

STATES OF JERSEY



Jersey

DRAFT COVID-19 (ELECTION OF JURATS) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 8th June 2021
by the Minister for Health and Social Services
Earliest date for debate: 20th July 2021**

STATES GREFFE

REPORT

The appointment of Jurats is governed by the [Royal Court \(Jersey\) Law 1948](#) (the “Royal Court Law”) which usually requires the Electoral College to meet in order to appoint a new Jurat.

A Jurat is due to retire from office in June 2021, and as Jersey is still affected by the ongoing pandemic, it is possible that public health guidelines (or even Covid-19 legislation) may continue to impose restrictions on gatherings. It is therefore necessary to make temporary provision to delay the convening of the Electoral College and/or allow the Electoral College to meet virtually to determine the appointment of new Jurats.

Meetings of the Electoral College usually take place in the Royal Court building, and its membership includes the Bailiff (as president), the Jurats, the Connétables, elected members of the States, Advocates and Solicitors. The Lieutenant-Governor, the Dean, the Attorney General and the Solicitor General are non-voting members. The Greffier of the States is not a member of the College but is required to attend the meeting to act as its Clerk and record its proceedings.

The quorum of the Electoral College is 40. However, all members of the College are entitled to attend and address the meeting. There are over 500 members of the College, but the average meeting attendance is estimated at 150 members. Meetings are also held in public.

Given the level of anticipated attendance it would be difficult or impossible to manage the necessary distancing required (at the time of writing this report) by public health guidance given the physical constraints of the court estate.

So, in order to ensure that a meeting of the Electoral College complies with public health measures, this temporary amendment is proposed to the Royal Court Law to provide flexibility so that the convening of a physical meeting can be delayed or, alternatively, a virtual meeting can be held in accordance with the necessary procedures.

Flexibility to delay a physical meeting, rather than convene a virtual meeting, has been included in the Regulations because a physical meeting would be preferable, given the complexities and potential issues that would arise from such a large meeting being held on-line. To provide the best chance of a physical meeting being possible, the Bailiff will be empowered to delay a meeting of the Electoral College until such time as it is possible to do so physically within the prevailing guidelines at the time.

In the event that it is not possible to hold a physical meeting within a reasonable time, this amendment will allow a virtual meeting to be held. To ensure that this virtual meeting can take place effectively, these Regulations will ensure that Article 4 of the Royal Court Law can be construed as allowing a meeting of the Electoral College to be held virtually, including by –

- Using video conferencing services.
- Maintaining public access to the meeting by means of a live-stream arrangement.
- Enabling the Bailiff to reschedule, delay or adjourn the meeting in light of any technical issues arising from use of the video conferencing service, or if it appears that more members wish to attend than can be accommodated by the technology in use.

The Bailiff will be able to delay a physical meeting or convene a virtual meeting only if satisfied that it is necessary or expedient to do so in view of prevailing Covid-19

legislation or guidance or because there is an outbreak of Covid-19 or a risk of such an outbreak.

Financial and Manpower Implications

No financial and manpower implications would arise from the adoption of these Regulations.

EXPLANATORY NOTE

These Regulations, if passed, would make temporary provision to vary the procedure for the election of jurats due to Covid-19.

Regulation 1 inserts a new Article 5 into the Royal Court (Jersey) Law 1948 modifying the usual procedure of electing jurats that is set out in Article 4 of that Law as follows:

- Paragraph (1) enables the Electoral College to be constituted virtually if the Bailiff is satisfied that it is necessary or expedient to do so due to law or guidance relating to the risk of spreading Covid-19 or the likelihood of the risk of spreading it in the event of the College meeting physically.
- Paragraph (2) gives the Bailiff a discretion instead to delay holding a physical meeting until the Covid-19 risk no longer applies.
- Paragraph (3) allows various provisions of Article 4 to be construed so they can encompass a virtual meeting. These provisions relate to summoning the meeting, giving details of it, including how to access it, participation at the meeting including viewing access for the public, voting and declaration of ballot, determination of quorum and how members are treated as being present, virtual attendance by the Greffier of the States and the omission of paragraph (26) (hand and postal delivery of notice and summons).
- Paragraph (4) enables the Bailiff to delay or adjourn the virtual meeting where the Bailiff has reason to believe that the number of members wishing to participate exceeds the numbers able to do so according to the technology to be used to conduct the meeting. The delay or adjournment would be either till the Covid-19 risk no longer applies or the technology allows all those members to participate.
- Paragraph (5) enables the Bailiff to delay the start of the meeting if the Bailiff considers that technical issues affecting or likely to affect the virtual meeting would materially impact on the efficient conduct of a meeting.
- Paragraph (6) enables the Bailiff to adjourn the meeting if the technical issues cannot be, or are unlikely to be, resolved within a reasonable time, for the meeting to be reconvened under the existing provisions (as modified by this Article).
- Paragraph (7) provides that if a meeting of the Electoral College is summoned to take place in person following a delay in accordance with this Article, the time limit for summoning the meeting does not apply.
- Paragraph (8) provides for the Article to expire on 31st October 2021 (the date currently set for the expiry of other Covid-related Regulations).

Regulation 2 includes the citation provision and provides for the Regulations to come into force on the day after they are made.



Jersey

DRAFT COVID-19 (ELECTION OF JURATS) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹ –

1 Modification of procedure for electing Jurats due to Covid-19

After Article 4 of the Royal Court (Jersey) Law 1948² there is inserted –

“5 Meeting of Electoral College during period of risk of spreading Covid-19

- (1) Despite Article 4, the Electoral College may be constituted virtually by means of a meeting taking place via the Internet, if the Bailiff is satisfied that it is necessary or expedient to do so due to –
 - (a) the current state of the law or guidance relating to the risk of spreading Covid-19 in Jersey; or
 - (b) the likelihood of the risk of spreading Covid-19 in the event of holding a physical meeting of the Electoral College.
- (2) However, where the circumstances mentioned in paragraph (1)(a) or (b) apply, the Bailiff may instead choose to delay the summoning of a meeting until those circumstances no longer apply.
- (3) Where a meeting is to take place virtually, Article 4 is construed as follows –
 - (a) a reference to the summoning of a meeting of the Electoral College is a reference to the arranging of a virtual meeting;
 - (b) the reference to delivering a summons to attend the meeting is a reference to emailing details of the meeting along with the means for the member to attend the meeting virtually;
 - (c) the requirement to give particulars of the place of the meeting in the summons is omitted;
 - (d) the right of every member to address the meeting is construed as the right of every member able to participate in accordance with this Article to speak at the virtual meeting;

- (e) the requirement for the meeting to be held in public is satisfied by the public's being able to access a live stream of the meeting (without the ability to participate);
 - (f) voting papers may be transmitted electronically and the result of each ballot declared at the virtual meeting;
 - (g) the quorum of the meeting is determined by the number of members participating in the virtual meeting;
 - (h) the reference to members being assembled is a reference to members being logged in to the virtual meeting;
 - (i) the Greffier of the States is to attend virtually;
 - (j) paragraph (26) is omitted.
- (4) If the Bailiff has reason to believe that the number of members wishing to participate at a virtual meeting will exceed the number able to participate according to the technology applicable to the type of virtual meeting being arranged, the Bailiff may delay or adjourn the meeting until –
- (a) the circumstances mentioned in paragraph (1)(a) or (b) no longer apply and the meeting can be held in person; or
 - (b) that technology will allow all members wishing to participate at the virtual meeting to do so.
- (5) In the event of technical issues affecting or likely to affect the virtual meeting that the Bailiff considers would materially impact on the efficient conduct of the meeting, the Bailiff may delay the start of or suspend the meeting till later the same day.
- (6) If the technical issues cannot be, or are unlikely to be, resolved within a reasonable time the Bailiff may adjourn the meeting to be reconvened on another day in accordance with Article 4(22) and (23) as modified by this Article.
- (7) If a meeting of the Electoral College is summoned to take place in person following a delay in accordance with this Article, the time limit in Article 4(9) does not apply.
- (8) This Article expires on 31st October 2021.”.

2 Citation and commencement

These Regulations may be cited as the Covid-19 (Election of Jurats) (Jersey) Regulations 202- and come into force on the day after they are made.

ENDNOTES

Table of Endnote References

1	<i>L.2/2020</i>
2	<i>chapter 07.770</i>