

STATES OF JERSEY



PUBLIC ELECTIONS: AMENDMENTS TO LEGISLATION AND ADMINISTRATION (P.110/2013) – SECOND AMENDMENT

**Lodged au Greffe on 5th November 2013
by Deputy M. Tadier of St. Brelade**

STATES GREFFE

PUBLIC ELECTIONS: AMENDMENTS TO LEGISLATION AND
ADMINISTRATION (P.110/2013) – SECOND AMENDMENT

PAGE 5, PARAGRAPH (F)(a) –

After the words “to remove the citizenship requirement for candidates to be elected members of the States” insert the words “, and to replace the current requirements relating to periods of residency for candidates with a requirement that candidates must have ‘entitled’ or ‘entitled to work’ status under the provisions of the Control of Housing and Work (Jersey) Law 2012”.

DEPUTY M. TADIER OF ST. BRELADE

REPORT

There are 2 main reasons for this amendment. The first is to resolve an inconsistency with regard to the length of time one has to be resident in the Island to be eligible for office in comparison to other jobs. The second is to make a case for *Jersey Citizenship* to be used as the test for eligibility for office rather than *Nationality*, per se.

(1) Inconsistency

There is currently a curious situation whereby someone who has lived in the Island less than 5 years, who is not 'entitled to work' in accordance with the Control of Housing and Work (Jersey) Law 2012, would nonetheless be eligible to stand for election to the States Assembly. This is currently the case for British nationals and, if PPC's recommendation is accepted, this would also be the case for foreign nationals. Such an individual who was elected under the current or proposed system (without this amendment) would be able to serve the public and receive remuneration from the tax payer, even though their Registration Card would state they were *registered* and not *entitled to work*.

This amendment resolves that inconsistency.

(2) Jersey Citizenship vs British Nationality

There will be some in the Assembly who oppose quite resolutely *any* attempt to remove the current British nationality requirement to stand for the positions of Deputy and Senator, and they are quite entitled to that view. The argument goes that most, if not all, national parliaments around the world do have a citizenship requirement of some sort.

What this amendment, therefore, seeks to do is **differentiate** *Nationality* from *citizenship*.

What constitutes 'Jersey' Citizenship?

It is not unreasonable to have a *Citizenship* requirement to enter public office; however, in Jersey, one can be a British National without having the right to work and/or housing (i.e. being *entitled/entitled to work*).

Similarly, one can be *entitled* without the need to be a British National. **Nationality**, per se, is not the test that is regularly applied to determine who may access social and work rights in our Island. In general, if you have been here for 5 years, you can work here and claim benefits. This does not depend on nationality.

Why then, as a *small nation State*¹, with what is effectively our own **national** assembly, do we seek to apply an external test of nationality, when we have a perfectly good *Jersey Citizenship* test of our own already in existence? This test, it seems, is

¹ 'The States do not know what they are doing, members are down to dwindling numbers, we are laughing, we are joking, **this is the Parliament of a small nation State** and we are making fools of our democracy and our legislation.' – Senator Ozouf, Hansard, 18th July 2008.

'We are one of the strongest **small nation economies** in the world.' – Senator Ozouf, Hansard, 1st July 2008.

already adequate when it comes to those enforcing the law in Jersey, as confirmed by the Chief of Police in recent correspondence –

‘There is no requirement for Police Officers to be British Citizens. However, those who apply will have to have been resident in the Island for 5 years or more. With regard to the oath, officers will be asked to “faithfully serve the Queen, her heirs and successors according to law” as well as to protect Human Rights, keep the Queen’s Peace etc.’²

Part of the rationale of allowing non-British nationals to serve in the Jersey Police Force, presumably, is the principle that those who are trusted to *enforce* the law by the community, in the community, should also reflect the diversity of that community (it also helps from a *practical* point of view when it comes to engaging with the various communities).

This principle is just as important when it comes to those *making* the laws. As a ‘representative democracy’, which we are, it is right that our government is *inclusive* not exclusive. This should include men and women, young and old, rich and poor, able and less able-bodied, gay and straight and, finally, British and non-British Jersey residents.

If the 5 year residency test is good enough for other jobs in the Island – including our Police Force, who are also working for the people of Jersey – in the States Assembly it should be no different.

Whilst it may not be the most compelling example, our sister island of Guernsey is a case in point. As the island jurisdiction with the most in common to ours, they have no nationality requirement, just a residency (*Citizenship*) requirement (see footnote).³

I ask members to support this commonsense amendment.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.

² Quote from e-mail received on 30th October 2013 from Sergeant C. MacLennan, Acting Staff Officer to Chief Officer in response to request for information on the nationality requirements for Jersey Police Officers.

³ **QUALIFICATION for States of Guernsey**

A person wishing to stand as a People’s Deputy must:

- be aged 20 years or over;
- not be subject to any legal disability
(that is certification as a person of unsound mind, subjection to guardianship, detention ordered by a Law Officer in a hospital or institution as a person in need of treatment for a mental ailment);
- be ordinarily resident in Guernsey on the date of nomination as a candidate;
- have been ordinarily resident in Guernsey
**§ for two years immediately before the date of nomination, or
§ for five years in the aggregate at any time before the date of nomination;**
- not in the five years preceding the date of the election have been sentenced by a court in the U.K., Channel Islands or Isle of Man to imprisonment for a period of six months or more, whether suspended or not, without the option of a fine.