

STATES OF JERSEY



Jersey

DRAFT AMENDMENT (NO. 42) OF THE STANDING ORDERS OF THE STATES OF JERSEY

**Lodged au Greffe on 30th July 2019
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

Introduction

These amendments to Standing Orders, if adopted, would change the provisions of Standing Orders in relation to the day on which a document is taken to be lodged 'au Greffe' or presented to the States; and would allow for a proposition to be lodged, or a document to be presented, on the day it is distributed – regardless of whether or not the Assembly is meeting on that day.

Background

Standing Orders 25 and 37 stipulate the days on which propositions are taken to have been lodged 'au Greffe' and that other documents (e.g. reports, comments, Scrutiny Reports) have been presented to the States. The Standing Orders currently state that lodging or presentation occurs on the working day after the document in question is distributed to States members. The only exception occurs when the Assembly is meeting; any document distributed to members during the meeting is taken to be lodged or presented on the same day.

These provisions were relevant at a time when the primary means of distribution was in hard copy, with documents sent to members in the post on days when the Assembly was not meeting. However, States members are now informed of lodgings and presentations by e-mail and it is this digital distribution which is the default position: if a document is e-mailed to members, it is taken to have been distributed in accordance with Standing Orders (regardless of whether the document is then distributed in hard copy as well). Lodging and presentation could therefore feasibly take place on the same day as the documents are distributed by e-mail, regardless of whether or not the Assembly was meeting.

Draft Amendments

The draft amendments would therefore alter the provisions of Standing Orders 25 and 37 to allow for 'same day' lodging or presentation, regardless of whether the Assembly was meeting. In essence, the same changes would be applied to both Standing Orders –

- (a) A document to be lodged or presented would need to be given to the Greffier; and the proposer / presenter would need to tell the Greffier when they wanted the document to be distributed and when they wanted lodging / presentation to occur. The same day could be chosen for both.
- (b) The Greffier would, as far as practical, distribute the document on the day requested for distribution. However, as now there would be no obligation on the Greffier to distribute the document on a non-working day. If, for whatever reason, it was not practical for the Greffier to distribute the document on the day requested, the Greffier would distribute the document as soon as possible.
- (c) Lodging / presentation would occur on the day of distribution unless a separate date for lodging / presentation had been requested, in which case lodging / presentation would formally take place on the specified date. Despite the fact that the document would have been distributed to members, it would therefore only be made public on the website on the day it was lodged / presented (i.e. not when it was distributed to members).

The effect of these amendments would change the principle currently underpinning the lodging and presentation processes. At present, lodging and presentation are strongly linked to the distribution of the document in question; it is essentially the fact that the document has been distributed to members that means it can be considered to have been lodged or presented. With adoption of the draft amendments, that direct link between distribution and lodging / presentation would be broken and they would become separate processes. Lodging / presentation would subsequently essentially mean assignment of a reference number to the document (e.g. a 'P' number) and publication of the document on the Assembly's website.

The reason for proposing that the amendments break this link is to allow for documents to be circulated under embargo. At present, members and departments know that a document distributed for lodging or presentation will not become public until the day after it is distributed to members. This means the document can be circulated to the media as well, under embargo, if so desired. If the direct link between distribution and lodging / presentation were maintained, this would become impractical – as the States Greffe would be obliged to publish a lodged or presented document as soon as it was distributed to members. It would consequently become impossible to circulate the document under embargo to the media. It is for this reason that the draft amendments allow for distribution and lodging / presentation to take place on separate days.

Policy Guidance

The Committee anticipates that a move to allow for 'same-day' lodging and 'same-day' presentation in the way proposed could increase undue pressure on the administration of those processes, as undertaken by the States Greffe. The Committee has therefore also approved policy guidance for publication (a copy of which is appended to this report) to clarify what members and departments can expect of the administration of these processes.

The policy guidance highlights that, unless instructed otherwise, the States Greffe would always assume that distribution and lodging / presentation should occur as soon as possible; and that they should happen on the same day. The onus would therefore be on the member (or department) concerned to advise that they would like a later date, or that they would like separate dates for distribution and lodging / presentation (to allow for distribution under embargo).

The guidance also advises that a document should be received by 12:00 p.m. to facilitate lodging or presentation taking place on that same day (if so desired). This would not be a deadline (and would not be included in Standing Orders). The guidance highlights that documents received after this time might feasibly be processed for lodging / presentation; or that documents received before 12:00 p.m. might not be processed in time for lodging / presentation that same day. The Committee trusts, however, that the insertion of such a time as a guide would provide some assistance to members and departments on what could reasonably be expected when they submitted a document for lodging or presentation.

Financial and manpower implications

There are no financial and manpower implications arising from adoption of this Amendment to Standing Orders.

APPENDIX TO REPORT

Policy Guidance in respect of the Lodging and Presentation Processes

1. This guidance is intended to assist members and departments with understanding the lodging and presentation processes and to clarify expectations of when lodging or presentation may occur.
2. The guidance has been issued by the Privileges and Procedures Committee and will be kept under review by the Committee. The guidance does not supplant or override the provisions of Standing Orders in any way. But it takes into account those provisions, as well as administrative requirements, in order to explain how propositions are lodged and other documents are presented.
3. The States Greffe is responsible for administering the lodging and presentation processes. The Committee encourages members and departments to engage with the States Greffe if they have any questions in relation to these processes. The Greffe is available to help with the wording of propositions as they are being drafted; members and departments should therefore not hesitate to contact the Greffe, even before there is any formal requirement for a proposition to be submitted.

Terminology

4. This guidance refers to the ‘lodging’ and ‘presentation’ of documents. Lodging is the process by which propositions are put before the States for debate (in that they are ‘lodged au Greffe’). Only propositions (including amendments) are lodged. All other documents which are put before the Assembly (e.g. reports, Scrutiny reports, comments) are said to be presented. Both lodging and presentation see a document entered on to the registers of the Assembly and made publicly available.

The Lodging Process

5. Standing Orders 18 to 27 relate to the lodging of propositions. Of particular relevance are Standing Order 21 (which sets out how a proposition is lodged) and Standing Order 25 (which sets out the day on which a proposition is taken to be lodged). Essentially, the following must occur for a proposition to be lodged:
 - a. The draft proposition must be given by the member concerned to the States Greffe. For some propositions, this may be authorised via the Ministerial Decision process or by a minuted decision (e.g. of the Council of Ministers).
 - b. A report should be provided to accompany the draft proposition.
 - c. The States Greffe reviews the draft proposition (and accompanying report) and checks it against the requirements of Standing Orders (for example, to confirm that the accompanying report includes a statement of financial and manpower implications). If necessary at this stage, the Greffe will advise the member concerned on the wording of the proposition.
 - d. The States Greffe submits the draft proposition to the Bailiff.
 - e. The Bailiff, having considered the lawfulness and constitutionality of the proposition and whether it is in order, approves it without alteration;

approves it with alteration (subject to the consent of the member concerned); or rules it out of order.

- f. If approved, the proposition is formatted for publication and lodging; and the States Greffe distributes the proposition to members. If no instruction to the contrary has been given to the Greffe, distribution is done as soon as possible and lodging occurs on the day of distribution. Members may, however, ask for the proposition to be lodged on a later date and request that it be distributed to members ahead of that date. This is to allow for propositions to be circulated under embargo, when necessary. In this instance, the States Greffe distributes the proposition on the date requested with the proposition subsequently lodged on the specified date.
 - g. On the day the proposition is lodged, a copy is made available on the States Assembly's website. The lodging period starts on that day.
6. A number of steps therefore need to be completed once the States Greffe has received a draft proposition before it is formally 'lodged au Greffe'. How long it takes to complete each step can vary depending on the circumstances, including the length and complexity of the proposition and / or accompanying report and the volume of business (i.e. whether other propositions have also been submitted on the same day). The process is also adversely affected if material is missing when the draft proposition is submitted (including from the accompanying report and / or other attachments).

The Presentation Process

7. Standing Orders 35 to 37A govern the presentation of documents to the States; and Standing Order 37 in particular sets out how a document is presented and the day on which it is taken to be presented. Essentially, the following must occur for a document to be presented:
- a. A document which is to be presented to the States must be given to the States Greffe.
 - b. The document is formatted for publication and presentation; and the States Greffe distributes the document to members. If no instruction to the contrary has been given, distribution is done as soon as possible and presentation occurs on the day of distribution. However, a later date may be specified for presentation to allow for documents to be circulated under embargo, when necessary. In this instance, the Greffe distributes the document on the date requested and the document is subsequently presented on the specified date.
 - c. On the day that presentation occurs, a copy of the document is made available on the States Assembly's website.
8. The presentation process is less involved than the lodging process: there are fewer steps and the Bailiff's approval is not required. Again, however, the length of time required for a document to be presented can vary, depending on the length and complexity of the document; the volume of business; and (in particular) whether any formatting of the report is required by the States Greffe.

Conclusion

9. The States Greffe will assume that distribution and lodging (or presentation) should take place as soon as possible and on the same day, unless otherwise instructed. Members or departments must therefore be clear in their instructions to the Greffe about when distribution should occur and when lodging / presentation should take place. Active and open communication with the Greffe is encouraged to ensure clarity about what is planned and what the priorities of the member or department concerned may be for lodging and presentation.
10. The Greffe administers these processes as efficiently as possible. In light of the variables described in this guidance, however, it is not possible to provide firm guarantees about timescales. Nevertheless, the Greffe undertakes to work to the following –

If a draft proposition (or document for presentation) is received by 12.00 p.m. and is accompanied by all the supporting material that is required, the proposition / document can be processed for distribution and lodging / presentation that same day – provided that, for a proposition, the proposition has been approved by the Bailiff. Any proposition or document received after that time will be dealt with expeditiously but no guarantee can be given that it will be ready to be lodged or presented on the same day.

11. This timescale is not a deadline, but a guide to assist members and departments. The States Greffe will not refuse to process a document simply because it is received after 12.00 p.m. Similarly, on occasion there may be extenuating circumstances that mean a document received by 12.00 p.m. cannot be processed for lodging or presentation that day, if requested.

EXPLANATORY NOTE

This Amendment to the Standing Orders of the States of Jersey changes the process for lodging propositions or laying or presenting documents to members of the States.

Amendment 1 of this Amendment changes the process in standing order 25 for lodging a proposition so that, where a proposer informs the Greffier that he or she wishes to lodge a proposition as soon as possible, the Greffier must distribute it to the members of the States as soon as possible; and where the proposer informs the Greffier that he or she wishes to lodge the proposition on a specified date, the proposer must inform the Greffier of the specified lodging date. A proposition is lodged on the day it is distributed to the members of the States except that where a proposer wishes to distribute a proposition prior to lodging, he or she must inform the Greffier of the specified distribution date. If it is not reasonably practicable for the Greffier to distribute the proposition to the members of the States by the specified date, whether because that date is not a working day, or because the date specified does not give the Greffier sufficient time to distribute it, the Greffier must distribute it as soon as possible after that specified date. A similar change is made in *Amendment 2* of this Amendment in relation to the laying or presentation of documents under standing order 37.

Amendment 3 gives the title to this Amendment and provides for it to come into force on the day after the day it is made.



Jersey

DRAFT AMENDMENT (No. 42) OF THE STANDING ORDERS OF THE STATES OF JERSEY

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Jersey

DRAFT AMENDMENT (No. 42) OF THE STANDING ORDERS OF THE STATES OF JERSEY

Made *[date to be inserted]*
Coming into force *[date to be inserted]*

THE STATES make the following Amendment to the Standing Orders of the States of Jersey¹ under Article 48 of the States of Jersey Law 2005² –

1 Standing order 25 (day a proposition is lodged) amended

For standing order 25(1) to (4) in the Standing Orders of the States of Jersey³ there is substituted –

- “(1) If a draft proposition is approved, the Greffier shall ask the proposer –
 - (a) when he or she wishes to lodge it; and
 - (b) whether he or she wishes it to be distributed to members of the States before lodging.
- (2) If the proposer informs the Greffier that he or she wishes to lodge the proposition as soon as possible, the Greffier shall distribute it to the members of the States as soon as possible and the proposition is lodged on the day it is distributed to the members of the States.
- (3) If the proposer informs the Greffier that he or she wishes to lodge the proposition on a specified date, the proposer shall inform the Greffier of the specified lodging date and, in the case where the proposer wishes the Greffier to distribute the proposition before it is lodged, he or she shall inform the Greffier of the specified distribution date.
- (4) If the proposer has informed the Greffier of a specified distribution date –
 - (a) the Greffier shall distribute the proposition to the members of the States on the specified distribution date or, if it is not reasonably practicable for the Greffier to distribute the proposition to the members of the States on that specified distribution date, whether because that date is not a working day or because that date does not give the Greffier sufficient time to distribute it, the Greffier shall distribute it as soon as possible after that specified distribution date;

- (b) the proposition is lodged on the specified lodging date or, if for any reason the proposition is distributed after the specified lodging date, it is lodged on the actual date on which it is distributed.
- (5) If the proposer has not informed the Greffier of a specified distribution date or has informed the Greffier of a specified distribution date that is the same as the proposed lodging date –
 - (a) the Greffier shall distribute the proposition to the members of the States on the specified lodging date or if it is not reasonably practicable for the Greffier to distribute the proposition to the members of the States on that specified lodging date, whether because that date is not a working day, or because that date does not give the Greffier sufficient time to distribute it, the Greffier shall distribute it as soon as possible after that specified lodging date; and
 - (b) the proposition is lodged on the date it is distributed to the members of the States.
- (6) The Greffier shall assign a reference number to every lodged proposition.
- (7) The Greffier is not required to distribute a proposition on a day which is not a working day.”.

2 Standing order 37 (how document is presented to or laid before the States) amended

For standing order 37(2) to (5) in the Standing Orders of the States of Jersey⁴ there is substituted –

- “(2) If a person wishing to lay or present a document informs the Greffier that he or she wishes to lay or present it as soon as possible, the Greffier shall distribute it to the members of the States as soon as possible and the document is laid or presented on the day it is distributed to the members of the States.
- (3) If a person wishing to lay or present a document wishes the Greffier to lay or present the document on a specified date, the person shall inform the Greffier of the specified laying or presentation date, as the case may be, and, in the case where the person wishes the Greffier to distribute the document before it is laid or presented, he or she shall inform the Greffier of the specified distribution date.
- (4) If the person wishing to lay or present a document has informed the Greffier of a specified distribution date –
 - (a) the Greffier shall distribute the document to the members of the States on the specified distribution date or, if it is not reasonably practicable for the Greffier to distribute the document to the members on that specified distribution date, whether because that date is not a working day or because that date does not give the Greffier sufficient time to distribute it, the Greffier shall distribute it as soon as possible after that specified distribution date;

- (b) the document is laid or presented, as the case may be, on the specified laying or presentation date or, if for any reason the document is distributed after the specified laying or presentation date, it is laid or presented, as the case may be, on the actual date on which it is distributed.
- (5) If the person wishing to lay or present a document has not informed the Greffier of a specified distribution date or has informed the Greffier of a specified distribution date that is the same as the proposed laying or presentation date –
- (a) the Greffier shall distribute the proposition to the members of the States on the specified laying or presentation date, as the case may be, or if it is not reasonably practicable for the Greffier to distribute the proposition to the members of the States on that specified laying or presentation date, whether because that date is not a working day, or because that date does not give the Greffier sufficient time to distribute it, the Greffier shall distribute it as soon as possible after that specified laying or presentation date; and
 - (b) the document is laid or presented on the date it is distributed to the members of the States.
- (5A) The Greffier shall assign a reference number to every document that is presented or laid.”

3 Citation and commencement

This Amendment may be cited as Amendment (No. 42) of the Standing Orders of the States of Jersey and comes into force on the day after the day it is made.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 16.800.15</i>
<i>2</i>	<i>chapter 16.800</i>
<i>3</i>	<i>chapter 16.800.15</i>
<i>4</i>	<i>chapter 16.800.15</i>