

STATES OF JERSEY



AMENDMENT TO STANDING ORDERS – REMOTE PARTICIPATION IN STATES MEETINGS

Lodged au Greffe on 18th April 2023
by the Privileges and Procedures Committee
Earliest date for debate: 23rd May 2023

STATES GREFFE

PROPOSITION

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

to rescind their Act dated 14th September 2021, in which they adopted the proposition entitled ‘States Meetings: Continuation of Remote Participation’ (P.87/2021), and to make the following amendments to the Standing Orders of the States of Jersey, with immediate effect –

1. Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]

For paragraphs (1) and (2) substitute the following paragraphs –

“(1) This standing order applies only in the following instances –

- (a) during the period of a state of emergency, as defined by the Emergency Powers and Planning (Jersey) Law 1990, when it is not possible to convene or maintain a quorate meeting of the States in person;
- (b) at any other time, outside of a period of a state of emergency, if the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in person in view of substantial risk to the health of members of the States or any other person; and
- (c) to any member who is absent at the start of a meeting day or continuation day for a reason related either to the member’s health or to the health of a family member or household member of that member, and who has requested to participate remotely in the meeting.

(2) Where this standing order applies, the Greffier must make arrangements to enable the members affected to participate in the meeting by means of electronic communication, provided that, in any instance arising from paragraph (1)(c), to do so would not be detrimental to the health of the member concerned. The arrangements may include the meeting being conducted entirely by means of electronic communication.

(2A) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of paragraph (1)(c).”.

2. Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]

After paragraph (2A) insert the following paragraphs –

“(2B) Notwithstanding paragraph (1), where, due to unforeseen circumstances, an elected member is unable to be in Jersey on a day on which the States is meeting, the member may participate in the meeting that day by means of electronic communication from outside Jersey.

- (2C) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of “unforeseen circumstances” in paragraph (2B).”

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

PPC has lodged this amendment to Standing Orders in order to address two States Assembly decisions – the first from the adoption of former Deputy John Young’s Proposition ‘[States Meetings: Continuation of Remote Participation](#)’ (P.87/2021) and the second from the adoption of the first part of Deputy Inna Gardiner’s Proposition ‘[States Meetings – Remote Participation and Proxy Voting](#)’ (P.63/2022).

Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]

Standing Order 55A is the provision which enables remote or hybrid meetings of the Assembly. Paragraph (1) currently states that the Standing Order applies during a period of a state of emergency, or at any other time 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 Members or any other person. This Standing Order was introduced in the face of the Covid-19 Pandemic and the impact the Pandemic had on the Assembly’s ability to meet in person.

At the States meeting on 14th September 2021, Paragraph (1) was disapplied following a Proposition from the former Deputy John Young ([P.87/2021](#)), which means that remote or hybrid sittings are now possible in any circumstances. At the time, the previous Privileges and Procedures Committee agreed that a remote link should always be provided for States meetings in future to enable Members who could not attend the Chamber for valid reasons to participate in meetings. There was a general acceptance that such ‘valid reasons’ effectively meant health reasons. However, at the moment, the rules require the Greffe to provide the meeting link to all Members and no reason must be given for making use of it.

Given the public health situation has improved and restrictions have been lifted, the Committee has lodged this amendment to Standing Orders to ensure that use of the link for remote access is appropriately regulated. There was an expectation from the adoption of P.87/2021 that the matter would be revisited, so that the circumstances arising from its adoption would not last in perpetuity.

If the first part of the proposed amendment is adopted, Members will be able to participate remotely in States Assembly meetings when they are unable to attend in person for health-related reasons (provided that it would not be detrimental to their own health). Members will also be able to participate remotely when the reasons relating to health relate either to a family member or to a household member. This would mean that remote participation is always available, depending on the individual circumstances of a Member, rather than merely during set periods of emergency or public health crisis as initially envisaged with the introduction of Standing Order 55A. It is important, however, that the introduction of this facility does not place undue pressure on Members to participate when they are, in fact, ill; and this principle has been reflected in the drafting of the amendment. It would remain possible for the Bailiff to convene the Assembly remotely in times of emergency or where the Bailiff felt it would not be possible to convene or maintain a quorate meeting for public health reasons.

The amendment would require guidance to be issued by the Bailiff, following consultation with the Committee, to assist with the interpretation and application of this Standing Order. A copy of draft guidance has been appended. PPC recognises that the

guidance may well need to change over time if it appears the process is not working, that there are gaps within the process or, indeed, that the process is being misused.

Standing Order 55A [Members present and able to vote by means of electronic communication in exceptional circumstances]

At the last meeting of the previous Assembly in April 2022, a Proposition ([P.63/2022](#)) from Deputy Inna Gardiner was adopted in which the Assembly agreed that:

“at any time when remote participation in States meetings is permitted generally, Members should be able to participate remotely from outside Jersey in the event that unforeseen circumstances prevent their participation from in the Island, with the circumstances permitting such participation to be determined in accordance with guidance issued by the Bailiff.”

There was a corresponding request within the Proposition for the Committee to bring forward amendments to Standing Orders to enact this decision. Therefore, the second part of the amendment, if adopted, would enable a Member to participate in meetings remotely when they are unable to be present in Jersey (and therefore the Chamber) due to ‘unforeseen circumstances,’ with such circumstances to be determined in accordance with guidance issued by the Bailiff (following consultation with the Committee). This option would always be available, depending on the circumstances of the Member concerned, rather than during set periods. A draft copy of the guidance has been appended.

Financial and manpower implications

There are no financial or manpower implications arising from this proposition

Appendix 1 – Draft Guidance on Remote Participation in States Meetings

Introduction

Standing Order 55A governs the ability for Members to take part in States meetings via electronic means so that they are not physically present in the States Chamber but are nevertheless able to participate in the meeting.

In accordance with Standing Order 55A(2A) and Standing Order 55A(2C), this guidance has been issued by the Bailiff, having consulted with the Privileges and Procedures Committee, to explain –

- (a) how arrangements work for Members participating remotely for reasons related to their health (or that of a household or family member), in accordance with Standing Order 55A(1)(c); and
- (b) how “unforeseen circumstances” are to be interpreted in situations when Members are able to participate remotely from outside Jersey, in accordance with Standing Order 55A(2B).

Remote participation for health reasons

Standing Order 55A(1)(c) allows for a Member to participate remotely in States meetings for health-related reasons, or for health reasons relating to a household or family member.

In order to participate remotely, an application must be made to the Greffier of the States for the link to the relevant meeting. The Greffier and States Greffe will not explicitly ask for the health-related reasons that apply; it is for the Member to judge themselves whether to apply for the link.

In looking to participate remotely, Members should expect to be able to take part in the meeting as fully as if they were in the Chamber: by speaking in debate or asking questions; by voting; and by following the debate. The only distinction is that the Member, for health-related reasons, cannot be in the Chamber. Members should not therefore join the meeting remotely and then undertake other business that they could not do whilst in the Chamber. Nor should they join remotely in order simply to vote if they would otherwise be unable to speak, or contribute, if called to do so.

It is important that Members do not participate remotely in a way that is likely to be detrimental to their own health. The possibility of participating remotely does not remove the ability for a member to be marked as ‘malade’ (ill). Nor, if the reason for absence is related to the health of the member’s child, does it remove the ability for a member to be marked as absent due to parental responsibilities (see [‘Policy Guidance in Respect of Standing Order 53\(2\): Parental Responsibilities’ \(R.3/2022\)](#)). The ability for the Assembly to agree to a member being marked as ‘excusé(e)’ (excused) also remains.

It is not possible to list exhaustively all health-related reasons that might lead a Member to participate remotely; but the following circumstances are considered appropriate:

1. In instances where there is a requirement to self-isolate for public health reasons (e.g. Covid-19), particularly if the Member concerned is not symptomatic.
2. In preparation for, or following, a surgical or medical procedure that requires the Member to rest, recuperate or self-isolate – thereby preventing their attendance in the States Chamber but not impacting on their ability otherwise to participate.
3. Where someone in the Member’s family or household is ill, or whose health is affected, and the member concerned has caring responsibilities for the other person.

Remote participation whilst outside Jersey

Standing Order 55A(2B) allows Members to participate remotely in States meetings whilst outside of Jersey in unforeseen circumstances.

Unforeseen implies that the Member concerned is not able to be present in a States meeting, which they had intended to attend, for reasons that the Member concerned could not have reasonably predicted.

Members can be marked absent for roll call (and therefore from the meeting) due to being absent from Jersey on States business. Standing Order 55A(2B) cannot be used by any Member for remote participation on any day when they are outside the Island on States business, including days on which it had been planned for them to travel.

Unforeseen circumstances include the following scenarios:

1. Weather conditions impact upon travel arrangements and delay the Member from returning to the Island on the day they had planned to return.
2. Public health guidance (e.g. for Covid-19) or health-related reasons (e.g. an accident) prevent the Member concerned from travelling back to the Island when initially planned.

In looking to participate remotely, Members should expect to be able to take part in the meeting as fully as if they were in the Chamber: by speaking in debate or asking questions; by voting; and by following the debate. The only distinction is that the Member cannot be in the Chamber. Members should not therefore join the meeting remotely and then undertake other business that they could not do whilst in the Chamber. Nor should they join remotely in order simply to vote if they would otherwise be unable to speak if called to do so.

Conclusion

Members are required to judge for themselves whether to request remote participation in a States meeting on the basis of these criteria; the States Greffe will not actively police, or explicitly ask for information about, either the health reasons that may apply or the unforeseen circumstances that have arisen (if the Member is out of the Island). Members must therefore be aware that, in extremis, if they were found to have requested and used remote participation inappropriately, this would be a breach of Standing

Orders and of the Code of Conduct for Elected Members. Nevertheless, the Privileges and Procedures Committee reserves the right to monitor the application of this guidance, including the ability to ask for the reasons why remote participation has been requested and to propose that such a request be refused in instances where the guidance has been misused.

Appendix 2 – Standing Order 55A, shown as amended by the proposed amendments

55A Members present and able to vote by means of electronic communication in exceptional circumstances

- (1) This standing order applies only in the following instances –
 - (a) during the period of a state of emergency, as defined by the Emergency Powers and Planning (Jersey) Law 1990, when it is not possible to convene or maintain a quorate meeting of the States in person;
 - (b) at any other time, outside of a period of a state of emergency, if the Bailiff considers that it might not be possible to convene or maintain a quorate meeting of the States in person in view of substantial risk to the health of members of the States or any other person; and
 - (c) to any member who is absent at the start of a meeting day or continuation day for a reason related either to the member’s health or to the health of a family member or household member of that member, and who has requested to participate remotely in the meeting.
- (2) Where this standing order applies, the Greffier must make arrangements to enable the members affected to participate in the meeting by means of electronic communication, provided that, in any instance arising from paragraph (1)(c), to do so would not be detrimental to the health of the member concerned. The arrangements may include the meeting being conducted entirely by means of electronic communication.
- (2A) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of paragraph (1)(c).
- (2B) Notwithstanding paragraph (1), where, due to unforeseen circumstances, an elected member is unable to be in Jersey on a day on which the States is meeting, the member may participate in the meeting that day by means of electronic communication from outside Jersey.
- (2C) The Bailiff, following consultation with the Privileges and Procedures Committee, must issue guidance on the interpretation of “unforeseen circumstances” in paragraph (2B).
- (3) Elected members participating in the meeting by means of electronic communication –
 - (a) are entitled to vote, under this standing order; and
 - (b) 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 any modifications to procedure and practice directed by the Bailiff.
- (4) When this standing order applies, the provisions of these Standing Orders relating to voting are varied as follows –
 - (a) standing votes are permitted, where practicable, with the Bailiff making any provision that the Bailiff considers necessary to enable elected members participating in the meeting by means of electronic communication to vote;

- (b) where there are members participating in the meeting by means of electronic communication, any reference in these Standing Orders to a “secret ballot” is read as a reference to an “open ballot;”
 - (c) where a recorded vote using the electronic voting system is taken, elected members participating in the meeting by means of electronic communication 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, if necessary, the Greffier must inform the presiding officer of the numbers of those 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;
 - (d) standing order 92(8) to (10) apply as if the votes cast under this paragraph were cast using the electronic voting system;
 - (e) where a recorded vote is taken by open ballot, elected members participating in the meeting by means of electronic communication 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;
 - (f) where a recorded vote is taken by roll call vote, elected members participating in the meeting by means of electronic communication must vote by saying “Pour”, “Contre” or abstain or inform the Greffier of their vote by means of electronic communication no later than the time allowed for the roll call and, if necessary, the Greffier must inform the presiding officer of the numbers of those members voting “Pour”, “Contre” or abstaining, so that the presiding officer can combine those votes with the votes cast by members in the Chamber.
- (5) Elected members participating in the meeting by means of electronic communication may 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.