

STATES OF JERSEY



DRAFT STATES OF JERSEY (MISCELLANEOUS PROVISIONS) LAW 201-

Lodged au Greffe on 24th November 2010
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

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European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Privileges and Procedures Committee has made the following statement –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft States of Jersey (Miscellaneous Provisions) Law 201- are compatible with the Convention Rights.

(Signed) **Connétable of St. Mary**

REPORT

This draft Law gives legal effect to the decisions taken by the States on 13th October 2010 in relation to the composition and election of the States (P.118/2010). In adopting P.118/2010 the States agreed that, over time –

- the term of office of all members of the States should be 4 years;
- the single election day for all members should be moved to the Spring;
- the number of Senators should be reduced from 12 to 8.

The States agreed transitional arrangements to move to this agreed outcome over a period of 8 years, with the new system being fully established from May 2019. This draft Law gives effect to the proposals and the full rationale for them was set out in the accompanying report for P.118/2010 which is attached at the Appendix for convenience.

Article 2 of the draft Law substitutes Articles 5 and 6 of the States of Jersey Law and introduces the 4 year term for Senators and Deputies. It also moves the current October election day for Senators and Deputies to May from 2015. It is proposed that the election will be held in the 7 day period starting 16th May which will always allow sufficient time after Easter to hold the election before the Spring Bank Holiday and half-term at the end of May. The first May elections would be held on the following dates (on the assumption that elections continue to be held on Wednesdays) –

Easter Sunday	Election Day (Wednesday)	Spring Bank Holiday (Monday)
5th April 2015	20th May 2015	25th May 2015
21st April 2019	22nd May 2019	27th May 2019
9th April 2023	17th May 2023	29th May 2023
28th March 2027	19th May 2027	31st May 2027

The transitional arrangements are set out in new Article 6A and this provides that the elections will be held as scheduled in October 2011 but only 4 Senators will be elected in this election. New Article 6A also sets out the arrangements agreed by the States in relation to the transition for Senators, namely that a one-off election will be held when the term of office of Senators elected in 2008 expires in October 2014. In October 2014 an election will be held to elect 4 Senators and these people will serve through to May 2019 when all 8 Senators will be elected on the same day.

New Article 2(2) amends the provision relating to filling casual vacancies with the move to the May election. At present, a vacancy for Senator or Deputy is not filled if it occurs after 31st March immediately preceding the election day. This provision is amended to make the period a 6 month period and this will apply for both elections held in October and in May.

Article 2(5) of the Law provides that the quorum of the Assembly will reduce as the membership reduces, and a more flexible wording is introduced to provide that the quorum is, as at present, at least one half of the elected members. In practice, the new provision means that the quorum will reduce to 26 elected members when the membership reduces to 51 and will further reduce to 25 when the membership reduces to 49 members.

Article 3 of the Law covers the amendments to the Constitution of the States following the next elections in October 2011. As agreed by the States, the number of Senators will reduce from 12 to 10 as only 4 Senators will be elected in October 2011. The Article also reduces from 23 to 22 the maximum number of Ministers and Assistant Ministers in the Assembly to ensure that the appropriate balance (often referred to as the 'Troy' rule) is maintained.

Article 4 of the Law refers to the Constitution of the States following the October 2014 election for Senators when the membership of the Assembly will reduce from 51 to 49 as only 4 Senators will be elected to replace the 6 whose term of office expires in October 2014.

Article 5 of the Law refers to the number of Ministers and Assistant Ministers following the election in May 2015. Under the strict letter of the 10% difference agreed as part of the 'Troy' rule, it would theoretically be possible to maintain a total of 22 Ministers and Assistant Ministers even when the membership of the Assembly reduces to 49. The rule requires that the number of Ministers and Assistant Ministers is greater than the number of members who are not by a margin equivalent to at least 10% of the total elected membership of the States. With a membership of 49 the 10% margin would be 4.9, rounded up to 5. Therefore, in theory, a balance of 22 to 27 members would meet the strict letter of the rule, but PPC believes it is appropriate that when the membership is reduced from 51 to 49, a further reduction should be made in the number of Ministers and Assistant Ministers. It is for this reason that the number 21 is inserted in Article 5 of this draft Law. PPC considers that it would be more appropriate for this change to come into effect after the May 2015 elections rather than when the actual reduction to 49 occurs in 2014, as that reduction will occur during the lifetime of the Council of Ministers appointed in October 2011; and it would not seem appropriate to suggest that the number of Ministers and Assistant Ministers should be reduced during the term of office of these Ministers and Assistant Ministers. Because the number 22 meets the strict requirements of the 'Troy' rule as explained above, PPC believes it is acceptable to maintain this number in the period October 2014 to May 2015.

Article 6 of the Law amends the Connétables (Jersey) Law 2008 to implement the decisions of the States. The Article is hopefully self-explanatory and provides that Connétables will be elected for a period of 4 years with a one-off 3½ year term during the transitional period between October 2011 and May 2015.

Article 7 of the Law makes it clear that nothing in this Law affects the term of office of any existing Senator, Deputy or Connétables.

Financial and manpower implications

The financial and manpower implications of these proposals were set out in the Report accompanying P.118/2010. As explained in that Report, there will be a reduction in remuneration of States members of some £90,000 when the membership is reduced by 2 from October 2011 and a further reduction of the same amount when the membership is further reduced in October 2014. There are no manpower implications.

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 23rd November 2010, the Chairman of the Privileges and Procedures Committee made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chairman of the Privileges and Procedures Committee, the provisions of the Draft States of Jersey (Miscellaneous Provisions) Law 201- are compatible with the Convention Rights.

Report accompanying “Composition of the States: spring election and move to 4 year term of office” (P.118/2010)

Introduction

The Privileges and Procedures Committee was extremely disappointed when its overall package of proposed reform of the composition and election of the States was rejected in September 2009. The present Committee and its predecessor have always been concerned about piecemeal reform of the composition of the States and it was for that reason that the Committee’s preferred option of overall reform was brought forward in 2009. PPC must nevertheless respect the decision of a majority of members of the States to reject that package.

In the absence of the acceptance of a total package of reform, it is clear that the absence of any agreed changes nevertheless constantly stalls the possibility of reform. At each election 6 Senators continue to be elected for 6 years, meaning that any further reform cannot be fully implemented until the end of their term of office and is therefore postponed for at least 6 years.

PPC is concerned that, if any reform is to be proposed for the 2011 elections, decisions must be made this Autumn so that the necessary changes to legislation can be made in time. PPC is therefore bringing this proposition forward to ‘kick start’ reform and to avoid the States being tied into another 6 year cycle where reform is limited.

PPC accepts that it would be irresponsible to ask the States to agree some piecemeal reform without setting out clearly how that reform could be fully implemented over a period of time. The single election day that has been agreed for October 2011 will no doubt highlight issues that may lead the new States elected next year to consider that alternative reform is more appropriate, but this proposition nevertheless shows one clear way forward through to 2019. Future States Assemblies may decide to vary any decisions taken at this stage, but this proposition does nevertheless set out a clear and workable way forward without the need for further reform.

This proposition addresses 3 separate but inter-related issues that have all been identified in recent years as matters that should be addressed. These are: (i) a move to Spring elections; (ii) a reduction in the number of members, and (iii) the move to a standard 4 year term of office for all members with the consequence of a genuine single general election day for all elected members in due course.

Spring election and a 4 year term of office

The decision of the States to move to one single election day in each election year has made the concept of a Spring election feasible; and several members who spoke in the debate on establishing a single election expressed the wish for PPC to bring forward proposals for a Spring election.

There are clearly a number of reasons why a Spring election would be desirable. At a practical level, the evenings are much longer in the Spring and the weather is generally better to encourage participation and facilitate canvassing and other forms of

campaigning. In addition, as explained during the debate on the single election day, elections in the Autumn will always make the completion of the annual budgetary cycle difficult, with the old States having to debate the Budget after the elections. A move to Spring elections would enable the new States to be constituted before the summer recess, with financial proposals then brought forward and debated by the new States in the Autumn, which is clearly more appropriate (even if much of the preparatory work had to be started by the old Council of Ministers).

Easter Sunday can fall on any date between 22nd March and 25th April; and it would therefore be necessary to fix an election date that did not conflict with Easter whilst avoiding the school half-term holiday at the end of May. In practice an election on the third Wednesday of May (on the assumption that elections continue to be held on Wednesdays) would always permit sufficient time after Easter for the campaign and would be before the Spring Bank Holiday and the school half-term.

In order to move towards a Spring election, this proposition proposes that the members elected in October 2011 should all be elected for a period of 3½ years. This would take their term of office until May 2015 and members would thereafter be elected for a standard 4 year term with elections held in mid-May in every fourth year. PPC believes that there is general consensus that a 4 year term of office would be an improvement on the current 3 year cycle which is not long enough to allow proper development of long-term policy within each electoral cycle. Although it could be argued that a 5 year term of office would give members a significant period of certainty and allow policy to be developed over a longer period, PPC believes that this must be weighed against the need to allow the public to express their views through the ballot box at regular intervals, and the Committee considers that a 4 year term is therefore preferable.

Reform of the position of Senator

PPC is conscious that previous attempts to abolish the post of Senator have been unsuccessful, but it is clear that the retention of the current 12 Senators with a 6 year term can frustrate many other desirable reform proposals. In practice, having 12 Senators makes the concept of a real general election almost impossible as it would be extremely difficult to elect 12 Senators at the same time, and there would be a significant risk that the candidates elected in 10th, 11th or 12th place would receive a very low percentage of the votes cast.

PPC believes it is of note that there are very mixed messages about the desirability or otherwise of retaining the Island-wide mandate. Some consider there should be some close connection between the Island-wide mandate and Ministerial responsibility, although in the current Council of Ministers there are only 5 Ministers who hold a senatorial position, with the other 5 Ministers not being Senators. The 2006 MORI Poll commissioned by the then PPC is sometimes quoted to support the retention of the Island-wide mandate, but this must be set against the fact that in that same Poll there was overwhelming support for the concept of a true single general election day and strong support for a reduction in the number of members. In bringing forward any reform proposals, it has always been clear that some degree of compromise is therefore necessary.

Having considered the various options, PPC has decided that, on balance, the Assembly should be asked to consider reducing the number of Senators and

standardising their term of office over a period of time. This proposal therefore keeps the Island-wide mandate within the States, but also meets the desire to reduce the overall membership and move towards a true general election for all members on one day over time. This proposition proposes a reduction in membership from 2011 with the number of Senators being reduced from 12 to 10 and a further reduction in the number of Senators from 10 to 8 in October 2014.

Timetable for reform

The proposed way forward is as follows –

- (a) The term of office of the 6 Senators elected in 2004 will expire in October 2011. At this stage 4 Senators would be elected for a period of 3½ years.
- (b) The term of office of the 6 Senators elected in 2008 will expire in October 2014. The number of Senators will again be reduced at this stage, with 4 Senators being elected for a period of 4½ years in October 2014. It is somewhat unfortunate that a separate election for only 4 members will have to take place during the 3½ year life of the States elected in October 2011, but it is a necessary feature of the transition from the current 6 year term to the new system. The alternative option of electing 4 Senators for only 6 months (so that the true general election could happen from May 2015) was considered by PPC but rejected as 6 month term would be simply too short.
- (c) In May 2015 the term of office of the 4 Senators elected in 2011 will expire and an election will be held to appoint 4 Senators for a period of 4 years. This will cause their term of office to terminate in May 2019.
- (d) At this point in 2019, at the end of all transitional arrangements, the term of office of all members of the States will finally finish at the same time and a Spring General Election for 8 Senators, 12 Connétables and 29 Deputies will be held in May 2019, with all members being appointed for 4 years.

Although PPC has concerns about the feasibility of electing 12 Senators at the same time, the Committee is satisfied that it will be possible to elect 8 Senators at the same time. The proposed overall schedule is summarised in the table below.

(a)	October 2011	Elect 4 Senators for 3½ years	Elect 12 Connétables and 29 Deputies for 3½ years
(b)	October 2014	(Term of office of 6 Senators elected in 2008 expires) Elect 4 Senators for 4½ years	
(c)	May 2015	Elect 4 Senators for 4 years	Elect 12 Connétables and 29 Deputies for 4 years
(d)	May 2019 and every 4 years thereafter	Elect 8 Senators, 12 Connétables and 29 Deputies for 4 years (General Election)	

Conclusion

As mentioned above, PPC is extremely concerned that any reform will be constantly frustrated unless the States take a decision now to begin the reform process. Although some may view the current proposals as piecemeal reform, PPC believes that they should represent an acceptable compromise to achieve many of the desirable reform proposals that have been put forward in recent years whilst still retaining the Island-wide mandate (albeit with a reduced numbers of Senators). In addition, if the new Assembly wishes to adopt more radical reform proposals to reform the composition of the States, this will be significantly easier as the necessary transitional period will be relatively short, and alternative proposals and even an entirely new composition could be introduced, for example, from May 2015.

Financial and manpower implications

PPC has always made it clear that reform proposals should not be based on financial considerations alone, but the Committee is nevertheless required to make a financial and manpower statement in any proposition. The reduction in membership of 2 from October 2011 would lead to an ongoing annual saving of approximately £90,000 together with other incidental savings relating to the reduction in membership of 2 members. A further reduction in membership in October 2014 would result in a further ongoing annual reduction of the same amount. The adoption of this proposition would therefore result in total annual savings of some £180,000 from October 2014. There are no manpower implications.

Explanatory Note

This draft Law implements P.118/2010, Composition of the States: spring election and move to 4 year term of office, adopted by the States on 13th October 2010.

Article 1 defines the States of Jersey Law 2005 as the “2005 Law” and the Connétables (Jersey) Law 2008 as the “2008 Law”.

Article 2 substitutes Articles 5 and 6 of the 2005 Law. The substitution would take effect 7 days after this Law is registered in the Royal Court. The substituted Articles 5 and 6 would provide for Senators and Deputies to hold office for 4 years and for elections for Senators and Deputies to be held every 4 years, in May, commencing in 2015.

Article 6A is inserted in the 2005 Law to make transitional arrangements in 2011 and 2014 as follows –

Paragraph (1) provides that there shall be an ordinary election in October 2011 at which 4 Senators and the 29 Deputies shall be elected for a term of office of 3½ years.

Paragraph (2) provides that there shall be an ordinary election in October 2014 at which 4 Senators shall be elected for a term of office of 4½ years.

Paragraph (3) clarifies that, at the May 2015 election, only 4 Senators shall be elected.

In addition, *Article 2* makes the following amendments –

- Article 13 of the 2005 is amended. Article 13 currently provides that a by-election to fill a casual vacancy shall not be held if the vacancy arises after 31st March preceding the day on which the office holder would retire from office. As amended, a by-election would not be held where a vacancy arises less than 6 months before the ordinary election at which the office holder would retire from office.
- It is made clear that, if an elected member whose term of office is 3½ or 4½ years vacates office, a person elected to fill the vacancy holds office for the balance of that term.
- The quorum of the States Assembly is restated in anticipation of the reductions in 2011 and 2014 of the number of Senators. The quorum is made one half of the number of elected members rounded up, if required, to the nearest whole number.

Article 3 reduces the number of Senators from 12 to 10 from the day that the new States are sworn in following the election in October 2011. It further reduces the maximum number of Ministers and Assistant Ministers from 23 to 22 on the same day.

Article 4 reduces the number of Senators from 10 to 8 from the day the 4 Senators elected in October 2014 are sworn into office.

Article 5 reduces the maximum number of Ministers and Assistant Ministers from 22 to 21 on the day that the new States are sworn in following the election in May 2015.

Article 6 amends the 2008 Law so as to provide for Connétables to hold office for 4 years and for there to be an ordinary election for Connétables every 4 years commencing in May 2015. A transitional provision is added to the 2008 Law providing that there shall be an ordinary election in October 2011 to elect Connétables for a term of 3½ years. In addition –

- Article 3 of the 2008 Law is amended. Article 3 currently provides that a by-election to fill a casual vacancy shall not be held if the vacancy arises after 15th August preceding an ordinary election. As amended, a by-election would not be held where a vacancy arises less than 2 months before an ordinary election.
- Article 4 of the 2008 Law is amended to make it clear that, if a Connétable whose term of office is 3½ years vacates office, a person elected to fill the vacancy holds office for the balance of that term.

Article 7 provides that the commencement of a provision of this Law that alters the term of office of any description of elected member does not affect the term of office of an elected member of that description who is already in office.

Article 8 provides for the citation and commencement of this Law.



Jersey

DRAFT STATES OF JERSEY (MISCELLANEOUS PROVISIONS) LAW 201-

Arrangement

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Jersey

DRAFT STATES OF JERSEY (MISCELLANEOUS PROVISIONS) LAW 201-

A LAW to amend the States of Jersey Law 2005 and the Connétables (Jersey) Law 2008

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law –

“2005 Law” Law means the States of Jersey Law 2005¹;

“2008 Law” means the Connétables (Jersey) Law 2008².

2 Amendments preceding ordinary election in October 2011

(1) For Articles 5 and 6 of the 2005 Law there shall be substituted the following Articles –

“5 Term of office of Senators and Deputies

- (1) Senators and Deputies shall be elected for a term of 4 years.
- (2) Notwithstanding the term of office stated in paragraph (1), a Senator or Deputy shall retire on his or her place being filled by an ordinary election.
- (3) The places of Senators and Deputies are filled upon the persons elected at the ordinary elections taking the oath of their office.

- (4) This Article is subject to Article 6A.

6 Ordinary elections for Senators and Deputies

- (1) An ordinary election for Senators shall be held in the period of 7 days beginning on 16th May in every 4th year, commencing in May 2015.
- (2) An ordinary election for Deputies shall be held in the period of 7 days beginning on 16th May in every 4th year, commencing in May 2015.
- (3) The States may by Regulations amend paragraphs (1) and (2) so as to alter the periods, in every 4th year, within which ordinary elections must be held, both as to their duration and the day they begin.
- (4) This Article is subject to Article 6A.

6A Transitional arrangements for ordinary elections in 2011, 2014 and 2015

- (1) There shall be held, in the period of 7 days beginning on 15th October 2011 –
- (a) an ordinary election to elect 4 Senators, for a term expiring upon the persons elected as Senators at the ordinary election in May 2015 taking the oath of their office;
 - (b) an ordinary election to elect Deputies, for a term expiring upon the persons elected as Deputies at the ordinary election in May 2015 taking the oath of their office.
- (2) There shall be held, in the period of 7 days beginning on 15th October 2014, an ordinary election to elect 4 Senators, for a term expiring upon the persons elected as Senators at the ordinary election in May 2019 taking the oath of their office.
- (3) Four Senators shall be elected at the ordinary election in May 2015.
- (4) Article 17(1) of the Public Elections (Jersey) Law 2002³ shall apply to an election required under this Article as it applies to an election required under Article 6”.
- (2) In Article 13(5) of the 2005 Law for the words “after the 31st March immediately preceding the ordinary day of retirement from the office in which the vacancy occurs” there shall be substituted the words “less than 6 months before the ordinary election at which the Senator or Deputy would otherwise have retired under Article 5”.
- (3) In Article 13(8) of the 2005 Law for the words “the date” there shall be substituted the words “the period”.
- (4) In Article 14 of the 2005 Law after the words “Article 5” there shall be inserted the words “or 6A”.

- (5) In Article 15 of the 2005 Law for the words “if there are no less than 27 elected members present” there shall be substituted the words “if there are present no less than one half of the elected members”.

3 Constitution of States amended following ordinary election in October 2011

- (1) In Article 2 of the 2005 Law for the words “12 Senators” there shall be substituted the words “10 Senators”.
- (2) In Article 25(3) of the 2005 Law for the number “23” there shall be substituted the number “22”.
- (3) This Article shall come into force upon the persons elected at the ordinary elections in October 2011 taking the oath of their office.

4 Constitution of States amended following ordinary election in October 2014

- (1) In Article 2 of the 2005 Law for the words “10 Senators” there shall be substituted the words “8 Senators”.
- (2) This Article shall come into force upon the persons elected at the ordinary election in October 2014 taking the oath of their office.

5 Maximum number of Ministers and Assistant Ministers reduced following ordinary election in May 2015

- (1) In Article 25(3) of the 2005 Law for the number “22” there shall be substituted the number “21”.
- (2) This Article shall come into force upon the persons elected at the ordinary elections in May 2015 taking the oath of their office.

6 Connétables (Jersey) Law 2008 amended

- (1) For Article 1(1) of the 2008 Law there shall be substituted the following paragraph –

“(1) Subject to Article 2A, Connétables shall be elected for a term of 4 years.”.

- (2) For Article 2 of the 2008 Law there shall be substituted the following Articles –

“2 Ordinary elections for Connétables

- (1) Subject to Article 2A, an ordinary election for Connétables shall be held in the period of 7 days beginning on 16th May in every 4th year, commencing in May 2015.
- (2) The States may by Regulations amend paragraph (1) so as to alter the period, in every 4th year, within which an ordinary election must be held, both as to its duration and the day it begins.

2A Transitional arrangement in 2011

- (1) An ordinary election shall be held in the period of 7 days beginning on 15th October 2011 to elect Connétables for a term expiring on their places being filled by the ordinary election in May 2015.
- (2) Article 17(1) of the Public Elections (Jersey) Law 2002⁴ shall apply to an election required under this Article as it applies to an election required under Article 2.”;
- (3) In Article 3(3) of the 2008 Law for the words “after the 15th August immediately preceding” there shall be substituted the words “less than 2 months before”.
- (4) In Article 3(4) of the 2008 Law for the words “the date” there shall be substituted the words “the period”.
- (5) In Article 4 after the words “Article 1” there shall be inserted the words “or 2A”.

7 Saving for existing terms of office

- (1) Nothing in this Law alters the duration of the term of office of –
 - (a) a Senator or Deputy who is in office on the day that Article 2 comes into force; or
 - (b) a person who fills a casual vacancy in such an office.
- (2) Nothing in this Law alters the duration of the term of office of –
 - (a) a Connétable who is in office on the day that Article 6 comes into force; or
 - (b) a person who fills a casual vacancy in such an office.

8 Citation and commencement

- (1) This Law may be cited as the States of Jersey (Miscellaneous Provisions) Law 201-.
- (2) Except where provision is made to the contrary, this Law shall come into force 7 days after it is registered.

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- ¹ *chapter 16.800*
 - ² *chapter 16.250*
 - ³ *chapter 16.600*
 - ⁴ *chapter 16.600*