

# STATES OF JERSEY



## DRAFT AMENDMENT (No. 19) OF THE STANDING ORDERS OF THE STATES OF JERSEY

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Lodged au Greffe on 19th April 2012  
by the Minister for Treasury and Resources

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STATES GREFFE





Jersey

## **DRAFT AMENDMENT (No. 19) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

### **REPORT**

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#### **Introduction**

This Amendment to Standing Orders sets the States procedures surrounding the lodging and debate of the Medium Term Financial Plan and new style Budget.

In 2011 when the States considered and approved changes to the Public Finances (Jersey) Law 2005 which established a medium term financial planning framework the opportunity was taken to remove States procedures associated with the lodging and debate of the Annual Business Plan and the Budget from this Law. It was intended that States procedural matters for the Medium Term Financial Plan and Budget would be brought back to the States for inclusion in States Standing Orders alongside other States procedures.

Although the maintenance of Standing Orders falls under the remit of the Privileges and Procedures Committee, due to the close link of these changes to the Public Finances (Jersey) Law 2005 they are being brought forward by the Minister for Treasury and Resources with the support of both the Privileges and Procedures Committee and the Council of Ministers.

Part of this Amendment to Standing Orders gives effect to the States decision of 7th December 2011 when the Assembly adopted a proposition of Deputy G.P. Southern of St. Helier (P.176/2011) that the Medium Term Financial Plan should be lodged for a minimum 12 week period prior to debate.

Many of the procedures previously set in the Public Finances (Jersey) Law 2005 for the Annual Business Plan and Budget are replicated in this Amendment.

#### Medium Term Financial Plan (MTFP)

As stated above provision is made for the Medium Term Financial Plan to be lodged for a minimum 12 week period.

When setting the minimum lodging periods for amendments and amendments to amendments the Minister for Treasury and Resources has been extremely mindful of the need to ensure that States Members have sufficient time to research and consider potential changes to the Medium Term Financial Plan. This amendment to Standing Orders therefore incorporates a –

- 2 week minimum lodging period for amendments; and
- 1 week minimum lodging period for amendments to amendments.

In order to ensure good management of the States debate on the Medium Term Financial Plan the Chief Minister and the Minister for Treasury and Resources are able to propose amendments without notice to the Plan.

However, Standing Orders differentiate between –

- those amendments which are necessary to address a contravention of the Public Finances Law – which are capable of automatic debate by the States; and
- any other amendments – the States to consider whether to debate such an amendment either immediately or at another time approved by the States.

The Standing Orders enable the Chief Minister and the Minister for Treasury and Resources to request an adjournment in States business to consider the consequences of an approval of any amendment – the States will be adjourned in accordance with the request.

Standing Order 79 currently enables a member of the States to propose that a debate be suspended and that the States request the relevant scrutiny panel to consider having the proposition referred to it. This amendment proposes that this Standing Order does not apply to the Medium Term Financial Plan or a proposition lodged by the Council of Ministers under Article 9 of the 2005 Law following the process already set for a Budget or a Taxation Draft.

### Budget

A minimum 6 week lodging period for the Budget is set which reflects the period specified in Standing Order 26(4) for a draft Law or draft Regulations and the majority of other States propositions. The period for amendments and amendments to amendments will follow the usual timescales set for propositions with a minimum lodging period of 6 weeks.

The Minister for Treasury and Resources also retains powers previously set in the Public Finances (Jersey) Law 2005, these are –

- the ability to propose an amendment without notice to the Budget – these must be directed to the States to consider whether to debate such an amendment immediately or at another time approved by the States;
- to bring forward amendments to the Budget which address a contravention of the PFL or for the introduction of legislation to bring about Budget changes, without recourse to the States to approve such a debate.

In order to ensure effective use of the Budget debate the Minister for Treasury and Resources is able to call for an adjournment in the Budget debate to consider the implications of an approved amendment.

### **Financial and manpower implications**

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

## Explanatory Note

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When the Public Finances (Amendment No. 3) (Jersey) Law 2011 (the “2011 Law”) was enacted, provisions in the Public Finances (Jersey) Law 2005 (the “2005 Law”) which specified minimum lodging periods for the annual business plan and budgets were repealed, with the intention that such minimum periods for the medium term financial plan and budgets should instead be specified in Standing Orders of the States of Jersey. These amendments now specify those periods and make other changes consequential upon the enactment of the 2011 Law.

*Amendment 1* is the interpretation provision.

*Amendment 2* defines the medium term financial plan, a budget and a taxation draft to have the same meaning as in the 2005 Law as amended by the 2011 Law.

*Amendment 3* amends standing order 26 so as to impose a minimum lodging period of 12 weeks for a draft medium term financial plan (a “draft plan”). A minimum lodging period of 2 weeks would apply to an amendment to a draft plan and a period of 1 week to an amendment to such an amendment.

Standing order 26 is further amended so as to allow the States to reduce the minimum lodging period for a proposition lodged by the Council of Ministers under Article 9 of the 2005 Law as amended by the 2011 Law. No special rule for the minimum lodging period of such a proposition is proposed, and therefore the default period of 6 weeks would apply. Generally, once a medium term financial plan has been approved by the States, it may not be varied. However, Article 9 describes 4 circumstances in which the Council of Ministers may seek a variation and one circumstance in which the Council of Ministers is obliged to seek a variation. The 4 circumstances in which the Council of Ministers may lodge a proposition to vary an approved medium term financial plan are –

- (a) if a state of emergency has been declared under the Emergency Powers and Planning (Jersey) Law 1990;
- (b) if the Council is satisfied that there exists an immediate threat to the health or safety of all or any of the inhabitants of Jersey;
- (c) if the Council of Ministers is satisfied that there is a serious threat to the economic, environmental or social wellbeing of Jersey which requires an immediate response; or
- (d) following the appointment of a Council of Ministers otherwise than following an ordinary election for Deputies.

The Council is obliged to lodge a proposition to vary an approved medium term financial plan if, by reason of States income being less than what was forecast in the plan, or by any other reason, a deficit would arise in the consolidated fund at the end of a financial year to which the plan relates.

*Amendment 4* provides that a draft plan, a proposition lodged by the Council of Ministers under Article 9 of the 2005 Law, or a draft budget and associated taxation draft shall be the first item of public business at a States meeting.

*Amendment 5* inserts standing order 70A. Standing order 70A permits the Chief Minister or Minister for Treasury and Resources to obtain an adjournment of the debate on a draft plan, if time is needed to consider the consequences of an amendment adopted by the States. This provision replaces the rule formerly enacted in relation to the annual business plan as Article 11(6) of the 2005 Law. Similarly, the Minister for Treasury and Resources may obtain an adjournment of the debate on a draft budget or taxation draft, if time is needed to consider the consequences of an amendment adopted by the States. This provision replaces the rule formerly enacted, in relation to a taxation draft, as Article 20(4) of the 2005 Law. In addition, the Chief Minister or Minister for Treasury and Resources may obtain an adjournment of the debate on a proposition under Article 9 of the 2005 Law, if the States approve an amendment to the proposition.

*Amendment 6* restates the existing rule in standing order 72 that a taxation draft cannot, following the adoption of the principles of the draft in second reading, be referred to scrutiny.

*Amendment 7* amends standing order 79. Standing order 79 enables a member of the States to propose that a debate be suspended and that the States request the relevant scrutiny panel to consider having the proposition under debate referred to it. It is already the case that standing order 79 does not apply to a debate on a budget or a taxation draft. This amendment would have the effect that, in addition, standing order 79 would not apply to a debate on a draft plan or a proposition lodged by the Council of Ministers under Article 9 of the 2005 Law.

*Amendment 8* substitutes standing order 80A. That standing order currently allows the Minister for Treasury and Resources to propose without notice an act of declaration (an “acte opératoire”), being an act that gives immediate effect to a taxation Law that the States have approved. That rule is re-enacted and 2 rules added as follows.

Both the Chief Minister and the Minister for Treasury and Resources are permitted to propose, without notice, an amendment to a draft plan or to a proposition lodged under Article 9 of the 2005 Law. Generally, it is then for the States to decide whether to debate the amendment straight away, or at another time. This general rule replaces the former Article 11(5) of the 2005 Law. However, new provision is made to require such an amendment to be debated forthwith if its purpose is to remedy a deficit in the consolidated fund in a financial year to which the draft plan relates, the deficit being forecast by reason of the States approving an amendment to the draft plan or not approving an amount in the draft plan or, in the case of a proposition lodged under Article 9, by reason of the States approving an amendment to the draft proposition or not approving part of the proposition.

Similarly, the Minister for Treasury and Resources is permitted to propose, without notice, an amendment to a draft budget or taxation draft. As before, the general rule is then that the States decide whether to debate the amendment straight away or at another time. This general rule replaces the former Article 20(3) of the 2005 Law. Again, new provision is made to require such an amendment to be debated forthwith in certain circumstances. In the case of a budget amendment, an immediate debate is required if the amendment is to remedy a deficit in the consolidated fund in the financial year to which the draft budget relates, the deficit being forecast to arise by reason of the States approving an amendment to the draft budget, or by reason that the States have not approved an amount in the draft budget. In the case of an amendment to a taxation draft, an immediate debate is required if the amendment is necessary to

give effect to an amendment to the associated draft budget that the States have approved.

*Amendment 9* merely reflects the re-ordering and renumbering of the provisions of the 2005 Law as amended by the 2011 Law.

*Amendment 10* is consequential upon the addition of the defined expression “Public Finances Law”.

*Amendment 11* merely replaces a reference to the annual business plan with a reference to the medium term financial plan.

*Amendment 10* provides for the citation of these amendments and for their commencement on the day after the day they are made.







Jersey

## **DRAFT AMENDMENT (No. 19) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

### **Arrangement**

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#### **Amendment**

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Jersey

## **DRAFT AMENDMENT (No. 19) 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<sup>1</sup>, have made the following amendments to Standing Orders of the States of Jersey<sup>2</sup> –

### **1 Interpretation**

In these amendments, a reference to a standing order is to the standing order of that number in the Standing Orders of the States of Jersey<sup>3</sup>.

### **2 Standing order 1 amended**

In standing order 1(1) –

- (a) the definitions “budget proposition for a financial year” and “relevant taxation draft” are deleted;
- (b) after the definition “continuation day” there are inserted the following definitions –
  - “ ‘draft budget’ shall be construed in accordance with Article 10 of the Public Finances Law;
  - ‘draft medium term financial plan’ shall be construed in accordance with Articles 7 and 8 of the Public Finances Law;”;
- (c) after the definition “legislative Act” there is inserted the following definition –
  - “ ‘medium term financial plan’ means such a plan, within the meaning of the Public Finances Law, which has been approved by the States;”;
- (d) after the definition “proposition” there is inserted the following definition –
  - “ ‘Public Finances Law’ means the Public Finances (Jersey) Law 2005<sup>4</sup>;”;

- (e) after the definition “States Employment Board” there is inserted the following definition –
- “ ‘taxation draft’ shall be construed in accordance with Article 14 of the Public Finances Law;”.

### 3 Standing order 26 amended

- (1) In standing order 26 –
- (a) in paragraph (4) for the words “and to which neither paragraph (3) or (3A) applies.” there are substituted the words “and to which none of paragraphs (3), (3A) and (4A) applies.”;
- (b) after paragraph (4) there is inserted the following paragraph –
- “(4A) A minimum lodging period of 12 weeks applies to a draft medium term financial plan.”;
- (c) in paragraph (5)(b) for the words “6 weeks” there are substituted the words “6 or 12 weeks”;
- (d) after paragraph (7) there is inserted the following paragraph –
- “(7A) The States may reduce the minimum lodging period in the case of a proposition lodged by the Council of Ministers, under Article 9 of the Public Finances Law, for the amendment of a medium term financial plan.”.
- (2) The note following standing order 26 is deleted.

### 4 Standing order 31 amended

In standing order 31(2) for sub-paragraphs (a) and (b) there are substituted the following sub-paragraphs –

- “(a) a draft medium term financial plan;
- (ab) a proposition, lodged by the Council of Ministers under Article 9 of the Public Finances Law, for the amendment of a medium term financial plan;
- (b) a draft budget and any taxation draft that is necessary for its implementation;”.

### 5 Standing order 70A inserted

After standing order 70 there is inserted the following standing order –

#### “70A Adjournment of debate associated with Public Finances Law

- (1) If, during a debate on a draft medium term financial plan or on a proposition, lodged by the Council of Ministers under Article 9 of the Public Finances Law, for the amendment of a medium term financial plan, an amendment is approved by the States –

- (a) the Chief Minister or Minister for Treasury and Resources may request an adjournment of the debate for a specified period to consider the consequences of the amendment; and
  - (b) the debate shall be adjourned in accordance with the request.
- (2) If, during a debate on a draft budget or on a taxation draft that is necessary for the implementation of a budget, an amendment is approved by the States –
- (a) the Minister for Treasury and Resources may request an adjournment of the debate for a specified period to consider the consequences of the amendment; and
  - (b) the debate shall be adjourned in accordance with the request.”.

#### **6 Standing order 72 amended**

For standing order 72(10) there is substituted the following paragraph –

- “(10) This standing order shall not apply to a taxation draft that includes any provision that would implement all or part of a budget.”.

#### **7 Standing order 79 amended**

For standing order 79(2) there is substituted the following paragraph –

- “(2) A proposal cannot be made in relation to –
- (a) a proposition that has previously been referred to the scrutiny panel in question;
  - (b) a draft medium term financial plan;
  - (c) a proposition, lodged by the Council of Ministers under Article 9 of the Public Finances Law, for the amendment of a medium term financial plan;
  - (d) a draft budget; or
  - (e) a taxation draft that includes any provision that would implement all or part of a budget.”.

#### **8 Standing order 80A substituted**

For standing order 80A there is substituted the following standing order –

##### **“80A Proposals associated with Public Finances Law**

- (1) Notwithstanding standing order 26, the Chief Minister or Minister for Treasury and Resources may propose, without notice –
- (a) an amendment to a draft medium term financial plan; or
  - (b) an amendment to a proposition, lodged by the Council of Ministers under Article 9 of the Public Finances Law, for the amendment of a medium term financial plan.

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- (2) An amendment proposed under paragraph (1) shall be debated –
- (a) forthwith, if –
- (i) in the case of an amendment described in paragraph (1)(a), the amendment is to rectify a deficit that is forecast to arise as a consequence of the States approving an amendment to the draft plan or not approving any amount included in the draft plan in compliance with Article 8(2) of the Public Finances Law, or
- (ii) in the case of an amendment described in paragraph (1)(b), the amendment is to rectify a deficit that is forecast to persist or arise, as the case may be, as a consequence of the States approving an amendment to the proposition described in paragraph (1)(b) or not approving any part of that proposition; or
- (b) in the case of any other amendment, either forthwith or at such other time or on such other day as the States decides.
- (3) Notwithstanding standing order 26, the Minister for Treasury and Resources may propose, without notice, an amendment to a draft budget or taxation draft.
- (4) An amendment proposed under paragraph (3) shall be debated –
- (a) forthwith –
- (i) in the case of an amendment to a draft budget, if the amendment is to rectify a deficit that is forecast to arise as a consequence of the States approving an amendment to the draft budget or not approving any amount included in the draft budget in compliance with Article 10(3) of the Public Finances Law, or
- (ii) in the case of an amendment to a taxation draft, if the amendment is to implement an amendment, approved by the States, to the budget to which the taxation draft relates; or
- (b) in the case of any other amendment, either forthwith or at such other time or on such other day as the States decides.
- (5) Notwithstanding standing order 26 –
- (a) the Minister for Treasury and Resources may propose without notice that the States, by Act, make a declaration under Article 15 of the Public Finances Law; and
- (b) the declaration shall be debated forthwith.
- (6) In this standing order ‘deficit’ means a deficit in the consolidated fund at the end of, as the case requires, a financial year to which a draft medium term financial plan or a medium term financial plan applies or the financial year to which a draft budget applies.”.

**9 Standing order 128 amended**

In standing order 128(c) for the words “Article 10 of the Public Finances (Jersey) Law 2005” there are substituted the words “Article 24B of the Public Finances Law”.

**10 Standing order 132 amended**

In standing order 132(2) for the words “Public Finances (Jersey) Law 2005” there are substituted the words “Public Finances Law”.

**11 Standing order 136 amended**

In standing order 136(f) for the words “the draft Annual Business Plan, the Budget” there are substituted the words “a draft medium term financial plan, a draft budget”.

**12 Citation and commencement**

These Amendments may be cited as Amendment (No. 19) of the Standing Orders of the States of Jersey and shall come into force on the day after the day they are made.

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- <sup>1</sup> *chapter 16.800*  
<sup>2</sup> *chapter 16.800.15*  
<sup>3</sup> *chapter 16.800.15*  
<sup>4</sup> *chapter 24.900*