

STATES OF JERSEY

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DRAFT CENTENIERS (TERMS OF OFFICE) (JERSEY) LAW 200-

Lodged au Greffe on 6th February 2007
by the Comité des Connétables

STATES GREFFE



Jersey

DRAFT CENTENIERS (TERMS OF OFFICE) (JERSEY) LAW 200-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Comité des Connétables has made the following statement –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Centeniers (Terms of Office) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Connétable K.P. Vibert of St. Ouen**

REPORT

Introductory

1. The aim of this *projet de loi* is to re-organise the law relating to election dates for Centeniers and to put an end to problems arising from their having to be elected in pairs and elections occurring at random.
2. The nub of the problem is that there is no order in the dates of elections of Centeniers throughout the Island. For historical reasons the dates upon which different terms of office of Centeniers expire throughout the Parishes are completely haphazard.
3. The present position is the result of hundreds of years of evolution.

Historical background

4. The office of Centenier was not created by statute, but evolved at customary law along with the office of Connétable.
5. It has been said that the Centeniers, like the Anglo Saxon ‘hundred-men’, were responsible for the behaviour of about one hundred families; but there is no evidence to support that view beyond the word ‘centenier’ having connotations of the number 100.
6. More probably, their distant origin is in the early ages of the French monarchy under which there were *Centeniers* (and *Dizainiers*) who had the right of holding a court or public assembly, where justice was administered, and where matters which related to the district were discussed^[1].
7. Whatever the origins, by the 16th Century it was clear, according to *Philippe Le Geyt*^[2], that the Connétable in each Parish was –

“ . . . secondé d’un Centenier qui fait le même serment, mutato homine, et les mêmes fonctions en l’absence du Connétable”

[...assisted by a Centenier who took the same oath, but for the name of the office, and carried out the same functions in the absence of the Connétable].

8. *Le Geyt*, of his own time (the end of the 17th Century) said –

“ . . . il y a fort peu de paroisses où il n’y ait deux Centeniers, et cette multiplication est nouvelle; elle a commencé par l’âge ou l’indisposition de quelque Centenier, qu’on ne vouloit pas décharger absolument; puis elle s’est répandue d’une paroisse à l’autre”

[...there are very few parishes where there are not two Centeniers, and this increase is recent; it started with a particular Centenier getting old or becoming ill, but people not wanting him to be discharged completely; then the same thing started to happen in other parishes”].

9. It appears from this that the number of Centeniers began to increase partly as a result of not wanting to dispense altogether with serving Centeniers – even if they were ill or senile! What is clear is that this growth in the number of Centeniers – which must have continued throughout the 18th Century -was quite haphazard.

10. By 1846^[3], the number of honorary officers throughout Jersey stood at –

St. Helier:	4 Centeniers, 6 Vingteniers, and 24 Officiers du Connétable.
St. Brelade:	2 Centeniers, 2 Vingteniers, and 15 Officiers du Connétable.
the other Parishes:	2 Centeniers,

4 Vingteniers, and

4 or 5 Officiers du Connétable.

11. It was against this background that the *Loi* (1853) *au sujet des centeniers et officiers de police* was enacted.

12. Article 1 of that Law increased the number of Centeniers for St. Helier to 8; and for St. Martin to ⁴¹4.

13. As for the mode of election of Centeniers, Article 2 provided that –

“Les élections de Centeniers seront ordonnées par la Cour, de manière à ce que 2 Centeniers puissent être élus pour la même paroisse le même jour; et il ne sera procédé au remplacement d’un Centenier d’une des paroisses de cette Île que lorsqu’il y aura vacance dans la charge d’un second Centenier. Chaque électeur pourra voter pour 2 candidats. Les 2 candidats qui auront obtenu le plus de suffrages seront déclarés élus. Si un des Centeniers ainsi élus décède avant la fin de sa gestion, une élection aura lieu pour le remplacer; mais alors celui qui sera élu ne restera en charge que jusqu’à l’expiration de la gestion de son collègue”.

[Elections for Centeniers shall be ordered by the Court in such manner that two Centeniers are able to be elected for the same Parish on the same day; and the replacement of a Centenier of one of the Parishes of this Island shall only be proceeded with when there is a vacancy in the office of a second Centenier. Each elector may vote for two candidates. The two candidates who have obtained the most votes shall be declared elected. If one of the Centeniers thus elected dies before the end of his or her period of office, an election shall be held to replace that Centenier; but then, the person who is elected shall only remain in office until the expiration of the period of office of his or her colleague.]

14. It is this Article that is at the root of the position today: whilst it provided (and still provides) for Centeniers to be elected ‘in pairs’, it did not affect the dates upon which the current terms of office of Centeniers were due to expire.

15. As we have seen, those dates were entirely haphazard. They remained so after the enactment of the *Loi* of 1853 – and do so to the present day.

From 1853 to the present day

16. To recapitulate, therefore, as of 1853, the number of Centeniers for each Parish stood at –

St. Helier:	8
St. Martin	4
the other Parishes:	2

17. From 1853 to the present day, the number of Centeniers for each Parish has been determined by a series of *ad hoc* Laws in relation to each Parish styled on Article 1 of the *Loi* of 1853.

18. Those on the statute book today are the following –

Loi (1987) *concernant la Police Honorifique de Grouville,*
Loi (2001) *concernant la Police Honorifique de La Trinité,*
Loi (1964) *concernant la Police Honorifique de St. Brelade,*
Loi (1971) *concernant la Police Honorifique de St. Clément,*
Loi (1987) *concernant la Police Honorifique de St. Helier,*
Loi (2001) *concernant la Police Honorifique de St. Jean,*
Loi (2001) *concernant la Police Honorifique de St. Laurent,*
Loi (2002) *concernant la Police Honorifique de St. Martin,*
Loi (2002) *concernant la Police Honorifique de St. Ouen,*
Loi (1971) *concernant la Police Honorifique de St. Pierre,*
Loi (1998) *concernant la Police Honorifique de St. Sauveur,*
Loi (1987) *concernant la Police Honorifique de Ste. Clément,*

Loi (2001) concernant la Police Honorifique de Ste. Marie.

19. The net result is that, at the present day –
St. Helier has 10 Centeniers,
St. Saviour has 6 Centeniers,
the remaining Parishes have 4 Centeniers.
20. The commencement of the terms of office under each of these *ad hoc* Laws has depended entirely upon the date upon which the relevant Law happened to be registered in the Royal Court.
21. Thus, for example, the Laws of 2002 relating to St. Martin and St. Ouen were both registered in the Royal Court on 21st June 2002. Hence, public elections in respect of those newly created offices needed to be ordered by the Royal Court to take place shortly after that particular date. And so, every three years after those elections took place, there were elections for Centeniers in St. Martin and St. Ouen – assuming, that is, that even those dates held good and were not postponed (see *paragraphs 42 to 44* regarding the failure to elect a Centenier).
22. And so it is with all Centeniers' elections throughout the various Parishes: the dates upon which elections have to be ordered are a matter of pure historical chance.

The options for reform

23. The aim is to have public elections for Centeniers in *every* Parish at intervals of 9 months, the Centeniers thus elected to hold office for a term of 3 years (as at present).
24. To achieve this, consideration was given to bringing all existing terms of office to an end on one appointed day so as to 'wipe the slate clean' and to having a transitional provision under which the Parishes would initially have to elect some Centeniers to serve a term of only 9 months, some of only 18 months, some of 27 months and some of 3 years. This would have been similar to the provision that one point was made in relation to members of Assessment Committees – see Article 51(2) and (3) of the Parish Rate (Administration) (Jersey) Law 2003 [L.18/2003].
25. However, it was felt that the 'clean slate' solution was too drastic. There were risks inherent in all the Centeniers in the Island suddenly ceasing to hold office on one day. Instead, an 'evolutionary' solution became the preferred option.

The agreed approach

26. What the draft Law would do, therefore, is fix a number of 'appointed days' occurring at 9-monthly intervals, namely on the 2nd Wednesday of March and December in the first year, the 2nd Wednesday of September in the second year and the 2nd Wednesday of June in the third year.
27. On each of the appointed days, a certain proportion of Centeniers throughout the Island would be elected for a term of 3 years.
28. The Schedule to the Law would make transitional provisions to determine which of the current terms of office should come to an end on which appointed day. Over a given cycle, therefore, all terms of office of Centeniers would come to be synchronized.

The synchronization provisions

29. The Parishes that have 4 Centeniers (as we have seen) are St. Clement, St. Peter, St. Brelad St. Lawrence, Grouville, St. Ouen, St. Mary, St. John, St. Martin and Trinity. For those Parishes
- (i) the term of office of the Centenier who was 1st to have been elected to his or her present term of office would expire on the 1st appointed day in the cycle;
 - (ii) the term of office of the Centenier 2nd elected would expire on the 2nd appointed day;
 - (iii) the term of office of the Centenier 3rd elected would expire on the 3rd appointed day; and
 - (iv) the term of office of the Centenier 4th elected would expire on the 4th appointed day.
30. In St. Helier (where there are 10 Centeniers) –
- (i) the terms of office of the 3 Centeniers who were the 1st, 2nd and 3rd to have been elected to their present terms of office would expire on the 1st appointed day in the cycle;
 - (ii) the terms of office of the 2 Centeniers 4th and 5th elected would expire on the 2nd appointed

day;

- (iii) the terms of office of the 3 Centeniers 6th, 7th and 8th elected would expire on the 3rd appointed day;
- (iv) the terms of office of the 2 Centeniers 9th and 10th elected would expire on the 4th appointed day.

31. In St. Saviour (where there are 6 Centeniers) –

- (i) the term of office of the 1 Centenier who was the 1st to have been elected to his or her present term of office would expire on the 1st appointed day in the cycle;
- (ii) the terms of office of the 2 Centeniers 2nd and 3rd elected would expire on the 2nd appointed day;
- (iii) the term of office of the 1 Centenier 4th elected would expire on the 3rd appointed day; and
- (iv) the terms of office of the 2 Centeniers 5th and 6th elected would expire on the 4th appointed day.

32. The Attorney General would apply to the Royal Court, not less than 6 weeks before an appointed day, for elections to be held under the Public Elections (Jersey) Law 2002. This would trigger the usual public election procedures.

33. The terms of office of all the Centeniers in one ‘batch’ would of course have to terminate on the same day if their respective election dates were not to get out of kilter all over again.

34. Therefore, the draft Law would provide for each term of office to expire on the appointed day that falls 3 years following the appointed day on which the Centenier was elected (instead of 3 years after the Centenier was sworn in before the Royal Court).

35. So, by this process, Centeniers throughout Jersey would eventually all be elected at regular 9 monthly intervals to serve a term of 3 years.

36. There is an important footnote concerning the appointed days referred to in *paragraphs 29, 30 and 31* for the expiration of existing terms of office. This concerns those cases in which 2 (or even more than 2) Centeniers currently in office were elected on the same date. Which of them can then be said to have been ‘first elected’? Whose term of office would be taken to have expired first?

37. Under the *Schedule* to the draft Law, if 2 or more Centeniers had been elected to office at the same time, the order in which they were elected would be reckoned according to –

- (a) their respective seniority in office as a Centenier; or, if that was indistinguishable
- (b) their respective periods of service in the honorary police of the Parish; or if seniority in office and period of service were indistinguishable
- (c) their respective seniority in age.

38. But the *Schedule* would go on to enable the Centeniers concerned, as an alternative, to agree the question between themselves, with the consent of the Attorney General.

Premature cessation of office

39. It will be recalled that at present, under Article 2 of the *Loi (1853) au sujet des centeniers et officiers de police (see paragraph 13)*, if a Centenier dies before his or her term of office has expired, the person elected to replace that Centenier can serve only the remainder of the term of office of that Centenier.

40. Whilst Article 2 caters for what happens if an incumbent Centenier dies, it is silent about what is supposed to happen when a Centenier ceases to hold office by virtue of an order of the Royal Court (for whatever reason).

41. The draft Law would therefore amplify this provision to read as follows –

“Si un Centenier décède ou est relevé de ses fonctions avant la fin de sa gestion, une élection aura lieu pour le remplacer; mais alors le Centenier qui sera élu ne restera en charge que jusqu’à l’expiration de la gestion du Centenier précédent.”

[If a Centenier dies or is relieved of his or her functions before the end his or her term of office, an election shall be held to replace that Centenier; but then the Centenier who is elected shall remain in

office only until the expiration of the term of office of the Centenier who was replaced.]

Failure to elect a Centenier

42. Article 2 of the *Loi* of 1853 is also silent about what is meant to happen when a Parish fails to elect a Centenier at all and the election to fill the vacancy has to be postponed. When eventually (several weeks or perhaps months later) a Centenier is elected, does his or her term of office expire 3 years after the date on which the Parish *should have* filled the vacancy, or 3 years after the date on which the Parish *did* fill the vacancy?
43. In practice, the term has been taken to run from the date on which the vacancy *was* filled and not the date on which the vacancy *should have* been filled. Were this to continue to be the case, it would cause the synchronization of election dates to break down and thus defeat the goal of the draft Law.
44. For this reason, the draft Law would add a further refinement to Article 2 to make it clear that, in the event of a postponed election (for whatever reason), the Centenier eventually elected would serve a term of 3 years from the date on which the vacancy should have been filled rather than 3 years from the date on which the Centenier was actually elected.

Conclusion

45. This draft Law will bring a long-needed coherence and certainty to the timing of elections for Centeniers.
46. It will prevent the situation arising, as it has often in the past, in which a Parish has found that all its Centeniers' terms of office have expired within a short time of each other. An election every 9 months will reduce the problems which have been experienced when seeking to fill several vacancies at the same time.
47. It will ensure that a Parish always has some experienced Centeniers in office who will provide consistency and be able to support newly elected officers.
48. Finally, it will provide an excellent opportunity to lift the profile of the Centeniers of the Island, and the Honorary Police as a whole, as the election dates will be the same in all twelve Parishes.

Financial/manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of this draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a *Projet de Loi* to make a statement about the compatibility of the provisions of the *Projet* with the Convention rights (as defined by Article 1 of the Law). On 5th February 2007 the Chairman of the *Comité des Connétables* made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chairman of the *Comité des Connétables* the provisions of the Draft Centeniers (Terms of Office) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law will provide for Centeniers to be elected at 9 monthly intervals for a term of 3 years.

The elections will be held on the second Wednesday in March and December in one year, in September in the next and in June in the next.

Article 1 provides that Centeniers are to be elected on 4 appointed days 9 months apart.

Article 2 provides how those appointed days are to be determined.

Article 3 provides for elections on the appointed days and for the term of person so elected to be for 3 years.

Article 4 provides how the terms of office of existing Centeniers are to be brought into line with the new scheme.

Article 5 amends the Loi (1853) sujet des centeniers et officiers de police, which contains provisions on the subject.

Article 6 provides for the citation and commencement of the Law

The Schedule sets out the transitional arrangements.



Jersey

DRAFT CENTENIERS (TERMS OF OFFICE) (JERSEY) LAW 200-

Arrangement

Article

- 1 Elections of Centeniers
- 2 Appointed days
- 3 Elections and common terms of office
- 4 Transitional arrangements
- 5 Consequential amendment
- 6 Citation and commencement

SCHEDULE

- 1 Interpretation
- 2 The parishes of St. Clement, St. Peter, St. Brelade, St. Lawrence, Grouville, St. Ouen, St. Mary, St. John, St. Martin and Trinity
- 3 The parish of St. Helier
- 4 The parish of St. Saviour
- 5 Resolution of order and term of office



Jersey

DRAFT CENTENIERS (TERMS OF OFFICE) (JERSEY) LAW 200-

A LAW to provide for elections of Centeniers to be held at fixed intervals and for connected purposes.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Elections of Centeniers

Centeniers shall be elected on appointed days in accordance with this Law.

2 Appointed days

- (1) The first appointed day shall be which of the following days, namely the second Wednesday in March, June, September or December, that first occurs after the day that is 3 months after the registration of this Law.
- (2) The second appointed day shall be which of the days mentioned in paragraph (1) that falls in the ninth month after the first appointed day.
- (3) The third appointed day shall be which of the days mentioned in paragraph (1) that falls in the ninth month after the second appointed day.
- (4) The fourth appointed day shall be which of the days mentioned in paragraph (1) that falls in the ninth month after the third appointed day.
- (5) Thereafter the appointed days shall be each of the days mentioned in paragraph (1) that is the corresponding day in the third year after a previous appointed day.

3 Elections and common terms of office

- (1) Not less than 6 weeks before an appointed day, the Royal Court shall, on the application of the Attorney General, make an order for the holding of a public election in each Parish on the appointed day to fill each vacancy in the office of Centenier that will arise on that day.
- (2) The term of office of a Centenier shall expire on the appointed day that is the corresponding appointed day in the third year after his or her election.

4 Transitional arrangements

The transitional arrangements set out in the Schedule have effect.

5 Consequential amendment

For Article 2 of the Loi (1853) sujet des centeniers et officiers de police^[1], there is substituted the following Article –

“2

- (1) Si un Centenier décède ou est relevé de ses fonctions avant la fin de sa gestion, une élection aura lieu pour le remplacer; mais alors le Centenier qui sera élu ne restera en charge que jusqu’à l’expiration de la gestion du Centenier précédent.
- (2) Si, pour quelque raison que ce soit, l’élection d’un Centenier est renvoyée à une autre date, la gestion du Centenier éventuellement élu terminera à la même date qu’elle aurait terminé si l’élection n’avait pas été renvoyée.”.

6 Citation and commencement

- (1) This Law may be cited as the Centeniers (Terms of Office) (Jersey) Law 200.
- (2) It shall come into force on the seventh day after it is registered.

SCHEDULE

(Article 4)

1 Interpretation

In this Schedule references to the first, second, third and fourth appointed days means those days as determined in accordance with Article 2.

2 The parishes of St. Clement, St. Peter, St. Brelade, St. Lawrence, Grouville, St. Ouen, St. Mary, St. John, St. Martin and Trinity

- (1) This paragraph applies to those persons who, immediately before the first appointed day, are Centeniers in the parishes of St. Clement, St. Peter, St. Brelade, St. Lawrence, Grouville, St. Ou St. Mary, St. John, St. Martin and Trinity.
- (2) The term of office of the Centenier in each parish first to have been elected to his or her existing term of office shall expire on the first appointed day.
- (3) The term of office of the Centenier in each parish second to have been elected to his or her existing term of office shall expire on the second appointed day.
- (4) The term of office of the Centenier in each parish third to have been elected to his or her existing term of office shall expire on the third appointed day.
- (5) The term of office of the Centenier in each parish fourth to have been elected to his or her existing term of office shall expire on the fourth appointed day.

3 The parish of St. Helier

- (1) This paragraph applies to those persons who, immediately before the first appointed day, are Centeniers in the parish of St. Helier.
- (2) The terms of office of the 3 Centeniers first, second and third to have been elected to their existing terms of office shall expire on the first appointed day.
- (3) The terms of office of the 2 Centeniers fourth and fifth to have been elected to their existing terms of office shall expire on the second appointed day.
- (4) The terms of office of the 3 Centeniers sixth, seventh and eighth to have been elected to their existing terms of office shall expire on the third appointed day.
- (5) The terms of office of the 2 Centeniers ninth and tenth to have been elected to their existing terms of office shall expire on the fourth appointed day.

4 The parish of St. Saviour

- (1) This paragraph applies to those persons who, immediately before the first appointed day, are Centeniers in the parish of St. Saviour.
- (2) The term of office of the Centenier first to have been elected to his or her existing term of office shall expire on the first appointed day.
- (3) The terms of office of the 2 Centeniers second and third to have been elected to their existing terms of office shall expire on the second appointed day.
- (4) The term of office of the Centenier fourth to have been elected to his or her existing term of office shall expire on the third appointed day.

- (5) The terms of office of the 2 Centeniers fifth and sixth to have been elected to their existing terms of office shall expire on the fourth appointed day.

5 Resolution of order and term of office

- (1) If 2 or more Centeniers were elected to office at the same time, the order in which they were elected shall be reckoned according to –
 - (a) their respective seniority in office as a Centenier;
 - (b) if that seniority cannot be distinguished, their respective periods of service in the honorary police of the parish; or
 - (c) if seniority in office and period of service cannot be distinguished, their respective seniority in age.
- (2) However, if the Attorney General consents, the question may be settled by agreement between the Centeniers.
- (3) Where a Centenier to which any provision of this Schedule applies is completing the term of office of another Centenier, the existing Centenier is to be taken, for the purposes of this Schedule, to have been elected to office when the original Centenier was elected to the existing term of office.
- (4) The term of office of a Centenier to which any provision of this Schedule applies shall expire in accordance with this Schedule notwithstanding that it might otherwise have expired earlier or later than the day provided by this Schedule.

[1] Guizot, *Essais sur l'Histoire de France*, page 256 (referred to by Jurat Charles Le Quesne: *A Constitutional History of Jersey*, 1856, at page 73).

[2] *Constitutions, Loix & Usages etc.*, Tome IV, page 166.

[3] See *First Report of the Commissioners appointed to enquire into the state of the criminal law in the Channel Islands* (1847), paragraph 324 et seq.

[4] Because of all the activity in building St. Catherine's Breakwater. By a Law of 1859, the number was reduced back down to 2, but was increased to 3 by a Law of 1962, and to 4 by a Law of 2002.

[1] chapter 23.050