

STATES OF JERSEY



ELECTED SPEAKER AND DEPUTY SPEAKER OF THE STATES ASSEMBLY: SELECTION AND APPOINTMENT (P.31/2019) – SECOND AMENDMENT

**Lodged au Greffe on 25th April 2019
by Deputy J.H. Perchard of St. Saviour**

STATES GREFFE

ELECTED SPEAKER AND DEPUTY SPEAKER OF THE STATES ASSEMBLY:
SELECTION AND APPOINTMENT (P.31/2019) – SECOND AMENDMENT

1 PAGE 2, PARAGRAPH (1)(a) –

After the words “select its Speaker”, delete the words “either from amongst the elected members of the Assembly, or”.

2 PAGE 2, PARAGRAPH (1)(b) –

Delete paragraph (b) and re-designate the remaining paragraphs accordingly.

3 PAGE 2, PARAGRAPH (1)(c) –

For paragraph (c) substitute the following paragraph –

“(c) the selection and appointment of the Speaker should be the first item of business at the first meeting of the States Assembly after the summer recess which follows an ordinary election of States members, and, should the office become vacant during the term of the Speaker, be the first item of business at the next scheduled meeting of the Assembly;”.

4 PAGE 2, PARAGRAPH (1)(d) –

For paragraph (d), substitute the following paragraph –

“(d) any Speaker elected due to a mid-term vacancy in the office (for any reason) should be elected to serve the remainder of that term;”.

5 PAGE 2, PARAGRAPH (1)(e) –

After the words “electing the Speaker”, delete the words “and Deputy Speaker”.

6 PAGE 2, PARAGRAPH (1)(e) –

After the words “Scrutiny Panel Chairmen”, insert the words “, which in turn should follow a recruitment process overseen by the Jersey Appointments Commission and which results in a recommendation to the Assembly from a body of elected States members representative of the Assembly (including in respect of age, gender, ethnicity and disability) and which includes the Chairman of the Privileges and Procedures Committee, the Chief Minister and the President of the Chairmen’s Committee as members”.

7 PAGE 2, PARAGRAPH (1)(f) –

After the words “for the Speaker”, delete the words “and Deputy Speaker”.

8 PAGE 2, PARAGRAPH (1)(h) –

Delete paragraph (h) and re-designate the remaining paragraphs accordingly.

9 PAGE 2, PARAGRAPH (1)(j) –

For paragraph (j), substitute the following paragraph –

“(j) in the absence of the Speaker during a regular meeting of the States Assembly, the Greffier of the States, Deputy Greffier of the States or an elected member of the States should Preside in the Assembly;”.

10 PAGE 2, PARAGRAPH (1)(k) –

After the words “support a Speaker”, delete the words “and Deputy Speaker”.

11 PAGE 2, PARAGRAPH (2) –

After the words “appoint a Speaker”, delete the words “and Deputy Speaker”.

DEPUTY J.H. PERCHARD OF ST. SAVIOUR

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

(1) to agree that –

- (a) the States Assembly should select its Speaker by appointing a person who is not a Member of the Assembly but who would be eligible for election to the Assembly;
- (b) the selection and appointment of the Speaker should be the first item of business at the first meeting of the States Assembly after the summer recess which follows an ordinary election of States members, and, should the office become vacant during the term of the Speaker, be the first item of business at the next scheduled meeting of the Assembly;
- (c) any Speaker elected due to a mid-term vacancy in the office (for any reason) should be elected to serve the remainder of that term;
- (d) the process for electing the Speaker should follow a similar format as those for the election of the Chief Minister, Ministers and Scrutiny Panel Chairmen“, which in turn should follow a recruitment process overseen by the Jersey Appointments Commission and

which results in a recommendation to the Assembly from a body of elected States members representative of the Assembly (including in respect of age, gender, ethnicity and disability) and which includes the Chairman of the Privileges and Procedures Committee, the Chief Minister and the President of the Chairmen's Committee as members;

- (e) provision should be made for the Speaker to resign and/or be removed from office by the States Assembly;
 - (f) the Speaker should be required to act impartially, and be seen to act impartially, at all times. To that end, the Speaker may not lodge propositions, table questions, participate in debates or vote on propositions. Upon being elected, the Speaker would be required to resign from any membership of a political party;
 - (g) the functions of the Speaker shall include –
 - (i) fulfilling all the functions of the Presiding Officer as set out in the States of Jersey Law 2005 and the Standing Orders of the States of Jersey;
 - (ii) representing the States Assembly both within Jersey and overseas;
 - (iii) promoting the development of the States Assembly and democracy in Jersey;
 - (h) in the absence of the Speaker during a regular meeting of the States Assembly, the Greffier of the States, Deputy Greffier of the States or elected member of the States should Preside in the Assembly;
 - (i) the additional resources required to support a Speaker should be provided for within the current structure of the States Greffe;
 - (j) the Bailiff should remain as the Civic Head of Jersey, continue to swear in Members of the States Assembly in the Royal Court, Preside in the Assembly during the process of electing a Speaker, and be invited to Preside in, or address the Assembly, on ceremonial and other appropriate occasions;
- (2) the Privileges and Procedures Committee should bring forward all necessary actions, including legislative amendments, to implement these changes in time for the Assembly to select and appoint a Speaker at the meeting of the States on 22nd October 2019.

REPORT

The rationale for not electing a Speaker from within the Assembly

Quite simply put, it seems inconsistent to strive for voter equity whilst also allowing for a member, independent or otherwise, who stood for an election on a platform of policies, to render themselves unable to legislate. Should we take the current make-up of the States to exemplify this point, we would find that districts containing only one Deputy may find themselves disenfranchised if their representative were to become Speaker. Of course, a Senator being so would effectively deal with this issue, but another challenge presents: should we encourage a person who, having stood on an Island-wide mandate, may be expected to take on roles of responsibility to remove themselves from the task of governing? Should we look to the newly-proposed electoral reform, we see that electing from within remains problematic; in a district with 5 representatives, one member becoming Speaker decreases that district's representation by 20%. In either formation of the Assembly, the voters will not be fairly represented if their Deputy or member is elected as Speaker. For these reasons, I believe that, should the Assembly wish to elect a Speaker, it should be from outside of the Assembly. Similarly, the Assembly should not formally appoint a Deputy Speaker from amongst the elected membership in the way proposed by [P.31/2019](#).

Selection and appointment of a Speaker

There has been an historical perception of a rite of passage when it comes to the appointment of the Bailiff, and there may be truth in that. But, having asked about the recruitment process for the recruitment of the next Deputy Bailiff, it is apparent to me that there is now a rigorous application process, open and accessible to qualified lawyers of any age or gender, and requiring candidates to undergo thorough testing and many interviews. This process is currently closely overseen by the Jersey Appointments Commission.

Given the proposal to remove this thorough process, a more detailed description of the proposed new selection process is needed. Currently, there is little description in [P.31/2019](#) pertaining to the process of selection and appointment. There should be clear criteria laid out for those wishing to put themselves forward, and the appointments process must be overseen by an appropriate body, namely, the Jersey Appointments Commission. If we are to replace highly-experienced judges and lawyers, who are trained to balance facts, to make impartial decisions and to critically analyse, understand and apply language, we must do so with those who have a similar level of skill and training.

It follows that we should, therefore, implement a process that ensures any individual short-listed for the position possesses the skills required. Having clear criteria also makes the process transparent, accessible and fair to all who apply. This is reinforced by the oversight of the Jersey Appointments Commission who will check and approve our process.

Separation of powers does not mean we should also ignore the fact that we need a person possessing a certain skillset in the position. Indeed, removing the Bailiff as President, without providing the detail of how we are going to carry out the selection of a Speaker, will simply result in the same problems of the past resurfacing; how will people know about the role? How will they come to apply? Will States Members become *de facto* recruiters? How will the process be monitored? We are likely to go backwards, in terms

of culture, if we do not answer these questions. The recent process of recruiting the next Deputy Bailiff has dealt with this, but [P.31/2019](#) currently has not.

Due to the need for a process of selection and appointment, it is necessary for the Assembly to give time to the appointment. It is proposed that, given the election is in May, a new Speaker is elected by the States Assembly after the first summer recess of the new political term. This will allow the appointment process to be carried out over the summer, giving due time and consideration to each applicant. A body of members should be formed to bring forward a preferred individual to be presented to the Assembly at the first Sitting after Summer. Essential members include: Chairman of PPC, President of Chairmen's Committee, Chief Minister, and a representative selection of members from across the Assembly, reflecting a balance (where achievable) of age, gender, disability, and ethnicity. Having carried out a thorough selection process, the members group would present their preferred candidate to the Assembly, and a similar process as that for the election of Chief Minister will ensue as the first item of business after the summer.

Financial and manpower implications

There are no additional financial or manpower implications arising from the adoption of this amendment, beyond those set out in the main proposition.