

STATES OF JERSEY



DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY) ACT 201- (P.5/2013): SECOND AMENDMENT

**Lodged au Greffe on 12th February 2013
by Deputy T.M. Pitman of St. Helier**

STATES GREFFE

DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY)
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1 PAGE 11, ARTICLE 1 –

In Article 1(1) delete the definitions “first choice vote” and “second choice vote”.

2 PAGE 13, ARTICLE 8 –

For Article 8 substitute the following Article –

“8 Vote

- (1) A vote is recorded by making a cross in the blank square opposite one of the options in the ballot paper.
- (2) A ballot paper is invalid if it records more than one vote.”.

3 PAGE 13, ARTICLE 9 –

Delete Article 9.

4 PAGE 13–14, ARTICLE 10 –

In Article 10 –

- (a) in paragraphs (2), (3), (4), (5) and (6)(a) delete the words “first choice” wherever they appear;
- (b) delete paragraphs (7) to (13).

5 PAGE 15, ARTICLE 11 –

In Article 11 –

- (a) in paragraph (1) –
 - (i) delete the words “or counts”,
 - (ii) for the words “referendum are” substitute the words “referendum is”;
- (b) in paragraph (2) –
 - (i) in sub-paragraph (a) delete the words “first choice”;
 - (ii) delete sub-paragraph (b).

6 PAGE 15–16, ARTICLE 12 –

In Article 12 –

- (a) delete paragraphs (1) and (2);

- (b) in paragraph (4)(c) delete the words “first choice” and “and”;
- (c) delete paragraph (4)(d).

7 PAGE 17, ARTICLE 13 –

In Article 13(1)(n) for the words “paragraph (1)(e), (f) and (g)” substitute the words “paragraph (1)(f) and (g)”.

8 PAGE 19, SCHEDULE –

In the Ballot Paper in the Schedule –

- (a) for the words “**Please write the number 1 next to the option that is your first choice and 2 next to your second choice:** (You do not need to use your second choice if you do not wish to do so)” substitute the words “**Please place a cross against one of the options below.**”;
- (b) delete the words “**Write 1 against your favourite option and 2 against your second choice**”;
- (c) for the words beginning “**No change: option C.**” to the end of the Ballot Paper substitute the words –
 - “**Option C.**
 - Neither of the above options.”.

and renumber the provisions of the Act and internal cross-references accordingly.

DEPUTY T.M. PITMAN OF ST. HELIER

REPORT

As I outlined within my further amendment to Option B the only reason for seeking to do so here is because of the clearly flawed nature of what is being proposed. The Commission rightly highlighted on page 13 of its final report how:

'Equality and fairness are key elements of any truly democratic system.'

Yet once again we see that what they propose is anything but. I have already demonstrated the stark and wholly unacceptable imbalance in what the Commission proposed within its Option B on retaining the Constables. The matter of Option C and the so-called 'transferable vote' – something as yet wholly alien to the Jersey electoral system – can only be seen as more of the same.

At best this Option C must be seen as a clumsy and wholly unnecessary vehicle for voters to express that they want neither of the 2 options advocating reducing the Assembly to 42 Members. At worst, and I must report here that this is the view taken almost exclusively by the many members of the public who have contacted me, Option C may be seen as a callous and deliberately loaded attempt to ensure the retention of the Constables 'comes out on top' as one constituent put it.

A referendum question should surely be clearly and simply defined without any form of bias. The Electoral Commission has, in the eyes of many, already failed in this by offering 2 options rather than one. Nevertheless, given the contentious issue of the retention or otherwise of the Constables, this may be understandable. However, a clumsy or deliberate 'loading' of the referenda to blatantly favour one option simply cannot be acceptable.

Indeed, like others, I have read through the UK Electoral Commission's guidelines on structuring referenda and this point is emphasized most strongly –

"that a question should be clear and simple, that is, easy to understand; to the point; and not ambiguous. It should also be neutral, which means it should not encourage voters to consider one response more favourably than another or mislead voters."

We already have 2 questions rather than the ideal one. The inclusion of Option C, which proposes to do no more than simply leave the make-up of the States unchanged, makes all of this even worse. We now have no fewer than 3 options, 2 of which (Options B and C) leave the Constables' position unchanged and only one that offers a means to vote to end this.

It is already highly unlikely that with such a confused 3 way choice that one option or other will emerge the clear winner: something which surely should have been desirable if we are to put an end to the decades of wrangling and debate over 'reform'. With the Commission suggesting a single 'transferable vote' (the first time in Jersey's history I believe?) in an attempt to achieve a clear majority, it simply cannot be said to do anything other than introduce a very clear bias into the process.

Those who wish to retain the Constables' position in the States above all else can safely use their second choice votes, whether for B or C, to ensure Option A is scuppered. This is hard inarguable fact. In effect, the pro-Constable individual has not

one, but 2 votes. Whilst there is no such option available for those who wish to remove the Constables to create a one class of Member Assembly. The consequence of this flawed proposal should be clear to all: the referenda; far from being clear, simple and unbiased, is 'loaded' heavily in favour of the retention of the Constables.

Given many Members' oft-stated wish to see an end to the cycle of so many debates and disputes about 'vested political interests' and reform, can we – or more importantly the public – really be happy with such an unsatisfactory and, indeed, undemocratic sham going ahead? I would suggest to Members that we cannot. As such, I would ask everyone who genuinely cares about equality and fairness to support this amendment seeking to both remove the 'transferable vote' and replace Option C with the far more sensible 'Neither of the above options'.

This would leave a straight choice between 2 clear options of reform within a reduced Assembly; or simply leaving matters as they are, with none of the murky machinations thrown into the mix by the current Option C and 'transferable vote' process. After all, if my proposed new Option C was to come out on top, then it simply sends us the message that we really need to go away and come up with something better. Almost certainly doing so via the fully independent Electoral Commission that the previous Assembly always intended this process to be overseen by.

Financial and manpower implications

There are no additional financial or manpower implications arising from this amendment.