

# STATES OF JERSEY

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## DRAFT STATES OF JERSEY LAW 200-

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Lodged au Greffe on 29th June 2004  
by the Privileges and Procedures Committee

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STATES GREFFE





Jersey

## **DRAFT STATES OF JERSEY LAW 200-**

### **European Convention on Human Rights**

The President of the Privileges and Procedures Committee has made the following statement –

In the view of the Privileges and Procedures Committee the provisions of the Draft States of Jersey Law 200- are compatible with the Convention Rights.

(Signed) **Deputy R.G. Le Hérissier of St. Saviour**

# **REPORT**

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## **Introduction**

This draft Law is the key piece of legislation which will enable the move to a new system of government to take place after the next elections in the autumn of 2005. The Law will replace the States of Jersey Law 1966 although certain parts of the new Law, as explained below, re-enact (with some modifications) certain provisions of the 1966 Law.

The Committee decided at an early stage that it wished to bring forward a new Law that was as simple and short as possible with matters of detail contained in subordinate legislation, in particular the new Standing Orders of the States which the Committee will be bringing forward for approval in early 2005.

As can be seen the draft Law is accompanied by a comprehensive Explanatory Note and this report therefore focuses on the Committee's reasoning in relation to certain provisions of the Law.

## **Preamble to the Law**

The Committee considered that an opportunity should be taken in the new Law to make a statement about Jersey's constitutional position as the Law is the central piece of legislation dealing with the structure of government in Jersey. As can be seen the preamble draws attention to the fact that Jersey has autonomy in relation to its domestic affairs and sets out the reasons for making changes to the system of government within the context of maintaining international principles of human rights.

## **Part 1 – Introductory**

The definitions in Article 1 cover the new positions such as Chief Minister and Minister as well as bodies such as the Council of Ministers.

## **Part 2 – Constitution of the States**

The Committee is not proposing any changes at this stage to the Constitution of the States and the provisions of the 1966 Law are reproduced without amendment.

The Committee is conscious of the need to progress this Law in a timely fashion to allow ministerial government to start on schedule and, for this reason, the Committee did not believe it was appropriate to await any decisions that may be made on the future composition of the States Assembly arising out of the work of the Special Committee on the Composition and Election of the States Assembly or as a result of propositions brought forward by private members. If changes to the future composition of the Assembly are agreed by the States in the coming months it will be necessary for amendments to be made to this Law, and it would be possible for such amendments to be made either before or after the Law was brought into force depending on the timing and nature of the decision. The Committee has built in some flexibility by allowing the Deputies' constituencies set out in Schedule 1 to be amended by Regulation (although the overall number of 29 Deputies could not be changed in that way). Any more radical change to the composition of the States would, of course, require amendments to the Law itself.

As can be seen from the Explanatory Note the Committee has made minor amendments of a technical nature to clarify the provisions in the 1966 Law on the expiry of terms of office (Article 5) and on the dates of elections for Senators and Deputies (Article 6). In addition a small change has been made to the manner in which a date is fixed to fill a casual vacancy for Senator or Deputy to allow greater flexibility (Article 13).

There are important changes to the rules on qualification for election to, and membership of, the States. At present the residency requirement for a person seeking election as a Senator or Deputy is that they must either be born in Jersey or have been ordinarily resident in Jersey for the two years preceding the day of the election. The Committee believes that this distinction between a candidate who happens to be born in Jersey and one who is not is illogical and outdated, and it has therefore decided that the residency requirement should mirror the provisions for electoral registration found in the Public Elections (Jersey) Law 2002.

The Committee has clarified the minimum age provision for Senators and Deputies. There was an anomaly in the 1966 Law on this point as a person was disqualified if under 21 years old (Article 8(d) of the 1966 Law) but qualified if he was 'of full age' (now 18 years old since changes to the age of majority). The new Law makes it clear that a person of 18 is now qualified to stand for election. The Committee believes that, if a person is able to vote in public elections, he or she should also be able to stand for election and it will be for the electorate to decide whether or not candidates have the necessary experience and maturity to serve in the Assembly.

The rules on nationality for Senators and Deputies have been amended so that a person must be a British Citizen to stand for election and becomes disqualified if no longer a British Citizen. In addition a Senator or Deputy becomes disqualified if they are not resident in Jersey for more than 6 months. The Committee gave careful consideration to this point as it could be argued that with regular and reliable transport links it could be possible, for example, for a member to live in France or Guernsey and still fulfil his or her duties as a member. The Committee concluded that this was inappropriate if a Senator or Deputy was to represent their constituents adequately and be available to assist them as required.

### **Part 3 – Proceedings of the States**

As mentioned above the Committee was keen to retain as much flexibility as possible by not including matters in the new Law that can be contained in Standing Orders. As a result Part 3 is, in some ways, notable for the things that are omitted when compared with the 1966 Law. There are no provisions on the manner in which meetings of the States are convened, on matters such as recording the names of members present or keeping minutes of proceedings. These issues will all be covered in the new Standing Orders. In addition the Committee will be bringing forward proposals in the new Standing Orders to replace the current provisions on lodging matters 'au Greffe'.

An important change is found in Article 16 of the new Law as the Bailiff's casting vote has been removed. Under the new provisions any tied vote will simply be decided in the negative as happens at present when an elected member or the Greffier or Deputy Greffier is presiding. By convention, the Bailiff and Deputy Bailiff have always exercised their casting vote to preserve the status quo. However, the Committee, with the support of the Bailiff, has proposed the abolition of the casting vote in order to avoid any public misconceptions and to emphasise by its removal that the Bailiff is never required to exercise what could be seen as a 'political' role by voting in the Assembly.

### **Part 4 – Ministers**

Part 4 contains entirely new provisions relating to the establishment of a Council of Ministers and the operation of ministerial government. With one exception explained below the Committee has followed existing 'in principle' decisions of the States as far as possible in preparing this Part of the Law.

In accordance with the decision of the States in adopting P.70/2002 on 24th July 2002, the size of the Council of Ministers is fixed at 10 (Chief Minister and 9 Ministers) although there is the ability in Article 18(4) for the number to be amended by the States by Regulation. It is therefore of note that the Chief Minister will not be able to amend the number of Ministers without reference to the States.

Although certain key functions of the Council of Ministers are set out in Article 18 there are no detailed provisions on the *modus operandi* of the Council as it will be for each Council to agree its own detailed internal procedures. It is important to point out that the Law, and amendments being brought forward to all other Jersey legislation, will confer legal decision-making powers on individual Ministers and not on the Council of Ministers which will simply have a co-ordinating role.

Article 19 sets out the procedures for the selection and appointment of the Chief Minister and Ministers. It should be noted that, in accordance with previous decisions of the States, the Assembly must accept or reject the Chief Minister's nominations for the 9 Ministers 'en bloc' and it will not be possible for alternative names to be proposed by other members. Standing Orders will set out details of the exact procedures and timescales involved in the appointment procedure and it will be necessary to strike a balance between ensuring that adequate notice is given to members of nominations, particularly for Chief Minister, and the need to make appointments in a timely fashion after a general election. The Committee's current thinking is that nominations for Chief Minister should be submitted to the Greffier of the States some 6 days before the appointment is made.

Standing Orders will prescribe how many times the Assembly can reject the 'team' of Ministers proposed by the

Chief Minister Designate and it is likely that no more than 3 attempts would be allowed. The Committee accepts that it may be difficult for the Chief Minister to know why the proposed membership of the Council of Ministers has been rejected and, in addition, different members may have different reasons for rejecting the proposals. Nevertheless the Committee believes that a person who is able to command sufficient support to be elected as Chief Minister should be able to take informal soundings and judge what team of Ministers will be acceptable to the States.

The Law, in accordance with existing decisions of the States, places considerable restrictions on the Chief Minister in relation to the appointment of Ministers. When proposing the team of Ministers the Chief Minister will be required to state which office each nominee would fill and he or she will not subsequently be able to 'swap' Ministers between ministerial offices without the consent of the States. As can be seen, it will also be necessary for the States to give their approval before the Chief Minister can make changes in the overall number of Ministers, in the names and functions of the various ministerial offices and even before he or she can move existing Ministers between ministerial offices (Article 28). Unlike the ability of, for example, the British Prime Minister to undertake a ministerial 'reshuffle' at any time, the Chief Minister in Jersey will be severely restricted.

The provisions on the dismissal of Ministers are contained in Article 20(4) of the Law. In accordance with existing States' decisions a Minister can be dismissed by the Chief Minister with the consent of a majority of the Council but the Minister concerned must be given the opportunity to address other Ministers before he or she can be dismissed. The Committee has however decided, after consultation with the Policy and Resources Committee, not to include any provision in the Law which would prevent a vote of no confidence being brought in the States in relation to individual Ministers. This runs contrary to existing States' decisions on this matter but the Committee accepts that it would be preferable to allow such votes and therefore invites the States to overturn their previous decision by accepting that no restriction is included in the draft Law.

The flowcharts attached at the Appendix show how the procedures for the appointment, resignation and dismissal of the Chief Minister and Ministers would work.

The Committee gave considerable thought to the issue of continuity, particularly after general elections when the Chief Minister and other Ministers might have retired from the States or been defeated in the election. It will clearly take a number of days to appoint a new Council of Ministers after the swearing in of new members, particularly if the person appointed as Chief Minister designate is unable to receive support for his or her team of Ministers. The Committee discussed the potential difficulties of leaving Jersey without any 'government' for even a short period of time and concluded that this was not acceptable. This decision has to be balanced against the undesirability of allowing a Chief Minister and Ministers who are no longer States members to continue in office, particularly if they have lost their seats through electoral defeat.

The Committee is therefore proposing in Article 20 that the Chief Minister, even if he or she is no longer an elected member, should remain in office until a successor is appointed. (The only exception to this is if the Chief Minister ceases to be a Senator or Deputy by reason of disqualification). The provisions for Ministers are slightly different as they would also remain in office until their successors are appointed if they continue to be elected members, but would immediately cease to hold office as Ministers on ceasing to be elected members. After a general election the practical effect of these proposals is therefore that the Chief Minister, whether or not he or she is still a States member, will remain in office until a successor is appointed together with the Ministers, if any, who are still States members. In the short period between the swearing in of new States members and the appointment of a new Council of Ministers it would be necessary for the powers contained in Article 26 to be used to cover the functions of any vacant ministerial posts. The Committee recognises that some members may be concerned that a Chief Minister who has been defeated in an election could remain in office for a few days but has concluded that it is simply not possible to put in place provisions that could, in theory, leave no single member of the Council in place if all were defeated in the election. It will be desirable to put in place a convention that, in this short transitional period, the Chief Minister and Ministers should only deal with routine and urgent matters that cannot be left until their successors are appointed.

Article 30 contains new provisions designed to ensure that the States Assembly has a greater control over legislation that applies in Jersey. At present Orders in Council extending U.K. Acts to Jersey, or provisions of U.K. Acts that apply directly to Jersey, are not subject to any consideration by the Assembly although, by convention, the U.K. authorities will normally refer the matter to Jersey through the official channels and consultation will take place with relevant Committees, the Law Officers and officials in Jersey. The new provisions in this Article enable the States to signify their views on draft legislation of this nature that will apply to Jersey and, if the Royal Court finds that the States have not signified their agreement when the matter is

presented for registration, it will be required to refer the matter to the Chief Minister who will refer it to the States.

### **Part 5 – Powers, privileges and immunities**

This Part of the Law reproduces, with minor amendments, existing provisions of the 1966 Law. It should be noted that the immunity from legal proceedings for members of the States (Article 33) could be extended to persons giving evidence before Scrutiny Panels and other bodies through the provisions of Article 44 of the Law (in Part 7).

### **Part 6 – Officers of the States**

The Committee considered it was important to move the provisions regarding the officers of the States from the Departments of the Judiciary and Legislature (Jersey) Law 1965 to the States of Jersey Law. The provisions are reproduced without amendment from that Law. It should be noted that any person appointed as an Acting Greffier of the States is defined in Article 1 of the Law as an officer of the States and will be able, for example, to remain in the Chamber when strangers are asked to withdraw. (It is normal practice for the Assistant Greffier of the States to be appointed by the Bailiff as an Acting Greffier so that he or she can fulfil the functions of the Greffier if both the Greffier and Deputy Greffier are unavailable).

### **Part 7 – Supplementary**

Article 42 contains an important change. At present both the Bailiff and the Lieutenant-Governor have certain powers to dissent, or veto, resolutions of the States. Although the powers have not been exercised in living memory the Committee considered that the powers should be abolished as they detracted from the autonomy and supremacy of the States Assembly as a legislature. Both the Bailiff and the Lieutenant-Governor have expressed their support for this change.

As stated above many matters will be covered in new Standing Orders and Article 43 sets out the matters that must, and matters that can, be included in Standing Orders. The provisions on Scrutiny Panels and the Public Accounts Committee follow previous States' decisions. Article 44 covers matters that must be done by Regulation and these cover particularly the ability to grant powers and immunities.

The Committee has included an important Regulation making power in Article 45. As has been stated on many occasions there are many hundreds of pieces of legislation that will require modification to move from a Committee system of government to a ministerial one. Unfortunately the Committee realised early in its deliberations that it was not possible to simply change the word 'Minister' for 'Committee' as each reference to 'Committee' needed to be considered to assess what change was appropriate. This work has been undertaken by officers in the Machinery of Government team at the Policy and Resources Department in consultation all Committees concerned and relevant officers. The necessary law drafting for this massive task is progressing in the Law Draftsman's Office as instructions for different Committees are received. The provisions of Article 45(1)(b) of the Law will enable the changes to be made to primary legislation by Regulation and thereby avoid the need to seek Privy Council approval for each amendment. Further review work in this respect will be undertaken by the Law Officers' Department before the Regulations can be brought before the States, but it is anticipated that the necessary Regulations will be presented to the States for approval during 2005.

### **Financial and manpower implications**

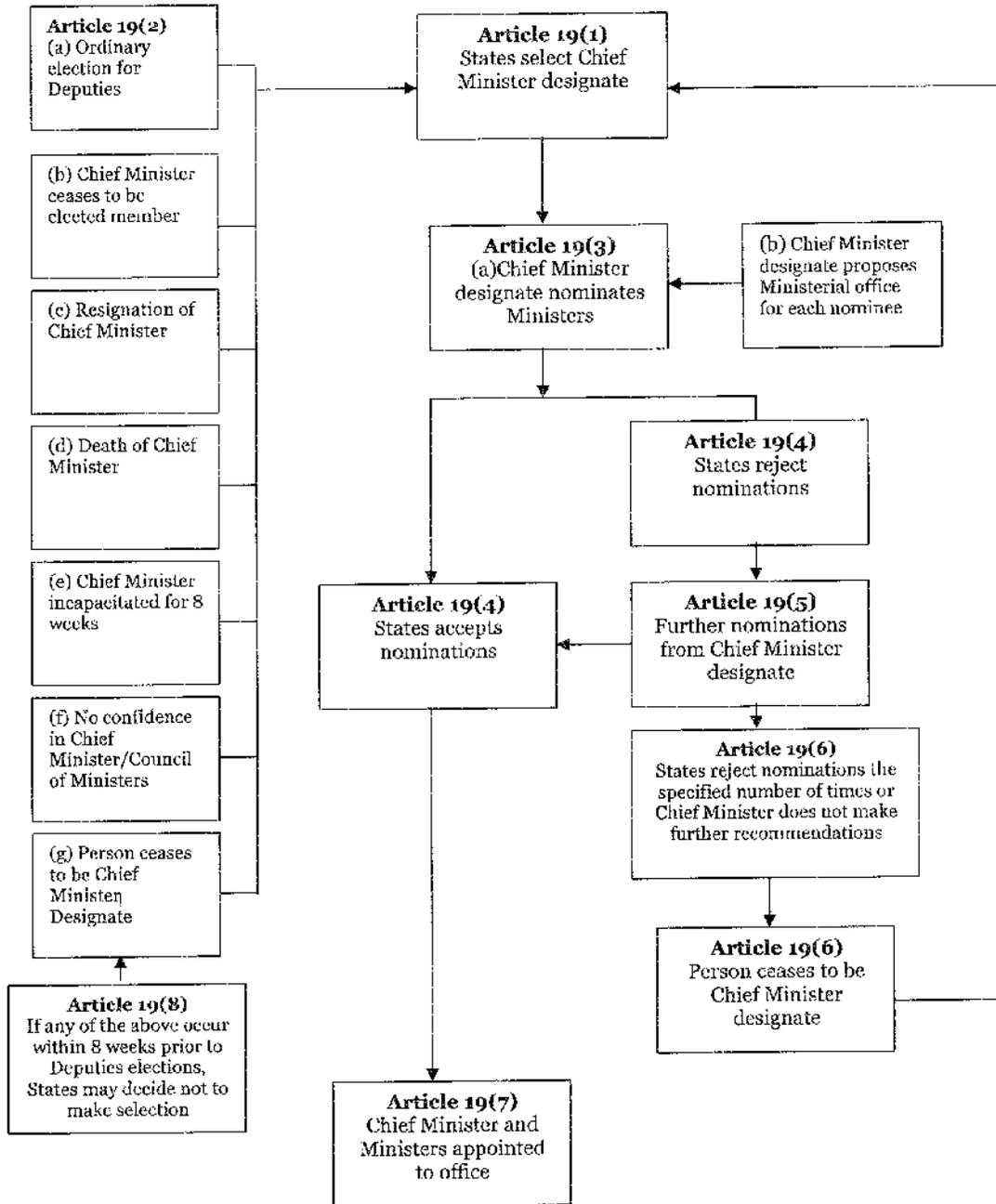
This Law, in many areas, gives legal effect to decisions already taken by the States with resource implications that have already been identified, such as the establishment of Scrutiny Panels and a Public Accounts Committee. Additional funding for those items has been agreed in the Fundamental Spending Review process (FSR). The requirement in Article 44(5)(b) for a written transcript of proceedings of the States ('Hansard') to be produced is in line with 2 existing 'in principle' decisions of the States and the annual cost of such a service is estimated to be approximately £158,000 with a 0.5 FTE post required for the Hansard Editor. As funds for the establishment of this service were not agreed in the FSR process, the Privileges and Procedures Committee will be lodging an appropriate amendment to the Resource Plan which is being debated in September 2004.

### **European Convention on Human Rights**

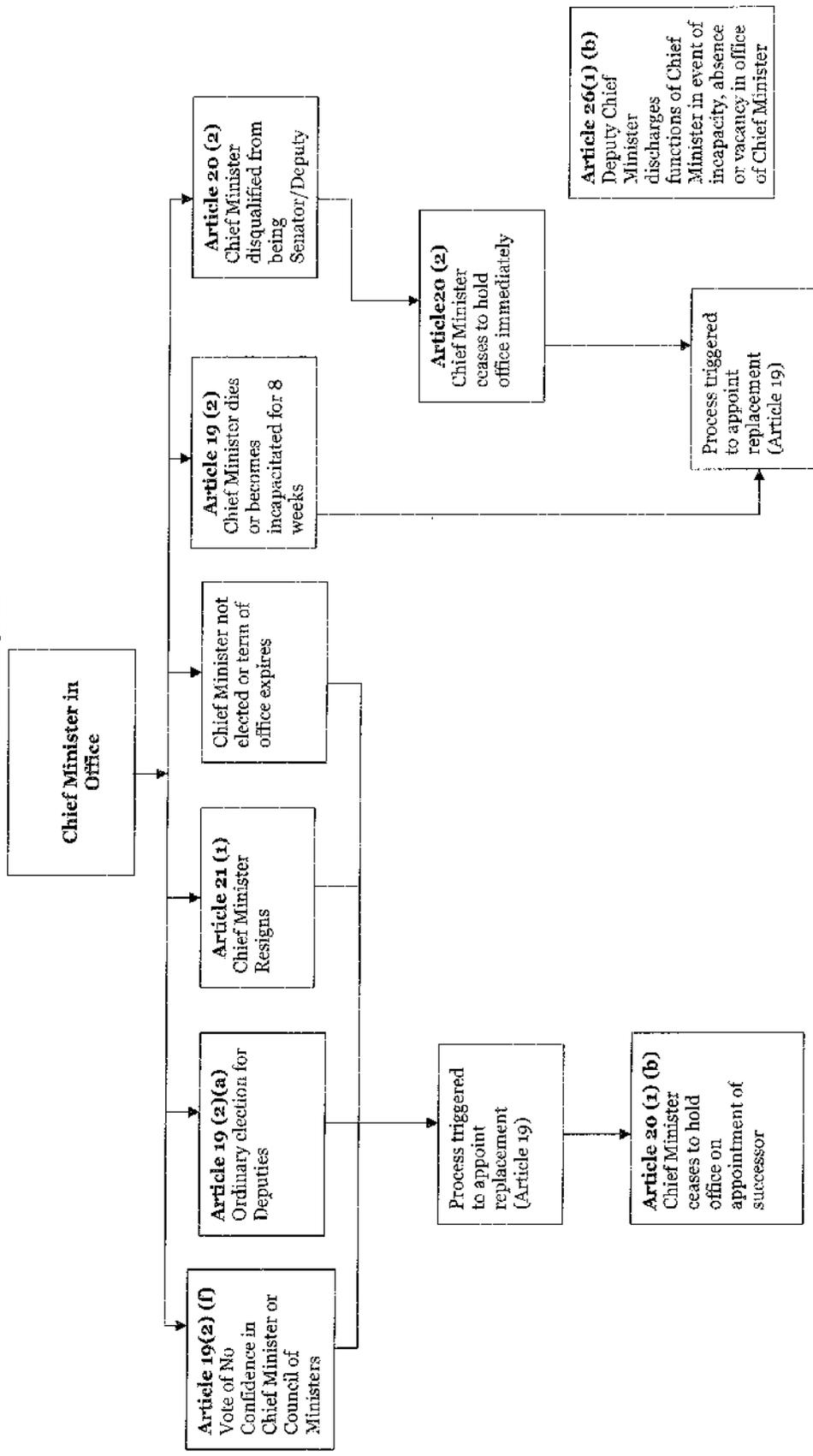
Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 28th June 2004 the Privileges and Procedures Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Privileges and Procedures Committee the provisions of the States of Jersey Law 200- are compatible with the Convention Rights.

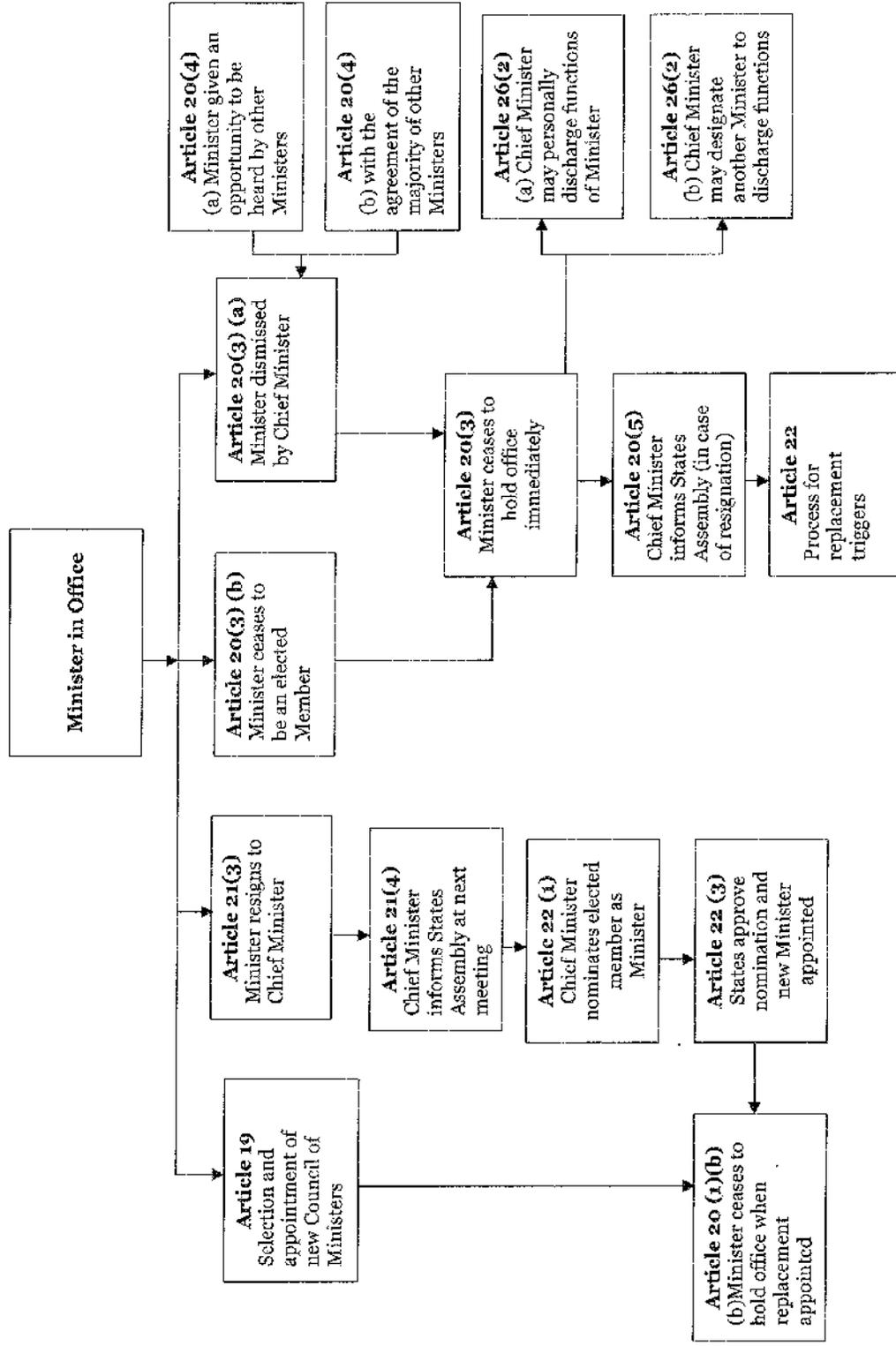
Selection and Appointment of Council of Ministers



Draft States of Jersey Law – Dismissal and Resignation of Chief Minister



**Draft States of Jersey Law – Dismissal and Resignation of Ministers**



## Explanatory Note

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### Part 1 - Introductory

*Article 1* is the interpretation provision.

### Part 2 - Constitution of the States

*Article 2* replaces Article 1 of the States of Jersey Law 1966 (the "1966 Law"). There are no changes made to the constitution of the States or the rights to speak and vote in the States.

*Article 3* replaces Article 3 and, in part, Article 21(3) of the 1966 Law. There are no changes made to the arrangements for a person to preside in place of the Bailiff or Deputy Bailiff.

*Article 4 and Schedule 1* replace Article 4 of and the First Schedule to the 1966 Law. There are no changes made to the constituencies for the elections of Senators and Deputies. However, the States are given power to make Regulations altering the constituencies for the election of Deputies, although the number of Deputies must remain 29.

*Article 5* replaces Article 5 of the 1966 Law, relating to the term of office of Senators and Deputies, without any change. The opportunity is taken to make it clear that a Senator or Deputy holds office until a successor is sworn in following an ordinary election.

*Article 6* replaces Article 12 of the 1966 Law. No changes are made to the rules for holding ordinary elections for Senators and Deputies. But, the opportunity is taken to clarify the meaning of the third week in October and the last week in November by restating the rule for when ordinary elections must be held. An ordinary election for Senators must be held in the 7 days beginning on the 15th October. An ordinary election for Deputies must be held in the last 7 days of November, beginning on the 24th November. The States are also empowered to make Regulations altering these periods. This Article must be read in conjunction with Article 17 of the Public Elections (Jersey) Law 2002 which requires the Royal Court to order that a public election be held on a Wednesday or on such other day of the week as the States prescribe in Regulations.

*Article 7* replaces Articles 6 and 11 of the 1966 Law. Two changes are made to the rule for qualification to stand for office as a Senator or Deputy. First, the candidate must be a British citizen rather than a British subject. Second, the candidate must have been ordinarily resident in Jersey for a specified period. This new rule reflects the residency requirement in Article 5 of the Public Elections (Jersey) Law 2002 for a person to be included in the electoral register. Either –

the candidate must have been ordinarily resident in Jersey for the period of 2 years ending with the election date or

he or she must have been ordinarily resident in Jersey for the period of 6 months ending with the election date and have been previously ordinarily resident in Jersey for an aggregate of 5 years.

*Article 8* replaces Article 8(1) of the 1966 Law. Four changes are made.

The rule that a person is disqualified if under 21 years of age is omitted. There are 2 reasons for the omission. The statement was inconsistent with Article 6 of the 1966 Law whereby a person is qualified for office if of full age (18 years). Further, if a person is stated to be qualified for office if they have attained a particular age, it is unnecessary to state also that they are disqualified for office if they are under that age.

The rule that a person is disqualified if he is a patient at an institution maintained by virtue of the 'Loi (1890) sur l'Asile Public pour les Aliénés' is replaced as that Law has long been repealed. The new rule is that a person is disqualified if he is compulsorily detained in a hospital or subject to a guardianship order under the Mental Health (Jersey) Law 1969. This rule disqualifies a person both for election and continuing in office.

The following two rules apply to a person in office.

A person becomes disqualified for being a Senator or Deputy upon ceasing to be a British citizen (for example, upon renouncing British citizenship).

A person becomes disqualified for being a Senator or Deputy on not being resident in Jersey for more than 6 months.

*Article 9* replaces Article 8(2)- (6) of the 1966 Law and restates the requirement for a candidate for election as Senator or Deputy to make a declaration which includes details of certain convictions. The opportunity is taken to make it clearer that a candidate's written declaration will be read out at the nomination meeting by the person presiding.

*Article 10* replaces Article 9 and, in part, Article 8(1)(b) of the 1966 Law.

It restates the rule requiring an officer or employee in the service of the States or an administration of the States to resign when elected as a Senator or Deputy or on taking office as Connétable.

It also restates the rule disqualifying a Senator, Connétable or Deputy for appointment to any office or employment in the service of the States or any administration of the States.

*Article 11 and Part 1 of Schedule 2* replace Article 7 of and the Second Schedule to the 1966 Law, specifying the form of oath for Senators and Deputies.

*Article 12* replaces Article 13 of the 1966 Law, regarding the resignation of Senators and Deputies, without an change of procedure.

*Article 13* replaces Article 14 of the 1966 Law regarding the filling of casual vacancies in the office of Senator or Deputy.

One small procedural change is made. The present Law requires the Royal Court to order an election to be held within 6 weeks of the Court declaring the office of Senator or Deputy to be vacant. Article 17(2) of the Public Elections (Jersey) Law 2002 requires that the election be held not earlier than 38 days after the date of the Court Order and on a Wednesday or other day of the week prescribed by Regulations. The resultant 4 day 'window' of time in which the election must be held is considered too inflexible. Therefore this Law simply requires the Court to order the election to be held as soon as is convenient (subject, still, to the requirement in the Public Elections (Jersey) Law 2002 that the election date is not earlier than 38 days after the date of the Court Order). The States may prescribe in standing orders a period within which the election must be held.

*Article 14* replaces Article 15 of the 1966 Law, regarding the term for which a person filling a casual vacancy serves, without change.

### **Part 3 - Proceedings of the States**

Certain matters dealt with in the 1966 Law will be contained in standing orders made under this new Law, for example, the frequency with which the States meet and the convening of States meetings, the penalty for failing to attend a meeting of the States, the requirement to record the names of members present, the arrangements for lodging propositions and the requirement to keep minutes of States proceedings. Therefore, this Law contains no equivalent of Articles 16, 19, 20, 24 and 25 of the 1966 Law as such, although *Article 44* requires certain records of States meetings to be kept.

*Article 15* replaces Article 18 of the 1966 Law, regarding a quorum of the States, without any change.

*Article 16* replaces Article 21 of the 1966 Law. The rule that any matter must be decided by a majority of the members present and voting remains unchanged. However, the Bailiff's casting vote is removed with the consequence that if, any time, the votes on a matter are equally divided, the matter is decided in the negative.

*Article 17* replaces Articles 10 and 26 of the 1966 Law, regarding the validity of acts of elected members and proceedings of the States, without any change.

### **Part 4 - Ministers**

*Article 18* states that there shall be a Chief Minister and 9 Ministers (the "Council of Ministers") and describes functions that the Chief Minister and Ministers must discharge collectively and functions that the Chief Minister must discharge alone. The Law is silent as to the manner in which the Council conducts its meetings and affairs, leaving the Council to determine its own procedures.

*Article 19* requires the States to select a Chief Minister and Ministers who are then appointed to office.

The selection of a Chief Minister is triggered by one of the events in *paragraph (2)*

The events that trigger the selection of a Chief Minister have the result that the term of office of the Chief Minister and Ministers –

- (a) will never exceed 3 years (unless re-selected), because the triennial elections of Deputies always initiate the selection process; and
- (b) will be brought to an end before the 3 years expires if the Chief Minister loses his or her place in the States, resigns or dies or if the States decide that they have no confidence in the Chief Minister personally or in the Council of Ministers as a whole.

*Paragraph (2)(g)* is an additional case which triggers the selection process. It caters for a situation where the States select a person as Chief Minister designate but then reject that person's nominations for Ministers. Once the Chief Minister designate's nominations have been rejected a prescribed number of times, that person has effectively failed to present a ministerial team that is acceptable to the States and accordingly ceases to be Chief Minister designate (*paragraph (6)*). At that point, *paragraph (2)(g)* provides for the process to be restarted and a new Chief Minister designate to be selected.

If the selection and appointment of a new Chief Minister and Ministers would take place less than 8 weeks before the triennial selection which is initiated by the ordinary elections for Deputies, *paragraph (8)* gives the States a discretion not to make the new appointments.

Once selected, *paragraph (3)* requires the Chief Minister designate to bring forward the names of the elected members that he or she wishes to have appointed as Ministers and propose the Ministerial office to which he or she would be assigned. *Paragraph (4)* requires the States to accept or reject the nominations and ministerial responsibilities proposed as a whole. The States cannot amend them or accept them in part.

If the States reject the Chief Minister designate's nominations and proposals, the Chief Minister designate must come back with further nominations and proposals. *Paragraph (6)* provides that, once the Chief Minister designate's nominations and proposals have been rejected by the States on a number of occasions to be prescribed in standing orders, the process is terminated, the person ceases to be Chief Minister designate and *paragraph (2)(g)* then has the effect that a new Chief Minister must be selected.

Once the States accept a Chief Minister designate's nominations and proposals for Ministers, both the Chief Minister and the nominated Ministers are, from that time, appointed to office.

*Article 20* provides for the term of office of the Chief Minister and Ministers.

The basic rule is that any Minister continues in office until his or her replacement is appointed. However, there is an exception in the case of a Minister who becomes disqualified for office or who is dismissed, whose appointment ends on disqualification or dismissal.

*Paragraph (4)* gives the Chief Minister a limited power to dismiss a Minister. The Minister to be dismissed must be given the opportunity to be heard by the other Ministers and a majority of the other Ministers must agree to the dismissal. The Chief Minister must inform the States of a dismissal and the reasons for it.

*Article 21* provides for the resignation of Ministers. The Chief Minister may resign by giving written notice to the Bailiff and the Bailiff must then inform the States of the resignation. A Minister may resign by giving written notice to the Chief Minister and the Chief Minister must then inform the States of the resignation.

*Article 22* deals with the subsequent selection of a Minister where a Minister resigns or a vacancy in office arises. The Chief Minister must bring forward the name of the elected member he or she wishes to have appointed as Minister and propose the Ministerial office to which that person would be assigned. The States must accept or reject the nomination and proposal. The person's appointment takes effect upon the States accepting the nomination and proposal.

*Article 23* gives the Chief Minister power to appoint and dismiss a Deputy Chief Minister from amongst the Ministers, who have no say in the appointment or dismissal. The Chief Minister must inform the States of the appointment or dismissal of a Deputy Chief Minister but is not required to inform the States of the reasons for such a dismissal.

*Article 24* enables the Chief Minister and Ministers to appoint Assistant Ministers. Each of them may appoint (and dismiss) up to 2 Assistant Ministers. However, the number of Assistants appointed must not cause the

aggregate of the Chief Minister, Ministers and Assistant Ministers to exceed 23 (43% of the elected members of the States). A power is taken to increase or decrease the aggregate figure which must not be exceeded.

*Article 25* confers on the Chief Minister and Ministers the status of corporations sole. This confers perpetual succession upon the office of Minister. Each Minister will have a seal of office and a document sealed and signed by the Minister will be receivable in evidence. A Minister may enter into agreements, hold movable property, sue and do any other thing necessary to discharge the functions of his or her office. A Minister may also be sued and found criminally liable.

*Article 26* describes the circumstances in which one Minister may act in place of another.

The Deputy Chief Minister is required to discharge the Chief Minister's functions when the Chief Minister is absent or incapacitated or, pending the appointment of a new Chief Minister, in the event that the Chief Minister dies or is disqualified for office as an elected member.

If a Minister is absent or incapacitated or if there is a vacancy in a Ministerial office, the Chief Minister can either discharge the functions of that Minister personally or designate another Minister to discharge them.

*Article 27* empowers a Minister to delegate functions. The power may be compared to the power vested in Committees to delegate under Article 36A of the 1966 Law. A Minister may delegate to an Assistant Minister or an officer. A Minister cannot delegate a power to pass an enactment or to decide an appeal under an enactment. A Minister can personally discharge a function, even if the function has been delegated. A person purporting to discharge delegated functions in good faith is protected from suit in the event that there is any error or failure in the delegation.

*Article 28* empowers the Chief Minister, with the approval of the States, to move a Minister from one Ministerial office to another. It also empowers the States, by Regulations, to establish and abolish Ministers, change the name of Ministers and transfer functions from one Minister to another. The power may be compared to the power currently vested in the States to transfer functions from one Committee to another under Article 29 of the 1966 Law. However, *Article 28* differs from Article 29 of the 1966 Law in two ways. Firstly, it is made clear that the Regulations may cause any criminal liability of the transferring Minister relating to the functions being transferred to pass to the receiving Minister. Secondly, only the Chief Minister may lodge draft Regulations under this Article.

*Article 29* is a new requirement for the Chief Minister to maintain a list of Ministers and the functions assigned to them and to make the list available to the public. Its purpose is to ensure that there is, at all times, an up-to-date statement of Ministerial responsibilities. Without it, such responsibilities could only be ascertained by researching States minutes of appointments under *Articles 19 and 22* and Regulations transferring functions under *Article 28*.

*Article 30* is a new requirement for the Chief Minister to seek the views of the States upon draft Acts of the United Kingdom Parliament and draft Orders in Council extending such Acts. In the event that an Act or Order in Council transmitted to the Royal Court for registration has not been agreed to by the States, the Court must refer it to the Chief Minister, who must in turn refer it to the States.

*Article 31* is a general provision for the construction of all enactments. A reference to the Chief Minister means the person appointed as such under this Law. A reference to the Council of Ministers means the Council appointed under this Law. A reference to a Minister or any Minister means any of the Ministers appointed under this Law. A reference to the Minister, without further description, means the Minister responsible for the enactment in which the reference appears.

## **Part 5 - Powers, privileges and immunities**

*Article 32* replaces Articles 38, 40 and 48 of the 1966 Law, regarding the admittance to and withdrawal from the States precincts of strangers.

*Article 33* replaces Article 37 of the 1966 Law regarding the immunity of a States member from legal proceedings. Article 37 currently provides immunity in respect of words spoken before or written in a report to the States or a Committee. This new Article provides immunity in respect of words spoken before or written in a report to the States or a committee or panel established by standing orders (made under *Article 43*).

*Article 34* replaces Article 51 of the 1966 Law, and provides for minutes of the States or of any committee or panel established under standing orders which have been signed by the Greffier of the States to be received in evidence without further proof.

*Article 35* replaces Article 47 of the 1966 Law. It requires members and officers of the States and person employed to take minutes before the States or any committee or panel established by standing orders to obtain the consent of the States or the committee or panel in question before giving evidence before another body regarding minutes of or documents before the States or the committee or panel. The requirement is subject to standing orders, which may make exceptions to the requirement for consent, for example, where the person is giving evidence before a committee of inquiry established under standing orders.

*Article 36* replaces Article 52 of the 1966 Law, making it an offence to print false copies of enactments and other States' documents.

*Article 37* replaces Article 53 of the 1966 Law, and protects from civil or criminal suit a publisher proved to have published an enactment or other States' document by order or under the authority of either the States or a committee or panel established by standing orders.

*Article 38* replaces Article 54 of the 1966 Law, and provides protection from civil suit when publishing, in good faith and without malice, any document by order or under the authority of either the States or a committee or panel established by standing orders.

*Article 39* replaces Article 55 of the 1966 Law and has the effect that the courts do not have jurisdiction over a person in the exercise of any powers conferred by or under Part 5.

## **Part 6 - Officers of the States**

*Article 40* replaces Article 2 of the 1966 Law, in part, expressing the Greffier of the States to be clerk to the States, and introduces provisions for the appointment of the Greffier of the States, Deputy Greffier of the States and other officers comprising the States Greffe. These provisions were formerly located in the Departments of the Judiciary and the Legislature (Jersey) Law 1965.

*Article 41* replaces the remainder of Article 2 of the 1966 Law, expressing the Viscount to be the executive officer of the States, and Article 56 of the 1966 Law, conferring on the Viscount, when enforcing the Law, all the power and privileges of a Centenier.

## **Part 7 - Supplementary**

*Article 42* formally abolishes any power of the Bailiff to dissent to a resolution of the States and any power of the Lieutenant-Governor to veto a resolution of the States. These powers were expressed in Articles 22 and 23 of the 1966 Law but derived from Orders in Council. This Article also formally abolishes the Committees of the States, some of which were created by enactment, others of which were created by resolution of the States.

*Article 43* replaces Article 50 of the 1966, re-enacting the offence, committed by a member of the States or by an unelected member of a committee of inquiry, of accepting a bribe.

*Article 44* is the power for the States to make standing orders giving effect to the Law and regulating the proceedings and business of the States. Furthermore, there are certain matters that the States are required to include in standing orders.

*Paragraph (2)* requires the States to establish, by standing orders, a Privileges and Procedures Committee and set its terms of reference. The Committee must consist of a chairman and 6 elected members. The States must appoint an elected member who is not a Minister or Assistant Minister as chairman. The States must then appoint 4 members who are not Ministers nor Assistant Ministers and 2 members who must be either a Minister or Assistant Minister. Although the Committee is to be established by standing orders, these requirements mean that a change to the constitution of the Committee or a decision to disband the Committee would first require an amendment to this paragraph.

*Paragraph (3)* requires the States, by standing orders, to establish a Public Accounts Committee and set its terms of reference. The chairman of the committee must be neither a Minister nor an Assistant Minister. The remaining Committee members must be the chairman of the Scrutiny Panels and at least 2 other members, who are not Ministers or Assistant Ministers, appointed by the States. Again, although the Committee is to be established by standing orders, the requirements mean that a change in the chairmanship or constitution of the Committee or a decision to disband the Committee would first require an amendment to this paragraph.

*Paragraph (4)* requires the States, by standing orders, to establish at least one Scrutiny Panel. Neither the chairman or other members may be Ministers or Assistant Ministers. As before, although any Scrutiny Panel is to be established by standing orders, an amendment to this paragraph would first be required if the States wished to alter the composition of a scrutiny panel or abolish scrutiny panels.

*Paragraph (5)* requires the States, by standing orders, to make provision for the taking and keeping of minutes and written transcripts of States proceedings. The requirement relating to minutes replaces Article 25 of the 1966 Law. The requirement relating to written transcripts is new.

Apart from these requirements, the States have a discretion as to their power to make standing orders regarding the conduct of States business.

*Paragraph (6)* enables the States to set up committees of inquiry that, as now, may include persons other than members of the States.

*Article 45* enables the States to make Regulations conferring powers on committees and panels established by standing orders to compel the attendance of witnesses and confer immunity from suit on committee and panel members and witnesses. This power replaces Articles 36B to 36L of the 1966 Law.

*Article 46* confers on the States extensive powers to make Regulations to bring this Law into force.

*Paragraph (1)(a)* empowers the States to make Regulations transferring functions from Committees, when they are abolished under *Article 42(3)* to Ministers.

*Paragraph (1)(b)* empowers the States to make Regulations amending Laws, Regulations, Orders and other enactments made in Jersey in order to implement the change from a committee system to a ministerial system of government. Regulations may also provide for the construction of Orders in Council, Acts and other legislation of the United Kingdom applied to Jersey, for the same purpose. A series of Regulations will be presented under this power amending enactments to the effect that functions previously discharged by Committees are in future discharged by Ministers.

*Paragraph (1)(c)* empowers the States to make Regulations to implement the transition from the 1966 Law to this Law.

*Paragraph (2)* is supplemental to *paragraph (1)(a)* and makes it clear that, when functions are transferred from Committees to Ministers, rights and liabilities (including criminal liability) may also be transferred, and actions commenced by a Committee completed by a Minister.

*Paragraph (3)* empowers the States, if they so wish, to modify the procedure for selection and appointment of a Chief Minister and Ministers on the first occasion that the procedure is followed.

*Article 47* makes it clear that the Attorney General's consent is required to prosecute an offence under the Law.

*Article 48* gives effect to *Schedule 3. Part 1 of Schedule 3* makes consequential amendments of other enactments. *Part 2 of Schedule 3* repeals the 1966 Law. *Part 3 of Schedule 3* repeals words in Orders in Council applicable to Jersey.

*Article 49* gives the short title of the Law. The Regulation making powers come into force 7 days after the Law is registered in the Royal Court. The remaining Articles of the Law will be brought into force by Appointed Day Act.

*Schedule 1* states the constituencies for Deputies.

*Schedule 2* sets out the oaths to be taken by Senators, Deputies, the Greffier of the States, the Deputy Greffier of the States and the Acting Greffier of the States.

*Schedule 3 Part 1* amends other enactments.

*Schedule 3 Part 2* repeals the States of Jersey Law 1966.

*Schedule 3 Part 3* repeals parts of Orders in Council applicable to Jersey.

The words repealed in the Order in Council dated 28th March 1771 deal with two matters. Firstly they require propositions to be written down and lodged au Greffe for at least 14 days. It is proposed that in the future all rules for lodging should be determined by the States and contained in standing orders. Secondly they require that, if the Lieutenant Governor is not present when a matter is debated, it shall be referred to him so that he may determine whether or not to exercise his power of veto. *Article 40(2)* of this draft Law

abolishes that power of veto.

The words repealed in the Order in Council dated 2nd June 1786 originally conferred the Bailiff's power of dissent which was enacted locally in Article 22 of the 1966 Law. Article 40(1) of this draft Law abolishes that power of dissent.

The words repealed in the Order in Council dated 23rd May 1816 require the Greffier of the States to certify that every Act transmitted for confirmation has been lodged au Greffe for 14 days or state why the requirement for lodging has not been or could not be complied with.





Jersey

# DRAFT STATES OF JERSEY LAW 200-

## Arrangement

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### Article

#### **PART 1**

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##### INTRODUCTORY

1        Interpretation

#### **PART 2**

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##### CONSTITUTION OF STATES

2        Constitution of the States

3        Presidency of the States

4        Constituencies

5        Term of office of Senators and Deputies

6        Ordinary elections for Senators and Deputies

7        Qualification for election as Senator or Deputy

8        Disqualification for office as Senator or Deputy

9        Declaration to be made when nominated

10       Disqualification of elected member for holding office or employment in the service of the States

11       Oath of office

12       Resignation of Senator or Deputy

13       Casual vacancy in office of Senator or Deputy

14       Term of office of person filling casual vacancy

#### **PART 3**

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##### PROCEEDINGS OF THE STATES

15       Quorum

16       Decisions

17       Validity of acts and proceedings

#### **PART 4**

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##### MINISTERS

18       Council of Ministers

19       Selection and appointment of Council of Ministers

20       Term of office and dismissal of Ministers

21       Resignation of Minister

22       Subsequent appointment of Minister

23       Appointment and dismissal of Deputy Chief Minister

<u>24</u>	<u>Appointment and dismissal of Assistant Ministers</u>
<u>25</u>	<u>Status of Minister</u>
<u>26</u>	<u>Power for Minister to act in the absence of another Minister</u>
<u>27</u>	<u>Power of Minister to delegate functions</u>
<u>28</u>	<u>Powers to move Ministers and to change Ministerial offices</u>
<u>29</u>	<u>Duty to maintain list of ministerial responsibilities</u>
<u>30</u>	<u>Duty to refer certain matters to the States</u>
<u>31</u>	<u>Construction of enactments</u>

## **PART 5**

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### **POWERS, PRIVILEGES AND IMMUNITIES**

<u>32</u>	<u>Entry to States</u>
<u>33</u>	<u>Immunity from legal proceedings</u>
<u>34</u>	<u>Minutes of States etc. to be evidence</u>
<u>35</u>	<u>Evidence of proceedings not to be given without leave</u>
<u>36</u>	<u>Offence of printing false documents</u>
<u>37</u>	<u>Protection of persons responsible for States and other publications</u>
<u>38</u>	<u>Protection in civil proceedings for publication without malice</u>
<u>39</u>	<u>Exercise of jurisdiction by courts</u>

## **PART 6**

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### **OFFICERS OF THE STATES**

<u>40</u>	<u>Greffier of the States</u>
<u>41</u>	<u>Viscount</u>

## **PART 7**

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### **SUPPLEMENTARY**

<u>42</u>	<u>Powers and Committees abolished</u>
<u>43</u>	<u>Offence of accepting bribe</u>
<u>44</u>	<u>Standing orders</u>
<u>45</u>	<u>Regulations: powers, privileges and immunities</u>
<u>46</u>	<u>Regulations: transition and implementation</u>
<u>47</u>	<u>Authority for prosecutions</u>
<u>48</u>	<u>Amendments and repeals</u>
<u>49</u>	<u>Citation and commencement</u>

## **SCHEDULE 1**

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### **DEPUTIES' CONSTITUENCIES**

## **SCHEDULE 2**

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### **OATHS**

#### **PART 1**

#### **FORM OF OATH TO BE TAKEN BY SENATORS AND DEPUTIES**

#### **PART 2**

#### **OATH OF OFFICE OF THE GREFFIER, DEPUTY GREFFIER OR ACTING GREFFIER OF THE**

STATES

**SCHEDULE 3**

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PART 1

ENACTMENTS AMENDED

- 1      Interpretation (Jersey) Law 1954
- 2      Departments of the Judiciary and the Legislature (Jersey) Law 1965
- 3      Legislation (Amending Power) (Jersey) Law 1999
- 4      Public Elections (Jersey) Law 2002

PART 2

ENACTMENTS REPEALED

PART 3

ORDERS IN COUNCIL APPLICABLE TO JERSEY AMENDED

- 1      Order in Council dated 28th March 1771
- 2      Order in Council dated 2nd June 1786
- 3      Order in Council dated 23rd May 1816





Jersey

## DRAFT STATES OF JERSEY LAW 200-

**A LAW** regarding the constitution and proceedings of the States, to declare and define the powers, privileges and immunities of the States, and to establish a ministerial system of government.

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*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]

**WHEREAS** it is recognized that Jersey has autonomous capacity in domestic affairs;

**AND WHEREAS** it is further recognized that there is an increasing need for Jersey to participate in matters of international affairs;

**AND WHEREAS** Jersey wishes to enhance and promote democratic, accountable and responsive governance in the island and implement fair, effective and efficient policies, in accordance with the international principles of human rights –

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

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### PART 1

#### INTRODUCTORY

##### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Assistant Minister” means a person appointed as such under Article 24;

“Chief Minister” means the person appointed as such under Article 19;

“Council of Ministers” shall be construed in accordance with Article 18(1);

“document” includes accounts, deeds, papers, records, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;

“elected member” means a Senator, Connétable or Deputy;

“lodge” means lodge au Greffe in accordance with standing orders;

“member of the States” shall be construed in accordance with Article 2(1);

“Minister” means a person appointed as such under Article 19 or 22;

“officer of the States” means the Greffier of the States, the Deputy Greffier of the States, an Acting Greffier of the States or the Viscount;

“precincts of the States” means –

- (a) the States’ Chamber;
- (b) any rooms whilst provided for the exclusive use or accommodation of members of the States;
- (c) the galleries and places provided for the use or accommodation of strangers, members of the public and representatives of the press,

and, while the States are meeting, includes those parts of the building giving direct access to the States’ Chamber;

“prescribed” means prescribed in standing orders;

“standing orders” means standing orders made under Article 44;

“stranger” means any person other than the Deputy Bailiff, a member of the States or an officer of the States.

- (2) A reference to an administration of the States includes any committee or panel established by standing orders, other than a committee of inquiry.
- (3) The States may by Regulations amend the definition “precincts of the States” in paragraph (1).

## **PART 2**

### **CONSTITUTION OF STATES**

#### **2 Constitution of the States**

- (1) The States of Jersey are constituted as follows –
  - the Bailiff;
  - the Lieutenant-Governor;
  - 12 Senators, elected as provided by this Law;
  - the Connétables of the 12 Parishes of Jersey, who are members of the States by virtue of their office;
  - 29 Deputies, elected as provided by this Law;
  - the Dean of Jersey;
  - the Attorney General;
  - the Solicitor General.
- (2) All members of the States shall have the right to speak in the Assembly.
- (3) Only elected members shall have the right to vote in the Assembly.

#### **3 Presidency of the States**

- (1) The Bailiff shall be President of the States.
- (2) If both the Bailiff and Deputy Bailiff are unable to preside at a meeting of the States, the Bailiff shall choose an elected member, the Greffier of the States or the Deputy Greffier of the States to preside at the meeting.
- (3) Subject to standing orders, the person chosen to preside at a meeting of the States under paragraph (2), shall, while presiding at the meeting, have the same powers as the Bailiff when presiding at such a

meeting.

- (4) An elected member presiding at a meeting of the States shall not have the right to vote.

#### **4 Constituencies**

- (1) For the purpose of the election of Senators, Jersey shall be a single constituency.
- (2) For the purpose of the election of Deputies –
  - (a) Jersey shall be divided into the constituencies mentioned in column 1 of Schedule 1; and
  - (b) each such constituency shall return the number of Deputies specified in column 2 of Schedule 1 in relation to that constituency.
- (3) The States may by Regulations amend Schedule 1 so as to alter, combine, split and rename the constituencies there mentioned and, subject to paragraph (4), amend the number of Deputies there specified in relation to a constituency.
- (4) The total number of Deputies specified shall remain 29.

#### **5 Term of office of Senators and Deputies**

- (1) Senators shall be elected for a term of 6 years and, in every third year, 6 Senators shall retire on their places being filled by an ordinary election.
- (2) Deputies shall be elected for a term of 3 years and shall retire on their places being filled by an ordinary election.
- (3) The places of Senators and Deputies are filled upon the persons elected at the ordinary election taking the oath of their office.

#### **6 Ordinary elections for Senators and Deputies**

- (1) An ordinary election for Senators shall be held in the period of 7 days beginning on 15th October in every third year.
- (2) An ordinary election for Deputies shall be held in the period of 7 days beginning on 24th November in every third year.
- (3) The States may by Regulations amend paragraphs (1) and (2) so as to alter the period in which an ordinary election must be held, both as to its duration and the day it begins.

#### **7 Qualification for election as Senator or Deputy**

- (1) A person shall, unless disqualified by paragraph (2) or Article 8(1) or any other enactment, be qualified for election as a Senator or a Deputy if he or she –
  - (a) is of full age; and
  - (b) is a British citizen who has been –
    - (i) ordinarily resident in Jersey for a period of at least 2 years up to and including the day of the election, or
    - (ii) ordinarily resident in Jersey for a period of 6 months up to and including the day of the election, as well as having been ordinarily resident in Jersey at any time for an additional period of, or for additional periods that total, at least 5 years.
- (2) A person shall be disqualified for election as a Senator or Deputy if he or she is a paid officer, other than an industrial or manual worker, in the full-time service of the States or any administration of the States.

- (3) A retiring Senator or Deputy who is not disqualified by this Law or any other enactment shall be eligible for re-election.

## **8 Disqualification for office as Senator or Deputy**

- (1) A person shall be disqualified for election as or for being a Senator or Deputy if that person –
- (a) holds any paid office or other place of profit under the Crown;
  - (b) is a member of the States of Jersey Police Force;
  - (c) is a paid officer in the full-time service of any parochial authority;
  - (d) is compulsorily detained or subject to a guardianship order under the Mental Health (Jersey) Law 1969<sup>[1]</sup>
  - (e) has a curator of his or her person or property;
  - (f) has an attorney without whom he or she may not act in matters movable or immovable;
  - (g) subject to paragraphs (3) and (4), has become bankrupt or made a composition or arrangement with his or her creditors;
  - (h) has been convicted of an offence under Article 43; or
  - (i) within the 7 years immediately preceding the date of his or her election, or since his or her election, has been convicted, whether in Jersey or elsewhere, of any offence and ordered to be imprisoned for a period of not less than 3 months, without the option of a fine.
- (2) A person shall be disqualified for being a Senator or Deputy upon –
- (a) ceasing to be a British citizen; or
  - (b) not being resident in Jersey for a period of more than 6 months.
- (3) The disqualification attaching to a person by reason of his or her having become bankrupt shall cease –
- (a) if the person pays his or her debts in full on or before the conclusion of the bankruptcy proceedings, on the day the proceedings are concluded;
  - (b) in any other case, on the expiry of 5 years from the day the proceedings are concluded.
- (4) The disqualification attaching to a person by reason of his or her having made a composition or arrangement with his or her creditors shall cease –
- (a) if the person pays his or her debts in full, on the day on which the payment is completed;
  - (b) in any other case, on the expiry of 5 years from the day on which the terms of the composition or arrangement are fulfilled.

## **9 Declaration to be made when nominated**

- (1) A person seeking election as a Senator or Deputy shall, at the time of his or her nomination, be required to make a declaration, in writing –
- (a) that he or she is qualified for being elected by virtue of this Law or any other enactment;
  - (b) of his or her convictions, whether in Jersey or elsewhere, which are not spent convictions;
  - (c) notwithstanding the Rehabilitation of Offenders (Jersey) Law 2001<sup>[2]</sup> of his or her spent convictions, whether in Jersey or elsewhere, for any of the following offences –
    - (i) treason,
    - (ii) murder,
    - (iii) manslaughter,
    - (iv) rape,

- (v) incest,
  - (vi) sodomy,
  - (vii) any offence against a person not of full age,
  - (viii) fraud or any like offence,
  - (ix) obtaining property by false pretences,
  - (x) theft,
  - (xi) perjury,
  - (xii) perverting the course of justice,
  - (xiii) an offence mentioned in the definition “drug trafficking offence” in Article 1(1) of the Drug Trafficking Offences (Jersey) Law 1988<sup>[3]</sup>
  - (xiv) an offence of attempt to commit any of the offences in clauses (i) to (xiii),
  - (xv) an offence of conspiracy or incitement to commit any of the offences in clauses (i) to (xiii),
  - (xvi) an offence of aiding, abetting, counselling or procuring any of the offences in clauses (i) to (xv).
- (2) The person presiding at a nomination meeting convened under Article 20 of the Public Elections (Jersey) Law 2002<sup>[4]</sup> shall read out to the meeting the declaration made under paragraph (1) by a person proposed as a candidate.
  - (3) A person who knowingly makes a false declaration under paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.<sup>[5]</sup>
  - (4) The States may by Regulations amend paragraph (1)(c) so as to vary, add or omit any description of offence for which a spent conviction must be disclosed.
  - (5) The form and content of the declaration required by paragraph (1) may be prescribed.
  - (6) In this Article, “spent conviction” has the same meaning as in the Rehabilitation of Offenders (Jersey) Law 2001.<sup>[6]</sup>

## **10 Disqualification of elected member for holding office or employment in the service of the States**

- (1) A person who becomes an elected member, on taking oath of the office to which he or she is elected, shall cease to hold any paid office or employment in the service of the States or any administration of the States.
- (2) An elected member shall be disqualified for appointment to any paid office or employment in the service of the States or any administration of the States.

## **11 Oath of office**

The oath of office of Senators and Deputies shall be in the form set out in Part 1 of Schedule 2.

## **12 Resignation of Senator or Deputy**

- (1) A Senator or Deputy may, at any time, resign his or her office by notice in writing signed by him or her and delivered to the Bailiff.
- (2) The Bailiff shall inform the States of such a resignation at their next meeting.
- (3) A resignation shall take effect when the States are informed of it under paragraph (2).

### **13 Casual vacancy in office of Senator or Deputy**

- (1) This Article applies where a casual vacancy occurs in the office of Senator or Deputy, being a vacancy occurring otherwise than upon retirement of the officeholder under Article 5.
- (2) The Bailiff shall forthwith inform the Attorney General of the vacancy.
- (3) The Attorney General, on being informed of the vacancy, shall forthwith notify the Royal Court.
- (4) The Royal Court, on being informed of the vacancy, shall subject to paragraph (5), make an order under the Public Elections (Jersey) Law 2002<sup>[7]</sup> for an election to fill the vacancy to be held as soon as is convenient and, in any case, no later than the expiry of such period following the occurrence of the vacancy as may be prescribed.
- (5) Where the vacancy occurs after the 31st March immediately preceding the ordinary day of retirement from the office in which the vacancy occurs –
  - (a) the Royal Court shall not order an election to fill the vacancy; and
  - (b) the vacancy shall be filled at the next ordinary election.
- (6) Where, under paragraph (5)(b), an election to fill one or more casual vacancies in the office of Senator is combined with an ordinary election of Senators –
  - (a) where the election is contested –
    - (i) the persons who are elected by the smallest number of votes shall be deemed elected to fill the casual vacancies,
    - (ii) in the case of an equality of votes between the persons who are elected by the smallest number of votes, the persons who shall be deemed elected to fill the casual vacancies shall be determined by lot,
    - (iii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes, or, if the votes are equal, such person as is determined by lot, shall be deemed elected to hold office for the shorter period;
  - (b) where the election is not contested, the persons who shall be deemed elected to fill the casual vacancies shall be determined by lot.
- (7) Where under this Article any question is required to be determined by lot, the lots shall be drawn at the sitting of the Royal Court convened for the taking of oath of office by the persons elected in the election.
- (8) The States may by Regulations amend the date in paragraph (5).

### **14 Term of office of person filling casual vacancy**

A person elected to fill a casual vacancy in the office of Senator or Deputy shall hold office until the day on which the person in whose place he or she is elected would have retired under Article 5, and shall then retire.

## **PART 3**

### **PROCEEDINGS OF THE STATES**

### **15 Quorum**

The States shall be lawfully constituted and may conduct any business which it is in their power to conduct

if there are no less than 24 elected members present.

## **16 Decisions**

- (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.
- (2) If, on any matter before the States, the votes are equally divided, the matter shall be determined in the negative.

## **17 Validity of acts and proceedings**

- (1) The acts and proceedings of any person elected to the States and acting as a member of the States shall, notwithstanding that person's want of qualification or disqualification, be valid and effectual as if that person had been qualified.
- (2) The proceedings of the States shall not be invalidated by any vacancy among their number or by any defect in the election or qualification of any member of the States.

# **PART 4**

## **MINISTERS**

## **18 Council of Ministers**

- (1) There shall be a Council of Ministers whose members shall be the Chief Minister and 9 Ministers.
- (2) The functions of the Council of Ministers shall be –
  - (a) co-ordinating the policies and administration for which they are responsible as Ministers;
  - (b) discussing and agreeing policy which affects 2 or more of them;
  - (c) discussing and agreeing their common policy regarding external relations;
  - (d) prioritizing executive and legislative proposals;
  - (e) agreeing and, within 4 months of their appointment under Article 19(7), lodging for approval by the States, a statement of their common strategic policy; and
  - (f) such other matters as the Council of Ministers may determine.
- (3) The functions of the Chief Minister shall include –
  - (a) co-ordinating, through the Council of Ministers, the discharge of the common functions described in paragraph (2);
  - (b) conducting external relations in accordance with the common policy agreed by the Council of Ministers.

## **19 Selection and appointment of Council of Ministers**

- (1) The States shall, within the prescribed period following any of the events described in paragraph (2) select an elected member for appointment as Chief Minister.
- (2) The events are –
  - (a) each ordinary election for Deputies;
  - (b) the Chief Minister ceasing to be an elected member;
  - (c) the resignation from office of the Chief Minister;
  - (d) the death of the Chief Minister;

- (e) the Chief Minister being incapacitated, by reason of any illness or injury, so as to be unable to discharge the functions of his or her office, for a period exceeding 8 weeks;
  - (f) a decision that the States have no confidence in the Chief Minister or in the Council of Ministers;
  - (g) a person ceasing to be Chief Minister designate (otherwise than upon his or her appointment as Chief Minister).
- (3) The Chief Minister designate shall, within the prescribed period –
- (a) nominate elected members for appointment as Ministers; and
  - (b) propose the Ministerial office to which each nominee would be assigned and any Ministerial office to which, in addition to being Chief Minister, the Chief Minister designate would be assigned.
- (4) The States shall, within the prescribed period, accept or reject the nominations and proposals under paragraph (3), but may not amend them or accept them in part only.
- (5) Subject to paragraph (6), where the States reject the Chief Minister designate's nominations and proposals under paragraph (3) the Chief Minister designate shall make further nominations and proposals under that paragraph.
- (6) Where –
- (a) the States reject the Chief Minister designate's nominations and proposals on the prescribed number of occasions; or
  - (b) the Chief Minister designate does not make nominations and proposals within the prescribed period,
- that person shall cease to be Chief Minister designate.
- (7) Upon the States accepting the Chief Minister designate's nominations and proposals under paragraph (3), that person and the persons nominated are appointed to office.
- (8) Where one of the events described in paragraph (2)(b) to (f) occurs within the period of 8 weeks preceding an ordinary election for Deputies, the States may decide not to make any selection and appointment following the event.
- (9) In this Article, "Chief Minister designate" means a person selected under paragraph (1) but not yet appointed as Chief Minister.
- (10) The States may by Regulations amend the period mentioned in paragraph (8).

## **20 Term of office and dismissal of Ministers**

- (1) Subject to this Article –
- (a) the Chief Minister shall continue in office until a further appointment takes effect under Article 19(7);
  - (b) a Minister shall continue in office until a further appointment takes effect under Article 19(7) or 22(3).
- (2) The Chief Minister shall cease to hold office upon his or her ceasing to be a Senator or Deputy by reason of disqualification for office.
- (3) Any other Minister shall cease to hold office upon –
- (a) his or her dismissal under paragraph (4); or
  - (b) his or her ceasing to be an elected member.
- (4) The Chief Minister may dismiss a Minister, but only –
- (a) after the Minister to be dismissed has been given an opportunity to be heard by the other Ministers; and

- (b) with the agreement of a majority of those Ministers.
- (5) The Chief Minister shall inform the States of the dismissal of a Minister and the reasons for it.

## **21 Resignation of Minister**

- (1) The Chief Minister may resign from his or her office by notice in writing, signed by the Chief Minister and delivered to the Bailiff.
- (2) The Bailiff shall inform the States of the resignation of the Chief Minister at the next meeting of the Assembly.
- (3) Any other Minister may resign from his or her office by notice in writing signed by that Minister and delivered to the Chief Minister.
- (4) The Chief Minister shall inform the States of the resignation of a Minister at the next meeting of the Assembly.

## **22 Subsequent appointment of Minister**

- (1) Where a Minister resigns or a vacancy arises in the office of Minister the Chief Minister shall, within the prescribed period, nominate an elected member for appointment as Minister, proposing also the Ministerial office to which that person would be assigned.
- (2) The Chief Minister shall not be required to make a nomination under paragraph (1) where, within the prescribed period following the resignation or vacancy, the States are required to make a selection under Article 19(1).
- (3) Upon the States accepting the Chief Minister's nomination and proposal under paragraph (1), the person nominated is appointed to office.

## **23 Appointment and dismissal of Deputy Chief Minister**

- (1) The Chief Minister –
  - (a) shall appoint one of the Ministers to be Deputy Chief Minister; and
  - (b) may dismiss the person so appointed.
- (2) The Chief Minister shall inform the States of any such appointment or dismissal.

## **24 Appointment and dismissal of Assistant Ministers**

- (1) The Chief Minister and Ministers may each –
  - (a) appoint no more than 2 elected members as his or her Assistant Ministers; and
  - (b) dismiss any of his or her Assistant Ministers.
- (2) A Minister may only appoint or dismiss an Assistant Minister with the prior consent of the Chief Minister.
- (3) The number of Assistant Ministers appointed shall not cause the aggregate of the Chief Minister, Ministers and Assistant Ministers to exceed 23 individuals.
- (4) An Assistant Minister may resign from his or her office by notice in writing signed by that Assistant Minister and delivered to the Minister that he or she assists.
- (5) The States may by Regulations amend paragraph (3) so as to increase or decrease the number there mentioned.

## **25 Status of Minister**

- (1) Each Minister shall be a corporation sole having –
  - (a) subject to Article 28(2), perpetual succession;
  - (b) an official seal, which shall be authenticated by the signature of the Minister or of any person authorized by the Minister to act in that behalf;
  - (c) the power to –
    - (i) enter into agreements for any purpose of his or her office,
    - (ii) acquire, hold and dispose of movable property,
    - (iii) do any other thing which the Minister can do by virtue of his or her office, and
    - (iv) do anything reasonably necessary or expedient for or incidental to any of the matters referred to in the foregoing clauses.
- (2) A Minister may, in the name of his or her office –
  - (a) sue and be sued in any civil proceedings; and
  - (b) be charged with an offence and defend criminal proceedings.
- (3) The official seal of a Minister shall be judicially noticed.
- (4) Every document purporting to be an instrument made or issued by a Minister and to be sealed with the Minister’s official seal, authenticated in accordance with paragraph (2)(b), shall be–
  - (a) received in evidence; and
  - (b) deemed to be so made or issued without further proof, unless the contrary is shown.
- (5) A certificate signed by the Minister that any instrument purporting to be made or issued by the Minister was so made or issued shall be conclusive evidence of that fact.
- (6) In this Article, “Minister” includes the Chief Minister.

## **26 Power for Minister to act in the absence of another Minister**

- (1) The Deputy Chief Minister shall discharge the functions of the Chief Minister during –
  - (a) the temporary absence or incapacity of the Chief Minister; or
  - (b) a vacancy in the office of Chief Minister.
- (2) The Chief Minister may, during the temporary absence or incapacity of a Minister or a vacancy in the office of Minister –
  - (a) personally discharge the functions of that Minister; or
  - (b) designate another Minister to discharge the functions of that Minister.
- (3) The functions that a Minister may discharge under this Article shall include the power to make enactments.
- (4) The temporary discharge by one Minister of the functions of another Minister shall not affect any delegation made by that other Minister under Article 27.

## **27 Power of Minister to delegate functions**

- (1) A Minister may delegate, wholly or partly, functions conferred upon or vested in the Minister by or under this Law or any other enactment or any enactment of the United Kingdom having effect in Jersey, to –
  - (a) one of his or her Assistant Ministers;

- (b) an officer.
- (2) A Minister shall not delegate –
  - (a) any power to make an enactment;
  - (b) any power to decide an appeal under an enactment;
  - (c) any function the delegation of which is prohibited by an enactment.
- (3) The delegation of functions by a Minister under this Article shall not prevent the Minister exercising those functions personally.
- (4) Where any licence, permit or authorization is granted in purported exercise of functions delegated under paragraph (1), no criminal proceedings shall lie against any person for any act done, or omitted to be done, in good faith and in accordance with the terms of the licence, permit or authorization, by reason that the functions had not been delegated, or that any requirement attached to the delegation of the functions had not been complied with.
- (5) In this Article –
  - “Minister” includes the Chief Minister;
  - “officer” means a person employed under the Civil Service Administration (Jersey) Law 1948<sup>[8]</sup> whose duties are wholly or mainly administrative, professional, technical or clerical and includes a member of the States of Jersey Police Force and an officer appointed under paragraph 1(1) of Part 1 of Schedule 2 to the Immigration Act 1971 as extended to Jersey by the Immigration (Jersey) Order 1993<sup>[9]</sup>
- (6) The States may by Regulations amend the definition “officer” in paragraph (5).

## **28 Powers to move Ministers and to change Ministerial offices**

- (1) The Chief Minister may, subject to the approval of the States, move a Minister from one Ministerial office to another.
- (2) The States may by Regulations –
  - (a) establish and abolish Ministers;
  - (b) determine the name by which any Minister shall be described;
  - (c) confer functions upon a Minister;
  - (d) transfer all or any of the functions exercisable by one Minister to another Minister; and
  - (e) direct that the functions exercisable by any Minister shall be or shall cease to be exercisable concurrently with another Minister.
- (3) Regulations made under paragraph (2) may contain such incidental, consequential, supplemental and transitional provisions as may be necessary or expedient for the purpose of giving full effect to the Regulations, including provisions –
  - (a) for the transfer of any movable property held, any rights enjoyed and any liabilities (whether civil or criminal) incurred by the Minister in connection with any function transferred, including any such rights and liabilities in respect of which, at the time of transfer, no claim has been made or no proceedings have been commenced;
  - (b) for the carrying on and completion by or under the authority of the Minister to whom functions are transferred of anything commenced, before the Regulations have effect, by or under authority of the Minister from whom the functions are transferred;
  - (c) for the amendment of enactments relating to any functions transferred or to any Minister who is established, abolished or renamed;
  - (d) for the construction of enactments of the United Kingdom having effect in Jersey relating to any functions transferred or to any Minister who is established, abolished or renamed;

- (e) for the construction and adaptation of any instrument, contract or legal proceedings made or commenced before the Regulations have effect;
  - (f) where such Regulations establish or abolish Ministers, for the amendment of Article 18(1) so as to increase or decrease the number of Ministers there mentioned; and
  - (g) where such Regulations establish or abolish Ministers or determine the name by which any Minister shall be described, for the consequential amendment of standing orders.
- (4) Only the Chief Minister may lodge draft Regulations to be made under paragraph (2).
- (5) In this Article, “Minister” includes the Chief Minister.

## **29 Duty to maintain list of ministerial responsibilities**

The Chief Minister shall –

- (a) establish and maintain a list of Ministers and the functions exercisable by each of them and by the Chief Minister personally;
- (b) make the list available for viewing by the public; and
- (c) take reasonable steps to notify the public of where and how the list may be viewed.

## **30 Duty to refer certain matters to the States**

- (1) Where it is proposed –
- (a) that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; or
  - (b) that an Order in Council should be made extending to Jersey –
    - (i) any provision of an Act of the Parliament of the United Kingdom, or
    - (ii) any Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957,<sup>[10]</sup>

the Chief Minister shall lodge the proposal in order that the States may signify their views on it.

- (2) Where, upon transmission of an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a) or of an Order in Council described in paragraph (1)(b) to the Royal Court for registration, it appears to the Royal Court that the States have not signified their agreement to the substance of the provision or Order in Council –
- (a) the Royal Court shall refer the provision or Order in Council to the Chief Minister; and
  - (b) the Chief Minister shall, in accordance with paragraph (1), refer it to the States.

## **31 Construction of enactments**

In any enactment passed or made before or after this Law, unless the context otherwise requires –

“Chief Minister” shall be construed in accordance with this Law;

“Council of Ministers” shall be construed in accordance with this Law;

“a Minister” and “any Minister” shall mean any Minister appointed under this Law, including the Chief Minister;

“the Minister”, without further description, shall mean the Minister for the time being assigned responsibility for the functions of the Minister in the enactment in which the expression appears.

## **PART 5**

### **POWERS, PRIVILEGES AND IMMUNITIES**

#### **32 Entry to States**

- (1) Subject to paragraph (3), no stranger shall be entitled, as of right, to enter or to remain in the precincts of the States.
- (2) Subject to paragraph (3), the Bailiff may at any time order any stranger to withdraw from the precincts of the States.
- (3) Paragraphs (1) and (2) shall not apply to a Jurat or an officer of the Bailiff's Department or Judicial Greffe passing through those parts of the building giving direct access to the States' chamber.
- (4) A person who—
  - (a) fails to withdraw from the precincts of the States when ordered to do so by the Bailiff; or
  - (b) contravenes any provision of standing orders regulating the entry of strangers to or requiring the withdrawal of strangers from the precincts of the States,shall be guilty of an offence and liable to imprisonment for a term of 3 months and a fine of level 2 on the standard scale.<sup>[11]</sup>

#### **33 Immunity from legal proceedings**

No civil or criminal proceedings may be instituted against any member of the States—

- (a) for any words spoken before or written in a report to the States or a committee or panel established under standing orders; or
- (b) by reason of any other matter or thing brought by the member before or within the States or any such committee or panel by petition, proposition or otherwise.

#### **34 Minutes of States etc. to be evidence**

A copy of any minutes of the States or of any committee or panel established under standing orders signed by the Greffier of the States or as otherwise provided by standing orders, shall be received in evidence without further proof.

#### **35 Evidence of proceedings not to be given without leave**

- (1) Subject to this Part and standing orders, no member of the States or officer of the States and no person employed to take minutes before the States or any committee or panel established under standing orders shall give evidence elsewhere –
  - (a) in respect of the contents of such minutes or the contents of any document laid before any of those bodies; or
  - (b) in respect of any proceedings or examinations held before any of those bodies, without the prior consent of the body concerned.
- (2) During any period of the year when the States are not in session, the consent of the States may be given by the Greffier of the States.

**36 Offence of printing false documents**

- (1) It shall be an offence for a person –
  - (a) to print or cause to be printed a copy of any enactment or other document as purporting to have been printed by order or under the authority of the States or of a committee or panel established under standing orders and the same is not so printed;
  - (b) to tender in evidence any such copy as purporting to be so printed, knowing that the same was not so printed.
- (2) A person guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 3 years and to a fine.

**37 Protection of persons responsible for States and other publications**

- (1) This Article applies to civil or criminal proceedings instituted for or on account or in respect of the publication by the defendant or the defendant's servant of any enactment or other document by order or under the authority of the States or of a committee or panel established under standing orders.
- (2) The defendant may, on giving to the plaintiff or the person presenting the case or prosecutor, as the case may be, not less than 24 hours written notice of his or her intention, bring before the court in which such proceedings are taken a certificate conforming to paragraph (3) and an affidavit conforming to paragraph (4).
- (3) The certificate shall be signed by the Greffier of the States and shall state that the enactment or document to which the proceedings relate was published by the defendant or the defendant's servant by order or under the authority of the States or the committee or panel, as the case may be.
- (4) The affidavit shall verify the certificate.
- (5) Upon the defendant bringing the certificate and affidavit before the court –
  - (a) the court shall stay the proceedings; and
  - (b) the proceedings shall be deemed to be finally determined.

**38 Protection in civil proceedings for publication without malice**

- (1) This Article applies to civil proceedings instituted for publishing any account or summary of or any extract from or abstract of any document published by order or under the authority of the States or of a committee or panel established under standing orders or any proceedings of any such body.
- (2) The court shall enter judgment for the defendant if satisfied that such account, summary, extract or abstract was published *bona fide* and without malice.

**39 Exercise of jurisdiction by courts**

No person shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in that person by or under this Part.

**PART 6**

**OFFICERS OF THE STATES**

**40 Greffier of the States**

- (1) There shall be a Greffier of the States, who is the clerk of the States.
- (2) There shall be a Deputy Greffier of the States, who is the clerk-assistant of the States.
- (3) The Greffier of the States shall be appointed by the Bailiff with the consent of the States.
- (4) The Deputy Greffier of the States shall be appointed by the Greffier of the States with the consent of the Bailiff.
- (5) A sufficient number of officers shall be appointed to ensure the service of the Greffier of the States and Deputy Greffier of the States.
- (6) The Greffier of the States, Deputy Greffier of the States and officers appointed under paragraph (5) shall be known as the States Greffe.
- (7) The Greffier of the States –
  - (a) may be suspended from office by the Bailiff, who shall refer the matter to the States at their next meeting; and
  - (b) may be dismissed by the States.
- (8) Any discussion by the States with regard to the appointment, suspension or dismissal of the Greffier of the States shall take place in camera.
- (9) The Deputy Greffier of the States may be suspended or dismissed by the Greffier of the States with the consent of the Bailiff.
- (10) In the event of the absence or incapacity of the Greffier of the States the functions of that office shall be discharged by the Deputy Greffier of the States.
- (11) In the event of the absence or incapacity of the Greffier of the States and Deputy Greffier of the States the functions of those offices shall be discharged by an officer of the States Greffe appointed by the Bailiff as Acting Greffier of the States.
- (12) The Greffier of the States and Deputy Greffier of the States shall, on assuming office, take oath before the States in the form set out in Part 2 of Schedule 2.
- (13) An Acting Greffier of the States shall, on assuming office, take oath before the Bailiff in the form set out in Part 2 of Schedule 2.
- (14) Notwithstanding anything in any enactment the Deputy Greffier of the States, on the authority of the Greffier of the States, may discharge any function appertaining to the office of Greffier of the States.

#### **41 Viscount**

- (1) The Viscount is the executive officer of the States.
- (2) The Viscount shall, for the purposes of the enforcement of this Law and standing orders have all the powers and enjoy all the privileges of a Centenier.
- (3) The Viscount shall not be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in that person by this Law.

## **PART 7**

### **SUPPLEMENTARY**

#### **42 Powers and Committees abolished**

- (1) There shall be abolished any power of the Bailiff to dissent to a resolution of the States.
- (2) There shall be abolished any power of the Lieutenant-Governor to veto a resolution of the States.

- (3) Subject to any transitional provisions and savings made under Article 45(1)(c), there shall be abolished any Committee of the States in existence immediately before this Law comes into force.

#### **43 Offence of accepting bribe**

Any member of the States or any member of a committee established under Article 44(6), not being a member of the States, who accepts or agrees to accept or obtains or attempts to obtain, whether personally or for any other person, any bribe, fee, compensation, reward or benefit of any kind –

- (a) for speaking, voting or acting as such member;
- (b) for refraining from so speaking, voting or acting; or
- (c) on account of the member having so spoken, voted or acted or so refrained,

shall be guilty of an offence and liable to a fine and to imprisonment for a term of 5 years.

#### **44 Standing orders**

- (1) The States shall make standing orders to give effect to this Law and to regulate their proceedings and business and the conduct of elected members.
- (2) Standing orders made under paragraph (1) shall–
  - (a) establish a Privileges and Procedures Committee;
  - (b) require the States to appoint an elected member, who is neither a Minister or Assistant Minister, to be its chairman;
  - (c) require the States to appoint to be members of such Committee –
    - (i) 4 elected members who are not Ministers or Assistant Ministers, and
    - (ii) 2 elected members who are Ministers or Assistant Ministers;
  - (d) state the terms of reference of such Committee.
- (3) Standing orders made under paragraph (1) shall–
  - (a) establish a Public Accounts Committee;
  - (b) require the States to appoint an elected member who is not a Minister or an Assistant Minister to be chairman of such committee;
  - (c) provide for the following persons to be members of such committee –
    - (i) each chairman of a Scrutiny Panel established under paragraph (4), and
    - (ii) at least 2 elected members, who are not Ministers or Assistant Ministers, appointed by the States;
  - (d) state the terms of reference of such Committee.
- (4) Standing orders made under paragraph (1) shall–
  - (a) establish one or more Scrutiny Panels;
  - (b) provide for the States to appoint as the Chairman and members of a Scrutiny Panel elected members who are not Ministers or Assistant Ministers.
- (5) Standing orders made under paragraph (1) –
  - (a) shall include provision requiring minutes of decisions of the States to be taken and kept; and
  - (b) shall include provision requiring written transcripts of proceedings of the States to be prepared and kept.
- (6) Standing orders made under paragraph (1) may establish committees of inquiry, whose members may or may not be members of the States.

- (7) Standing orders made under paragraph (1) may, but not by way of limitation–
  - (a) prescribe anything that shall or may be prescribed under this Law;
  - (b) establish committees in addition to the committees described in the foregoing paragraphs;
  - (c) establish the procedure for any appointment or dismissal under this Law or standing orders;
  - (d) restrict the eligibility of an elected member for any appointment under this Law or standing orders;
  - (e) regulate the entry of strangers to and require the withdrawal of strangers from the precincts of the States.
- (8) Notwithstanding Article 3(1) of the Official Publications (Jersey) Law 1960<sup>[12]</sup> the Greffier of the States shall not be required to publish in the Jersey Gazette a notice relating to the passing of standing orders.
- (9) In this Article “Minister” includes the Chief Minister.

#### **45 Regulations: powers, privileges and immunities**

The States may by Regulations –

- (a) confer on members of committees of inquiry established by standing orders who are not members of the States immunity from civil and criminal proceedings in their capacity as members of such committees;
- (b) disapply Article 35(1) to evidence given before a committee or panel established by standing orders;
- (c) confer powers on any committee or panel established by standing orders to require any person to –
  - (i) appear before it, and
  - (ii) give evidence and produce documents to it;
- (d) make it an offence liable to imprisonment for a term of 2 years and to a fine of level 4 on the standard scale<sup>[13]</sup> for any person to –
  - (i) disobey any lawful order made by a committee or panel established by standing orders for attendance or for production of documents, or
  - (ii) refuse to be examined before, or to answer any lawful and relevant question put by a committee or panel established by standing orders;
- (e) confer on persons appearing before any committee or panel established by standing orders immunity from civil and criminal proceedings for words spoken before or in a written report to the committee or panel.

#### **46 Regulations: transition and implementation**

(1) The States may by Regulations –

- (a) provide for the transfer, on the coming into force of Article 42(3), of functions vested in Committees of the States to Ministers and, where appropriate, to the Privileges and Procedures Committee and Public Accounts Committee established by standing orders;
- (b) amend enactments, and provide for the construction of enactments of the United Kingdom having effect in Jersey, for the purpose of implementing the repeal of the States of Jersey Law 1966<sup>[14]</sup> and its replacement with this Law, in particular, the abolition of Committees of the States and the establishment of a ministerial system of government by this Law and of a Privileges and Procedures Committee and Public Accounts Committee by standing orders; and
- (c) make such transitional provisions and savings as may be required upon the repeal the States of

Jersey Law 1966<sup>[15]</sup> and the coming into force of this Law.

- (2) Regulations made under paragraph (1)(a) may include provisions—
  - (a) for the transfer of any movable property held, any rights enjoyed and any liabilities (whether civil or criminal) incurred by a Committee of the States in connection with any function transferred, including any such rights and liabilities in respect of which, at the time of transfer, no claim has been made or no proceedings have been commenced;
  - (b) for the carrying on and completion by or under the authority of the Minister or Committee to whom functions are transferred of anything commenced, before the Regulations have effect, by or under authority of the Committee of the States from whom the functions are transferred;
  - (c) without prejudice to the generality of paragraph (1)(b), for the amendment of enactments relating to any functions;
  - (d) without prejudice to the generality of paragraph (1)(b), for the construction of enactments of the United Kingdom having effect in Jersey relating to any functions transferred;
  - (e) for the construction and adaptation of any instrument, contract or legal proceedings (whether civil or criminal) made or commenced before the Regulations have effect.
- (3) Without prejudice to the generality of paragraph (1)(c), the States may by Regulations modify Article 19 in its application to the first selection and appointment of a Chief Minister and Ministers which takes place after this Law comes into force.
- (4) Regulations made under this Article may include such ancillary, consequential and supplementary provision as the States think fit.

#### **47 Authority for prosecutions**

No prosecutions for an offence under this Law or standing orders shall be instituted except by or with the consent of the Attorney General.

#### **48 Amendments and repeals**

- (1) Part 1 of Schedule 3 shall have effect to amend enactments.
- (2) Part 2 of Schedule 3 shall have effect to repeal enactments.
- (3) Part 3 of Schedule 3 shall have effect to amend Orders in Council applicable to Jersey.

#### **49 Citation and commencement**

- (1) This Law may be cited as the States of Jersey Law 200 .
- (2) This Article and Articles 1, 44, 45 and 46 shall come into force on the seventh day following the registration of this Law.
- (3) The remaining provisions of this Law shall come into force on such day or days as the States by Act appoint.

## SCHEDULE 1

(Article 4(2))

### DEPUTIES' CONSTITUENCIES

<i>Constituencies</i>	<i>Number of Deputies to be returned</i>
Saint Helier –	
Cantons de Haut et de Bas de la Vingtaine de la Ville	3
Cantons de Bas et de Haut de la Vingtaine du Mont-au-Prêtre	3
Vingtaines du Rouge Bouillon, du Mont-à-l'Abbé et du Mont Cochon	4
Saint Saviour –	
Vingtaine de la Petite Longueville	2
Vingtaine de Sous l'Eglise	2
Vingtaine de Maufant, de Sous la Hougue, des Pigneaux et de la Grande Longueville	1
Saint Brelade –	
Vingtaine de Noirmont et du Coin	1
Vingtaines des Quennevais et de la Moye	2
Saint Clement	2
Saint Lawrence	2
Grouville	1
Saint Martin	1
Trinity	1
Saint John	1
Saint Mary	1
Saint Peter	1
Saint Ouen	1

## **SCHEDULE 2**

(Articles 11 and 40)

### **OATHS**

#### **PART 1**

(Article 11)

#### **FORM OF OATH TO BE TAKEN BY SENATORS AND DEPUTIES**

You swear and promise before God that you will well and faithfully discharge the duties of (Senator) (Deputy); that you will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to Law; that you will uphold and maintain the laws, privileges, liberties and franchises of Jersey, opposing whomsoever may wish to infringe the same; that you will attend the meetings of the States whenever you are called upon to do so; and generally that you will fulfil all the duties imposed upon you by virtue of the said office. All of which you promise to do on your conscience.

#### **PART 2**

(Article 40(12) and (13))

#### **OATH OF OFFICE OF THE GREFFIER, DEPUTY GREFFIER OR ACTING GREFFIER OF THE STATES**

You swear and promise before God that you will well and faithfully exercise the office of Greffier (Deputy Greffier or Acting Greffier) of the States of Jersey; that you will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law; and that you will uphold and maintain the laws and usages of Jersey.

## SCHEDULE 3

(Article 48)

### PART 1

(Article 48(1))

#### ENACTMENTS AMENDED

#### 1 Interpretation (Jersey) Law 1954

At the end of Part 2 of the Schedule to the Interpretation (Jersey) Law 1954<sup>[16]</sup> there shall be added the following entry –

“ ‘Chief Minister’, ‘Council of Ministers’ ‘a Minister’, ‘any Minister’ and ‘the Minister’	Article 31 of the States of Jersey Law 200.”.
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#### 2 Departments of the Judiciary and the Legislature (Jersey) Law 1965

- (1) In this paragraph, “Law” means the Departments of the Judiciary and the Legislature (Jersey) Law 1965<sup>[17]</sup>
- (2) In the long title of the Law<sup>[18]</sup> for the words “, the Judicial Greffier and the Greffier of the States,” there shall be substituted the words “and the Judicial Greffier,”.
- (3) In Article 1 of the Law<sup>[19]</sup> sub-paragraph (e) of paragraph (1) shall be deleted.
- (4) In Article 2 of the Law<sup>[20]</sup> paragraph (5) shall be deleted.
- (5) In Article 3 of the Law<sup>[21]</sup> paragraphs (5) and (6) shall be deleted.
- (6) In Article 5 of the Law<sup>[22]</sup> –
  - (a) in paragraph (1)–
    - (i) for the words “, the Judicial Greffier or the Greffier of the States,” there shall be substituted the words “or the Judicial Greffier,”;
    - (ii) for the words “the Deputy Judicial Greffier or the Deputy Greffier of the States” there shall be substituted the words “or the Deputy Judicial Greffier”;
  - (b) in paragraph (2)–
    - (i) for the words “the Deputy Viscount,” there shall be substituted the words “the Deputy Viscount or”;
    - (ii) the words “or the Greffier of the States and the Deputy Greffier of the States” shall be deleted.
- (7) In Article 7 of the Law<sup>[23]</sup> –
  - (a) in paragraph (1) for the words “, Judicial Greffier or Greffier of the States” there shall be substituted the words “or Judicial Greffier”;
  - (b) in paragraph (2) the words “the Greffier of the States and the Deputy Greffier of the States who shall take oath before the States, and of” shall be deleted.

- (8) in Article 8 of the Law<sup>[24]</sup> in paragraphs (1) and (2) for the word “(e)” there shall be substituted the word “(d)”.
- (9) In Article 9 of the Law<sup>[25]</sup> paragraph (7) shall be deleted.
- (10) In the Schedule to the Law<sup>[26]</sup> the oath of office of the Greffier, Deputy Greffier or Acting Greffier of the States shall be deleted.

**3 Legislation (Amending Power) (Jersey) Law 1999**

In the Legislation (Amending Power) (Jersey) Law 1999<sup>[27]</sup> in Article 1, in the definition “lodged”, for the words “pursuant to Article 24 of the States of Jersey Law 1966<sup>[28]</sup>” there shall be substituted the words “in accordance with standing orders made under the States of Jersey Law 200”.

**4 Public Elections (Jersey) Law 2002**

In Article 17(1) of the Public Elections (Jersey) Law 2002<sup>[29]</sup> for the words “Part 1 of the States of Jersey Law 1966<sup>[30]</sup>” there shall be substituted the words “Article 6 or 13 of the States of Jersey Law 200”.

**PART 2**

(Article 48(2))

**ENACTMENTS REPEALED**

Enactment	Extent of repeal
States of Jersey Law 1966 <sup>[31]</sup>	The whole Law.
States of Jersey (Amendment) Law 1974 <sup>[32]</sup>	The whole Law.
States of Jersey (Amendment No. 2) Law 1975 <sup>[33]</sup>	The whole Law.
States of Jersey (Amendment No. 3) Law 1975 <sup>[34]</sup>	The whole Law.
States of Jersey (Amendment No. 4) Law 1986 <sup>[35]</sup>	The whole Law.
States of Jersey (Amendment No. 5) Law 1996 <sup>[36]</sup>	The whole Law.
States of Jersey (Amendment No. 6) Law 1997 <sup>[37]</sup>	The whole Law.
States of Jersey (Amendment No. 7) Law 2000 <sup>[38]</sup>	The whole Law.
States of Jersey (Amendment No. 8) Law 2002 <sup>[39]</sup>	The whole Law.
States of Jersey (Definition of Officer) Regulations 1997 <sup>[40]</sup>	The whole Regulations.

## PART 3

(Article 48(3))

### ORDERS IN COUNCIL APPLICABLE TO JERSEY AMENDED

#### 1 Order in Council dated 28th March 1771

In the Order in Council dated 28th March 1771<sup>[41]</sup> the words beginning “And His Majesty doth further order, That when any thing is proposed to the Assembly of the States” and ending “whether he chuses to make use of the Negative Vote which he hath” shall be repealed.

#### 2 Order in Council dated 2nd June 1786

In the first Order in Council dated 2nd June 1786<sup>[42]</sup> the words beginning “But in regard it is necessary that those Subjects” and ending “and in the meantime and `till that is obtained, shall have not effect” shall be repealed.

#### 3 Order in Council dated 23rd May 1816

In the Order in Council dated 23rd May 1816<sup>[43]</sup> the words beginning “And His Royal Highness is further pleased to order that the Greffier of the States of the said Island” and ending “had not been or could not be complied with” shall be repealed.

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- [1] *Volume 1968-1969, page 345, Volume 1970-1972, page 549, Volume 1994-1995, page 119, Volume 2001, page 298 and R&O 5838.*
- [2] *Volume 2001, page 51, Volume 2002, page 1489 and Volume 2003, page 570.*
- [3] *Volume 1988-1989, page 261, Volume 1996-1997, page 431 and Volume 1999, page 627.*
- [4] *Volume 2002, page 329.*
- [5] *Volume 1992-1993, page 437.*
- [6] *Volume 2001, page 51, Volume 2002, page 1489 and Volume 2003, page 570.*
- [7] *Volume 2002, page 313 and R&Os 43/2002 and 51/2003.*
- [8] *Tome VII, page 498, Volume 2001, page 7.*
- [9] *Volume 1992-1993, page 347.*
- [10] *Tome VII, page 35.*
- [11] *Volume 1992-1993, page 437.*
- [12] *Tome VIII, page 884 and Volume 2003, page 186.*
- [13] *Volume 1992-1993, page 437.*
- [14] *Volume 1966-1967, page 3, Volume 1973-1974, page 255, Volume 1975-1978, pages 57 and 71, Volume 1986-1987, page 225, Volume 1996-1997, pages 11 and 803, Volume 2000, pages 19, 25, 26 and 27, Volume 2002, page 455 and R&O 9176.*
- [15] *Volume 1966-1967, page 3, Volume 1973-1974, page 255, Volume 1975-1978, pages 57 and 71, Volume 1986-1987, page 225, Volume 1996-1997, pages 11 and 803, Volume 2000, pages 19, 25, 26 and 27, Volume 2002, page 455 and R&O 9176.*
- [16] *Tome VIII, page 385 and Volume 2003, page 180.*
- [17] *Volume 1963-1965, page 551, Volume 1970-1971, page 227, Volume 1973-1974, pages 123, 205 and 206, Volume 1992-1993, pages 439, 440 and 441, Volume 1996-1997, page 639 and Volume 1998, page 185.*
- [18] *Volume 1963-1965, page 551.*
- [19] *Volume 1963-1965, page 552.*
- [20] *Volume 1963-1965, page 553.*
- [21] *Volume 1963-1965, page 553.*
- [22] *Volume 1963-1965, page 554.*
- [23] *Volume 1963-1965, page 555 and Volume 1992-1993, pages 440 and 441.*
- [24] *Volume 1963-1965, page 555 and Volume 1973-1974, pages 123 and 206.*
- [25] *Volume 1963-1965, page 556.*
- [26] *Volume 1963-1965, page 560 and Volume 1973-1974, page 206.*
- [27] *Volume 1999, page 659.*
- [28] *Volume 1966-1967, page 13.*
- [29] *Volume 2002, page 327.*
- [30] *Volume 1966-1967, pages 3 to 10, Volume 1973-1974, page 256, Volume 1975-1978, pages 57 and 71, Volume 1986-1987, page 225 and Volume 2002, pages 367 and 455.*
- [31] *Volume 1966-1967, page 3.*
- [32] *Volume 1973-1974, page 255.*
- [33] *Volume 1975-1978, page 57.*

- [34] *Volume 1975-1978, page 71.*
- [35] *Volume 1986-1987, page 225.*
- [36] *Volume 1996-1997, page 11.*
- [37] *Volume 1996-1997, page 803.*
- [38] *Volume 2000, page 19.*
- [39] *Volume 2002, page 455.*
- [40] *R&O 9176.*
- [41] *Code of 1771, edition 1968, page 4.*
- [42] *Orders in Council, Volume 4, page 143.*
- [43] *Orders in Council, Volume 5, page 98.*