

STATES OF JERSEY



Jersey

DRAFT CONSTITUTION OF THE STATES AND PUBLIC ELECTIONS (JERSEY) LAW 202- (P.17/2021): SECOND AMENDMENT

**Lodged au Greffe on 6th April 2021
by the Senator I. J. Gorst
Earliest date for debate: 20th April 2021**

STATES GREFFE

DRAFT CONSTITUTION OF THE STATES AND PUBLIC ELECTIONS
(JERSEY) LAW 202- (P.17/2021): SECOND AMENDMENT

1 PAGE 15, ARTICLE 1 –

For Article 1(2) substitute –

“(2) In Article 2(1) (constitution of the States) for “29 Deputies” there is substituted “28 Deputies.”.

2 PAGE 15, PART 2 –

In the heading to Part 2, after “ELECTION OF” insert “SENATORS AND”.

3 PAGE 16, ARTICLE 3 –

For the inserted Article 5 substitute –

“5 Term of office

- (1) The term of office of a Deputy for a constituency –
 - (a) begins with the day on which the person elected as Deputy takes the oath of that office; and
 - (b) ends with the earlier of –
 - (i) the first day on which a Deputy elected for that constituency at the next ordinary election takes the oath of that office, or
 - (ii) the resignation of the Deputy in accordance with Article 12.
- (2) The term of office of a Senator –
 - (a) begins with the day on which the person elected as Senator takes the oath of that office; and
 - (b) ends with the earlier of –
 - (i) the first day on which a Senator elected at the next ordinary election takes the oath of that office, or
 - (ii) the resignation of the Senator in accordance with Article 12.

5A Transitional provision for the 2022 ordinary election

- (1) This Article applies in relation to a person who, immediately before the 2022 ordinary election, holds office as a Deputy for a constituency (a “pre-2022 constituency”).

- (2) Where the Deputy’s pre-2022 constituency comprises an area within St. Helier, Article 5 has effect in relation to the Deputy as if for sub-paragraph (b)(i) there were substituted –
 - “(i) the first day on which a Deputy elected for any of the constituencies of St. Helier South, St. Helier Central or St. Helier North at the next ordinary election takes the oath of that office, or”.
- (3) In any other case, Article 5 has effect in relation to the Deputy as if the reference in Article 5(b)(i) to “that constituency” were a reference to the constituency that includes, or corresponds to, the Deputy’s pre-2022 constituency.
- (4) In paragraph (1), the reference to the 2022 ordinary election is a reference to the election held in accordance with Article 6(1).”.

4 PAGE 16, ARTICLE 4 –

In the inserted Article 6, after “Deputies”, in each place it occurs, insert “and Senators”.

5 PAGE 17, ARTICLE 9 –

For Article 9(2), (3) and (4) substitute –

- “(2) This Law comes into force on a day to be specified by the States by Act.”.

6 PAGE 19, SCHEDULE 1 –

In the inserted Schedule 1, in the second column of the table (number of Deputies to be returned) –

- (a) in the entry for the constituency of St. Helier South, for “4” substitute “3”;
- (b) in the entry for the constituency of St. Helier Central, for “5” substitute “4”;
- (c) in the entry for the constituency of St. Helier North, for “4” substitute “3”;
- (d) in the entry for the constituency of St. Saviour, for “5” substitute “4”;
- (e) in the entry for the constituency of St. Clement, for “4” substitute “3”;
- (f) in the entry for the constituency of St. Brelade, for “4” substitute “3”;
- (g) in the entry for the constituency of St. Mary, St. Ouen and St. Peter, for “4” substitute “3”;
- (h) in the entry for the constituency of St. John, St. Lawrence and Trinity, for “4” substitute “3”;

- (i) in the entry for the constituency of Grouville and St. Martin, for “3” substitute “2”.

7 PAGE 20, PART 1 OF SCHEDULE 2, PARAGRAPH 2 –

In paragraph 2, delete sub-paragraphs (2) and (4), and renumber the sub-paragraphs accordingly.

8 PAGE 20, PART 1 OF SCHEDULE 2, PARAGRAPH 3 –

In paragraph 3, in inserted Article 1A(1), for “a Deputy” substitute “a Senator, Deputy”.

9 PAGE 21, PART 1 OF SCHEDULE 2, PARAGRAPH 4 –

In paragraph 4, delete sub-paragraphs (5) and (6).

10 PAGE 21, PART 1 OF SCHEDULE 2, PARAGRAPH 5 –

For paragraph 5, substitute –

“5 Article 9A (supplementary electoral registers for elections of Senators, Deputies and Connétables) amended

In Article 9A(1), after “the parish” there is inserted “which is, or part of which is, the electoral district”.

11 PAGE 21, PART 1 OF SCHEDULE 2, PARAGRAPH 7 –

Delete paragraph 7, and renumber the subsequent paragraphs accordingly.

12 PAGE 22, PART 1 OF SCHEDULE 2, PARAGRAPH 8 –

In paragraph 8(4), in the inserted paragraph (2AA), for “ordinary elections for Deputies” substitute “ordinary elections for Senators and Deputies”.

13 PAGE 22, PART 1 OF SCHEDULE 2, PARAGRAPHS 9 AND 10 –

Delete paragraphs 9 and 10, and renumber the subsequent paragraphs accordingly.

14 PAGE 22, PART 1 OF SCHEDULE 2, PARAGRAPH 11 –

In paragraph 11, delete sub-paragraphs (2), (3) and (6), and renumber the sub-paragraphs accordingly.

15 PAGE 23, PART 1 OF SCHEDULE 2, PARAGRAPHS 12 AND 13 –

Delete paragraphs 12 and 13, and renumber the subsequent paragraphs accordingly.

16 PAGE 23, PART 1 OF SCHEDULE 2, PARAGRAPH 14 –

In paragraph 14, delete sub-paragraphs (3) and (5), and renumber the sub-paragraphs accordingly.

17 PAGES 23 AND 24, PART 1 OF SCHEDULE 2, PARAGRAPHS 15 TO 18 –

Delete paragraphs 15, 16, 17 and 18, and renumber the subsequent paragraphs accordingly.

18 PAGE 24, PART 1 OF SCHEDULE 2, PARAGRAPH 19 –

In paragraph 19, delete sub-paragraphs (2) and (3), and renumber the sub-paragraphs accordingly.

19 PAGES 24 AND 25, PART 1 OF SCHEDULE 2, PARAGRAPHS 20 and 21 –

Delete paragraphs 20 and 21, and renumber the subsequent paragraphs accordingly.

20 PAGE 25, PART 2 OF SCHEDULE 2, PARAGRAPHS 2 AND 3 –

Delete paragraphs 2 and 3, and renumber the subsequent paragraphs accordingly.

21 PAGE 25, PART 2 OF SCHEDULE 2, PARAGRAPH 4 –

In paragraph 4, delete sub-paragraph (2), and renumber the sub-paragraphs accordingly.

22 PAGE 25, PART 2 OF SCHEDULE 2, PARAGRAPH 4 –

In paragraph 4(3), for “37” substitute “28”.

23 PAGES 25 AND 26, PART 2 OF SCHEDULE 2, PARAGRAPHS 6 TO 10 –

Delete paragraphs 6, 7, 8, 9 and 10, and renumber the subsequent paragraphs accordingly.

24 PAGE 26, PART 2 OF SCHEDULE 2, PARAGRAPH 11 –

In paragraph 11, delete sub-paragraphs (2), (3) and (5), and renumber the sub-paragraphs accordingly.

25 PAGE 26, PART 2 OF SCHEDULE 2, PARAGRAPHS 13 and 14 –

Delete paragraphs 13 and 14, and renumber the subsequent paragraphs accordingly.

26 PAGES 27 AND 28, PARTS 4 AND 5 OF SCHEDULE 2 –

Delete Parts 4 and 5 of Schedule 2, and renumber the subsequent Parts accordingly.

27 PAGES 28 AND 29, PART 6 OF SCHEDULE 2, PARAGRAPHS 1 TO 3 –

Delete paragraphs 1 to 3, and renumber the subsequent paragraphs accordingly.

28 PAGE 29, PART 6 OF SCHEDULE 2, PARAGRAPH 5 –

Delete paragraph 5.

SENATOR I.J. GORST

REPORT

Introduction

The effect of this amendment, if it is adopted, would be to establish a States Assembly of 8 Senators, 28 Deputies elected in the new constituencies proposed by the Privileges and Procedures Committee (PPC), and the 12 Parish Connétables.

The primary purpose of my lodging this amendment is therefore to retain the office of Senator within the new electoral system proposed by PPC. I believe this will provide a more balanced, democratic and representative Assembly than would be achieved under the current proposals.

Members will also note that this second amendment corresponds to some extent with my first amendment, in that it incorporates my proposal that we make no change to the existing arrangements for the term of office for Senators or Deputies. Consequentially, it also ensures that the current position with respect to the term of office for a Senator or Deputy serving as a Minister would also be unchanged. I have made the arguments in these respects in my report to the first amendment.

This aspect of my first amendment is included here primarily for procedural and legislative drafting purposes, to ensure that all potential decisions of the Assembly in respect of these matters can be properly and clearly implemented.

Context

The proposal of PPC for a reformed constitution of the States Assembly in this draft Law is based on an amendment I lodged to [P.126/2019](#) (subsequently lodged separately as [P.7/2020](#), but not debated). This was ultimately approved in [P.139/2020](#), which I voted in favour of. I therefore approach this debate as a proponent of the principle of the change that is being proposed.

I do, however, regret not including a proposal to retain the 8 Senators in my amendment to P.126/2019, or subsequently in P.7/2020. Members may have noted that I supported an amendment to P.139/2020 which would have retained the 8 Senators, although that proposal also made changes to the make-up of the proposed electoral districts for the Deputies which I have not replicated in this amendment.

I believe that we can retain the 8 Senators not only without impacting on the fundamental principles of what is achieved through this electoral reform – those being a fairer electoral system which aims to boost engagement in politics and turnout at elections – but indeed in a manner which enhances these principles.

Maximising the influence of the electorate

The office of Senator is the most democratic of all the elected offices in Jersey and offers the greatest level of accountability, in that Senators are elected by, and answerable to, every voter (and indeed every individual) in the Island.

Senatorial elections provide Islanders with an opportunity to collectively discuss and consider issues of interest to every person in Jersey, not just matters relevant to one Parish or District. The Island wide mandate gives us all a shared, direct and equal influence over the make-up of the States Assembly and, albeit more indirectly, the Government. I believe this is positive for engagement in politics and for turnout at elections, and it is my contention that our democracy will be poorer in its absence.

By way of example, every Chief Minister elected to date has been a Senator, and indeed it has become a convention and expectation of the public that the Chief Minister will be

a Senator. At present, we can all have a say at every general election as to who is to be the leader of our next Government. Senators have also historically made up a large proportion of the senior roles in Government. Equally, Senators have also often played (as is the case at present) a leading role within the Scrutiny function, which is a correspondingly important part of our democracy.

The removal of the Senators would unavoidably reduce the broad nature of popular support historically and currently enjoyed by many of those holding positions of executive and parliamentary authority within Jersey's political system, given that all Members, whether serving in the Government or other important parliamentary roles, would have to come only from specific districts.

Retaining the Senators in the context I am proposing will enhance the power and say that voters have over our democratic structures when compared to the unamended proposals of PPC in this draft Law. The loss of the Senators would mean that we all have the number of votes that we can cast at elections reduced, whilst the total number of States Members remains the same. This unnecessarily reduces democracy in Jersey, ironically at a time when we are making moves towards greater fairness in our electoral system.

In short, representative democracy in Jersey cannot lose from having a certain proportion of the States Assembly elected in the fairest way possible – from across the Island.

Voter equity and voting rights

Crucially, the retention of 8 Senators as I propose would have no impact at all on the greater equity in terms of voting power (the relative weight of a vote) which is achieved by this draft Law when compared to our current electoral system. This has to be the case, given that I am proposing the retention of an office that is as fair and democratic as it is possible to achieve, and am doing so by the equal removal of 1 Deputy from each of the new Deputies' Districts.

Similarly, and for the same reasons, there would be no impact on the greater equality achieved in terms of voting rights (the relative number of votes available to a voter).

Number of votes available to an elector

Furthermore, my proposals would represent an enhancement in terms of the absolute number of votes available to every voter in the Island when compared to the proposal in the draft Law, given that the loss of one vote is being replaced by 8 new votes. An elector's ability to shape the constitution of the States Assembly would be increased, especially as the total size of the Assembly would reduce by 1 Member.

Indeed, when compared to our present system, and even with the removal of one Deputy in each of the new Districts, voters across the Island, apart from in 2 vingtaines of St. Helier, would still see the absolute number of votes available to them either maintained or increased.

The reduction in the 2 St. Helier vingtaines (where voters would see their absolute number of votes fall by 1 compared to the present system if this amendment were adopted, but I stress not when compared to the proposal in the draft Law) could be rectified by not removing a Deputy from the new St. Helier North district. I have not proposed that course of action in this amendment due to my uncertainty as to the impact it might have on the overall greater balance achieved by these new districts on voting power across the Island, and the greater disparity it would create in terms of voting rights (as referenced above).

A last chance to save the Senator

Whilst I do not believe that the debate around the Island wide mandate will cease with the adoption, in an amended form or not, of this draft Law, this amendment does represent the final chance to save the office of Senator in the short to medium term.

I cannot be accused of seeking to create, through this amendment, greater unfairness in terms of relative voting rights and voting power – these are unchanged from what is proposed by PPC. The amendment only serves to increase the ability of each elector to shape the constitution of the States Assembly (as compared to what would be the case if the draft Law passes unamended).

I ask Members to think carefully before abolishing a role which is fair, democratic and has served Jersey and its people well since 1948. An Assembly of 48 Members, with 8 Senators, 28 Deputies in the new Districts and the 12 Connétables will still be more equitable whilst retaining the balance in representation which I believe the public have come to value.

In finally achieving electoral reform, and a more equal system for our representative democracy, I ask Members not to lose the most representative office of all and thus inadvertently reduce the power of the electorate to directly shape and influence what is, ultimately, their Assembly.

Financial and manpower implications

There would be no additional resource implications as a consequence of this amendment being adopted. The States Assembly would reduce in size by 1 Member.

A note on process

In the event that this amendment is successful, I will still be required to propose Articles 4 and 5 of my first amendment which relate to the date of the election. Articles 8 and 9 of my first amendment would be dealt with by Act of the States under my second amendment, and therefore wouldn't be required if this second amendment is successful.

I would also still need to propose Article 6 of my first amendment which ensures that the arrangements for any Connétable serving as a Minister would remain as they are at present, and avoid the proposal that a Connétable ceases to serve as a Minister on the day of a general election (with his/her powers transferring to the Chief Minister until a new Council is appointed some weeks later).

Clearly, if this second amendment is defeated, I will need to propose my first amendment in its entirety.