

STATES OF JERSEY

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DRAFT CRIMINAL PROCEDURE (CONNÉTABLES AND CENTENIERS) (AMENDMENT) (JERSEY) LAW 200

Lodged au Greffe on 28th July 2008
by the Comité des Connétables

STATES GREFFE



Jersey

DRAFT CRIMINAL PROCEDURE (CONNÉTABLES AND CENTENIERS) (AMENDMENT) (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 Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

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

REPORT

A. Background

1. At the heart of the Honorary Police lies the concept of service, not so much to the Island as to one's Parish. That is, in part at least, why the duties and powers of honorary office were not exercisable beyond the boundaries of the Parish in which the officer had been elected and was resident.
2. It followed that Centeniers, when charging persons with an offence and presenting them before the criminal courts, performed such functions and exercised such powers only in relation to matters that had occurred within their respective Parishes.
3. Inroads into that basic rule were made, however, by the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 ("the 1996 Law").
4. Article 2 of the 1996 Law provided that the power of a Connétable or a Centenier to grant bail to or to charge a person –
“ . . . may be exercised by a Connétable or a Centenier of a Parish other than that in which the offence was committed if the Connétable or the Centenier of that other Parish has been authorized to act by and on behalf of the Connétable of the Parish in which the offence was committed.”
5. Article 3 of the 1996 Law, which related to proceedings in the Magistrate's Court, empowered the Connétable or a Centenier of one Parish to –
“ . . . present the accused before the Court on behalf of the Connétable of another Parish if the Connétable has been authorized to act by and on behalf of the Connétable of the Parish in which the offence was committed.”

B. Deficiencies in the 1996 Law

6. Whilst the 1996 Law empowers a Centenier of an 'outside' Parish to grant bail or to charge a person and/or to present an accused before the Magistrate, this power can only be exercised once an authorization has been given by the Connétable of the Parish in which the offence was committed. Authorization from a Centenier – even from the *Chef de Police* – is not sufficient.
7. Hence there is a lack of flexibility to meet situations in which powers under the 1996 Law may need to be invoked at short notice.
8. There is also a need for more clarity in the 1996 Law about the ability to hold a Parish Hall inquiry in one Parish in respect of offences that have occurred in several Parishes, but which require to be charged and presented in court together.

C. The reforms in the draft Law

9. Article 2 of the 1996 Law, as mentioned in paragraph 4 above, is concerned with the power to grant bail and to charge suspects. Article 2 is amended by the draft Law so as to enable a Centenier from one Parish to grant bail to, or to charge, a person suspected of having committed an offence in another Parish – provided that a Centenier from the other Parish has authorized this to be done.
10. In other words, any Centenier of the Parish in which an offence had taken place (and not just the Connétable) would be able to authorize a Centenier of another Parish to exercise the necessary powers.
11. Article 3 of the 1996 Law is amended by the draft Law in much the same way. It relates, as noted in paragraph 5 above, to the presentation of an accused before the Magistrate. The amendment enables any Centenier in which an offence has been committed (and not just the Connétable) to authorize a Centenier of another Parish to present the accused before the Magistrate.
12. As was touched on in paragraph 8 above, it sometimes happens that a person has committed several offences (often motoring offences) in quick succession across several Parishes on one day or night. The person is then technically liable to appear at several inquiries in the different Parishes concerned.
13. The draft Law inserts a new *Article 4A* in the 1996 Law which makes it clear that a Centenier of the Parish in which any of the offences has been committed may authorize a Centenier of another Parish to assume all the powers to conduct and decide the Parish Hall inquiry into the alleged offence.

D. Concluding note

14. The changes described above will make it easier for the Centeniers of the different Parishes to assist one another in their functions. A number of historical barriers to co-operation will be removed.
15. The amendments are not so much a matter of reform as of rationalization of certain vital aspects of the jurisdiction of Centeniers for the benefit of efficient policing and court procedures within the Island.

Financial and manpower statement

This Draft Law has no implications for the financial or manpower resources of the States.

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 23rd July 2008 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 Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 defines the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 as the “principal Law”.

Article 2 enables a Centenier of one parish to authorize the Connétable or a Centenier of another parish to exercise the powers of granting bail and charging a person with an offence committed in the first-mentioned parish. The Connétable of a parish already has power to give such an authorization.

Article 3 enables a Centenier of one parish to authorize the Connétable or a Centenier of another parish to present before the Magistrate a person charged with committing an offence in the first-mentioned parish. The Connétable of a parish already has power to give such an authorization.

Article 4 corrects a cross-reference to the functions of a Connétable or Centenier described in the Loi (1864) réglant la procédure criminelle.

Article 5 inserts a new Article in the principal Law.

Article 4A – Parish hall inquiry

This Article creates a new power for the Connétable or a Centenier of one parish to authorize the Connétable or a Centenier of another parish to conduct a parish hall inquiry into an offence alleged to have been committed in the first-mentioned parish.

Article 6 amends Article 5 of the principal Law. The amendment provides that a Connétable or Centenier acting in purported exercise of an authority under the new Article 4A is presumed to act with due authority unless the contrary is proved.

Articles 7 to 11 amend other Laws consequentially upon the addition of Article 4A, whereby the Connétable or a Centenier of one parish may be authorized to conduct a parish hall enquiry in another parish.

Article 12 provides for the citation and commencement of this draft Law.



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Arrangement

Article

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 2 amended</u>
<u>3</u>	<u>Article 3 amended</u>
<u>4</u>	<u>Article 4 amended</u>
<u>5</u>	<u>Article 4A inserted</u>
<u>6</u>	<u>Article 5 amended</u>
<u>7</u>	<u>Aerodromes (Administration) (Jersey) Law 1952 amended</u>
<u>8</u>	<u>Harbours (Administration) (Jersey) Law 1961 amended</u>
<u>9</u>	<u>Motor Vehicle Registration (Jersey) Law 1993 amended</u>
<u>10</u>	<u>Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957 amended</u>
<u>11</u>	<u>Road Traffic (Jersey) Law 1956 amended</u>
<u>12</u>	<u>Citation and commencement</u>



Jersey

DRAFT CRIMINAL PROCEDURE (CONNÉTABLES AND CENTENIERS) (AMENDMENT) (JERSEY) LAW 200

A LAW to amend the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 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 Interpretation

In this Law, “principal Law” means the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996^[1].

2 Article 2 amended

In Article 2 of the principal Law, for the words beginning “has been authorized” to the end of the Article there shall be substituted the words “has been authorized, by the Connétable or a Centenier of the parish in which the offence was committed, to act on the Connétable’s behalf.”.

3 Article 3 amended

In Article 3 of the principal Law, for the words “the accused” to the end of the Article there shall be substituted the words “, before the Court, a person accused of the commission of an offence in another parish if the Connétable or Centenier has been authorized by the Connétable or a Centenier of that other parish to act on the Connétable’s behalf.”.

4 Article 4 amended

In Article 4 of the principal Law, for the words “and 22” there shall be substituted the words “, 22 and 23”.

5 Article 4A inserted

After Article 4 of the principal Law there shall be inserted the following Article–

“4A Parish hall inquiry

The Connétable or a Centenier of a parish shall have, in another parish, all the powers to conduct and decide an inquiry into an allegation that an offence has been committed in that other parish that he or she would have in respect of such an inquiry in his or her own parish if he or she has been authorized, by the Connétable or a Centenier of the other parish, to conduct the inquiry.”.

6 Article 5 amended

In Article 5 of the principal Law, for the words “Article 2 or 3” there shall be substituted the words “Article 2, 3 or 4A”.

7 Aerodromes (Administration) (Jersey) Law 1952 amended

In Article 5(1) of the Aerodromes (Administration) (Jersey) Law 1952^[2], for the words “the Connétable or any Centenier of the parish in which the offence was committed,” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter,”.

8 Harbours (Administration) (Jersey) Law 1961 amended

In Article 5(1) of the Harbours (Administration) (Jersey) Law 1961^[3], for the words “the Connétable or any Centenier of the parish in which the offence was committed,” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter,”.

9 Motor Vehicle Registration (Jersey) Law 1993 amended

In Article 14(1) of the Motor Vehicle Registration (Jersey) Law 1993^[4], for the words “the Connétable or Centenier of the parish in which the offence was committed,” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter,”.

10 Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957 amended

In Article 1(2)(b) of the Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957^[5], for the words “the Connétable or a Centenier of the parish in which the offence was committed,” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter,”.

11 Road Traffic (Jersey) Law 1956 amended

In the Road Traffic (Jersey) Law 1956^[6] –

- (a) in Article 89(1), for the words “the Connétable or Centenier of the parish in which the offence was committed,” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter,”;
- (b) in Schedule 3, in the entry opposite the item “Article 25”, for the words “the Connétable or Centenier of the parish in which the offence was committed” there shall be substituted the words “a Connétable or Centenier having jurisdiction in the matter”.

12 Citation and commencement

This Law may be cited as the Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law 200- and shall come into force 7 days after it is registered.

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- [1] *chapter 08.420*
- [2] *chapter 03.035*
- [3] *chapter 19.060*
- [4] *chapter 25.350*
- [5] *chapter 22.600*
- [6] *chapter 25.550*