

# STATES OF JERSEY



## DRAFT REFERENDUM (PRESIDENCY OF STATES ASSEMBLY) (JERSEY) ACT 201-

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Lodged au Greffe on 10th April 2018  
by the Privileges and Procedures Committee

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STATES GREFFE





Jersey

## **DRAFT REFERENDUM (PRESIDENCY OF STATES ASSEMBLY) (JERSEY) ACT 201-**

### **REPORT**

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#### **Introduction**

1. On 16th November 2017, the Assembly adopted ‘Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment’ ([P.84/2017](#)). A copy of the proposition, as adopted, is appended to this report.
2. Paragraph (3) of the proposition stated that a referendum should be held in accordance with the [Referendum \(Jersey\) Law 2017](#) (“the Referendum Law”) on the Bailiff’s role as President of the States. The Privileges and Procedures Committee (“PPC”) has lodged this draft Act for that referendum to take place.
3. In accordance with Article 6(2) of the Referendum Law, the Act, if approved, would set the date of the referendum and establish the wording of the question to be put. In line with Article 6(6) of the Referendum Law, the Act would also provide for the manner in which the referendum would be held. In that latter regard, the Act would apply provisions of the [Public Elections \(Jersey\) Law 2002](#) (“the Public Elections Law”) (subject to modification where necessary) which, alongside the provisions of the Referendum Law, would determine how the referendum was administered.

#### **Date of the Referendum**

4. In Article 3 of the Act, PPC proposes that the referendum should be held on Saturday 20th October 2018. For the avoidance of doubt, this is not the Saturday which falls immediately before the school half-term (which will start on Monday 29th October 2018).
5. PPC is aware that some Members were of the view that the referendum should be held on the same day as the election in May 2018. For various reasons, this was not feasible.
6. The Referendum Law states that a referendum cannot be held until 3 months have passed since the adoption of the relevant Act. Given that requirement, and the date on which the Referendum Commission was appointed, it would not have been practical to meet that requirement for the referendum to be held in May 2018. Practical considerations aside, the Commission’s advice to the Assembly was that the referendum on the Bailiff’s Presidency of the States Assembly is of such importance and complexity that it should be held separately from an election.

7. For the referendum to be held on the proposed date, the Act will need to be approved at least 3 months beforehand. Practically speaking, the Assembly will therefore need to approve the Act either at its meeting on 26th June 2018 or at the one on 10th July 2018. If it does not, it will not be possible for the referendum to take place on the proposed date, and a new date will need to be found. PPC would highlight, however, that the proposed changes arising from the adoption of P.84/2017 are due to take effect in 2019 (subject to the result of the referendum). Care would therefore need to be taken on identifying a later date to the one proposed.
8. Holding the referendum on a Saturday would move away from the current format of holding elections on a Wednesday. PPC is mindful of the potential implications of doing so, and has consulted both the Comité des Connétables and the Jurats of the Royal Court. The Comité in particular raised some practical considerations and concerns; for example, the fact that both Parish staff and volunteers would be required to work at the weekend. The Comité also raised the question of whether holding the referendum on a Saturday might lead to a lower turnout than would otherwise be the case if it were held on a Wednesday.
9. PPC has given careful consideration to the proposal that a Saturday be used for the referendum, including the feedback provided by the Comité and the Jurats. It is PPC's view that holding the referendum on a Saturday could encourage participation and thereby increase voter turnout. Whilst it might be experimental in a Jersey context, PPC has noted that polls in some other jurisdictions are held at the weekend, including on a Saturday. Holding the referendum on a Saturday would be a means of making it easier for the Public to access polling stations and to cast their vote.

### **The Referendum Question**

10. Article 6(3) of the Referendum Law states that a Referendum Act cannot be lodged unless the Referendum Commission has published its opinion on the wording of the question to be used in the referendum.
11. This is the first Act to have been lodged under the Referendum Law, and this will be the first referendum held since the Commission was formally established in December 2017. For the purposes of this referendum, it was agreed that the Commission would undertake work on proposed wording and make a recommendation to PPC as the means of meeting the requirement of Article 6(3) of the Referendum Law.
12. PPC has received the recommendation of the Commission and has presented the Commission's report to the Assembly on the Commission's behalf (*see* [R.46/2018](#)). A copy of the report is appended. The report sets out the Commission's recommendation and explains the rationale for that recommendation. In addition to receiving the Commission's written report, PPC also had the opportunity to meet the Commissioners and to discuss their recommendation with them.
13. Through Article 4 of the Act and the Schedule, the question proposed by PPC is the wording as recommended by the Commission, without alteration. The Commission itself has explained the rationale behind the wording in its report, and highlighted the various factors it took into consideration; for instance, the need for clarity about the consequences of choosing one option or another.

14. PPC would highlight one message clearly provided by the Commission: that identifying the question is not the only action that needs to be taken. In addition to its own deliberations and research, the Commission held focus-groups to obtain public input, not only in relation to the question, but also to determine what information the Public would need to make an informed decision. The Commission's clear recommendation is that sufficient information should be made available to the Public; and its recommendation of the wording to be used for the question needs to be read in that light.
15. Alongside the referendum, there is other work to be done to implement the Assembly's approval of P.84/2017. That includes drafting of the amendments to the [States of Jersey Law 2005](#) and to the [Standing Orders of the States of Jersey](#) that would be required to implement the proposition (subject to the result of the referendum). There is an opportunity for the next PPC to continue that work on those amendments; and for those amendments to be lodged before the referendum is held. This would help to ensure that there is clarity for the Public as to the consequences of their vote in the referendum – as it would then be clearer as to what would happen were the Bailiff to cease being President of the States.

#### **Administration of the Referendum**

16. The Referendum Law itself makes certain provisions for the administration of referenda. In particular, it sets limits for campaign expenses and provides for how they should be administered. The Law allows the Assembly to alter these provisions by means of the relevant Referendum Act, should it so wish. However, PPC is not proposing any such alteration, and so these provisions of the Referendum Law will apply to this referendum.
17. The Referendum Law also provides that a Referendum Act may apply provisions of the Public Elections Law to the referendum in question (with modification where necessary). PPC has therefore considered which provisions from the Public Elections Law should apply to the referendum. The bulk of the Articles in the draft Act result from this consideration. As a general principle, arrangements for the referendum will be the same from the voting Public's perspective as for an election. However, some modifications are necessary, in part to reflect the fact that a referendum is different from an election, and in part to accommodate the proposal that the referendum be held on a Saturday.
18. Article 5 of the Act covers a particular provision in relation to the costs of the referendum. The Referendum Law itself states that the costs of a referendum are to be met by the States (except for the costs of setting-up in a Parish which will be met by the relevant Parish). The Referendum Law also allows for the States to incur expenditure in promoting, or procuring, an outcome in a referendum, should that be desired. That is not the case in this referendum, and so Article 5 provides that no expenditure should be incurred by the States in promoting one of the outcomes of this referendum. In other words, this means the States could not formally take sides in the referendum. This provision does not prohibit expenditure on the publication of general information for the Public, or material provided by lead campaign groups to the Referendum Commission.
19. Article 6 indicates the general modifications made to provisions of the Public Elections Law in order that they may be applied to the referendum. The modifications include taking any references to 'election' in the Public

Elections Law as references to the referendum; and references to a ‘candidate’ as references to a lead campaign group for the referendum. Perhaps most significantly in terms of the administration of the referendum is that responsibilities assigned to the Judicial Greffier for an election will be taken by the Greffier of the States for the purpose of the referendum.

20. In Article 7, PPC is proposing that existing arrangements for the appointment of Autorisés and Adjoints are used for the referendum, with one exception. As a result, the Royal Court will be responsible for the appointments. PPC has considered whether, in light of the subject of the referendum, there could be a perception of bias in relation to the Jurats. However, in PPC’s view, there is no conflict and it has complete confidence in the Jurats’ impartiality to act as Autorisés. PPC therefore proposes that the Royal Court retains its responsibility for the appointments. The sole exception is in instances where an Autorisé needs to be appointed at short notice. Under the Public Elections Law, the Bailiff is able to make such short-notice appointments alone. For the purposes of the referendum, if such a short-notice appointment were required, the Act clarifies that the Judicial Greffier would be empowered to make it.
21. Article 8 makes provisions in relation to polling stations and applies the relevant parts of the Public Elections Law in that regard. One of the responsibilities assigned to the Greffier of the States will be the procurement and provision of ballot papers for the referendum (for an election, responsibility would lie with the person presiding at the relevant nomination meeting, but there is no such person in this case).
22. Article 8 also assigns responsibilities to each Connétable to provide copies of the electoral register to the Autorisés; to provide ballot boxes and papers; and to bring the location of polling stations to the attention of his/her Parishioners. The electoral register in force on the day of the referendum will be the register as it stands at midday on Saturday 13th October 2018. The need for it to be a Saturday is dictated by the provisions of the Referendum Law, in that the register to be used is the register in force 7 days before the referendum itself. Article 8 also clarifies that representatives of the lead campaign groups will have the right to be present during the poll at a polling station (subject to having informed the Autorisé) in the way that representatives of candidates have that right for an election.
23. Article 9 applies the provisions of the Public Elections Law in relation to postal and pre-poll voting to ensure that these methods of voting will be available for the referendum. Responsibilities assigned to the Judicial Greffier by the Public Elections Law in this area will be taken by the Greffier of the States for the referendum; the States Greffe will therefore be responsible for managing and administering postal and pre-poll voting. For the purposes of postal and pre-poll voting, a deadline needs to be set by which time a person must be on the electoral register in order to be able to vote by one of those methods. For an election, that deadline is linked to the nomination meeting. As there will be no such meeting for the referendum, the proposed deadline falls a similar length of time before the referendum as a nomination meeting falls before an election. With the referendum due to take place on a Saturday, the Act also proposes changing the closing time of pre-poll voting from what is prescribed in the Public Elections Law. It would therefore close at 2:00 p.m. on Wednesday 17th October 2018.

24. Article 10 of the Act applies provisions of the Public Elections Law in relation to counting and announcing the result of the referendum. As with previous referenda, there will be no provision for a recount. Also, requirements for reporting the results to the Royal Court have not been carried across from the Public Elections Law, as they are not necessary for the purposes of the referendum. Returns from the referendum will need to be made by the Autorisés to the Greffier of the States (and not the Judicial Greffier, as prescribed in the Public Elections Law), and it will be the responsibility of the Greffier of the States to add up the results from each Parish and to determine the result of the referendum. The results will be announced to the Assembly at the first meeting following the poll (scheduled to be on 23rd October 2018).
25. Article 11 applies provisions from the Public Elections Law in relation to offences. The offences are applied for the purposes of the referendum, with some modification. Under Article 62(1)(b) of the Public Elections Law, it is an offence to publish a false statement about a person who is a candidate at the election knowing the statement to be untrue. As there will be no candidates in the referendum, this provision cannot apply directly. PPC has considered what provision should therefore be made. Article 11 of the Act would modify this provision to make it an offence to publish a false statement about any person, knowing the statement to be untrue.
26. Article 12 applies miscellaneous provisions of the Public Elections Law for the purposes of the referendum, in relation to observers, the servicing of documents and misnomers.

#### **Financial and manpower implications**

27. All the costs associated with the referendum (aside from the setting-up by the Parishes) would be met by the States. This includes administration such as the procurement and provision of ballot papers, and the management of postal and pre-poll voting by the States Greffe (which could involve the engagement of temporary staff to assist).
28. It would also include the provision of material to voters ahead of the referendum. Under the Referendum Law, the Referendum Commission must make arrangements for material provided by the lead campaign groups to be published. It is envisaged that this material would be circulated alongside general information to every household, in the way that the manifestos booklet is produced and distributed ahead of elections.
29. It is anticipated that the overall cost of the referendum could amount to approximately £70,000 in total. This could not be accommodated within the current budget of the States Greffe, and a bid for contingency funding would therefore be required.

## APPENDIX 1 TO REPORT

### **‘Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment’ (P.84/2017) – approved as amended**

THE STATES, adopting the proposition of the Chief Minister, as amended –

- (1) subject to paragraph (3) agreed that –
  - (a) the States Assembly should select its Speaker either from amongst the elected members of the Assembly, or by appointing a person who was not a Member of the Assembly but who would be eligible for election to the Assembly;
  - (b) the States Assembly should select a Deputy Speaker from amongst the elected members of the Assembly;
  - (c) the selection and appointment of the Speaker and Deputy Speaker should be the first items of business for any new States Assembly and, should either office become vacant during the term of an Assembly, be the first item of business at the next scheduled meeting of the Assembly;
  - (d) the Speaker and Deputy Speaker should be elected to serve for the duration of an Assembly term, or for the remainder of the Assembly’s term if (for any reason) they were elected mid-term;
  - (e) the process for electing the Speaker and Deputy Speaker should follow a similar format as those for the election of the Chief Minister, Ministers and Scrutiny Panel Chairmen;
  - (f) provision should be made for the Speaker and Deputy Speaker to resign and/or be removed from office by the States Assembly;
  - (g) 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;
  - (h) the Deputy Speaker should be required to act impartially when chairing meetings of the Assembly and undertaking official duties related to their role as Deputy Speaker. When not acting as Deputy Speaker, the Member elected to this post may continue to lodge propositions, table questions, participate in debates, vote on propositions and sit on scrutiny panels;
  - (i) the functions of the Speaker should 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;

- (j) the functions of the Deputy Speaker should include –
  - (i) fulfilling the functions of the Speaker in the absence of, or at the request of, the Speaker or at any other time when the office of Speaker became vacant;
  - (ii) supporting the Speaker in representing the States Assembly within Jersey and overseas;
  - (iii) supporting the work of the Speaker in promoting the development of the States Assembly and democracy in Jersey;
- (k) the additional resources required to support a Speaker and Deputy Speaker should be provided for within the current structure of the States Greffe;
- (l) 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, with the support of the Chief Minister's Office, should bring forward all necessary actions, including legislative amendments, to implement these changes in time for the Assembly to select and appoint a Speaker and Deputy Speaker at its first meeting in 2019, provided that any such legislative amendments must include provisions for an Appointed Day Act which should only be brought to the Assembly after the elections of May 2018;
- (3) paragraphs (1) and (2) should be void and of no effect unless the majority of the people voting in a referendum on the question of whether the Bailiff should remain the President of the States, held in accordance with the Referendum (Jersey) Law 2017, had voted against the Bailiff remaining the President of the States.

**APPENDIX 2 TO REPORT**  
**REPORT AND RECOMMENDATION OF THE REFERENDUM COMMISSION**

**Referendum on the Bailiff as President of the States**

**Recommendation**

1. The States Assembly has voted in favour of a referendum on the Bailiff's role as President of the States. For this referendum to take place, the Assembly will be asked to approve a Referendum Act. The Act will include the wording of the question to be used in the referendum. However, before the Act can be lodged for debate, the Referendum Commission must publish its opinion on the wording of the question.
2. In accordance with this process, the Commission recommends that the referendum question should be worded as follows –

**“Should the Bailiff as President of the States Assembly be replaced by a Speaker elected by States members?”**

Respondents should be given the option to reply either “Yes” or “No”.

3. Alongside this recommendation, the Commission highlights the vital importance of ensuring that sufficient material is provided to the Public ahead of the referendum in order that an informed decision may be taken.

**Context**

4. On 16th November 2017, the States Assembly adopted a proposition of the Chief Minister entitled ‘Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment’ ([P.84/2017](#)).
5. Through paragraphs (1) and (2) of the proposition, the Assembly agreed to establish the offices of Speaker and Deputy Speaker. The Speaker would take on the function of the Presiding Officer, as set out in the [States of Jersey Law 2005](#) and the [Standing Orders of the States of Jersey](#). As a result, the Bailiff would cease to be President of the States.
6. Following the adoption of an amendment lodged by Senator Sir P.M. Bailhache ([P.84/2017 Amd.\(3\)](#)), paragraph (3) of the Chief Minister's proposition *as amended* stated that –

“Paragraphs (1) and (2) should be void and of no effect unless the majority of the people voting in a referendum on the question of whether the Bailiff should remain the President of the States, held in accordance with the Referendum (Jersey) Law 2017, had voted against the Bailiff remaining the President of the States.”

**The Referendum Commission**

7. The Referendum Commission was constituted on 13th December 2017 with the following membership –

Mr. M. Entwistle, *Chairman*  
Advocate M. Boothman

Dr. S. Mountford  
Mr. T.A. Le Sueur, O.B.E.  
Ms. C. Littleboy.

### **Rationale for the Commission’s recommendation**

8. The Commission must publish its opinion on the proposed question for a referendum before the corresponding Referendum Act can be lodged. In respect of the referendum on the Bailiff’s Presidency of the States, it was established with the Privileges and Procedures Committee (“PPC”) that the Commission would develop a question and make a recommendation to PPC.
9. As a starting point for its consideration, the Commission took the contents of paragraph (3) of the Chief Minister’s proposition. With his amendment to the proposition, Senator Bailhache had effectively proposed that the following question be used –

“Should the Bailiff remain the President of the States?”

10. The Commission researched the principles underpinning the holding of referenda. In particular, it looked at the ‘Code of Good Practice on Referendums’, as prepared by the European Commission for Democracy through Law, (commonly known as the Venice Commission). The Commission also sought guidance on how the United Kingdom’s Electoral Commission had approached the holding of referenda.
11. Furthermore, the Commission agreed it was important to test public understanding of the issues involved in the forthcoming referendum. The Commission therefore made arrangements for focus-groups to be held. The primary purpose of these focus-groups was to test the Public’s reaction to prospective wording of the referendum question. However, the groups also provided an opportunity to explore people’s understanding of the subject-matter, and to hear their views on what material the Public should be given to make an informed decision.
12. The Commission’s own research and discussions, as well as the results of the focus-groups, informed its recommendation. The aim was to identify a suitable question to which a yes/no answer could be provided (in accordance with best principles for the holding of referenda). A primary consideration for the Commission was to ensure that the question (and what was at stake within the question) could be clearly understood by voters. The following matters in particular informed the Commission’s recommendation.

### Clarity of the implication of voting yes/no

13. It was apparent from the focus-groups that people wished to understand the implications of their vote – particularly if it were a vote to remove the Bailiff as President of the States. The wording of paragraph (3) of the Chief Minister’s proposition implied a referendum question based solely on the Bailiff’s role as President. However, whilst some details of the Chief Minister’s proposition need to be confirmed, it is clear that there would be other implications. For instance, it is clear that if the Bailiff ceased to be President of the Assembly as a result of the referendum, the Bailiff’s functions would be assumed by a Speaker elected by the Assembly. It is not implied that the Speaker would actually become President of

the Assembly, but would take up a similar role. It is the Commission's recommendation that the question should make that explicit. This would assist the Public's understanding of what is at stake when they cast their vote.

#### Clarity and consistency of terminology

14. The Commission was keen to ensure that any terminology used in the question could be readily understood. The Bailiff is officially President of the States, in accordance with the States of Jersey Law 2005. As such, the Bailiff fulfils the function of Presiding Officer, as set out in the same Law and in the Standing Orders of the States of Jersey. Culturally, the Bailiff's role within the Assembly can be equated to that of a Speaker in parliament, and that term could potentially be used to describe the Bailiff's role.
15. The term 'Presiding Officer' was universally rejected by participants in the focus-groups. It is a technical term which was not easily understood. Whilst paragraphs (1) and (2) of the Chief Minister's proposition use the term, it is the Commission's conclusion that it best be avoided in the referendum question. Its use would more likely confuse, rather than help, matters.
16. Using the term 'Speaker' in respect of the Bailiff's role would be more readily understood by the Public. There might therefore be advantages in using that term. However, the Commission ultimately concluded that it would be preferable to use the term 'President', as opposed to 'Speaker', as the use of 'President' would be consistent with the Bailiff's role as it is actually prescribed currently; and it would be consistent with some aspects of the Chief Minister's proposition.
17. However, the term 'President' was not universally understood by participants in the focus-groups. The term carries connotations of the political regimes in other jurisdictions (e.g. President of the United States) and of the power attributed to executive presidents. Nevertheless, feedback from the focus-groups also suggested that the term would be more readily understood if appropriate information were available to the Public. On that basis, and given that 'President' is the term currently used, the Commission concluded that should be the term used in the question to describe the Bailiff's role within the States.
18. The participants in the focus-groups were given the opportunity to consider whether any other terms could be used (and would be better understood). Many participants in fact preferred the term 'Head' to describe the Bailiff's role (and that which the Speaker would take) in the Assembly. Once informed of what the Bailiff does, this was the term which participants felt most accurately described what the Bailiff does in the States and which would be best understood by the voting Public. Whilst the Commission concluded that it would be best to remain consistent with existing terminology (i.e. President), if there were a viable alternative, the term 'Head' would likely be the most appropriate.

#### Reflecting the existing situation without creating a leading question

19. Paragraph (3) of the Chief Minister's proposition suggested a referendum question on whether the Bailiff should remain President of the States. Consideration was given to whether the word 'remain' could (or should) be replaced by the word 'be'. More generally, consideration was given to the wording in order to avoid

circumstances in which the wording might inadvertently favour either the *status quo* or change.

20. Consideration was also given to the fact the Chief Minister's proposition did not propose any change to the Bailiff's other roles: that of President of the Royal Court and the Island's Civic Head. The Commission therefore considered all prospective wording to determine whether or not it would give the impression that all of the Bailiff's roles were implicated; or whether it would be clear that it was simply his role as President of the States which was involved.

#### A simple sentence structure

21. The subject of the forthcoming referendum is many-faceted. It was the Commission's conclusion that the question should reflect current terminology; and present an accurate picture not only of the current situation, but also of what would result from the referendum if the Bailiff ceased to be President of the States. Nevertheless, it was also the Commission's conclusion that the question should be kept as simple as possible. This meant avoiding subordinate clauses within the question or creating a question that was effectively 2 questions in one.

#### **Conclusion**

22. The Commission has endeavoured to identify a question which can be clearly understood, which is presented simply and provides the Public with enough information in itself about what they are voting on – and without leading them towards answering yes or no.
23. Identifying a question in light of these demands is a matter of balance between them; which the Commission has endeavoured to strike. More information could feasibly be put into the question about what would happen if the Public decided that the Bailiff should not be President of the States. But to do so would likely make the question more complex and less easy to understand.
24. To conclude, the Commission would highlight that identification of the question is only one aspect of ensuring a successful referendum. For example, the arguments either in favour of, or against, change will need to be heard; something which participants in the focus-groups made clear. It is also clear there needs to be appropriate information made available to the Public in order that people may understand what they are being asked; and what the consequences of their decision would be. This should include factual information on the Bailiff's present roles. In this regard, feedback from the focus-groups indicated that without proper information being provided to the Public before the referendum, many would choose not to vote.

**Referendum Commission  
22nd March 2018**

## Explanatory Note

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This Act provides for the holding of a referendum on Saturday 20th October 2018 on the question of whether the Bailiff, as President of the States Assembly, should be replaced by a Speaker elected by States members.

*Article 1* is the interpretation provision. It defines “Elections Law” as the Public Elections (Jersey) Law 2002 and “Referendum Law” as the Referendum (Jersey) Law 2017.

*Article 2* requires the referendum to be held.

*Article 3* sets the date for the referendum as Saturday, 20th October 2018.

*Article 4* and the Schedule set out the form of, and question in, the ballot papers. The question is “Should the Bailiff as President of the States Assembly be replaced by a Speaker elected by States members?”, and the ballot form provides boxes to mark for “Yes” or “No”.

*Article 5* prohibits the States from incurring expenses to promote, procure or prejudice either outcome of the referendum.

*Article 6* provides for general adaptations of the provisions of the Elections Law when they are applied to the referendum, so that references to an election are read as to the referendum, and references to a candidate as to a lead campaign group, and so on. The adaptations also include providing that the States Greffe takes the functions performed by the Judicial Greffe in an election.

*Article 7* provides for the appointment by the Royal Court of *Autorisés*, and applies Articles 17(2C) to (4) of the Elections Law, which provide for principal and replacement *Autorisés* (with replacements appointed by the Judicial Greffier if at short notice).

*Article 8* applies, or reproduces modified versions of, provisions of the Elections Law that relate to polling stations. A person can vote at a polling station if the *Autorisé* or *Adjoint* is satisfied that an administrative error has resulted in the omission of the person’s name from the register (and Article 10 of the Referendum Law makes other provision as to who is entitled to vote). The Greffier of the States must print sufficient ballot papers and deliver them to each parish, which must provide ballot papers and ballot boxes to each *Autorisé*. The register for the purpose of voting at polling stations is the electoral register as in force at midday on Saturday, 13th October 2018, and the parishes must make copies available to the *Autorisés* and *Adjoints*. Articles 24 to 36 of the Elections Law, which deal with polling stations, are applied to the referendum, subject to exceptions and modifications catering for the differences from an election.

*Article 9* applies Part 7 of the Elections Law, which provides for pre-poll voting and postal voting. To be eligible to vote by pre-poll voting or postal voting the person must be on the electoral register as at midday on Friday, 14th September 2018 (and the parishes must provide copies of those registers to the Greffier of the States who is responsible for pre-poll and postal voting). Pre-poll and postal voting cease at 2 p.m. on Wednesday, 17th October 2018.

*Article 10* applies Articles 47, 47A, 49, 50, 51, 52, 53, 55 and 56 of the Elections Law, which relate to the count, the result and the action to be taken after the result, subject to exceptions and modifications catering for the differences from an election. Articles 52A to 52C are not applied, so recounts are not available.

*Article 11* applies Part 11 of the Elections Law, which creates offences. The offence in Article 62 of the Elections Law, of making offers or threats or publishing false

statements to obtain votes or abstentions, is adapted to fit the referendum. The intention must be to obtain votes for one of the outcomes (or to have a voter abstain). The false statements (which in an election would be about a candidate, and would be made to benefit a candidate) can be about any person or body (including a campaign group), but not about the outcome itself or about any other fact.

*Article 12* applies Articles A69, 69 and 70 of the Elections Law, which provide a power to appoint observers, and provide for service of documents and treatment of misnomers.

*Article 13* names this Act and brings it into force on the day after it is made.





Jersey

## DRAFT REFERENDUM (PRESIDENCY OF STATES ASSEMBLY) (JERSEY) ACT 201-

### Arrangement

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Jersey

## **DRAFT REFERENDUM (PRESIDENCY OF STATES ASSEMBLY) (JERSEY) ACT 201-**

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

**THE STATES**, in pursuance of Articles 6 and 10(4) of the Referendum (Jersey) Law 2017<sup>1</sup>, have made the following Act –

### **1 Interpretation**

- (1) In this Act –  
“Elections Law” means the Public Elections (Jersey) Law 2002<sup>2</sup>;  
“Referendum Law” means the Referendum (Jersey) Law 2017<sup>3</sup>.
- (2) An expression used in this Act that is not defined in the Referendum Law, but is defined in the Elections Law, has the same meaning as in the Elections Law.
- (3) If an expression is used in a provision of the Elections Law, and that provision is applied by this Act, that expression has, in that provision as so applied, the same meaning as in the Elections Law.

### **2 Referendum to be held**

A referendum is to be held regarding the presidency of the States Assembly.

### **3 Date of referendum**

The referendum is to be held on Saturday, 20th October 2018.

### **4 Ballot paper**

The ballot paper is to be in the form, and is to contain the question, set out in the Schedule.

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**5 States not to incur expenses to promote, procure or prejudice either outcome of referendum**

The States must not incur expenses for a purpose mentioned in paragraph 1(3)(a) or (b) of the Schedule to the Referendum Law.

**6 Application of Elections Law subject to general modifications**

For the purpose of Articles 7 to 12, unless otherwise provided or unless otherwise required by the context, a provision in the Elections Law is to be read, when applied by any of those Articles, as being subject to the following modifications –

- (a) the provisions of that Law apply to the referendum only if they would apply to an election of a Senator;
- (b) references to an election are to be read as if they were references to the referendum;
- (c) references to a candidate are to be read as if they were references to a lead campaign group;
- (d) references to the Judicial Greffier are to be read as if they were references to the Greffier of the States; and
- (e) references to other provisions of the Elections Law, that are applied by this Act, are to be read as if they were references to those provisions as so applied with any modifications under this Act.

**7 Appointment of *Autorisés* and principal *Autorisés***

- (1) The Royal Court must, no later than 38 days before the holding of the referendum, make an order appointing a Jurat or other public official as *Autorisé* for the poll in each electoral district.
- (2) Articles 17(2C), (3), (3A) and (4) of the Elections Law apply in relation to an appointment under paragraph (1), except that the reference in Article 17(4) of that Law to the Bailiff alone is to be read as a reference to the Judicial Greffier.

**8 Polling stations**

- (1) Article 3 of the Elections Law applies in relation to a person claiming a right to vote at a polling station in the referendum.
- (2) The Greffier of the States must –
  - (a) have a sufficient number of ballot papers printed; and
  - (b) ensure that an appropriate number of ballot papers for the referendum are delivered to the Connétables, for voting in polling stations.
- (3) Each Connétable must, in relation to his or her parish and to each *Autorisé* for that parish –

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- (a) make copies of the electoral register, as in force at midday on Saturday, 13th October 2018, available free of charge to the *Autorisé* and to any *Adjoints* appointed by the *Autorisé*;
  - (b) make available to the *Autorisé* an appropriate number of ballot papers and ballot boxes for each polling station in the parish;
  - (c) otherwise provide such assistance in the preparation for, and the conduct of, the referendum as the *Autorisé* reasonably requires; and
  - (d) take such steps as he or she believes are necessary to bring to the attention of the public in the parish –
    - (i) the location of each polling station provided in the parish under Article 26(1) of the Elections Law as applied by paragraph (5), and
    - (ii) the times at which, under Article 30 of the Elections Law as applied by paragraph (5), the poll opens and closes.
- (4) Articles 24(4) to (6) of the Elections Law apply in relation to the ballot papers for the referendum, but –
- (a) in Article 24(4) the reference to a constituency is to be read as a reference to the referendum; and
  - (b) in Article 24(6) the reference to any one poll in a constituency is to be read as a reference to the poll in the referendum.
- (5) Articles 25 to 36 of the Elections Law, other than Articles 28(1) and 31(2A), apply in relation to the referendum, but –
- (a) the right conferred by Article 28(2) is to be read as being a right of a representative of a lead campaign group to be present during the poll in a polling station, exercisable if that lead campaign group has informed the *Autorisé* in writing of the name of the representative and has notified the *Autorisé* in writing that the lead campaign group wishes the representative to exercise that right;
  - (b) in Article 31(1) the reference to the person presiding at a nomination meeting is to be read as a reference to the Greffier of the States; and
  - (c) in Article 33(2) the reference to a cross in the blank square opposite the name of each candidate of the voter's choice is to be read as a reference to a mark in the blank square opposite the outcome chosen by the voter.

## **9 Pre-poll voting and postal voting**

- (1) Part 7 of the Elections Law applies in relation to the referendum, subject to the modifications made by the following paragraphs.
- (2) In relation to postal voting and pre-poll voting, the date by reference to which a person's eligibility to vote is to be determined under Article 10(1) and (2) of the Referendum Law is midday on Friday, 14th September 2018.
- (3) Article 41 of the Elections Law does not apply, and instead each Connétable must forward to the Greffier of the States, for the purposes of

Part 7 of the Elections Law as applied by this Act, a copy of the electoral registers for the electoral district that is, or the electoral districts that are within, that Connétable's parish, as those registers are in force at the time and date mentioned in paragraph (2).

- (4) In Article 42(1) of the Elections Law the reference to the Monday before the day of the poll is to be read as a reference to Wednesday, 17th October 2018.

## 10 Count, result and action after result

- (1) Articles 47, 47A, 48, 49, 50, 51, 52, 53, 55 and 56 of the Elections Law apply in relation to the referendum, but –
- (a) Articles 47(1) to (3) do not apply;
  - (b) in Article 47(5) the reference to the constituency is to be read as a reference to the parish;
  - (c) Articles 48(1), (2), (3), (5)(a) and (5)(c) do not apply, and;
  - (d) in Article 48(4) the reference to the reference to a transfer of votes is to be disregarded;
  - (e) in Article 50(1)(a) the reference to votes obtained by each candidate is to be read as a reference to votes cast for each outcome;
  - (f) Articles 50(2)(a) and (c) do not apply;
  - (g) in Article 51(1), the reference in sub-paragraph (e) to a vote is to be read as a reference to a vote for one outcome, and sub-paragraphs (f) and (g) do not apply;
  - (h) Article 51(3) does not apply;
  - (i) in Article 52(7) the reference to each candidate is to be read as a reference to each outcome;
  - (j) Article 52(9) does not apply, and instead the Greffier of the States must –
    - (i) add the results of the counts in each parish and determine the result of the referendum, and
    - (ii) at the next meeting of the Assembly following the poll, inform the Assembly of the results of the referendum;
  - (k) in Article 53(2)(a) the reference to votes obtained by each candidate is to be read as a reference to votes cast for each outcome;
  - (l) Article 53(6) does not apply;
  - (m) Article 55 is to be read without reference to the exception relating to Article 59; and
  - (n) in Article 56(1) the reference to a period of 12 months following the day fixed for delivering the returns to the Royal Court is to be read as a reference to a period of 6 months following the day of the poll.
- (2) No person may request a recount in the referendum, and nothing in this Act, or in the Elections Law as applied by this Article, is to be read as –

- (a) applying any of Articles 52A to 52C of the Elections Law in relation to the referendum; or
- (b) otherwise derogating from Article 11 of the Referendum Law.

#### **11 Offences**

- (1) Part 11 of the Elections Law, other than Article 66(3), applies in relation to the referendum.
- (2) In Article 62 of the Elections Law, as applied by this Article –
  - (a) the reference in paragraph (1) to a vote for the person, or for any other person, is to be read as a reference to a vote for one of the outcomes; and
  - (b) the reference in paragraph (1)(b) to a person who is a candidate at the election is to be read as a reference to any person, whether that person is a lead campaign group or not.

#### **12 Observers, service and misnomers**

Articles A69, 69 and 70 of the Elections Law apply in relation to the referendum.

#### **13 Citation and commencement**

This Act may be cited as the Referendum (Presidency of States Assembly) (Jersey) Act 201- and comes into force on the day after it is made.

**SCHEDULE**

(Article 4)

**BALLOT PAPER**

Should the Bailiff as President of the States Assembly be replaced by a Speaker elected by States members?

YES

NO

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- <sup>1</sup> *chapter 15.640*  
<sup>2</sup> *chapter 16.600*  
<sup>3</sup> *chapter 15.640*