

PUBLIC ELECTIONS LEGISLATION

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by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

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Report

Some difficulties were encountered in the elections for Senators and Deputies in October and November 1996, concerning electors who had returned their electoral forms in compliance with the Franchise (Jersey) Law 1968 (“the 1968 Law”) but whose names, because of administrative error, had not been inscribed on the electoral register. Neither the *Loi (1897) sur les élections publiques* (“the Law of 1897”) nor the 1968 Law provided a means of correcting such an error. The names of such electors could not therefore be entered on the register. The persons concerned were thus effectively disenfranchised.

In response to this statutory hiatus, the Legislation Committee has decided to bring forward draft amendments not only to the Law of 1897 and the 1968 Law but also to the Postal Voting (Jersey) Law 1978 (“the 1978 Law”). These are, however, interim measures, pending the review of the findings of the Working Party established to consider in detail the operation of the Law of 1897 and the 1968 Law.

The amendment to the Law of 1897 seeks to enact a new Article 9A empowering a Returning Officer or his *Adjoint* to place the name of an elector on the electoral register if satisfied, on the declaration of the elector and after having heard the Connétable or other appropriate officer of the Parish, that, notwithstanding that the elector has duly returned his electoral form, his name has been omitted or deleted from the register as a result of an administrative error.

The proposed amendment to the 1978 Law would confer upon the Judicial Greffier powers similar to those of the Returning Officer in the event of the name of an elector having been omitted or erased from the electoral register as a result of an administrative error.

The proposed amendment to the 1968 Law would be consequential upon the amendments to the Law of 1897, although the opportunity would be taken to amend Article 5 of the 1968 Law to make it clear that references in the Law of 1897 to *la Liste Electorale* should be construed as references to the electoral register prepared pursuant to Article 5(1) of the 1968 Law.

Each of the draft Laws has been the subject of consultation with the *Comité des Connétables* and with the Superior Number of the Royal Court.

Explanatory Note

This draft *Loi* amends the *Loi (1897) sur les elections publiques* to provide that if, after investigation, a Returning Officer, or his *Adjoint*, is satisfied that the name of an elector has been omitted or deleted from the electoral register as a result of administrative error, he may cause the register to be rectified forthwith, thus enabling the elector to cast his vote.

[TRANSLATION]

LAW (199) (AMENDMENT No. 2) ON PUBLIC ELECTIONS

A LAW to amend further the Law (1897) on public elections; sanctioned by Order of Her Most Excellent Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

After Article 9 of the Law (1897) on public elections, as amended (hereinafter referred to as “the principal Law”), there shall be inserted the following Article -

“ARTICLE 9A

(1) If an elector attends at the place fixed for the Poll, but his name is not inscribed on the list mentioned in Article 8 of this Law, he may vote nevertheless if the condition specified in paragraph (2) of this Article is satisfied.

(2) The condition referred to in paragraph (1) of this Article is that the Returning Officer, or the *Adjoint* mentioned in Article 9 of this Law, is satisfied -

- (a) on the declaration of the elector in the form set out in Schedule BA to this Law; and
- (b) after having heard the Connétable or such officer of the Parish as he shall judge appropriate,

that, notwithstanding that the requirements of Article 6 of the Franchise (Jersey) Law 1968 have been fulfilled, the name of the elector has been omitted or deleted from the list mentioned in Article 8 of this Law as a result of an administrative error.

(3) If the condition specified in paragraph (2) of this Article is satisfied, the Returning Officer, or the *Adjoint*, as the case may be, shall cause to be inscribed on the said list -

- (a) the name of the elector; and
- (b) a serial number in relation to that elector,

and mention thereof shall be made in the Return.

(4) As from his name becoming inscribed on the said list by virtue of this Article, the elector shall be entitled to vote, and the provisions of Articles 9 to 12 of this Law shall apply, as if his name had always been inscribed thereon.”.

ARTICLE 2

In sub-paragraph (d) of Article 31 of the principal Law, for the words “10 and 11” there shall be substituted the words “9A, 10 and 11”.

ARTICLE 3

After Schedule B to the principal Law there shall be inserted the following Schedule -

“SCHEDULE BA

Form of the declaration mentioned in Article 9A

I, A.B., solemnly declare that I verily believe that I ought to be allowed to vote by reason of the following facts, namely -

[Insert here statement of supporting facts]

(Signed) A.B.

Done in our presence the day of 19

(Signed) C.D.
Returning Officer [or Adjoint]”.

ARTICLE 4

In the notes at the foot of Schedule E to the principal Law, for the words “9 or 10” there shall be substituted the words “9, 9A or 10”.

ARTICLE 5

This Law may be cited as the Law (199) (Amendment No. 2) on public elections.

**LOI (199) (AMENDMENT No. 2) SUR LES ELECTIONS
PUBLIQUES**

LOI pour modifier en outre la Loi (1897) sur les élections publiques, confirmée par Ordre de Sa Majesté en Conseil en date du

(Enregistré le _____ jour de _____ 199)

AUX ETATS DE L'ILE DE JERSEY

L'An 199 , le _____ jour de _____

LES ETATS, moyennant la sanction de Sa Très Excellente Majesté en Conseil, ont adopté la Loi suivante -

ARTICLE 1

Après l'Article 9 de la Loi (1897) sur les élections publiques, telle que ladite Loi a été modifiée (ci-après désignée "la Loi principale"),¹ sera inséré l'Article suivant -

"ARTICLE 9A

(1) Si un électeur se présente à l'endroit fixé pour le Recueil des voix, mais son nom n'est pas inscrit sur la liste mentionnée à l'Article 8 de la présente Loi, il peut voter néanmoins si la condition précisée dans l'alinéa (2) de cet Article est remplie.

¹ Tomes IV-VI, page 149.

(2) La condition visée dans l'alinéa (1) de cet Article est que l'Autorisé, ou l'Adjoint mentionné à l'Article 9 de la présente Loi, est satisfait -

- (a) sur la déclaration de l'électeur dans la forme indiquée dans l'Appendice BA de la présente Loi; et
- (b) après avoir ouï le Connétable ou tel officier de la paroisse qu'il jugera à propos,

que, nonobstant que les exigences de l'Article 6 de la Loi dite 'Franchise (Jersey) Law 1968'² aient été remplies, le nom de l'électeur a été omis ou radié de la liste mentionnée à l'Article 8 de la présente Loi par suite d'une erreur administrative.

(3) Si la condition précisée dans l'alinéa (2) de cet Article est remplie, l'Autorisé, ou l'Adjoint, selon le cas, fera inscrire sur ladite liste -

- (a) le nom de l'électeur; et
- (b) un numéro d'ordre relativement à cet électeur,

et note de ces faits paraîtra au Procès-verbal.

(4) Dès que son nom devient inscrit sur ladite liste en vertu du présent Article, l'électeur sera en droit de voter, et les dispositions des Articles 9 à 12 de la présente Loi s'appliqueront, comme si son nom y avait été toujours inscrit.”.

ARTICLE 2

Dans le sous-alinéa (d) de l'Article 31 de la Loi principale,³ aux mots “10 et 11” seront substitués les mots “9A, 10 et 11”.

² Volume 1968-1969, page 86, et Volume 1994-1995, page 266.

³ Tomes IV-VI, page 160.

ARTICLE 3

Après l'Appendice B de la Loi principale sera inséré l'Appendice suivant -

“APPENDICE BA

Forme de la déclaration mentionnée à l'Article 9A

Je, A.B., déclare solennellement que je crois en vérité que je dois être admis à voter en raison des faits suivants, à savoir -

[Insérer ici récit des faits justificatifs]

(Signé) A.B.

Fait en notre présence ce jour de 19

(Signé) C.D.
Autorisé [ou Adjoint]”.

ARTICLE 4

Dans les notes au pied de l'Appendice E de la Loi principale, aux mots “9 ou 10” seront substitués les mots “9, 9A ou 10”.

ARTICLE 5

La présente Loi pourra être citée sous le titre de “Loi (199) (Amendement No. 2) sur les élections publiques”.

Explanatory Note

This Law amends the Postal Voting (Jersey) Law 1978 to confer upon the Judicial Greffier powers similar to those of a Returning Officer, in the event of the name of an elector having been erroneously omitted or deleted from the electoral register.

**PUBLIC ELECTIONS (POSTAL VOTING) (AMENDMENT)
(JERSEY) LAW 199**

A LAW to amend the Public Elections (Postal Voting) (Jersey) Law 1978, sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

After Article 4 of the Public Elections (Postal Voting) (Jersey) Law 1978⁴ there shall be inserted the following Article -

“ARTICLE 4A

(1) If, upon receipt of an application under paragraph (2) of Article 3 of this Law, it appears to the Greffier that the name of the person making the application is not inscribed on the electoral register, he shall notify that person accordingly.

(2) A person who receives a notification pursuant to paragraph (1) of this Article may, if he believes, notwithstanding that the requirements of Article 6 of the Franchise Law have been complied with, that his name has

⁴ Volume 1975-1978, page 411.

been omitted or erased from the electoral register as a result of an administrative error, make application to the Greffier for his name to be inscribed on the electoral register.

(3) If a person makes an application pursuant to paragraph (2) of this Article, the Greffier shall have the same powers as the Returning Officer (*Autorisé*) under Article 9A of the principal Law and, accordingly, if the requirements of paragraph (2) of that Article are satisfied, he shall cause the name of that person to be inscribed on the electoral register and the provisions of this Law shall apply to that person as though his name had at all times been so inscribed.”.

ARTICLE 2

This Law may be cited as the Public Elections (Postal Voting) (Amendment) (Jersey) Law 199 .

Explanatory Note

This Law amends consequentially the Franchise (Jersey) Law 1968 to make it clear that the electoral register prepared under Article 9 of that Law may be subject to modification if a Returning Officer or the Judicial Greffier exercises his powers to have inscribed in the electoral register the name of an elector which has been omitted or deleted as a result of an administrative error.

FRANCHISE (AMENDMENT No. 6) (JERSEY) LAW 199

A LAW to amend further the Franchise (Jersey) Law 1968, sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

After paragraph (6) of Article 5 of the Franchise (Jersey) Law 1968,⁵ as amended (hereinafter referred to as "the principal Law") there shall be inserted the following paragraph -

"(7) References in the 'Loi (1897) sur les élections publiques'⁶ to 'la Liste Electorale' shall be construed as references to the electoral register prepared in accordance with paragraph (1) of this Article."

ARTICLE 2

After paragraph (3) of Article 9 of the principal Law there shall be inserted the following paragraph -

⁵ Volume 1968-1969, page 86.

⁶ Tomes IV-VI, page 141, Volume 1968-1969, page 92, and Volume 1975-1978, page 193.

“(4) Nothing in this Article shall operate so as to prejudice the right of the Returning Officer (*Autorisé*) or *Adjoint*, in pursuance of Article 9A of the ‘Loi (1897) sur les élections publiques’, or of the Judicial Greffier, in pursuance of Article 4A of the Postal Voting (Jersey) Law 1978, to cause an elector’s name to be entered on the electoral register.”.

ARTICLE 3

This Law may be cited as the Franchise (Amendment No. 6) (Jersey) Law 199 .