the current Assembly. The amendments made by this Article are nevertheless, in drafting terms, relatively simple and involve changing the number of Deputies from 29 to 30 and setting out the proposed new 6 large areas as shown in Schedule 2 to the amending Law, which will replace the current Schedule 1 to the States of Jersey Law 2005.

Article 4 of the amending Law makes a very minor but significant change to the States of Jersey Law 2005 in relation to the position of the Connétables. In paragraph 6.17 of its final report, the Electoral Commission expressed the hope that the Connétables could be placed on the same legal basis as Deputies if they remained in a reformed Assembly. PPC is aware that it is not entirely straightforward to achieve this objective, but is currently investigating the feasibility of making further changes in due course. The minor change in this draft to remove the words ”by virtue of their office” will nevertheless send an important message that Connétables are elected as “full” members of the States and must play a active in the work of the Assembly.

Article 5 of the amending Law changes the maximum number of Ministers and Assistant Ministers that will be permitted in an Assembly of 42 members. Although there have been a number of discussions in recent months about removing the so-called “Troy” rule that ensures that the executive will always be in a minority, PPC believes it would be wrong to make any decision on that matter in isolation of wider changes to the machinery of government. As a result, Article 5 of this Law simply preserves the current rule and means that in an Assembly of 42 members there will not be able to be more than 18 members who are Ministers or Assistant Ministers, leaving 24 members available to serve on Scrutiny Panels and the Public Accounts Committee. PPC considers that with 24 members available, the scrutiny function will be able to continue to operate effectively in a smaller Assembly.

Article 6 is the usual commencement provision which enables the Law to come into force as necessary for the purpose of the 2014 elections with the new structure of 42 members being effective from the date of the swearing-in of the new members elected in these elections.

Schedules 1 and 3 of the amending Law make changes to other enactments as a result of the reforms.

Schedule 1 sets out the consequential amendments to several other enactments to remove all references to Senators. These changes are all of a technical nature to ensure that reference to the office of Senator is removed from the enactments concerned. The only change that makes a different change of substance is found in paragraph 6 in relation to the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006. Under the current Regulations, there is a panel consisting of the Senior Senator, Senior Connétable and Senior Deputy who can be called upon to adjudicate in the case of an appeal against a summons issued by PPC when the Committee is investigating a Code of Conduct matter. As it is considered that a panel of 2 members may be insufficient, the revision following the abolition of the office of Senator creates a panel of 4 members, namely the 2 most senior Connétables and the 2 most senior Deputies. It is important to point out that the PPC has never to date issued a summons in relation to a Code of Conduct investigation and there has never therefore ever been any appeal.

Schedule 3 sets out a number of relatively technical changes to the Public Elections (Jersey) Law 2002 that are consequential on the establishment of the 6 large areas. With the creation of the 6 large districts, each parish other than St. Helier will be an electoral district in its own right, unlike the current provision where both St. Saviour and St. Brelade are also divided into electoral districts. PPC believes it is important to preserve the current parish-based electoral system and the electoral registers will therefore be established in each parish. There will be no consolidated register prepared for the large electoral districts, and candidates and others will simply access the electoral register for the parishes within the district. It is nevertheless important to point out that, notwithstanding the abolition of electoral districts in St. Saviour and

St. Brelade, there is no reason why parishes cannot still have a number of polling stations in different parts of the parish for the convenience of electors, and the Public Elections (Jersey) Law 2002 currently allows for there to be more than one polling station in a single electoral district.

The counting of votes in the large electoral districts would still take place on a parish basis as happens at present with a Senatorial election. There is however, in this amending Law, the new provision of the creation of a post of Senior *Autorisé* for each large electoral district, and that person would be responsible on election night for collating and announcing the results from across the parishes within the electoral district. This will ensure that the official result is collated and announced on the night whilst still preserving the parish counts.

As the Parish of St. Helier is divided into 2 electoral districts it is clearly necessary to make different provisions in this amending Law for that parish. The parish will be divided into 2 districts although, once again, it will be possible for the parish to have more than one polling station in each of these 2 districts for the convenience of electors. The electoral register will be drawn up in St. Helier in 2 parts, one for each electoral district, and for an election for Connétable it would be necessary for candidates to obtain the 2 parts of the register. As with the large electoral districts for Deputies, there would be one senior *Autorisé* appointed for the Parish of St. Helier for the election of Connétable, who would collate and announce the results for the entire parish.

Although the Public Elections (Jersey) Law 2002 currently only allows parishes to reclaim the cost of elections for the post of Senator and not for Deputies or Connétables' elections, PPC is conscious that the creation of a single election day has created an expectation in the parishes that some refund for the cost of elections will be received, and the Committee has therefore recommended in paragraph (i) of Schedule 3 that the parishes should be able to reclaim the costs of elections for Deputy under the revised structure. This will, in practice, simply mean that parishes can reclaim similar costs to those that they currently reclaim with a Senatorial election which, in 2011, was held on the same single election day as other elections.

Financial and manpower implications

Successive PPCs have always stressed that reform of the Assembly should not be undertaken for purely financial reasons, but the Committee is required by Standing Orders to give an indication of the financial and manpower implications of these changes. If the size of the Assembly is reduced by 9 members, there could be a financial saving of just over £400,000 per annum as less remuneration would be payable. There are no direct manpower implications arising from these changes, although the Electoral Commission expressed the view that a smaller Assembly would operate more effectively and this could lead to indirect savings of officer time across public administration.

Human Rights

The notes on the human rights aspects of the draft Law in Appendix 2 have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX 1 TO REPORT

States Assembly: Operation with 42 Elected Members

BACKGROUND

In January 2013, the Electoral Commission presented to the States its final report (R.2/2013 refers). That report contained 5 core recommendations, the first of which was that the number of elected Members should be reduced to 42. This recommendation was endorsed by the electorate when Recommendation 5 – that the other core recommendations should be put to the electorate in a referendum – was fulfilled on 24th April. The outcome of that referendum was as follows –

Reform Option A – 6,707 votes (45.02%)

Reform Option B – 8,190 votes (54.98%)

Option C, which had offered the electorate an opportunity to reject Recommendation 1, received the fewest votes and was eliminated during the first referendum count.

When the Privileges and Procedures Committee met on 25th April, it accepted that the referendum had delivered a definitive outcome and agreed that the process of implementation should commence in early course. On 23rd May 2013, PPC agreed to lodge *"au Greffe"* this Law which, if adopted without amendment, would effectively implement Option B and thereby reduce the number of elected States Members to 42 with effect from November 2014.

In response to a written question tabled by Deputy G.C.L. Baudains of St. Clement on 14th May 2013, the Committee has agreed to include within the Projet going to the States this report outlining how the States Assembly might function if reduced to 42 members.

ELECTORAL COMMISSION ANALYSIS

The Electoral Commission has already considered extensively the question of whether a smaller States Assembly would be practical, having noted that the vast majority of consultation responses it received called for a reduction in the number of States Members. In summary, the Commission concluded that an Assembly with 42 elected members would be viable and, further, that it would –

(a) be consistent with the view expressed in the clear majority of consultation responses it received;

(b) reflect the findings of the Clothier report presented to the then Policy and Resources Committee in December 2000; and,

(c) not make the Assembly unduly small in comparison with the legislatures of other democracies with broadly comparable populations.

Pages 18–19 of the Commission's final report set out the basis for its Recommendation 1. Page 18 also includes a proposed allocation of executive and non-executive roles.

Table 3

Ministers	10
Assistant Ministers	12
Public Accounts Committee	Allow 4
Scrutiny Panels	Allow 15
Chairman of the PPC	1
Total	**42**

The Commission has acknowledged that its allocation of roles would require the States to repeal the so-called 'Troy rule', which stipulates that the number of non-executive members must exceed those in the executive by a margin equivalent to at least 10% of the total membership of the States, with any resulting fraction of one being regarded as one. In paragraph 4.9, the Commission hints that the States might want to consider whether the Troy rule is necessary to maintain good government.

> "*4.9 The rule evolved from the assumption of the Clothier Panel that Ministers and Assistant Ministers would act as a government and, although this was not expressed, be bound by some form of collective responsibility. In practice experience has shown that Assistant Ministers do not always vote with the government. Some Assistant Ministers ask questions of Ministers and speak and vote against propositions brought by them."*

The Commission nevertheless acknowledges that maintaining the Troy rule would require an executive of 18 States Members, scrutinised by a non-executive of 24.

PPC ANALYSIS

PPC acknowledges that Members may have several questions regarding the viability of a 42 member States Assembly. In this regard, the Committee has the following observations to make.

Will a 42 member Assembly cause Members' workloads to become excessive?

Experience elsewhere indicates not. The Electoral Commission drafted its recommendations having had the benefit of a report by Dr. Alan Renwick of the University of Reading. Dr. Renwick found that the States is *'somewhat greater [in size] than that of legislatures of other democracies with similar populations'* and that *'a reduction in size to somewhere between 30 and 50 would not make it unusually small.'* The clear implication is that other comparable jurisdictions have found it possible to organise themselves in such a way as to deliver effective democratic government with a smaller legislature. It is also the case that some activities such as attending States Sittings or briefings for all members involve all members equally and there is no increase in workload for each individual member in relation to these commitments if there are fewer members.

Clothier thought that a States Assembly with between 42 and 44 elected members would be appropriate once ministerial government was introduced. Of course, the Clothier report was not implemented in full and the Committee has previously been advised by its Machinery of Government Sub-Committee that some States Members believe the current system cannot be maintained with 42 Members. It has been pointed out that Clothier anticipated only 7 executive departments, better facilities for communications and research, establishment of a parliamentary ombudsman and

implementation of freedom of information legislation. The Committee's view is that none of these issues need hinder a smaller Assembly. Legislative changes could allow for more flexible ministerial portfolios. PPC's ongoing Members' facilities review is expected to make recommendations for improved Members' services by 2014 using existing monies. The Freedom of Information (Jersey) Law 2011 is due to be implemented in January 2015 and it is open to the Assembly to revisit the matter of a parliamentary ombudsman, although the Committee believes that the States of Jersey Complaints Board continues to function effectively.

It is also worth repeating that the overwhelming majority of consultation responses received by the Electoral Commission during 2012 called for a smaller States and that nearly 80% of those who voted in the referendum supported an Assembly of 42 members.

Is the Troy Rule still necessary?

The origin of the Troy rule can be traced back to the Clothier report of December 2000. Recommendation 13 was as follows –

> *"There must be a majority of Members of the States not in executive office to provide scrutiny of those who are, by means of 3 or 4 Scrutiny Committees."*

In paragraph 4.15, Clothier arguably went further with a hint that *'a clear majority of members'* should be outside of the executive.

When the original machinery of government reform proposition P.122/2001 was lodged *"au Greffe"* subsequently, the then Deputy P.N. Troy of St. Brelade lodged an amendment (P.122/2001 Amd.(3) refers) which sought to ensure that the number of non-executive members would exceed those in the executive *'by a margin equivalent to at least ten per cent of the total membership of the States, with any resulting fraction of one being regarded as one.'* This amendment was adopted and was embodied in Article 25(3) of the States of Jersey Law 2005.

The proposed breakdown of executive and non-executive roles as set out in the Commission's final report would deliver an executive of 22 and a non-executive of 20. It would therefore be incompatible with the Troy rule.

Application of the Troy rule with 42 elected members would lead to an executive of 18 Ministers and Assistant Ministers, with 24 States Members serving in a non-executive/scrutiny capacity. Although the Council of Ministers has yet to express a formal view on this matter, the Committee notes that there have recently been calls for the establishment of a Minister for External Relations, a Minister for Justice, a Minister for Children and, most recently, provisional discussion of a Minister for Sport. Most recently, the States have signalled that they are not minded to extinguish the office of Minister for Housing. Although the recently published interim report of the Machinery of Government Review Sub-Committee (R.39/2013 refers) hints that there might be scope for some Assistant Ministers to be given more of the executive workload, there is perhaps a risk that an 18-strong executive might be stretched.

In R.39/2013, the Machinery of Government Sub-Committee hints that a Council of Ministers bound by collective responsibility might be appropriate, and that the executive should continue to be in the minority if collective responsibility is to apply. It seems worthy of note that the Sub-Committee's Recommendation 6 refers to minority government rather than the continued application of the Troy rule. With an Assembly of 42 States Members, minority government can of course be achieved with an executive of 20 and a non-executive of 22.

It is perhaps arguable that the Council of Ministers does in fact apply informal collective responsibility to some degree, but this tends not to extend to Assistant

Ministers, as evidenced by Hansard and States voting records. If one accepts that premise, then it is not unreasonable to suggest that the executive is always in the minority, irrespective of the existence of Article 25(3) of the States of Jersey Law 2005.

Will there be enough members for Scrutiny?

The answer may be contingent on the decision made regarding the Troy rule. Extensive research undertaken by the Clothier Panel led it to imply that around 22–23 members would be sufficient for the purposes of scrutinising a minority executive. More recently, the Electoral Commission submitted that a scrutiny function of 15 members, with a further 4 serving on the Public Accounts Committee, would be sufficient based on experience of ministerial government since December 2005.

Analysis reveals that the number of States Members serving on Scrutiny Panels has fluctuated between 2006 and 2013, and that the position has been complicated by the number of Sub-Panel members that have not been substantive members of Scrutiny Panels. During the last 6 months, the 17 States-appointed members of Scrutiny Panels have been assisted by a further 6 additional or co-opted members of Scrutiny, leaving 6 members that have been neither on the executive or a Scrutiny Panel/the Public Accounts Committee. Of those, 2 are members of PPC and one is a member of the Planning Applications Panel. In an Assembly of 42 there would, if the Troy rule remained, therefore be sufficient members to establish a similar sized scrutiny function to the one that has been in place since the 2011 elections.

At the time of producing this report, the Chairmen's Committee had yet to express a formal view on this matter.

Will there be enough Members for the Planning Applications Panel and other bodies?

In its Final Report the Electoral Commission pointed out that membership of the Planning Applications Panel or PPC was not incompatible with serving on the executive or scrutiny, and many members have combined work on PAP and PPC with another role. Nevertheless, if there was any difficulty in identifying sufficient members to serve on these bodies, it would be possible to revisit the constitution of the Planning Applications Panel, the Privileges and Procedures Committee and certain other bodies and consider whether a reduction in membership would be appropriate. Certain working practices and procedural matters may need to be revisited also. For example, the Planning Applications Panel has in recent years adopted a procedure whereby Connétables and Deputies withdraw whenever an application in their district is determined. Should a smaller Planning Applications Panel be deemed appropriate, it may be necessary for the Panel to revisit the rationale for such withdrawals and reflect on whether that practice might cause the Panel to become inquorate too frequently.

CONCLUSION

Determining an optimal size for the States Assembly is an inherently difficult task, not least because different stakeholders will tend to apply different criteria. Given, however, that the States exist to serve the public of the Island and that the firm balance of opinion is in favour of a smaller Assembly, the Committee's view is that a compelling argument would be needed to justify maintaining the status quo. Such an argument is difficult to maintain given the experience in other comparable jurisdictions. On balance, therefore, the Committee believes that the States would be well advised to accept the verdict of the electorate and implement an Assembly of 42 members, and then turn their attention to the matter of making a smaller Assembly work.

Human Rights Notes on the Draft States of Jersey (Amendment No. 7) Law 201-

These Notes have been prepared in respect of the Draft States of Jersey (Amendment No. 7) Law 201- (the "**draft Law**") by the Law Officers' Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers' opinion, the draft Law is compatible with the European Convention on Human Rights ("**ECHR**").

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law proposes to implement "Option B" from the referendum held on 24th April 2013, an overview of which is provided in the Committee's Report accompanying this Projet.

The only Article of the ECHR that the draft Law has the potential to engage is Article 3 of the First Protocol to the ECHR ("**A3P1**"), which provides –

> "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

It is important to recognise that A3P1 is not an absolute right and may be subject to limitations. The European Court of Human Rights ("**European Court**") has found that limitations on voting and candidature rights are permitted provided that they do not impair the very essence of the rights afforded by A3P1 or deprive them of their effectiveness and also that they are imposed in pursuit of, and are proportionate to, some legitimate aim. A3P1 does not require any particular constitutional structure, nor electoral system, and in determining whether a state's system is compatible with A3P1, the European Court will have regard to its political history, allowing the state a considerable margin of appreciation so long as the electoral measures ensure the free expression of the opinion of the people in the choice of the legislature.

The features of the draft Law that may arguably engage the right in A3P1 are the –

(a) reduction in the number of States members and abolition of the office of Senator; and

(b) reform of the number of Deputies and of electoral constituencies.

Reduction in the number of States members and abolition of the office of Senator

Articles 2 and 3 of the draft Law would have the effect of reducing the number of States members from 49 to 42 and, by abolishing the office of Senator, will remove the ability for people to vote for candidates on a full Island-wide mandate.

It might conceivably be argued that A3P1 is engaged by Articles 2 and 3 because they amount to a restriction on the right to free expression in the choice of the legislature, for the following reasons –

(i) Firstly, the draft Law will bring about a reduction in the number of States members and the number of votes that the electorate may cast. Amendments proposed by the draft Law would permit 6 votes for States members – for 5 Deputies within the electoral district, and for a parish Connétable – which is fewer votes and representatives than would have been available at the next election if Senators had been retained.

(ii) Secondly, abolishing the role of Senator would extinguish the ability of the electorate to vote candidates into an office with a full Island-wide mandate,

impinging on the ability to elect representatives who are truly representative of the opinion of the 'people' in the widest sense.

However, there is no aspect of A3P1 or of the associated jurisprudence of the European Court that would impose on the States of Jersey a requirement to guarantee or ascribe a particular number of votes or representatives to the electorate. The simple fact that there is a reduction in the number of votes and representatives does not limit the degree to which the individuals elected represent the opinion of the people in their choice of legislature and so does not jeopardise the compatibility of the proposed reform with A3P1. Further, A3P1 and the jurisprudence of the European Court do not require any particular proportion of (or any) members of a legislature to be elected on a jurisdiction-wide mandate. In short, there is no realistic argument that implementing these aspects of Option B would limit the "free expression" of the opinion of the people in the choice of the legislature for the purposes of A3P1.

Even if such an argument could be put, any perceived limitation could, in any event, be justified as serving a legitimate aim and not being arbitrary or disproportionate to that aim. The aim of the Option B proposals and its embodiment in the draft Law is to achieve a more efficient and effective States Assembly, while maintaining some important characteristics of the existing system. These reforms could not be said to be arbitrary or disproportionate to these aims, especially in view of the wide margin of appreciation that States have in respect of A3P1.

Reform of number of Deputies and revision of constituencies

The effect of Article 3 and Schedule 2 of the draft Law is to marginally increase the number of Deputies and to distribute those evenly across the proposed districts. It might be argued that the effect of these changes, taken together with the retention of the Connétables within the States Assembly, limits the free expression of the opinion of the people in the choice of the legislature, because it results in an uneven distribution of seats between electors and to inequality in the representation enjoyed by electors in rural parishes and districts, in particular, in comparison with those in St. Helier.

It is important to recognise that, as has been confirmed by the European Commission of Human Rights, A3P1 does not create any express requirement to achieve equality in the voting power of individual electors. Further, as already noted, the European Court has found on a number of occasions that A3P1 does not bind States as to the electoral system to be used and a considerable margin of appreciation is afforded to them in determining the detail of their electoral systems.

The retention of Connétables within the States Assembly is a reflection of Jersey's particular electoral traditions and the division by the draft Law of Jersey into districts, if sanctioned by the States Assembly, could not be said to be arbitrary or to impair the very essence of the rights afforded by A3P1. Rather, it reflects the outcome of a substantial process of consultation and deliberation as to the appropriate composition of constituencies and the legislature carried out by the Electoral Commission, culminating in a referendum. Any perceived limitation on the rights in A3P1 brought about by the arrangement of the new constituencies may properly be seen to be proportionate to a legitimate aim and would in any event fall squarely within Jersey's margin of appreciation in respect of A3P1.

Application of international electoral standards

In the Electoral Commission's Final Report, a degree of consideration was given to guidance issued by the European Commission for Democracy through Law (the Venice Commission), in particular its 'Guidelines on Elections' ("**the Guidelines**") which sit at the core of its 'Code of Good Practice in Electoral Matters' ("**the Code**").

Emphasis was placed on the Guidelines' requirement that seats be distributed evenly between constituencies, and its formula indicating when a particular electoral system might depart from what the Venice Commission considers to be acceptable democratic standards.

The Code and the Guidelines may be a relevant consideration for the European Court when interpreting A3P1. However, it is important to recognise that the Venice Commission is an advisory body and its Guidelines and Code reflect best practice, but do not have the force of law. The European Court has considered the Guidelines and Code not to be binding and has, on more than one occasion, chosen to distinguish their relevance to its assessment of the requirements of A3P1. Accordingly, in Jersey's case, the critical legal issue is that the Option B proposals to be implemented by the draft Law are compatible with A3P1, which has force of law in Jersey by operation of the Human Rights (Jersey) Law 2000. That the draft Law is compatible with the ECHR, and A3P1 in particular, has been explained above.

Explanatory Note

Article 1 provides that a reference in Articles 2 to 5 of this Law to an Article of or Schedule to a Law is a reference to the Article or Schedule of that number in the States of Jersey Law 2005.

Article 2 amends the States of Jersey Law 2005 so as to remove all references to the office of Senator. It also gives effect to Schedule 1, which amends other enactments consequentially upon the abolition of the office of Senator.

Article 3 amends the States of Jersey Law 2005 so as to increase the number of Deputies from 29 to 30. It also gives effect to Schedule 2, which amends the constituencies for Deputies, and Schedule 3, which amends the Public Elections (Jersey) Law 2002 consequentially upon the amendments to the constituencies.

Article 4 amends the States of Jersey Law 2005 so as to remove a reference to Connétables as being members of the States "by virtue of their office".

Article 5 reduces the maximum number of Ministers and Assistant Ministers from 22 to 18.

Article 6 provides for the citation and commencement of this Law. Broadly, amendments that need to be in force for the purposes of the conduct of the ordinary elections in October 2014 are brought into force immediately for that purpose. Otherwise, this Law commences when the persons elected in the ordinary elections in October 2014 take their oath of office.

Schedule 1 amends other enactments consequentially upon the abolition of the office of Senator.

The States of Jersey (Miscellaneous Provisions) Law 2011 is amended so as to repeal the provisions that would have implemented the reduction in the number of Senators from 10 to 8.

The Employment of States of Jersey Employees (Jersey) Law 2005 is amended so as to remove, from the provisions concerned with the political activities of States employees, references to standing for election as, or publicly supporting a candidate for election as, a Senator.

The Judicial and Legislative Functions (Separation) (Jersey) Law 1951 is amended to repeal a prohibition on a person being, at the same time, a Jurat and a Senator.

The Political Parties (Registration) (Jersey) Law 2008 is amended so that the Law will be concerned only with the endorsement of candidates for election as Deputy or Connétable.

The Public Elections (Jersey) Law 2002 is amended to remove all provision for the election of Senators.

The States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006 are amended so that a challenge of a summons for a person to appear before the Privileges and Procedures Committee is reviewed by a panel comprised of the 2 Connétables called first and second in the roll of elected members and the 2 Deputies called first and second in that roll, disregarding any Connétable or Deputy who is either a member of the Privileges and Procedures Committee or is connected with the matter under

investigation. Currently, such a panel comprises the Senator, Deputy and Connétable each called first in that roll.

Rules of Court are amended to remove provisions that enabled a Senator to witness certain documents.

Schedule 2 amends the States of Jersey Law 2005 so as to revise the constituencies for Deputies.

Schedule 3 amends the Public Elections (Jersey) Law 2002 to provide for the fact that –

(a) Deputies' constituencies will, apart from Districts 1 and 2 in St. Helier, consist of 2 or more parishes, each of which will be an electoral district, for which there is an electoral register;

(b) given that there will be 2 electoral districts in St. Helier, there will be 2 counts of votes in an election of a Connétable for St. Helier – one in District 1, and the other in District 2.

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201-

Arrangement

Article

Jersey

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201-

A LAW to amend further the States of Jersey Law 2005, and, for connected purposes, the Public Elections (Jersey) Law 2002, the States of Jersey (Miscellaneous Provisions) Law 2011 and other enactments

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 –

1 Interpretation

In Articles 2 to 5 of this Law, a reference to an Article of or Schedule by number only is a reference to the Article or Schedule of that number in the States of Jersey Law 2005[1].

2 Abolition of office of Senator

(1) In Article 1(1), in the definition "elected member", the word "Senator," shall be deleted.

(2) In Article 2(1) the words "10 Senators, elected as provided by this Law;" shall be deleted.

(3) Article 4(1) shall be deleted.

(4) In the heading to Article 5, Article 5(1) and Article 5(3), the words "Senators and" shall be deleted.

(5) In Article 5(2) the words "Senator or" shall be deleted.

(6) In the heading to Article 6, the words "Senators and" shall be deleted.

(7) Article 6(1) shall be deleted.

(8) In Article 6(3) for the words "paragraphs (1) and (2)" there shall be substituted the words "paragraph (2)".

(9) In the heading to Article 6A the words "2011 and" shall be deleted.

(10) Article 6A(1) and (2) shall be deleted.

(11) In the heading to Article 7, the words "Senator or" shall be deleted.

(12) In Article 7(1) the words "a Senator or" shall be deleted.

(13) In Article 7(2) and (3) the words "Senator or", in each place that they appear, shall be deleted.

(14) In the heading to Article 8 and in Article 8(1) and (2) the words "Senator or" shall be deleted.

(15) In Article 9(1) the words "Senator or" shall be deleted.

(16) In Article 11 the words "Senators and" shall be deleted.

(17) In the heading to Article 12 and in Article 12(1) the words "Senator or" shall be deleted.

(18) In the heading to Article 13 and in Article 13(1) and (5) the words "Senator or" shall be deleted.

(19) Article 13(6) and (7) shall be deleted.

(20) In Article 14 the words "Senator or" shall be deleted.

(21) In Article 21(2) the words "Senator or" shall be deleted.

(22) In the heading to Part 1 of Schedule 2 the words "SENATORS AND" shall be deleted.

(23) In the Oath in Part 1 of Schedule 2 for the words "(Senator) (Deputy)" there shall be substituted the word "Deputy".

(24) Schedule 1 to this Law has effect to amend other enactments consequentially upon the abolition of the office of Senator.

3 Reform of number of Deputies and revision of constituencies

(1) In Article 1(1), after the definition "Council of Ministers" there shall be inserted the following definition –

" 'District' shall be construed in accordance with Schedule 1;".

(2) In Article 2(1) for the words "29 Deputies," there shall be substituted the words "30 Deputies,".

(3) In Article 4(4) for the number "29" there shall be substituted the number "30".

(4) Schedule 1 shall be substituted by the Schedule set out in Schedule 2 to this Law.

(5) Schedule 3 to this Law has effect to amend the Public Elections (Jersey) Law 2002[2] consequentially upon the revision of the Deputies' constituencies.

4 Connétables: general provision

In Article 2(1) the words ", who are members of the States by virtue of their office" shall be deleted.

5 Ministers and Assistant Ministers

In Article 25(3) for the number "22" there shall be substituted the number "18".

6 Citation and commencement

(1) This Law may be cited as the States of Jersey (Amendment No. 7) Law 201-.

(2) The following provisions of this Law shall come into force on the day after the day this Law is registered –

(a) Article 1;

(b) Articles 2 and 3 and Schedules 1, 2 and 3, for the purposes of the ordinary elections to be held in October 2014; and

(c) this Article.

(3) The remaining provisions of this Law and, to the extent that they are not already in force, the provisions mentioned in paragraph (2)(b), shall come into force upon the persons elected at the ordinary elections held in October 2014 taking the oath of their office.

SCHEDULE 1

(Article 2(24))

CONSEQUENTIAL AMENDMENTS – ABOLITION OF OFFICE OF SENATOR

1 States of Jersey (Miscellaneous Provisions) Law 2011 amended

Articles 4 and 5 of the States of Jersey (Miscellaneous Provisions) Law 2011[3] shall be repealed.

2 Employment of States of Jersey Employees (Jersey) Law 2005 amended

In the Employment of States of Jersey Employees (Jersey) Law 2005[4] –

(a) in Article 30(2)(c) and (d) the word "Senator," shall be deleted;

(b) in Article 36(1) the word "Senator," shall be deleted;

(c) in Article 36(4)(a) the words "Senator or" shall be deleted;

(d) in Article 37(1), (2) and (4) the word "Senator," shall be deleted in each place that it appears;

(e) in Article 39(3)(a)(i) the word "Senator," shall be deleted;

(f) in Article 39(3)(a)(ii) the words "Senator or" shall be deleted;

(g) in Article 40(1) the word "Senator," shall be deleted;

(h) in Article 41(1)(a) the word "Senator," shall be deleted;

(i) in Article 41(1)(b) the words "Senator or" shall be deleted.

3 Judicial and Legislative Functions (Separation) (Jersey) Law 1951 amended

In the Judicial and Legislative Functions (Separation) (Jersey) Law 1951[5] –

(a) in Article 1(1) –

(i) the words "Senator or" shall be deleted in each place that they appear,

(ii) the words ", as the case may be" shall be deleted;

(b) in Article 1(2) –

(i) the words "A Senator or" shall be deleted,

(ii) the words "Senator or a" shall be deleted,

(iii) the words "Senator or" shall be deleted.

4 Political Parties (Registration) (Jersey) Law 2008 amended

In the Political Parties (Registration) (Jersey) Law 2008[6] –

(a) in the long title, the word "Senator," shall be deleted;

(b) in Article 2(8) the word "Senator," shall be deleted;

(c) in Article 10(2)(c) and (3)(b) the word "Senator," shall be deleted.

5 Public Elections (Jersey) Law 2002 amended

In the Public Elections (Jersey) Law 2002[7] –

(a) in Article 1, in the definition "constituency" the words "a Senator or" shall be deleted;

(b) in Article 1, in the definition "public election" the words "Senator or" shall be deleted;

(c) Article 2(3) shall be deleted;

(d) in Article 15(1) the words ", except to the extent that paragraph (2) provides" shall be deleted;

(e) Article 15(2) shall be deleted;

(f) in Articles 18(1), 19(1), 20(2) and 20(4) for the words "Article 2(1), (2) and (3)" there shall be substituted the words "Article 2(1) and (2)";

(g) in Article 18(2) the word "Senators," shall be deleted;

(h) Article 19(3)(a) shall be deleted;

(i) Article 19(3A) shall be deleted;

(j) in Article 20(4A) the word "Senator," shall be deleted;

(k) Article 24(1) and (2) shall be deleted;

(l) in Article 24(3A)(aa) the word ", Senator" shall be deleted;

(m) in Article 52(2) the words "Except in the case of an election of one or more Senators," shall be deleted;

(n) Article 52(3) shall be deleted;

(o) Article 53(3) shall be deleted;

(p) in Article 53(4) the words "In every case," shall be deleted;

(q) for Article 58(1)(b) there shall be substituted the following sub-paragraph –

> "(b) by order, fix the day when the parties are to appear in the Royal Court with witnesses, being a day within one month after the date of the order.";

(r) Article 61(1) shall be deleted;

(s) in Article 61(2) the words "In the case of any other public election," shall be deleted.

6 States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006 amended

In Regulation 15(1) of the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006[8] for the words

beginning "a panel" and ending "or Deputy who –" there shall be substituted the words "a panel comprised of the 2 Connétables called first and second in the roll of elected members and the 2 Deputies called first and second in the roll of elected members, disregarding any Connétable or Deputy who –".

7 Rules of Court amended

(1) In Rule 16(3)(a) of the Civil Partners Causes Rules 2012[9] the words "a Senator or" shall be deleted.

(2) In Rule 13(3)(a) of the Matrimonial Causes Rules 2005[10] the words "a Senator or" shall be deleted.

SCHEDULE 2

(Article 3(4))

SCHEDULE 1 TO THE STATES OF JERSEY LAW 2005 SUBSTITUTED

"SCHEDULE 1

(Article 4(2))

DEPUTIES' CONSTITUENCIES

Constituencies	*Number of Deputies to be returned*
District 1: Vingtaine du Mont Cochon, Vingtaine du Mont à l'Abbé, Vingtaine de Haut du Mont au Prêtre and Vingtaine du Rouge Bouillon, in the Parish of St. Helier.	5
District 2: Cantons de Bas et de Haut de la Vingtaine de la Ville, and Vingtaine de Bas du Mont au Prêtre, in the Parish of St. Helier.	5
District 3: Parish of Grouville, Parish of St. Clement and Parish of St. Martin.	5
District 4: Parish of St. Saviour and Parish of Trinity.	5
District 5: Parish of St. John, Parish of St. Lawrence, Parish of St. Mary and Parish of St. Ouen.	5
District 6: Parish of St. Brelade and Parish of St. Peter.	5".

SCHEDULE 3

(Article 3(5))

CONSEQUENTIAL AMENDMENT OF PUBLIC ELECTIONS (JERSEY) LAW 2002 – REVISION OF DEPUTIES' CONSTITUENCIES

In the Public Elections (Jersey) Law 2002[11] –

(a) at the beginning of Article 1 there shall be inserted the paragraph number "(1)";

(b) in Article 1(1) for the definition "electoral district" there shall be substituted the following definition –

> " 'electoral district' means –
>
> (a) in a parish other than the Parish of St. Helier, the parish itself;
>
> (b) in the Parish of St. Helier, District 1 and District 2;";

(c) at the end of Article 1(10 there shall be added the following definition –

> "'senior *Autorisé'* means the *Autorisé* appointed as such for a public election under Article 17(2A).";

(d) after Article 1(1) there shall be added the following paragraph –

> "(2) A reference in this Law to a District by number shall be construed in accordance with Schedule 1 to the States of Jersey Law 2005[12].";

(e) in Article 2(1) after the words "an electoral district" there shall be inserted the words "that is or is";

(f) for Article 2(2) there shall be substituted the following paragraph –

> "(2) A person is entitled to vote in an election of one or more Deputies of a constituency if the name of the person is on an electoral register for an electoral district that is or is within the constituency, being the register in force for the election.";

(g) in Article 7(2), 11(1) and 11(2), after the words "each electoral district" there shall be inserted the words "that is or is";

(h) in Article 12(1) after the words "an electoral district" there shall be inserted the words "that is or is";

(i) in Article 15(1) for the words "paragraph (2)" there shall be substituted the words "this Article";

(j) after Article 15(1) there shall be inserted the following paragraph –

> "(1A) If the election is for the office of Deputy, all the expenses, except those for setting up, shall be met by the States.";

(k) in Article 16 for the words "where the election takes place" there shall be substituted the words "where an election takes place";

(l) in Article 16 for the words "an electoral district in the parish" there shall be substituted the words "an electoral district that is or is within the parish";

(m) after Article 17(2) there shall be inserted the following paragraph –

"(2A) Where the constituency for the public election contains more than one electoral district, the Court shall –

(a) appoint one of the *Autorisés* for those electoral districts as the senior *Autorisé*; and

(b) direct the senior *Autorisé* to deliver the return required by paragraph (2)(d).";

(n) in Article 19(3)(b) for the words ", Procureur du Bien Public or Deputy" there shall be substituted the words "or Procureur du Bien Public";

(o) after Article 19(3)(b) there shall be added the following sub-paragraph –

"(c) in the case of an election of a Deputy for District 1 or District 2, by the Connétable of St. Helier; or

(d) in the case of an election of a Deputy for any other District, by the Connétable of one of the parishes in the District, as agreed between the Connétables for parishes in the District.".

(p) after Article 21(3) there shall be added the following paragraph –

"(4) Where the constituency for the public election contains more than one electoral district, the senior *Autorisé* shall prepare and sign the return required by paragraph (3).";

(q) at the beginning of Article 24 there shall be inserted the following paragraphs –

"(2A) In the case of a poll for the election of a Deputy (other than such a poll in the Parish of St. Helier), the person presiding at the nomination meeting shall forthwith transmit to the Connétable of each parish in the constituency (except the Connétable, if any, so presiding) a copy of the record of the nominations, setting forth –

(a) for each candidate, the candidate's family name, forenames and address and, if the candidate has made a declaration under Article 20(4CA), any family name or forename which the candidate has stated in the declaration; and

(b) in a case where a candidate has, in accordance with Article 20(4A) and (4B), declared his or her wish to have his or her endorsement by a registered political party entered on the ballot paper, the registered name or registered abbreviation (if any) of the name, of the registered political party to be entered.

(2B) In the case of a poll for the election of a Deputy (other than such a poll in the Parish of St. Helier), each Connétable (except the Connétable, if any, who presided at the nomination meeting), on receiving a copy of the record of nominations referred to in paragraph (2A) shall forthwith send a requisition to the person who presided at the meeting, stating the number of ballot papers required for the Connétable's parish.";

(r) in Article 26(1) for the words "the parish" there shall be substituted the words "a parish";

(s) in Article 31(2) for the word "where" there shall be substituted the words "which is the electoral district or in which";

(t) at the beginning of Article 41 there shall be inserted the words "(1) Subject to paragraph (2),";

(u) after Article 41(1) there shall be added the following paragraph –

"(2) In the case of a poll for the election of a Deputy (other than such a poll in the Parish of St. Helier), each Connétable of a parish in the constituency shall forward to the Judicial Greffier, for the purposes of this Part, a copy of the electoral register in force for his or her parish for the election.";

(v) in Article 46B(3)(a) for the words "the parish where the electoral district is located" there shall be substituted the words "the parish which is the electoral district or in which the electoral district is situated";

(w) at the beginning of Article 52(2) there shall be inserted the words "Subject to paragraph (2A)";

(x) after Article 52(2) there shall be inserted the following paragraphs –

"(2A) Where the constituency contains more than one electoral district –

(a) the *Autorisé* for each electoral district shall –

(i) announce the number of valid votes obtained by each candidate in that district, and

(ii) prepare a return about the election for the Royal Court;

(b) the *Autorisé* for each electoral district, other than the senior *Autorisé* appointed under Article 17(2A), shall inform the senior *Autorisé* of the numbers so announced; and

(c) the senior *Autorisé* shall –

(i) add the results of the counts in the electoral districts and determine the result of the election; and

(ii) announce the result of the election, the total number of votes cast and the number of valid votes obtained by each candidate.";

(y) in Article 61(2) for the words "if the candidate who has obtained the majority of votes in that constituency –" there shall be substituted the words "if a candidate who has been elected in the public election in that constituency –".

[1] *chapter 16.800*
[2] *chapter 16.600*
[3] *L.13/2011*
[4] *chapter 16.325*
[5] *chapter 16.350*
[6] *chapter 16.555*
[7] *chapter 16.600*
[8] *chapter 16.800.25*
[9] *chapter 12.260.20*
[10] *chapter 12.650.50*
[11] *chapter 16.600*
[12] *chapter 16.800*