

STATES OF JERSEY



DRAFT STATES OF JERSEY (AMENDMENT No. 8) LAW 201- (P.33/2014): SEVENTH AMENDMENT (P.33/2014 Amd.(7)) – AMENDMENT

Lodged au Greffe on 22nd April 2014
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

1 PAGE 2, AMENDMENT 3 –

- (1) In paragraph (1)(a), in the substituted words in the substituted Article 19(5B), for the words beginning “the Chief Minister designate shall,” to the end of the substituted words substitute the following words –
- “the Chief Minister designate –
 - (a) shall, in accordance with the prescribed procedures and within the prescribed period, propose Ministerial offices and any changes in the functions assigned to Ministers; and
 - (b) after the States have decided to approve or reject his or her proposal under sub-paragraph (a), with or without amendments, shall, in accordance with the prescribed procedures and within the prescribed period –
 - (i) nominate one or more elected members for appointment as Ministers, and
 - (ii) when making such a nomination, propose the Ministerial office to which the nominee would be assigned.”.
- (2) In paragraph (1)(b) for the substituted paragraph (5C) substitute the following paragraphs and renumber the remaining paragraphs and internal cross-references accordingly –
- “(5C) A proposal under paragraph (5B)(a) –
 - (a) must –
 - (i) describe the functions of any new Ministerial office or the changes in the functions of an existing Ministerial office, and
 - (ii) indicate the Minister to whom the functions of any abolished Ministerial office are to be transferred; and
 - (b) may be amended by the States.
 - (5D) A proposal under paragraph (5B)(a) or nominations under paragraph (5B)(b) by the Chief Minister designate may be the same as one of his or her proposals under paragraph (3) that the States have rejected.”.

2 PAGE 3, AMENDMENT 5 –

In paragraph (b) in the substituted paragraph (6), for the words “3 successive proposals” substitute the words “the prescribed number of successive proposals”.

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

Introduction

These two amendments to my original amendment (P.33/2014 Amd.(7)) are referred to in my original proposals and are as follows:

The first amendment is a further variation in order to allow members the ability to decide what happens after the '3 strikes', i.e. what happens in the event that the schedule of Ministerial positions and Ministerial candidates proposed by the Chief Minister are rejected 3 times.

The second amendment is a consequential item needed if one part of my original amendment is adopted.

Amendment 1: *inserts the ability for the Assembly to amend the Ministerial Offices proposed by the Chief Minister, but only after the original proposals of the Chief Minister have been rejected for the third time.*

One of the proposals in my original amendment deals with what happens if the choices of the Chief Minister in respect of Ministerial Offices and in respect of candidates for the Ministerial positions are rejected by the Assembly more than 3 times. The proposal by the Chief Minister is that the 'failsafe' position should be that the Chief Minister can then carry on regardless, and nominate his/her own team without any further recourse to the Assembly. I do not feel that is satisfactory.

I have therefore proposed that if the Chief Minister is NOT successful in the proposed choices, that the 'failsafe' position (as it was being referred to) should be to revert back to the Assembly with regard to the ability to nominate alternative individuals to Ministerial positions.

However, there is a new variable in this equation. The Chief Minister is also able to propose different Ministries. Therefore the question that arises is: should Members also be allowed to amend the proposed schedule of Ministerial Offices? My view is that the Chief Minister should probably be given the ability to at least retain control over the schedule of positions. In theory at least, this should have had some basis arising from the Chief Minister's strategic vision or where he/she intends to take the Island over the next 4 years.

However, there is also a view that one of the reasons that the schedule may be rejected is that the majority of Members feel that either a Ministerial Office is missing, or they vehemently disagree with a position proposed (even if they broadly still support the Chief Minister designate). Whilst I do not necessarily share that view, I do recognise that this may be an argument that some members will wish to express and potentially vote upon.

Accordingly, this amendment to the amendment will allow **Members** the choice of whether to include the ability for the Assembly (after 3 attempts) to challenge not only the candidates for certain Ministerial positions, but also the very positions themselves.

Amendment 2: *relocates the actual number of times the schedule of Ministers can be presented into Standing Orders*

This is hopefully a somewhat simpler amendment. The second amendment in my original proposition moves the actual number of attempts available to the Chief Minister (presently '3') into Standing Orders. If that is adopted, then Amendment 5 (in my original proposal) will need to be proposed as amended by this amendment, as it refers directly to '3 successive proposals', which would need to be changed to read 'the prescribed number of successive proposals'.

Conclusion

Of these two amendments, one is consequential, and one is to allow Members to express a choice. I hope Members will be supportive of the principles behind both this amendment and my original proposals, which seek to achieve a balance between increasing the power of the Chief Minister (and the Executive) and retaining the authority of the Assembly in the last instance.

Financial and manpower implications

There are no financial or manpower implications for the States arising from these amendments.