

# STATES OF JERSEY

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## **DRAFT ROYAL COURT (AMENDMENT No. 12) (JERSEY) LAW 200**

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Lodged au Greffe on 9th February 2009  
by the Chief Minister

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**STATES GREFFE**





Jersey

## **DRAFT ROYAL COURT (AMENDMENT No. 12)(JERSEY) LAW 200**

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

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chief Minister has made the following statement –

In the view of the Chief Minister the provisions of the Draft Royal Court (Amendment No. 12) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## REPORT

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This *projet de loi* seeks to amend Article 4 of the Royal Court (Jersey) Law 1948.

Article 4 governs the procedure before the Electoral College<sup>[1]</sup> for the appointment of Jurats. That procedure results in a ‘first past the post’ system, that is to say, if there are more than 2 candidates for one vacancy, the candidate with the most votes is elected regardless of how few votes he or she receives. This means –

- (a) that a candidate could be elected who would not have been elected had the person with the least number of votes dropped out and a further ballot held; and hence
- (b) that there is a risk of two stronger candidates dividing the vote and allowing a weaker candidate to come through.

This is not thought to be satisfactory. A person elected to such an important post should be seen to enjoy the confidence of the majority of the members of the Electoral College voting. This would be a clear endorsement of his/her suitability for appointment.

This draft Law would therefore amend Article 4 so as to require– if there are more than 2 candidates for a single vacancy – that ballots be held for the vacancy until a candidate receives more than half of the votes cast, with the candidate with the fewest votes dropping out after each round in the same way as occurs in the election of Ministers in the States.

The draft Law replicates the existing Article in providing that, in the event of a tie, a second ballot will be held; and in the event of there still being a tie, the Bailiff will exercise a casting vote. The draft introduces equivalent provisions where there is a tie between the candidates with the least votes so that it is not clear who should drop out. In those circumstances, there will be a second ballot between those candidates only, with the loser on that ballot dropping out. If there is a tie on this second ballot the Bailiff will exercise a casting vote.

The proposed reform has the full support of the Court.

### **Financial/manpower implications**

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

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

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister 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). On 5th February 2009 the Chief Minister made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Royal Court (Amendment (No. 12) (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

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This draft Law would amend the Royal Court (Jersey) Law 1948.

The amendment relates to the procedure for electing Jurats. Under the amended procedure successive ballots are held for the election of each Jurat. After each ballot the candidate with the fewest votes withdraws from the election until a single candidate has more than half the votes cast. If there are at least 3 candidates in a ballot and 2 or more of those candidates equally have the fewest votes, successive ballots are held for those candidates only to determine who will stay in the election. The Bailiff has the casting vote in certain specified situations to determine who will stay in the election so that the process does not continue indefinitely. If a ballot is held for 2 candidates when there are no other candidates in the election at that stage and those candidates get an equal number of votes, a further ballot must be held. If that further ballot again results in the 2 candidates getting equal votes, the Bailiff has the casting vote.





Jersey

## DRAFT ROYAL COURT (AMENDMENT No. 12)(JERSEY) LAW 200

A LAW to amend further the Royal Court (Jersey) Law 1948.

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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]

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

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### 1 Article 4 amended

For Article 4(13) to (18) of the Royal Court (Jersey) Law 1948<sup>[1]</sup> there shall be substituted the following paragraphs –

- “(13) The meeting shall be held in public.
- (14) One or more secret ballots shall be held for each vacancy in accordance with the procedure described in this Article until a candidate has more than half of the votes cast in a ballot or more than half of the votes following a vote by the Bailiff as described in paragraph (18C).
- (15) Each member of the Electoral College shall have one vote in each ballot.
- (16) The Bailiff shall not vote other than in the circumstances described in paragraphs (18B) and (18C).
- (17) The Bailiff shall examine the voting papers following each ballot and shall forthwith, in the presence of the members of the Electoral College and of the public present at the meeting, declare the result of each ballot.
- (18) If no candidate receives more than half the votes cast in any ballot and the result of that ballot is that –
  - (a) there is a single candidate with the fewest votes, the procedure in paragraph (18A) shall be followed;
  - (b) there are 2 or more candidates with equally the fewest votes and at least one other candidate, the procedure in paragraph (18B) shall be followed; or
  - (c) there are only 2 candidates and they have equal numbers of votes, the procedure in paragraph (18C) shall be followed.
- (18A) The procedure referred to in paragraph (18)(a) is that the single candidate with the fewest votes shall withdraw from the election and a further ballot shall be held for the remaining candidates.
- (18B) The procedure referred to in paragraph (18)(b) is that a further ballot shall be held for

the 2 or more candidates with equally the fewest votes, following which –

- (a) if there is a single candidate with the fewest votes, that candidate shall withdraw from the election and a further ballot shall be held for all the remaining candidates in the election;
- (b) if there are 2 candidates with equally the fewest votes –
  - (i) the Bailiff shall vote for one of those candidates,
  - (i) the other candidate shall withdraw from the election, and
  - (iii) a further ballot shall be held for all the remaining candidates in the election; or
- (c) if there are more than 2 candidates with equally the fewest votes, a further ballot shall be held for those candidates only, and –
  - (i) if that ballot results in a single candidate with the fewest votes, that candidate shall withdraw from the election, or
  - (ii) if that ballot results in 2 or more candidates with equally the fewest votes, the Bailiff shall vote for one of the candidates and the other of those candidates with equally the fewest votes shall withdraw from the election, and a further ballot shall be held for all the remaining candidates in the election.

(18C) The procedure referred to in paragraph (18)(c) is that –

- (a) a further ballot must be held; and
- (b) if the further ballot results in the 2 candidates again having an equal number of votes, the Bailiff shall vote for one of those candidates.

(18D) When a candidate has received more than half of the votes cast in a ballot (other than a ballot for only 2 or more candidates with equally the fewest votes) or following the Bailiff's vote as described in paragraph (18C), the Bailiff shall declare that candidate elected to the office of Jurat.”.

## **2 Citation and commencement**

This Law may be cited as the Royal Court (Amendment No. 12) (Jersey) Law 200~~0~~ and shall come into force 7 days after it is registered.



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- [1] The Electoral College consists of –
- (a) the Bailiff, who is its president;
  - (b) the Jurats;
  - (c) the Connétables;
  - (d) the elected members of the States;
  - (e) members of the Jersey Bar, who have renewed their oath of Advocate within the 13 months preceding the meeting of the Electoral College; and
  - (f) practising Solicitors (Écrivains) of the Royal Court.

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[1]

*chapter 07.770*