

# STATES OF JERSEY



Jersey

## **DRAFT AMENDMENT (No. 46) OF THE STANDING ORDERS OF THE STATES OF JERSEY**

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**Lodged au Greffe on 16th March 2020  
by the Privileges and Procedures Committee**

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**STATES GREFFE**



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## REPORT

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### *Introduction*

The Privileges and Procedures Committee (PPC) is bringing forward this amendment to Standing Orders in order to deal with the possibility of the States Assembly being unable to function because it is not possible for 25 Members (the quorum of the States) to physically gather together.

The quorum of the States is defined in Article 15 of the States of Jersey Law 2005, which states that –

The States shall be lawfully constituted and may conduct any business which it is in their power to conduct if there are present no less than one half of the elected members.

The Standing Orders set out how it is established whether or not the States is inquorate. Standing Orders 51 and 53 say that there must be two roll calls to establish who is in the States Chamber. On the second roll call a Member's absence must be recorded and various reasons for absence can be stated or agreed. Standing Order 54 deals with what happens when Members who are absent at the second roll call subsequently arrive in the Chamber. Standing Orders 55 and 56 set out what happens when the States are inquorate at different points.

In normal circumstances, these arrangements work well. Members are required by the terms of their oaths and the Code of Conduct for Elected Members to attend the States unless there is compelling reason for them not to do so. It is unusual for more than 10 Members to be absent from the States when the roll is called at the start of the day.

However, the Committee is concerned that the COVID-19 pandemic could lead to a situation where the States is unable to meet because 25 Members cannot assemble in one place. This could occur due to Members falling ill or being required to self-isolate, or because of more stringent guidelines about public gatherings. Such a situation would undermine the Assembly's ability to hold Ministers to account for their decisions and could also make it impossible for legislation to be passed.

The Assembly has long taken a pragmatic approach to decision-making by its committees and panels, permitting decisions to be taken in 'telephone meetings' or by e-mail. This new Standing Order would extend the principle of the approach already taken in committees and panels to the States itself, but only in the exceptional circumstances of a state of emergency or otherwise when the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in view of substantial risk to the health of States Members or any other person.

### *How would the Standing Order work in practice?*

The Standing Order would only apply if –

- a state of emergency has been declared under the Emergency Powers and Planning (Jersey) Law 1990; or
- the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in view of substantial risk to the health of States Members or any other person, something PPC would expect the Bailiff to indicate to all Members as early as possible.

In these situations, Members would still be expected to attend the States in person. The Code of Conduct requirement that Members "should be present in the Chamber when the States are meeting unless they have very compelling reasons not to do so" would

remain in force. However, those Members unable to attend, for whatever reason, would now have the option of being marked as present and voting, if they are able and willing to follow the proceedings of the States on that day.

If this Standing Order amendment is adopted, the Greffier will issue more detailed information about how it will be implemented. In particular, the Greffier will confirm what forms of electronic communication Members should use to declare that they are present and to vote; what contact addresses or numbers to use; and by when the declaration that a Member is present and following proceedings remotely must be received. These matters are not set out in Standing Orders so that the arrangements can be flexible to suit the circumstances of the day. The Greffier will also make arrangements for Members to contribute to proceedings, for example by enabling Members to submit written contributions to debates, which could be displayed on screens for Members to read and recorded in Hansard.

Paragraph (3) explains what will happen during the roll call. The Greffier will have given the presiding officer a list of those Members who have declared that they are following proceedings remotely. When the names are called during the second roll call, the presiding officer will declare that they are present.

Members who have declared that they are following proceedings remotely are expected to do so for the whole of the day. Under paragraph (4)(a) they count towards the quorum of the States for the whole day, as it would be impossible in practice to know whether or not a Member was indeed following proceedings, which could cause uncertainty about whether or not the States was quorate.

Members following proceedings remotely would be entitled to vote and paragraph (5) shows how this would happen in practice.

Under paragraph (5), where the new Standing Order is in operation, only electronic, roll call or open ballot votes would be possible. Most votes would be taken, as now, using the electronic voting system. Members in the Chamber would vote in the normal way. Members following proceedings remotely would send their vote to the Greffier using the form or forms of electronic communication he specifies. Votes must be submitted before the point at which the presiding officer declares that the voting has closed. The presiding officer will know immediately how Members in the Chamber have voted. (S)he will be passed the remote votes by the Greffier, the overall result will then be calculated and announced. This will cause voting to take a little longer than usual. It will still be possible for the names of Members voting Pour and Contre and abstaining to be read out.

The other parts of paragraph (5) deal with how roll call and open ballot voting can accommodate Members voting remotely, broadly in line with the arrangements for electronic voting.

Finally, paragraph (6) sets out a procedure for Members with an interest in relation to a vote to declare the interest by electronic communication and for the Greffier to alert the presiding officer so that the information can be read out.

This new Standing Order is intended to meet the challenges posed by the COVID-19 pandemic, to ensure that the Island's principal democratic can continue to function without comprising Members' health or the health of the community. It has been drafted in order not to be specific to current circumstances, but to adapt to any future challenges of this nature confronting the Island. PPC urges Members to support this proposition but at the same times hopes that it will never be necessary for it to be implemented.

**Financial and manpower implications**

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



**EXPLANATORY NOTE**

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Amendment 1 is a new Standing Order 55A which provides that in a state of emergency, or at any other time where the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in view of substantial risk to the health of States Members or any other person, Members who are absent at the start of a day on which the States meets may declare to the Greffier that they are present and able to vote by means of electronic communication on that day. It permits such Members to be recorded as present in the minutes of the States and varies the rules applying to voting in the States to provide for such Members to vote. Such Members retain the right to speak, propose propositions and amendments and otherwise contribute to the proceedings of the States, in a like manner to Members present in the Chamber, but subject to such modifications to procedure and practice as the Bailiff directs. The Amendment also provides for such Members to declare interests in relation to their votes.

Amendment 2 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. 46) 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 Jersey<sup>1</sup> under Article 48 of the States of Jersey Law 2005<sup>2</sup> –

### **1 New Standing Order 55A (Members present and able to vote by means of electronic communication in exceptional circumstances)**

- (1) This Standing Order applies during the period of a state of emergency, as defined by the Emergency Powers and Planning (Jersey) Law 1990<sup>3</sup>, and at any other time where the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in view of substantial risk to the health of States Members or any other person.
- (2) The Greffier must make arrangements to enable elected members who are absent at the start of a day on which the States is meeting to declare that they are present, intend to follow the proceedings of the States and are able to vote by means of electronic communication on that day.
- (3) Despite Standing Order 53, the Greffier must inform the presiding officer of the names of every elected member who has made the declaration under paragraph (2) and when those members' names are called during the 2nd roll call, the presiding officer must say that those members are present and instruct the Greffier to record this in the minutes.
- (4) Elected members recorded as present under paragraph (3) –
  - (a) count towards the quorum of the States as if they were in the States' Chamber throughout the day for which they have been recorded as present;
  - (b) are entitled to vote, under this Standing Order; and
  - (c) are entitled to ask a question, speak in a debate, propose a proposition or amendment, and otherwise contribute to the proceedings of the States in the same manner as members present in the Chamber, subject to such modifications of procedure and practice as the Bailiff directs.
- (5) When this Standing Order applies, the Standing Orders on voting are varied as follows –
  - (a) standing votes and voting by secret ballot are not permitted;

- (b) where a recorded vote using the electronic voting system is taken, elected members recorded as present in accordance with paragraph (3) must inform the Greffier of their vote by means of electronic communication no later than the end of the time allowed for votes to be cast and the Greffier must inform the presiding officer of the numbers of such members voting “Pour”, “Contre” or abstaining, so that the presiding officer can combine those votes with the votes cast using the electronic voting system and declare the result. Standing Orders 92(8) to (10) apply as if the votes cast under this paragraph were cast using the electronic voting system;
  - (c) where a recorded vote is taken by open ballot, elected members recorded as present in accordance with paragraph (3) must inform the Greffier of their vote, or the name of the candidate for whom they are voting, by means of electronic communication no later than the end of the time allowed for the ballot and the votes so taken are treated as if they were written on ballot papers in accordance with Standing Order 94;
  - (d) where a recorded vote is taken by roll call vote, elected members recorded as present in accordance with paragraph (3) must inform the Greffier of their vote by means of electronic communication no later than the time allowed for the roll call and the Greffier must inform the presiding officer of the numbers of such members voting “Pour”, “Contre” or abstaining, so that the presiding officer can combine those votes with the votes cast by members in the States Chamber.
- (6) Elected members recorded as present under paragraph (3) must declare an interest under Standing Order 106 by means of electronic communication to the Greffier. The Greffier must inform the presiding officer of any interests so declared and the presiding officer must read out the member’s name and the nature of the interest.

## **2 Citation and commencement**

This Amendment may be cited as Amendment (No. 46) of the Standing Orders of the States of Jersey and comes into force on the day after it is made.

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>chapter 16.800.15</i>
<i>2</i>	<i>chapter 16.800</i>
<i>3</i>	<i>chapter 23.100</i>