

STATES OF JERSEY



Jersey

DRAFT ELECTIONS (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 202-

**Lodged au Greffe on 8th June 2021
by the Privileges and Procedures Committee
Earliest date for debate: 20th July 2021**

STATES GREFFE



Jersey

DRAFT ELECTIONS (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chair of the Privileges and Procedures Committee has made the following statement –

In the view of the Chair of the Privileges and Procedures Committee, the provisions of the Draft Elections (Miscellaneous Amendments) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy C.S. Alves of St. Helier**
Chair, Privileges and Procedures Committee

Dated: 7th June 2021

REPORT

The Privileges and Procedures Committee (PPC) was tasked with responding to the recommendations contained within the CPA Election Observers Mission (EOM) Report published after the elections in 2018. A PPC Sub-Committee was established in June 2018 to consider all 18 recommendations and bring forward suggested improvements to the current electoral system. The Sub-Committee's first tranche of legislative amendments addressed the first and third recommendations relating to voter inequality and inequity across the existing Island districts and culminated in the Assembly's approval of [P.17/2021](#) 'Draft Constitution of the States and Public Elections (Jersey) Law 202-'.

This second tranche responds to the remaining EOM recommendations in order to enhance the existing election process where possible. It also takes into consideration feedback from stakeholders after the last elections and implements changes resulting from a number of States decisions since 2018, to adopt propositions relating to election procedures, including the amendment of the Connétable of St. Martin to [P.139/2020](#) (Composition and Election of the States: proposed changes). Along with these legislative amendments, there will be changes made to Standing Orders; a Code of Conduct for candidates will be created (EOM Recommendation 11); a project is in train in relation to the way in which the legal status of Political Parties is defined in law (EOM Recommendation 9); another workstream is dealing with voter registration (EOM Recommendation 5). In respect of the latter, the Committee is proposing within this draft the inclusion of regulation-making powers to permit future reform the electoral registration system, should it be possible to introduce automatic electoral registration before the next election. A wealth of public engagement work is in the pipeline to encourage greater voter turnout (EOM recommendations 6 and 18), and the aim is that all 18 recommendations will have been addressed before election day 2022.

Part 1 – Public Elections Law

Part One of this Law proposes changes to the [Public Elections \(Jersey\) Law 2002](#) to respond to the following EOM Recommendations –

EOM RECOMMENDATION 4: *Consideration should be given to the creation of a permanent election administration body independent of the three branches of State to provide continuous oversight and review of the electoral legal framework, including oversight of candidate and voter registration, implementation of campaign, campaign finance and media provisions, and electoral dispute resolution. PROPOSAL: Establish a Jersey Electoral Authority (JEA) (See Section (1) of this report).*

EOM RECOMMENDATION 6: *Efforts to encourage the Island's eligible population to register to vote and to take part in elections should continue, including by outreach to ethnic minority communities in their preferred languages. If a review of the voter registration system is undertaken, it should assess if active voter registration and the complex voting system (see under Election Day) act as barriers to greater political participation and representation. PROPOSAL: Extend access to postal voting (See Section 1.26 of this report).*

EOM RECOMMENDATION 8: *Efforts should be undertaken to eliminate the conflict of interest associated with the functions of the Connétables as election administrator for their parish which gives incumbent Connétables an advantage over their potential*

opponents and may act as a disincentive for other candidates to stand. **PROPOSAL:** Change Article 17A so that the election administrator is the Parish Secretary or another nominated person from each Parish rather than the Connétable. (See Section 1.23 of this report).

EOM RECOMMENDATION 10: The procedure for candidate nomination should be reviewed with a view on introducing an adequate timeline for verification of qualification and disqualification requirements of the candidate, the proposer and the seconders, for document check and for correction of possible errors by the candidate ahead of the nomination meetings. The design of the nomination form could benefit from an overhaul in line with the recommendations of the Royal Court **PROPOSAL:** JEA to receive nomination forms, then send for verification to relevant Parish (extended period to current process). Single nomination announcement. Form redesigned. (See Section 1.11 of this report).

EOM RECOMMENDATION 11: The introduction of a code of conduct for the campaign signed by all nominated candidates could be considered to discourage abuses or attacks during the campaign. **PROPOSAL:** A Code of conduct to be created which will be signed by all candidates as part of the nomination process. (See Section 1.17 of this report).

EOM RECOMMENDATION 12: It could be considered to introduce an official start of the campaign after nomination meeting to give equal opportunity to politically eligible States employees who have to step down [...and a moratorium on campaign activities on election day in order to give voters one day to reflect on campaign messages and make up their mind]. **PROPOSAL:** Single nomination announcement will signal start of the campaign. (See Section 1.17 of this report).

EOM RECOMMENDATION 13: Consideration should be given to provide for and undertake a systematic scrutiny of all financial declarations submitted by candidates and political parties and make public the result of such scrutiny, in order to enhance transparency of campaign finances as stated in Article 7.3 of the UN Convention against Corruption. **PROPOSAL:** JEA to oversee audit of expenditure (See Section 1.20 of this report).

EOM RECOMMENDATION 16: Although the outdoor vicinity of the polling station is a largely unregulated area additional efforts could be made to ensure that voters are provided access to the polling station unhindered and free from intimidation by regulating (limiting) the number of tellers who can be present there at one time. **PROPOSAL:** Code of conduct for candidates to define 'acceptable behaviours'. Also Article 49(5) to be altered so that candidates or their representative must be a discreet distance away from the counters – suggest where possible they are cordoned off and the number of candidates representatives allowed outside a polling station to be limited. (See Sections 1.17 and 1.28 of this report).

EOM RECOMMENDATION 17: It is recommended to amend the Public Elections (Jersey) Law 2002 in order to eliminate terminological inconsistencies and streamline references to spoilt ballots and invalid votes in the provisions of the law. **PROPOSAL:** Include greater clarity on 'spoilt votes' within Article 36 and provide that a note relating to spoilt and doubtful votes must be included in the return within Article 51. (See Section 1.32 of this report).

The Jersey Electoral Authority

1.1 Initially the Sub-Committee was not keen on establishing a permanent administration body, recognising the sterling collaborative work undertaken by the States Greffe, Judicial Greffe and the Parishes in administering the elections

in Jersey. However, following their attendance at CPA Election Observer Training in the autumn of 2019, the benefit was recognised of creating a Jersey Electoral Authority (JEA) which would provide impartial oversight of the election process and also give those involved in administering the elections access to a politically neutral and independent arbiter to determine candidate disputes, complaints, address conduct issues amongst candidates and also oversee the review of election expenditure by candidates.

- 1.2. The Committee proposes that, like the UK Electoral Commission, the JEA will be the independent body which oversees elections and regulates political finance. It will also work to promote public confidence in the democratic process and ensure its integrity. The JEA will provide impartial oversight of the electoral legal framework and process and co-ordinate election activity, taking away some elements of direct administration (particularly in relation to the nomination process) although the practical operation of elections will still rely on the incredible support given by the Parishes, States Greffe and Judicial Greffe.
- 1.3 It is recognised that the establishment of the JEA will need to evolve and its remit can be expanded over time where a need is identified. Initially the Committee has determined that its primary role will be to provide oversight of public elections, but its involvement could expand in time to Parish election processes, subject to discussions with the Comité, in which case a further tranche of legislative amendments can be progressed.
- 1.4 The Committee believes that the JEA will enhance the election process, ensuring that the Island continues to improve its systems to encourage great voter engagement. The JEA's role will be non-political and it will –
 - embody a visual point-of-contact for any person or body seeking information on public elections in Jersey including international observers, members of the public, the media, candidates and complainants,
 - ensure co-ordination and communication across the three main agencies with responsibility for the smooth running of public elections; States Greffe; Judicial Greffe and the Parishes (and with associated bodies or authorities including the Royal Court, PPC, Law Officers' Department and States Assembly),
 - monitor compliance in accordance with international standards and best practices for elections and domestic legislation such as the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR) and the United Nations Convention against Corruption (UNCAC) the Venice Commission and the Public Elections (Jersey) Law 2002,
 - act as domestic election observers and issue a report after each poll to PPC and the States Assembly with an appraisal of the administration of the election and if necessary, recommendations for improvement,
 - take responsibility for the nominations process, ongoing review of appropriate levels of candidate allowable elections costs and their verification post-election,
 - oversee electoral registration, taking into account advances in technology,
 - host and facilitate the continued international observation of Jersey elections,
 - arbitrate complaints, and

- establish appropriate on-going training for themselves and any persons or bodies involved with the administration of elections.
- 1.5 The JEA will be appointed on the recommendation of PPC, following an appointment process overseen by the Greffier of the States and the Judicial Greffier. PPC will be required to present a report giving notice to the States at least 15 days before the appointments are made.
- 1.6 The JEA will consist of a Chair and at least 2 but not more than 4 ordinary members as well as the following *ex officio* affiliate members –
- the Judicial Greffier;
 - the Greffier or Deputy Greffier;
 - an Electoral Administrator (nominated from amongst the parish Electoral Administrators).
- 1.7 The JEA will be appointed for a fixed term of not more than 4 years and no person may be a member for more than 12 consecutive years.
- 1.8 The JEA membership criteria excludes anyone who has been a States Member in the 12 months preceding their appointment, States employees and anyone who works in an area from which a benefit of membership of the JEA could be derived.
- 1.9 The JEA will have the flexibility to establish committees which could include external members, providing at least one JEA member is also a committee member. These could focus on specific tasks such as the post-election legislation review or the audit of election expenditure.
- 1.10 The JEA will be a public body for the purposes of the [Freedom of Information \(Jersey\) Law 2011](#) under the definition of “public body” in Art 1 of that Law. It will also be a public authority under the definition in Art 1 of the [Data Protection \(Jersey\) Law 2018](#).

Nomination process

- 1.11 The changes proposed within the Elections Law will position the JEA within the nomination process, so that candidates’ nominations are submitted to the JEA in the first instance, then sent for verification by the relevant Parish. This will be over several days, allowing the Parish Authorities sufficient time to undertake the necessary checks to confirm eligibility. This will obviate the often pressurised ‘last minute’ checking required by Parish Officers on nomination nights across the Island. Once confirmed, the JEA will publish all of the candidates details and that will mark the official start of the election period.
- 1.12 At the last election a nomination meeting was held on the 10th April for Senators and on the 11th April for Connétables and Deputies. Candidates had to submit a nomination form with the signatures of one proposer and nine seconders, as well as a Declaration of Convictions.
- 1.13 The nomination form envisaged that the proposer and the seconders put their signature on the form after the section indicating the candidate’s potential party affiliation had been completed. However, the form was designed in such a way so as to make it difficult to determine that it had been completed in the prescribed

order. For example, the proposer and seconders did not have to date their signature, whereas the officers that signed on behalf of a political party did. In two cases, parish officials noted a possible irregularity in the way the candidate nomination form was completed – both of which related to candidates which had been endorsed by the only registered Party at that time, Reform Jersey.

- 1.14 The validity of the nomination form was, in both instances, questioned after the two candidates were duly proposed and seconded as candidates at nomination meetings in their respective constituencies, St. Brelade and St. Lawrence. Both cases resulted in court cases before the Royal Court. In its 14th May 2018 judgement, the Royal Court (Samedi division) recommended “*the nomination form be amended to make it clear that the two officeholders of the political party also have to sign the Political Party Declaration before the document is subscribed by the proposer and the seconders and that the signatures of the proposer and seconders be dated.*”
- 1.15 The nomination debacle was a regrettable start to the 2018 election and extremely distressing for those directly affected who faced court action. The nomination process has remained ostensibly the same for many decades. Changes in the forthcoming election provide an opportunity for review and reform, beyond but including, re-drafting the nomination form.
- 1.16 Not only is the form unsatisfactory and confusing, the verification process is historically fraught with potential for error and the nomination meetings themselves proffer variable degrees of satisfaction. It’s a colossal missed opportunity to fire the starting pistol on an election with a fanfare, generating public interest from the get-go whilst also gaining a head start on ensuring candidates are aligned in terms of what is required of them administratively.
- 1.17 The Committee has redrafted the current form and also redesigned the nomination process. The form’s content is now prescribed in Law and includes a declaration that the candidate has read and agrees to comply with the code of conduct published by the JEA. The JEA will receive all nomination forms centrally and liaise with the Parishes to check the validity of the details given against the electoral registers. Rather than having to rush to get validation on nomination ‘night’ forms can be submitted for several days in advance, thereby allowing any anomalies to be addressed with the candidates concerned before an official announcement is made by the JEA. In this way, no candidates should find themselves excluded from the elections process due to the incorrect completion of the nomination form. Candidates will receive notification of successful verification as and when that is secured. In the event of errors on form completion, candidates will be alerted and have the opportunity to make the necessary corrections to secure successful verification. Furthermore, the existing practice of nomination meetings, at which speeches are made by those nominating candidates, will no longer be necessary, although districts can make arrangements for them if they choose. The full list of candidates will be announced centrally and published online.
- 1.18 The main changes proposed are as follows –
 - Access to nomination forms will be via the JEA website.
 - Submissions can be entirely completed online – provided prospective candidates can upload a copy of the signatories (nominators) and in the case of political parties, party representatives.
 - Hard copies will be made available, from the States Greffe, as an alternative if desired.

- The portal to receive completed nomination forms will open at 9 a.m. on Tuesday 10th May.
 - Verification procedure will commence immediately on receipt of individual completed nomination forms.
 - The portal to receive the completed nomination forms will close on Thursday 12th May at 5 p.m. That will be the final opportunity for candidates to put their names forward to stand in the 2022 elections.
 - Verification continues until Wednesday 18th May when nominations will be announced.
- 1.19 The nomination announcement on Wednesday 18th May will signal the start of the election campaign. Given the change to electoral districts for the next election, which in many cases increase in size, 5 full weeks of campaign are proposed, taking us to Wednesday 22nd June 2022. This is considered the optimum length; any longer risks election fatigue on the part of the voter.

Expenditure

- 1.20 One of the major changes in establishing the JEA, will be to move the responsibility for the oversight of candidates' election expenditure from the Judicial Greffe. The JEA will be responsible for receiving expenditure submissions from candidates after the election and for requesting an audit of some or all of those submissions to ensure compliance with the spending limits.
- 1.21 It is proposed that all candidates will be asked to sign a disclosure as part of the nomination process so that the JEA and auditors have access to the details of candidates' campaign expenditure, including the ability to go directly to companies providing services, printing and so on to confirm/verify the prices quoted. Whilst there would be no intention of auditing every single candidate, it is hoped that the potential for an audit to be conducted will serve to ensure that everyone maintains adequate and accurate records of their expenditure in relation to the election process.
- 1.22 Changes to the Elections legislation will extend the submission deadline to a 4 weeks from the election day and the Committee has also reconfigured the offence of failure to deliver a declaration so that no offence is committed if there is a reasonable excuse for a failure to deliver a declaration in accordance with Article 6.

The Election process

- 1.23 Article 17 of the Public Elections Law has been amended so that the election administrator is the Parish Secretary or another nominated person from each Parish rather than the Connétable. In districts comprised of several Parishes, responsibility will remain with each Parish to oversee their own polling station and count. Results will be announced separately, and the votes then accumulated to provide the total for the district, in the same way as the various Parish totals produced the Island-wide result for the Senatorial elections.
- 1.24 As responsibility for meeting the costs of printing ballot papers for the purposes of a public election for Senators was previously met by the States, the Committee considers that, in light of the move to 9 larger districts, the costs for the elections of Deputies will be met by the States, whilst Parishes will be responsible for the costs associated with elections for Connétables.

- 1.25 Following on from the States adoption of the amendment of the Connétable of St. Martin to P139/2020, the Committee has put in place the facility to extend the nomination period by 2 days should there be insufficient candidates to fill the vacancies in a district or Parish. It is hoped that this will allow for additional candidates to come forward, but should that not happen, then the Committee has included a provision, in circumstances where the number of vacancies for the office is equal to or exceeds the number of candidates, for the ballot papers to contain an option of voting for none of the candidates ('none of the above' (NOTA)). There are provisions included in this draft which address the situation where NOTA receives more votes than a candidate, however unlikely that may be. If NOTA receives the most votes, then the casual vacancy/by-election provisions under the 2005 Law and the 2008 Law will apply accordingly and a further election will be held until a candidate is selected. If NOTA comes third for example, then those votes will be regarded more in line with an abstention or statement of position and the remaining candidates will be elected, even if some poll less than NOTA. The primary function of the NOTA option will be to ensure that there are no longer uncontested elections, but it will also allow voters to express their opinion without having to 'spoil' their vote and, if sufficient people share that opinion and NOTA tops the poll, there will be a definite outcome achieved in that a further election will be required.
- 1.26 The Committee is mindful of the need to 'Covid-proof' the elections so that there will be as little disruption to the electoral process whatever the situation is next June in terms of the ongoing pandemic. An amendment is proposed to Article 39 of the 2002 Law (relating to postal voting) so that it mirrors the provisions of Article 38 (relating to pre-poll voting): enabling every voter the ability to use a postal vote, provided that they submit an application to do so and are on the electoral roll before the cut-off date. If adopted, this change would relax the current restrictions on postal voting. It is anticipated that those resident in care homes, or who would normally apply for a home visit under Article 35 of the existing Law, will be able to apply for a postal vote as an alternative, which will reduce any associated transmission risks should Covid-19 still be prevalent in 2022. Postal returns will be made in pre-paid postage envelopes.
- 1.27 It is still planned to operate pre-poll voting, alongside the expanded provisions for postal voting, albeit decisions may be taken as to the length of time that the pre-poll voting station is open. The changes here remove the necessity for there to be pre poll stations out of town on Saturdays, notwithstanding that the town location could stay open to allow the public to cast their votes on a Saturday before the main election day. Furthermore, pre polling stations are now given equivalence to polling stations in Law.
- 1.28 The number of candidates and their representatives allowed to be present outside a polling station has now been limited. This is in response to feedback given to the EOM that voters find it daunting to have to walk past an array of people when entering the polling station and expressed a preference for pre poll voting because of the lack of candidates representatives in the vicinity. The amendment makes it clear that a representative of a political party outside a polling station is to be regarded as a representative of each of the candidates endorsed by the party in that particular district. A Code of conduct for candidates will define 'acceptable behaviours'. Also Article 49(5) of the Public Elections Law will be altered so that candidates or their representative must be a discreet distance away from the counters – it is suggested that where possible they are cordoned off.

- 1.29 The Committee is mindful of the administrative burden faced by the *Autorisé* or *Adjoint* on election day and considers that their discretion should be able to be exercised when determining requests for home visits, in situations where the voter is incapacitated and unable to attend in person. In 2018, such requests were made until the end of the working day and are very resource hungry, requiring 2 nominated officers to go to the person's location. Many of those who would previously have requested such a visit, either in advance of or on election day, will now be able to access postal voting and will be encouraged to do so. For this reason, the Committee is deleting paragraph 2 of Article 35 and leaving the flexibility for such requests to the *Autorisé* to determine.
- 1.30 Candidates will be provided with electoral registers which show the names and addresses of eligible voters but will also have access to a list showing just the district addresses, so that they will be able to visit properties where the residents might be eligible to vote, but have yet to register.
- 1.31 To assist voters who may be faced with choosing several candidates, a document showing their photographs will be available in each polling booth. This will also help those who have poor literacy or learning difficulties. Although it has been standard for candidates' names to be listed alphabetically on ballot papers, this is now enshrined in the Law.
- 1.32 The definitions of a 'spoilt ballot paper' and a doubtful vote are made more explicit within revisions to Articles 34 and 36 for the purposes of the return. There was some confusion over what was meant by these terms when compiling to returns statements in 2018 and it is hoped this will ensure greater clarity in the process for the future.

1.33 Key changes

- **Distinction made between public and parish elections**
- **Creation of JEA to provide electoral oversight and publish a Code of conduct for candidates**
- **Change from Connétable to Parish secretary (or another nominated employee of the parish) to be the electoral administrator for each Parish**
- **Change to nomination process**
- **Nomination form revised**
- **Validation process prescribed**
- **Announcement of candidates centrally**
- **'None of the above' included on ballot papers where the number of candidates is the same or less than the seats available**
- **Ballot papers to include names in alphabetical order by surname**
- **Photo of all candidates in polling booths**
- **Returns process prescribed**
- **Broadening of accessibility of postal voting – aligned with pre poll**
- **Discretion in dealing with home visit requests on election day**
- **Responsibility for the provision of ballot papers changed**

- **Pre poll – JEA to determine discretion on opening times/length/location**

Part 2 – States of Jersey Law 2005 & Part 3 – Connétables (Jersey) Law 2008

- 2.1 The second and third parts of the draft Law make changes to the [States of Jersey Law 2005](#) and [Connétables \(Jersey\) Law 2008](#) to align the disqualification criteria for Deputies and Connétables and accord with the following –

EOM RECOMMENDATION 7: The disqualification criteria for candidacy should be reviewed and brought in line with Comment No. 25 to Article 25 of the ICCPR by the UN Human Rights Committee. PROPOSAL: Disqualification criteria aligned.

- 2.2 Article 25 protects the rights of ‘every citizen’ and any restrictions applied to the exercise of the rights protected by this Article should be based on objective and reasonable criteria. As long as the disqualification criteria are not unreasonable or discriminatory, then it is acceptable to describe the conditions for holding elective public office.
- 2.3 Changes were made in 2017 to repeal Articles 4A, 7 and 8 of the Connétables (Jersey) Law 2008 and to replace them with a new Article or Articles to standardise the requirements relating to the qualification and disqualification for election in the States Assembly, so that all members (Connétables, Senators and Deputies) are now subject to the same requirements. Among the reasons listed to disqualify a person from being a Senator, a Deputy or a Connétable is the person having become bankrupt or having made a debt settlement with his or her creditors. These restrictions are lifted after a statutory period, but the EOM did not consider such restrictions to be objective and reasonable in the sense of the ICCPR.
- 2.4 The Committee, after some consideration, has decided to maintain the inclusion of bankruptcy restrictions within the SOJ and Connétables Laws. It seems reasonable to expect that someone who will be responsible for public funds should demonstrate prudence in their own financial activities.
- 2.5 Changes have been made to the wording of Article 4C to make it explicit that a person who is an elected Connétable ceases to hold office upon ‘becoming a disqualified person’. The disqualification criteria in the existing legislation only related to a person’s election as Connétable and not to their subsequent behaviours in office. The new Article 4C addresses this anomaly and ensures parity with the disqualification criteria for Deputies in office.

Part 4 – Political Parties Registration

- 3.1 PPC has engaged a Consultant to review [Standing Orders of the States of Jersey](#) to take account of the development of Political Parties, following on from the adoption by the Assembly of the ‘Amendment of the Standing Orders of the States of Jersey to Provide for Political Parties’ ([P.166/2020](#)) on 19th January 2021, which asked the Committee to investigate the appropriateness of bringing forward any amendments to Standing Orders to enable recognition that some elected Members would be affiliated with a Party, by the end of 2021. This accords with the following –

EOM RECOMMENDATION 9: *The legal status of a political party should be clearly defined in law.*

- 3.2 As described above, work is underway to address this, and will be brought to the Assembly as a separate tranche of changes to the relevant Laws. The change suggested in this draft is small and was requested by Senator Mézec when he met with the Sub Committee some time ago. It simply substitutes the word ‘Chair’ for the word ‘Leader’ and essentially means that a political party’s Leader is no longer required to be one of the main officeholders for registration purposes.

Part 5 – Public Elections (Expenditure and Donations) (Jersey) Law 2014

- 4.1 The creation of the JEA will enable better assessment of election expenditure and allow for closer inspection. Since the beginning of 2019, the Assembly has agreed 3 propositions on changes to the law relating to election expenditure and political donations: [Public Elections \(Expenditure and Donations\) \(Jersey\) Law 2014: proposed review \(P.7/2019\)](#) brought by Deputy J.M. Maçon of St. Saviour, [Public Elections \(Expenditure and Donations\) \(Jersey\) Law 2014: proposed amendments \(P.6/2019\)](#) lodged by Deputy J.H. Young of St. Brelade and [Public Elections: declaration of donations exceeding the current threshold for declaration in law \(P.120/2019\)](#) which was lodged by the Connétable of St. Martin. The changes to the Public Elections (Expenditure and Donations) (Jersey) Law 2014 proposed by the Committee address the requests made within those three propositions, as well as having regard to the following EOM recommendations.

EOM RECOMMENDATION 4: *Consideration should be given to the creation of a permanent election administration body independent of the three branches of State to provide continuous oversight and review of the electoral legal framework, including oversight of candidate and voter registration, implementation of campaign, campaign finance and media provisions, and electoral dispute resolution. PROPOSAL: Establish a Jersey Electoral Authority (JEA).*

EOM RECOMMENDATION 13: *Consideration should be given to provide for and undertake a systematic scrutiny of all financial declarations submitted by candidates and political parties and make public the result of such scrutiny, in order to enhance transparency of campaign finances as stated in Article 7.3 of the UN Convention against Corruption. PROPOSAL: Engage external Auditor to undertake audits of candidates’ expenditure.*

Disclosure and audit

- 4.2 Candidates will be required to sign a disclosure as part of the nomination process so that the JEA can have access to the details of their campaign expenditure, including the ability to go directly to companies providing services such as printing, to confirm/verify the prices quoted by candidates. The election expenditure regulated period will now be counted from 4 months before nomination day, rather than just from the nomination date onwards. This is to widen the net in relation to pre-candidacy election-related purchases. It is recognised that this is a very difficult area to regulate and relies upon candidates’ honesty and integrity. The Committee accepts that there will be some expenditure which will be difficult to define, but it is hoped that the *spirit* of these changes

- will be welcomed and the potential for an audit will encourage candidates to be as meticulous as possible with the accuracy and transparency of their returns.
- 4.3 The Committee also proposes an increase in expenditure limits, based on RPI. Candidates should not be disadvantaged because they are less affluent than others and vote.je will provide a wealth of support to ensure there is an equality of arms. The manifesto documents, specific to each district, will be delivered to all households and there is scope for each candidate to have a full page each to promote their ambitions and views.
- 4.4 Some consideration was given to expunging the use of the word ‘expenses’ from the Law, as historically this has caused confusion with some candidates expecting to claim some form of grant or reimbursement to meet the election costs they incurred. Mindful that candidates will be obliged to confirm that they have read the Code of Conduct (in which it will be made expressly clear that the costs associated with standing for election cannot be reclaimed), the Committee does not consider it unreasonable to expect them to understand the legal requirements to which they are subject as a result of standing for election.
- 4.5 Failure to comply and submit accurate returns could still lead to disqualification, if a candidate is convicted of certain offences under the 2014 Law (following a successful criminal prosecution). However, the Committee has reconfigured the offence of failure to deliver a declaration so that no offence is committed if there is a reasonable excuse for failure to submit their records on time. Candidates will also have the comfort of being provided with proof of receipt by the JEA when they submit their expenditure form. The JEA will be responsible for the publication of candidates’ expenditure returns online which will then be available for public inspection. The Committee’s view is that the information could be added to the vote.je website, which is already well-regarded as the central resource for information about elections in Jersey.
- 4.6 The donations threshold has been increased in line with RPI to £145.
- 4.7 Although candidates will be informed of the deadline for the submission of expenditure declarations as part of the nomination process, the JEA will also contact candidates 5 working days before the deadline as a reminder.
- 4.8 At present, candidates who run unopposed are not required to submit a declaration of expenditure. PPC considers that this will become otiose if the inclusion of ‘None of the above’ on ballot papers is approved, but if that is not endorsed by the Assembly, then the Committee will bring forward additional changes to the Law in order that **all** candidates be required to submit a declaration of expenditure.

Political party candidates

- 4.9 The Committee understands that in 2014 and 2018, Reform Jersey declared their election expenditure by means of a party declaration rather than by showing expenditure by candidate. This was permitted by the Judicial Greffe, but was not in line with the legal requirement, which is for each candidate to submit a separate declaration. The Committee considers that aggregation could cause unwelcome distortions in the system for regulating election expenditure. A party could stand a large number of candidates and focus all of its expenditure on a small number of them, but this would not be apparent if declarations were made on a party rather than an individual basis. As a consequence, PPC has maintained the obligation on candidates to submit individual declarations, even if they are standing as part of a political party. Where there are ‘shared’ costs, for example where several

candidates are mentioned in a leaflet or on a banner, then the costs per candidate will need to be apportioned accordingly.

- 4.10 In other jurisdictions it is common for expenditure by parties to be declared in addition to expenditure by candidates. For example, while candidates may principally spend money on leaflets and posters in their locality, parties spend money on digital marketing and other forms of ‘national’ advertising. The provisions of the Law will now allow the JEA to request additional information from party treasurers if it has any questions about campaign expenditure in relation to one or more candidates and how this has been apportioned.

Donations

- 4.11 A candidate’s expenditure declaration after an election must include donations of over £145, showing who made the donation, the amount and whether the donation took the form of money, a loan, or goods and services. Anonymous donations must be given to the Treasurer of the States and the expenditure declaration should include the total of any such donations. The same rules apply to ‘third parties’, people or groups who are not candidates but who seek to promote or “prejudice the electoral prospects” of a candidate or candidates.
- 4.12 The Connétable of St. Martin’s proposal was that donations should be declared within 2 days of receipt. The Committee, having concluded that this timescale was very short, instead suggest this should be within 4 weeks of receipt which will align with the timescale proposed for the declaration of anonymous donations (and the submission of expenditure declarations after each election).
- 4.13 The Committee is also proposing that a series of small donations to political parties from the same donor should be reported on a quarterly basis to the JEA, which would publish them online. Such donations can be aggregated for reporting purposes (so that two separate donations by the same person in the same three month period are treated as a single donation (of the total amount) and may exceed the threshold on that basis, and therefore be reportable, even if each individual donation is of an amount below the threshold. The threshold limit has not been set within this body of legislation, as the Committee wishes to consult further on this and instead suggests the limits will be set by Regulation, but will not be lower than the present threshold for donations to an independent candidate.
- 4.14 Another effect of taking this approach is that the requirement for the declaration to include the sum of anonymous donations (required to be sent to the Treasurer of the States under separate provision) is lost. The Committee has included a similar provision in Article 13C so that within the same period within which the donation must be sent on to the Treasurer (within 4 weeks of receipt), the Treasurer of the party must also report it to the JEA.

4.15 Key changes:

- **Places JEA in process for oversight**
- **Counts expenditure from 4 months before election rather than just from nomination night**
- **Deals with political parties’ expenditure when shared**
- **Deals with donations for independent candidates**
- **Deals with political party donations**

- **Raises expenditure limit**
- **Extension of submission period for expenditure to 4 weeks**
- **Introduces a receipt from JEA for expenditure returns**
- **JEA to send a reminder to all candidates 5 days before submission deadline**
- **Allows for audits of expenditure by the JEA**
- **Failure to comply – maintains disqualification if convicted, but no offence is deemed committed if there was a ‘reasonable excuse’**

Financial and manpower implications

There will be some resource requirement to provide administrative support to the JEA but it is envisaged this will be provided by the States Greffe initially from existing budgets. There could also be some outlay required to provide a dedicated website, although it is possible that the existing vote.je site could be refreshed to accommodate the additional legal requirements. There will be a cost associated with auditing candidates’ expenditure returns, but the number of such audits cannot be quantified at this time as they will be determined by the JEA. There are no other additional manpower or financial implications associated with this proposition.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT**Human Rights Notes on the Draft Elections (Miscellaneous Amendments)
(Jersey) Law 202-**

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

Article 3 of the First Protocol to the ECHR (“**A3P1**”) relates to the right to free elections. A3P1 provides that: “*The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature*”.

The features of A3P1 are thus that there must be a free election by secret ballot and that elections must be held at reasonable intervals. Within these parameters, each jurisdiction has a broad margin of appreciation in the organisation of elections to its legislature.

The European Court of Human Rights has established that A3P1 also implies individual rights, comprising the right to vote and the right to stand for election.

The draft Law does not alter a person’s eligibility to be an elector in Jersey or to stand for electoral office in Jersey. The draft Law provides for the creation of a new electoral authority to oversee the nomination process for a person to stand for election to the legislature in Jersey when proposed and seconded in candidacy by persons qualified and registered as electors in Jersey, together with the process of declaring expenditure made and donations received by candidates and by those who are organised as political parties registered in law which endorse candidates for election. The draft Law creates a new process for the proposing and seconding of candidates, for a period for nominations to be submitted and for a further period in which deficiencies in the nomination form can be addressed. These changes are all within the margin of appreciation of A3P1 for Jersey to organise elections to its legislature.

The draft Law creates an innovation in Jersey law such that where the number of candidates for a particular office in a constituency does not exceed the number of vacancies for that office in that constituency, the electors in the constituency will have the ability to vote positively for an option on the ballot paper that they do not wish to vote for any of the candidates nominated. Where the plurality of votes in a constituency is for that option of “none of the candidates” then this will result in the relevant offices being vacant such that a further nomination process and election will need to take place. This affects the ability of a person validly nominated as a candidate to be elected unopposed in circumstances where under the current law such a candidate would have been declared elected at the conclusion of the nomination meeting and would not have had to face a poll. A3P1 provides no right to be elected in such circumstances if domestic law provides otherwise, and leaving it to the voters to decide whether they would like the nomination process to be re-run is within the broad margin of appreciation.

The rights under A3P1 are for the people to have a free choice in the composition of their legislature. The process of a vote for “none of the candidates” does not prevent a person from standing for election. For A3P1 purposes, the vote for “none of the candidates” is an expression of the people in the constituency not choosing any of the nominated candidates to be part of the legislature (at this particular moment in time) but anticipating fresh nominations from which they might choose.

The outcome of a plurality of votes for the option “none of the candidates” may temporarily prevent the people in the relevant constituency from having a level of representation in the legislature compared to the people in other constituencies, but this is not a disproportionate interference with their rights because it was open to them to vote to ensure the election of the nominated candidates. The A3P1 rights encompass the right to nominate candidates for election to be chosen by the wider electorate, and if a sufficient number of people in a constituency desire that the nomination process be re-run then it is their active choice that the election of representatives be delayed. It is true that the A3P1 rights of the people in the constituency to have representation in the legislature is engaged but overall delaying the election of representatives is within the margin of appreciation if the constituency effectively votes for that delay.

The draft Law re-enacts a requirement for persons to be nominated for election as Deputy and Connétable to submit a written declaration they have made in the terms of Article 9 of the States of Jersey Law 2005 or Article 4A of the Connétables (Jersey) Law 2008 which entails disclosure of unspent convictions and spent convictions for certain serious offences. This engages Article 8 of the ECHR, which provides that –

- “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”.*

The imposition of a requirement, backed up by a criminal penalty, to make a declaration as to spent and unspent criminal convictions will interfere with candidates’ rights to private life guaranteed under Article 8 of the ECHR. However, this interference can be justified as proportionate in pursuit of a legitimate aim in terms of protecting public safety, preventing disorder or crime and for the protection of the rights of the electorate (under A3P1 and otherwise) to decide on which candidates are suitable to be elected and serve the interests of the voters best. The interference is also balancing the right to stand for election (under A3P1 and otherwise). As limitations on A3P1 rights must be proportionate, there is only a bar on people standing for election within 7 years of a conviction which led to imprisonment for 3 months or more. The balance struck is that candidates are not prohibited from standing for election by reason of their convictions if those convictions were over 7 years before the nomination for election but at the same time where convictions are serious: treason, murder, manslaughter, sexual offences and offences against minors, fraud and other dishonesty, a person is not prohibited from standing but must declare such offence so that the electorate may make a free informed choice of the representatives who are to sit in the legislature for the legislative term and preside over the making of legislation (and be part of the executive government drawn from the legislature or else be involved in scrutiny and the holding of executive government to account) in matters relevant to the protecting public safety, preventing disorder or crime, protecting public health and morals and working for the economic wellbeing of Jersey.

The draft Law makes provision (as existing law has done) regarding the qualification for election and holding office as a Deputy or Connétable. To the extent that these qualifications amount to a limit on the rights provided by A3P1, they are proportionate to a number of legitimate aims and, therefore they are compatible with A3P1.

The draft Law places higher limits on election expenditure. Limits on election expenditure by candidates and third parties are unlikely to interfere with rights under A3P1 but even where A3P1 is engaged the limitations are justifiable. The European Court of Human Rights (“**ECtHR**”) has found that limitations on A3P1 rights are permitted provided that they do not impair the very essence of the rights or deprive them of their effectiveness and are imposed in pursuit of, and proportionate to, some legitimate aim. Applying these principles, any interference with A3P1 rights that does arise is capable of justification. The other ECHR right that may be engaged by the draft Law is the right to freedom of expression under Article 10, which states, as relevant –

- “1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...*
2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”.*

As was recognised by the ECtHR in the case of *Bowman v UK*, limiting third party election expenditure can interfere with the right in Article 10(1) of the ECHR. However, such interference can be justified by reference to Article 10(2) of the ECHR provided that it is prescribed by law and is proportionate in pursuit of a legitimate aim. In the *Bowman* case, the Grand Chamber of the ECtHR recognised that the imposition of election expenditure limits pursued legitimate aims, including the promotion of fairness between competing candidates. The ECtHR concluded that the restriction on third party election expenditure in place in *Bowman* (a £5 limit) breached Article 10(1) ECHR, because it was so low as to act, for all practical purposes, as a total barrier to third parties publishing information to influence voters and was disproportionate. However, the election expenses limits in the draft Law do not amount to a ban of the nature objected to by the ECtHR in *Bowman* and are capable of justification as a proportionate interference with the Article 10(1) ECHR right.

In similar vein, the requirements regarding expenditure and donations that would be imposed by the draft Law in its amendment of the Public Elections (Expenditure and Donations) (Jersey) Law 2014 on those organised as political parties that have been registered in Jersey and are able to endorse candidates for election are also compatible with the ECHR.

With respect to donations by people who might wish to be anonymous, it could be argued that the restrictions imposed in the draft Law on accepting anonymous donations and obliging the treasurer of a political party to forward to the Treasurer of the States sums of money paid anonymously that would otherwise be the property of the party (which may be an unincorporated association of individuals) engage rights under Article 1 of the First Protocol to the ECHR (“**A1P1**”) which provides as follows –

- “1. *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public*

interest and subject to the conditions provided for by law and by the general principles of international law.

2. *The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”.*

The ECtHR has held that “*the right to dispose of one’s property constitutes a traditional and fundamental aspect of the right of property*” (*Marckx v Belgium (1979) 2 EHRR 330*). However, any interference with A1P1 in the draft Law is justified. A1P1 demands that any state control of the use of property is in accordance with the general interest. Ensuring that donations only come from a clearly identified source is in accordance with the general interest to ensure transparency and accountability in political life and avoid fraud and protect against undue interference in the electoral process in Jersey from persons unknown whose purposes are undisclosed (and which may be untoward) are all in the general interest. The restrictions are within the wide margin of appreciation available to ECHR contracting states.

EXPLANATORY NOTE

The draft Elections (Miscellaneous Amendments) (Jersey) Law 202- would, if passed, amend the principal Laws relating to elections.

Part 1 (Articles 1 to 64) amends the Public Elections (Jersey) Law 2002 (the “2002 Law”).

Article 1 provides that Part 1 amends the 2002 Law, and changes the short title of that Law so that it refers to “Elections” rather than “Public Elections”. This reflects a change in terminology provided for later in the draft Law, making a clear distinction between elections for members of the States Assembly (Deputies and Connétables), which are described as “public elections”, and elections for Centeniers and Procureurs du Bien Public, which are described as “parish elections”.

Article 2 amends the list of definitions in Article 1 of the 2002 Law to make the distinction between “public elections” and “parish elections” as described above, and to include a definition of “spoilt ballot paper”. The provision also makes other minor changes, including those necessary to bring the definitions in line with substantive changes elsewhere in the draft.

Articles 3 and 4 amend Articles 2 and 4 of the 2002 Law, to reflect the new terminology of public and parish elections.

Article 5 makes an amendment to Article 4A of the 2002 Law which is consequential on the new terminology of public and parish elections, recognising the fact that postal voting is available at public elections only and requiring an *Autorisé* or *Adjoint* to take measures under Article 35 instead.

Article 6 inserts a new Article 7ZA in the 2002 Law which requires electoral administrators to prepare, in relation to each of their electoral districts, a list of properties at which no voters are registered. The electoral administrator must provide the list for an electoral district to each candidate standing at an election for a constituency which is, or includes, that district.

Article 7 makes amendments to Article 12 of the 2002 Law which are consequential on the changes to the nominations process for public elections, reflecting the fact that this will in future be different from the nominations process for parish elections.

Article 8 inserts a new Part 3A in the 2002 Law, which makes provision for the establishment of the Jersey Electoral Authority (the “JEA”) and some of its key functions, and inserts a Schedule in the 2002 Law, which makes provision for the constitution and proceedings of the JEA. Article 13B provides that the JEA must prepare a report on the administration of each ordinary public election, and may prepare a report on the administration of a public by-election. Any report prepared under Article 13B must be submitted to the Privileges and Procedures Committee within 6 months of the election to which it relates, and must include any recommendations of the JEA as to changes in the law and practice relating to elections. Article 13C provides that the JEA must prepare and publish a code of conduct for candidates. As part of the process of nomination, a prospective candidate at a public election must declare that he or she has read and agrees to comply with the code of conduct (see the inserted Article 17D of the 2002 Law). Article 13D provides that the JEA may take such steps as it considers appropriate for resolving complaints made by a candidate at an election about either another candidate or a person carrying out functions in relation to the election. The States may by Regulations make further provision about the functions and powers of the JEA on receipt of complaints, and the procedure for dealing with them. Article 13E

provides that the Chair and an ordinary member of the JEA may attend pre-poll facilities, polling stations and the count for the purposes of observing a public election (and those observations may be relevant to a report prepared under Article 13B). Article 13F makes provision about the ancillary functions of the JEA and provides for the States to confer further functions by Regulations. The new Schedule to the 2002 Law is contained in *Schedule 1*, and provides that the JEA is to consist of (a) a Chair, (b) between 2 and 4 ordinary members, (c) a parish representative (under paragraph 5 of the inserted Schedule, this will be a parish Secretary who is nominated by the Secretary of the Comité des Connétables after consultation with all those eligible for the role), (d) the Judicial Greffier, and (e) the Greffier of the States. It also makes provision about the selection and appointment, and terms, of members of the Chair and ordinary members of the JEA, and includes provision about its arrangements and proceedings. The States may by Regulations make further provisions about the proceedings of the JEA under paragraph 7 of the inserted Schedule.

Article 9 amends Article 14 of the 2002 Law, to reflect the new terminology of public and parish elections.

Article 10 amends Article 15 of the 2002 Law to provide that, in addition to the costs of sending out notices under Article 7A, the costs of printing ballot papers for the purposes of the election of a Deputy and the costs incurred by the JEA in the exercise of its functions are to be met by the States.

Article 11 amends Article 17 of the 2002 Law. Paragraphs (1) and (2) make amendments that are consequential on other provisions of the draft. Paragraph (3) amends Article 17(2AA)(b), inserted by paragraph 8(4) of Schedule 2 to the Constitution of the States and Public Elections (Jersey) Law 202-, so that the date fixed by Court order for a newly elected Deputy or Connétable to take the oath of office must be as early as is reasonably practicable (and subject to the pre-existing longstop of within 14 days of the election).

Article 12 substitutes Article 17A of the 2002 Law, providing that the electoral administrator for a parish is the Secretary of that parish. However, if the office of Secretary is vacant or the Secretary is otherwise unable to act, the JEA must appoint another parish employee as the electoral administrator.

Article 13 inserts a new Part 4A (Articles 17B to 17I) in the 2002 Law, making provision about the nominations process for Deputies and Connétables. Article 17B makes provision about the application of Part 4A. Article 17C provides that a person is nominated as a candidate for public election if the person submits a nomination form, within the nomination period determined by the JEA, and the JEA is satisfied that the form complies with the requirements of Part 4A. Article 17C also makes provision as to the time period for the start and end of a nomination period, and requires the JEA to take steps to draw this to the attention of the public. Article 17D makes provision about the content of a nomination form, which must be in the form required by the JEA and accompanied by a photograph of the candidate. Article 17E provides that the nomination form must be subscribed by one proposer and 9 seconders. Article 17F makes provision about the declaration to be made on the nomination form by candidates who are endorsed by a political party. Article 17G makes provision about the validation process for nomination forms. A form received by the JEA must be sent to the relevant electoral administrator, who must review the form for the purposes of assessing its compliance with the requirements of Part 4A (including comparing the details of the candidate, proposer and seconders with those on the electoral register) and notify the JEA of the outcome of that review. If the JEA is satisfied, following receipt of the notification (or notifications) from the relevant electoral administrator (or administrators), that the form complies with the requirements of Part 4A, the JEA must notify the candidate who is

then nominated for the purposes of the 2002 Law (but does not become a candidate until the JEA publish the candidate announcement under Article 17H). If the JEA is notified, or otherwise considers, that the nomination form is defective, the JEA must notify the prospective candidate accordingly and the person has the opportunity to re-submit the form within a period determined by the JEA (which may extend beyond the usual “nomination period”). Article 17H requires the JEA to publish a list of candidates nominated for public election (a “candidate announcement”). The candidate announcement may not be published before the end of the nomination period (or any extended period to allow a person to re-submit their nomination form) and, in the case of an ordinary public election, must be published at least 5 weeks before the election. The day on which the candidate announcement is published is the day on which those nominated become candidates for the election. Article 17I provides that if, at the end of the nomination period, there are more vacancies than persons nominated as candidates at a public election, the nomination period is extended by 2 days.

Article 14 amends the heading of Part 5 of the 2002 Law, and *Article 15* inserts a new *Article 17J* which makes provision about the application of that Part. These changes reflect the fact that the Law provides for a new nominations process for Deputies and Connétables. As a result, the current Part 5 will relate only to nomination for Centeniers and Procureurs du Bien Public.

Articles 16, 17, 18 and 19 make minor and consequential amendments to Part 5 to limit the application of that Part to Centenier and Procureur du Bien Public elections.

Article 20 amends *Article 22* of the 2002 Law to provide that, in the case of an election for a Deputy or Connétable (a “public election”), a poll will be held if there is at least one candidate for the office and constituency. It preserves the current position for elections for Centeniers and Procureurs du Bien Public (“parish elections”), so that a poll will only be held if the number of candidates exceeds the number of vacancies (and, if not, *Article 21* of the 2002 Law would apply). The change is connected to the introduction of a “none of the above” option on the ballot paper for an election where there are not more candidates than vacancies for a public election - so, for example, a single candidate standing for a single vacancy will not necessarily be elected to office.

Article 21 makes amendments to *Article 23* of the 2002 Law which are consequential on changes made elsewhere in the draft Law.

Article 22 amends *Article 24* of the 2002 Law to provide that responsibility for arranging the printing of the ballot papers for an election falls to the electoral administrator (though the costs of doing so for the purposes of an election to the office of Deputy will be met by the States, under substituted *Article 15(3)* of the 2002 Law, mentioned above). *Article 22* also amends the provisions about the content of ballot papers, including removing the need for the form to be prescribed by Regulations. In the case of public elections, the amended *Article 24* requires the ballot paper to include an option for voting for none of the candidates, where the number of candidates does not exceed the number of vacancies (and indicate that an elector voting for that option may not cast a vote for any other candidate). Also in the case of public elections, the ballot paper must be in the form and comply with such other requirements as may be specified by the JEA.

Article 23 amends *Article 25* of the 2002 Law to reflect the new terminology of public and parish elections.

Article 24 makes minor amendments to *Article 26* of the 2002 Law, including providing that the JEA is responsible for approving the model and marking of a ballot box for a public election.

Article 25 inserts a new Article 26A in the 2002 Law, which requires the JEA to prepare a document containing details and a photograph of each candidate standing at a public election in a constituency and to distribute it to the polling stations. The document is to be made available, in the voting booth or otherwise, to persons attending a polling station.

Article 26 makes a minor amendment to Article 27(3) of the 2002 Law to reflect the fact that the principal *Autorisé* is responsible for the return under Article 53.

Article 27 amends Article 29 of the 2002 Law. The inserted paragraphs (1A) to (1C) provide that no more than one representative of a candidate (in addition to the candidate) may remain in the immediate vicinity of the entrance to the polling station while the poll is open, and for those purposes a representative of a political party is treated as a representative of a candidate endorsed by that party. The amendments to paragraph (2) add a specific reference to the new provisions, making it clear that an *Autorisé* or *Adjoint* may give reasonable directions, and take reasonable measures, to secure compliance with the new requirements. The inserted paragraphs (3) and (4) provide that the Chair or an ordinary member of the JEA attending the polling station may, with the consent of the *Autorisé*, give reasonable directions on the same basis. Article 66 of the 2002 Law (as amended by the draft Law) provides that it is an offence to fail to comply with a direction given under Article 29.

Article 28 amends Article 30 of the 2002 Law to reflect the new terminology of public and parish elections.

Article 29 amends Article 31 of the 2002 Law to provide that it is the responsibility of the electoral administrator to arrange delivery of the ballot papers to the *Autorisé* in each electoral district.

Articles 30 to 32 make minor amendments to Articles 32 to 34 of the 2002 Law. These are to reflect the new terminology of public and parish elections and the fact that the principal *Autorisé* is responsible for the return under Article 53.

Article 33 amends Article 35 of the 2002 Law, which relates to the power of an *Autorisé* or *Adjoint* to take measures for taking the vote of a person who is ill, disabled, illiterate or in custody, or the carer of a person who is ill or disabled. An *Autorisé* or *Adjoint* has the power under paragraph (1) to take such measures as he or she considers appropriate in the circumstances (but is not obliged to do so). The amendment removes the requirement under paragraph (2) for a request for assistance to be made at least 3 hours before the poll closes, so as to increase flexibility to deal with requests - for example, allowing the provision of minor assistance at a polling station shortly before polling closes. Article 33 makes a further minor amendment to reflect the new terminology of public and parish elections (Article 35 of the 2002 Law is relevant to both categories of election).

Article 34 amends Article 36 of the 2002 Law to make clear that references in the 2002 Law to a “spoilt ballot paper” are references to a ballot paper that has been spoilt and subsequently exchanged by the voter for a fresh one (the original spoilt ballot paper being cancelled). These are a sub-category of “invalid ballot papers”, as defined in Article 51 of the 2002 Law.

Article 35 amends Article 37 of the 2002 Law to remove a definition that is redundant as a result of other changes to Part 7 of that Law.

Article 36 substitutes the provisions about entitlement to pre-poll and postal vote with a new Article 38. Under the current provisions, postal voting is only available in a limited range of circumstances, but new Article 38 provides that any person who is entitled to vote in a public election, and whose name is on the electoral register in force for that election, is entitled to postal vote. The substance of the law about entitlement to pre-

poll vote remains the same, so that any person who is entitled to vote in a public election (other than prisoners entitled to vote under Article 4A), and whose name is on the electoral register in force for that election, is entitled to pre-poll vote.

Article 37 substitutes Articles 40 and 41 with new Articles 40A to 40C, making provision about arrangements for and in connection with pre-poll voting. Article 40A requires electoral administrators to provide the Judicial Greffier with a copy of the relevant electoral register and a sufficient number of ballot papers for the purposes of pre-poll and postal voting. Article 40B provides that the JEA must determine the locations, days and times for pre-poll voting, and the Judicial Greffier (a member of the JEA) is responsible for providing the facilities accordingly. It also required the JEA to take steps to publicise arrangements for pre-poll voting. Article 40C provides that certain provisions of the 2002 Law apply to locations at which facilities for pre-poll voting are provided as if they were polling stations. The provisions are those about voting booths (Article 26), supervision (including the power to give reasonable directions and take reasonable measures, which would fall to the Judicial Greffier in the case of pre-poll) (Article 29) and the offence of influencing a voter (Article 63).

Article 38 makes minor and consequential amendments to Article 42 of the 2002 Law. The amendments include a change to Article 42(11) (assistance for pre-poll voters who are ill, disabled etc.) for consistency with the equivalent provision in Article 35.

Article 39 inserts a new Article 42A in the 2002 Law, which provides that the JEA must specify the closing date for postal voting applications, and must publicise arrangements for postal voting.

Article 40 makes minor and consequential amendments to Article 43 of the 2002 Law, which makes further provision about applications for postal voting.

Article 41 makes minor amendments to Article 46A of the 2002 Law, reflecting the fact that the principal *Autorisé* is responsible for the return under Article 53.

Article 42 amends Article 46D of the 2002 Law to make clear that a candidate, or a candidate's representative, is not prohibited from providing a person with general information about postal voting (though it is an offence to complete or assist a person with completing an application to postal vote).

Articles 43 and 44 amend Articles 47 and 48 of the 2002 Law to reflect the new terminology of public and parish elections.

Article 45 amends Article 49 of the 2002 Law to provide that an *Autorisé* may for the purposes of facilitating the count and maintaining secrecy in voting, give reasonable directions to candidates and their representatives who are present at the count, or take reasonable measures during the count. These may include directions or measures related to the distance from which candidates and their representatives may observe the count, and preventing them from attempting to communicate with the *Autorisé* or *Adjoint* during the count. Failure to comply with a direction given under this provision will be a criminal offence under the amended Article 66(1)(g).

Article 46 amends Article 50 of the 2002 Law to reflect the new terminology of public and parish elections, and includes an amendment that is consequential on the inclusion of the "none of the candidates" option in the ballot paper in certain circumstances in a public election (see the amended Article 24 of the 2002 Law).

Article 47 amends Article 51 of the 2002 Law to provide that a ballot paper for a public election which includes a "none of the candidates" option under Article 24 is invalid if it records a vote for that option and for another candidate. There are further minor amendments to Article 51 to reflect the fact that the principal *Autorisé* is responsible for the return under Article 53.

Articles 48 to 51 make minor and consequential amendments to Articles 52A, 52AA, 52C and 53 of the 2002, including changes to reflect the new terminology of public and parish elections and to link the provision about the contents of an Article 53 return with the requirements elsewhere in the 2002 Law. The amendments also include changes consequential on the inclusion of the “none of the candidates” option in the ballot paper in certain circumstances in a public election.

Article 52 amends Article 54 of the 2002 Law to provide that, where a recount is required, the Judicial Greffier must make such arrangements as are necessary for the taking of the oath by persons elected for the constituency in which the recount is required (but not other constituencies) to be deferred. Article 52 also makes further consequential amendments to Article 54 to reflect the new terminology of public and parish elections and the inclusion of the “none of the candidates” option in the ballot paper in certain circumstances in a public election.

Articles 53 to 55 make further consequential amendments to Articles 56 to 58 of the 2002 Law, to reflect the new terminology of public and parish elections.

Article 56 amends Article 61 of the 2002 Law to remove paragraphs (1)(b) and (3) in consequence of the new provisions about the validation of nomination forms and the procedure for the JEA to confirm that the form complies with the relevant requirements under inserted Part 4A of that Law. This Article also inserts new paragraphs (5) and (6), which make provision in connection with cases where the “none of the candidates” option is included in the ballot paper. In the event that none of the candidates standing for election obtains more valid votes than the “none” option, the Court must declare a casual vacancy (or vacancies) in the office in respect of which the election is held. This will in turn trigger the application of the relevant provisions for by-elections for Deputies or Connétables. It also includes a further consequential amendment to reflect the new terminology of public and parish elections.

Articles 57 to 60 make further consequential amendments to Articles 62 to 65 of the 2002 Law, to reflect the new terminology of public and parish elections.

Article 61 amends Article 66 of the 2002 Law to include a reference to directions given by an *Autorisé* under Article 49(5A) (for the purposes of facilitating the count etc) in the list in Article 66(1)(g) (failure to comply with a direction of an *Autorisé* is an offence). It also creates a new offence of failure to comply with a direction of the Chair or and ordinary member of the JEA given under inserted Article 29(3) (see the note above on that provision). In addition, the Article corrects a cross-reference in Article 66(1)(g) of the 2002 Law and makes further consequential amendments to reflect the new terminology of public and parish elections.

Article 62 amends Article 68 of the 2002 Law to reflect the new terminology of public and parish elections.

Article 63 inserts a new paragraph (3) in Article 71 of the 2002 Law, extending the provision protecting certain officers from civil liability in connection with their functions under the Law to cover the JEA, its members and persons exercising functions on its behalf.

Article 64 amends Article 72 of the 2002 Law to include a power for the States to make provision by Regulations for automatic registration on a central electoral register and the creation of electoral registers for each electoral district from information held on the central register. Regulations made in exercise of the power must include provision enabling a person to apply to opt-out from inclusion in the electoral register for an electoral district, but the Regulations may prevent an opt-out application being made in the run up to an election. There is a further amendment to Article 72(2)(b) to expressly provide that the power to make consequential, transitional, incidental or supplemental

provision includes power to make provision amending, repealing or otherwise modifying the application of any other enactment.

Article 65 amends Article 74 of the 2002 Law to reflect the amended short title of the 2002 Law (which in turn reflects the new distinction between “public elections” and “parish elections”).

Article 66 provides that Part 2 amends the States of Jersey Law 2005 (the “2005 Law”).

Article 67 amends Article 5 of the 2005 Law (substituted by Article 3 of the Constitution of the States and Public Elections (Jersey) Law 202-) to signpost the provisions in Article 8 of that Law about disqualification from the office of Deputy (which are relevant to the term of office provisions in Article 5). This provision also makes a consequential amendment to Article 5A of the 2005 Law to update a cross-reference to Article 5.

Article 68 substitutes Article 8 of the 2005 Law, which makes provision about disqualification from election for, or holding office as, Deputy. The revised version of this provision is consistent with the revised provision about disqualification for Connétable (substituted by Article 76).

Article 69 amends Article 9 of the 2005 Law which makes provision about the declaration to be made when nominated for office as a Deputy. The declaration will be included in the nomination form under inserted Article 17D of the 2002 Law, and the requirement under paragraph (2) for it to be read out at the nomination meeting is now redundant, as is the requirement for the form and content to be prescribed. Paragraph (1A) of Article 9 is also substituted to provide that there is no requirement to declare a conviction for an act which, would not, by reference to Article 12 of the now repealed Sexual Offences (Jersey) Law 2007 (amendment of law relating to *sodomie*) result in a conviction if it had been committed in Jersey on or after 12th January 2007 (the date on which Article 12 of that Law came into force).

Article 70 makes a consequential amendment to Article 13 of the 2005 Law.

Article 71 amends Article 33 of the 2005 Law, so that an officer of States Greffe is entitled to enter or remain in the precincts of the States (and cannot be ordered to be withdrawn) where the officer is passing through the parts of the States building giving access to the Chamber.

Article 72 provides that Part 3 amends the Connétables (Jersey) Law 2008 (the “2008 Law”).

Article 73 amends Article 1 of the 2008 Law to signpost the provisions in Article 4C of that Law about disqualification from the office of Connétable (which are relevant to the term of office provisions in Article 1).

Article 74 makes a consequential amendment to Article 3 of the 2008 Law.

Article 75 amends Article 4A of the 2008 Law, which makes provision about the declaration to be made when nominated for office as a Connétable. The declaration will be included in the nomination form under inserted Article 17D of the 2002 Law, and the requirement under paragraph (2) for it to be read out at the nomination meeting is now redundant, as is the need for the Schedule (repealed by Article 77). Paragraphs (3) and (4) amend Article 4A for consistency with the equivalent provisions for Deputies in Article 9 of the 2005 Law. This Article also substitutes paragraph (1A) of Article 4A of the 2008 Law to provide that there is no requirement to declare a conviction for an act which, would not, by reference to Article 12 of the Sexual Offences (Jersey) Law 2007 (amendment of law relating to *sodomie*) result in a conviction if it had been committed in Jersey on or after 12th January 2007 (the date on which Article 12 of that Law came into force).

Article 76 substitutes Article 4C of the 2008 Law, making provision about disqualification from office as a Connétable. The circumstances in which disqualification will arise (“disqualification conditions”) are unchanged, although some of the terminology and legislative references have been updated. The revised version of Article 4C differs from its predecessor in providing not only for disqualification for election, but also that a person elected as a Connétable will cease to hold office on meeting one of the disqualification conditions. The Royal Court retains supervisory jurisdiction under Article 4D of the 2008 Law (unchanged by the draft Law) for other purposes. The amended Article 4C also includes a signpost to Article 18(2) of the Public Elections (Expenditure and Donations) (Jersey) Law 2014, which makes provision for disqualification from office in the event of conviction for an offence under that Law in connection with the person’s election expenses.

Article 77 deletes the Schedule containing the form of declaration for a person proposed as a candidate for the office of Connétable (in connection with the amendments to Article 4A of the 2008 Law made by Article 75, noted above).

Article 78 provides that Part 4 amends the Political Parties (Registration) (Jersey) Law 2008 (the “Registration Law”).

Article 79 makes a consequential amendment to Article 1 of the Registration Law.

Article 80 makes a change to the terminology used in the Registration Law, replacing the label “leader” with that of “Chair”.

Article 81 provides that Part 5 amends the Public Elections (Expenditure and Donations) (Jersey) Law 2014 (the “2014 Law”).

Article 82 makes minor and consequential amendments to the list of definitions in Article 1 of the 2014 Law.

Article 83 inserts a new Article 1A in the 2014 Law, defining “regulated period” for the purposes of the election expenses rules by reference to the 4 month period leading up to an election.

Article 84 amends Article 3 of the 2014 Law, including substituting the definition of election expenses in paragraph (1) of that Article. Election expenses are expenses incurred at any time before the poll for an election by the candidate, or with the candidate’s express or implied consent, for goods or services which are used during the regulated period to promote or procure the candidate’s election or to prejudice the electoral prospects of another candidate at that election. The substituted Article 3(1) (read with the modification to the definition of “candidate” in the inserted Article 3(8)) catches expenses for goods and services used in the 4-month regulated period, and not only those used after the person has legally become a candidate under the inserted Article 17H. This Article makes related consequential amendments to Article 3 of the 2014 Law, and also amends the provision in Article 3(7) about apportionment of expenses between candidates. Where election expenses are incurred in respect of 2 or more candidates, the presumption is that the expenses are of equal benefit and are therefore to be apportioned equally between them. However, this presumption can be displaced if one of the candidates proves to the satisfaction of the JEA that the expenses should be apportioned on a different basis.

Article 85 inserts a new Article 3A in the 2014 Law to make provision for expenses incurred by a political party during the regulated period for an election. The expenses are to be treated as “election expenses” in relation to each candidate standing at the election who is endorsed by the party, and are to be apportioned between the candidates in accordance with Article 3(7) of the 2014 Law.

Article 86 amends Article 4 of the 2014 Law to alter the limits on candidates' election expenses. The aggregate limit is £2050 plus 13 pence for each person entitled to vote at the election.

Article 87 amends Article 5 of the 2014 Law to extend the period within which a candidate must send an anonymous donation to the Treasurer of the States from 10 working days to 4 weeks. It also alters the offence of failing to comply with that requirement so that no offence is committed if there is a reasonable excuse for the failure, building the element of reasonable excuse into the offence provision itself (with a related amendment being made to the current defence provision in Article 15). Similar amendments are made in relation to certain other offences under the Law, as noted below.

Article 88 amends Article 6 of the 2014 Law, which makes provision requiring a candidate to make a declaration of election expenses and donations. The period within which the declaration must be made, after an election, is extended from 15 working days to 4 weeks. The amendments have the effect that the JEA, instead of the Judicial Greffier, will be responsible for overseeing the process for expenses and donations declarations. A declaration must be delivered to the JEA and be made using the form supplied by it; and the JEA will also remind candidates of the obligation to deliver a return at least 5 working days before it is due. The minimum amount or value of a donation that is required to be declared is increased from £120 to £145. An amendment is made to the offence of failure to comply with the requirement to deliver a return under the Article, so that no offence is committed if there is a reasonable excuse for the failure (see the note on Article 87 above).

Article 89 amends Article 7 of the 2014 Law so that it is the JEA, instead of the Judicial Greffier, that will be responsible for the verification of expenses. A new paragraph (1)(b) is inserted so that the JEA will also be able to require the treasurer of a political party to produce invoices, receipts or other proof of the party's campaign expenses in relation to one or more candidates (for the purposes of Articles 3 and 3A), and there is a related amendment to the provision for the offence in paragraph (3). The period within which such a request must be complied with, in the case of a candidate or the treasurer of a political party, is extended from 15 working days to 4 weeks. There is a further amendment to the offence under Article 7(3) of failure to comply with a request, so that no offence is committed if there is a reasonable excuse for the failure (see the note on Article 87 above).

Article 90 amends Article 8(2), under which it is an offence for a person who incurs or pays a candidate's election expenses to fail to provide a candidate with information and documents for the purposes of the candidate's reporting obligations under the Law, so that no offence is committed if there is a reasonable excuse for the failure (see the note on *Article 87* above).

Articles 91 to 93 amend the provisions about third party election expenses in Articles 9 to 13 of the 2014 Law, bringing them into line with the amendments made to the provisions about candidate's election expenses (although there is no requirement for the JEA to remind third parties of the obligation to deliver a return).

Article 94 inserts a new Part 3A (Articles 13A to 13D) in the 2014 Law, establishing a regime for political parties to report donations. Article 13A requires the treasurer of a political party to deliver a written declaration to the JEA of a "reportable donation" within 4 weeks of receiving it. A donation is "reportable" if its amount or value exceeds a certain "threshold amount", or if the total amount or value of that donation and any others made by the same donor within the preceding 3 months exceeds the threshold amount. The threshold amount will be specified in Regulations made by the States. Article 13B provides that it is an offence for a person to fail, without reasonable excuse,

to deliver a declaration or to deliver a declaration knowing or believing it to be false in a material particular. A person who commits either offence is liable to a fine. Article 13C provides that a political party must not keep an anonymous donation, which is parallel to the provisions in Articles 5 and 11 of the 2014 Law prohibiting candidates and third parties from keeping anonymous donations. Article 13C also includes a requirement for the treasurer to declare the donation to the JEA within 4 weeks of receiving it (for candidates and third parties, the sum of anonymous donations is declared in the post-election declaration to the JEA). A person who fails, without reasonable excuse, to comply with the requirements of Article 13C commits an offence and is liable to a fine. Article 13D requires any officeholder of a political party, other than the treasurer, to notify the treasurer of any donations to the party which the officeholder knows or believes to have been received, and to provide any further information held by the officeholder that is relevant for the purposes of compliance with the new Part 3A. A person who fails, without reasonable excuse, to comply with Article 13D commits an offence and is liable to a fine.

Articles 96 and 97 make consequential amendments to Articles 14 and 15 of the 2014 Law.

Article 98 substitutes Article 16 of the 2014 Law, requiring the JEA to acknowledge receipt of declarations of expenses and donations made under Articles 6, 12, 13A or 13C and to publish those declarations.

Article 99 inserts a new Article 16A in the 2014 Law, providing that the JEA may make arrangements for the audit of any declarations made under the Law. The JEA may select declarations for audit at random or by reference to particular criteria (or may arrange for the audit of all declarations).

Article 100 amends Article 18 of the 2014 Law. It alters paragraph (1) to reflect the fact that the listed offences relate to both expenses and donations. The Article also inserts a new paragraph (1A) extending the application of Article 18 to a candidate who has been convicted of an offence under Article 13B, 13C or 13D (in the person's capacity as an officeholder in relation to a political party) in respect of a failure to comply with any of those provisions during the regulated period.

Article 101 inserts a new Article 18A in the 2014 Law, providing that the States may make further consequential, incidental, supplementary or transitional provision by Regulations, including provision amending, repealing or modifying any enactment.

Article 102 amends paragraph 1 of the Schedule to the 2014 Law to include a broader definition of "donation" (in the context of financial gifts) for political parties, in keeping with the ongoing requirement under Article 13A for the treasurer of a political party to report donations of a certain amount or value received by the party. Any gift of money to a political party is a "donation" (but only those above the threshold amount will be reportable: see the inserted Article 13A).

Article 103 amends paragraph 2 of the Schedule to the 2014 Law to include a broader definition of "donation" (in the context of the supply of free or discounted goods or services), in keeping with the ongoing requirement under Article 13A for the treasurer of a political party to report donations of a certain amount or value received by the party.

Article 104 amends paragraph 4 of the Schedule to the 2014 Law, which makes provision about what constitutes an anonymous donation. The inserted paragraph (2) provides that the States may by Regulations provide that the requirements of the Law do not apply in relation to anonymous donations of an amount or value below that specified in the Regulations. This power could be exercised to set different limits for different cases (e.g. a different limit for candidates and third parties to that set for political parties).

Article 105 introduces *Schedule 2*, which makes consequential amendments to other legislation.

Article 106 provides that the Law may be cited as the Elections (Miscellaneous Amendments) (Jersey) Law 202- and makes provision for it to come into force on a day (or days) specified by the States by Act.



Jersey

DRAFT ELECTIONS (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 202-

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Jersey

DRAFT ELECTIONS (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 202-

A LAW to make provision about elections, and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

PART 1

PUBLIC ELECTIONS (JERSEY) LAW 2002 AMENDED

Introductory

1 Public Elections (Jersey) Law 2002 amended

- (1) This Part amends the Public Elections (Jersey) Law 2002¹.
- (2) In the short title, “Public” is deleted.

Interpretation

2 Article 1 (interpretation) amended

- (1) Article 1 is amended as follows.
- (2) In the definition “counting station”, for “a public election” there is substituted “an election”.
- (3) After the definition “electoral register in force for an election” there is inserted –

““JEA” means the Jersey Electoral Authority established by Article 13A;”.

- (4) In the definition “nomination meeting”, after “candidates” there is inserted “at a parish election”.
- (5) After the definition “nomination meeting” there is inserted –
- “parish election” means an election of a Centenier or Procureur du Bien Public;
 - “political party” means a political party which is registered under the Political Parties (Registration) (Jersey) Law 2008²;
 - “PPC” means the Privileges and Procedures Committee established under the Standing Orders of the States of Jersey³;
- (6) In the definition “principal *Autorisé*” for “17(2A), (2B) and (2C)” there is substituted “17(2A) and (2B)”.
- (7) In the definition “public election” “, Centenier or Procureur du Bien Public” is deleted.
- (8) The following definitions are deleted –
- (a) “registered officeholder”;
 - (b) “registered”.
- (9) After the definition “return”, there is inserted –
- “spoilt ballot paper” is to be construed in accordance with Article 36;

Who May Vote?

3 Article 2 (entitlement to vote) amended

In Article 2(4), after “public election” there is inserted “or a parish election”.

4 Article 4 (disqualification of certain offenders) amended

In Article 4(1), after “public election” there is inserted “or a parish election”.

5 Article 4A (voting by prisoners not disqualified under Article 4) amended

After Article 4A(2) there is inserted –

- “(3) A person to whom this Article applies may vote in a parish election only pursuant to measures taken by an *Autorisé* or *Adjoint* under Article 35 (and for this purpose the *Autorisé* or *Adjoint* must take measures for taking the person’s vote).”.

Electoral registers

6 Article 7ZA (list of properties at which no voters are registered) inserted

After Article 7 there is inserted –

“7ZA List of properties at which no voters are registered

- (1) Before 1st November in every year, the electoral administrator for a parish must prepare, in relation to each electoral district which is within or is the area comprising the parish, a list of units of dwelling accommodation in respect of which no person is registered on the electoral register on the date on which the list is prepared.
- (2) The electoral administrator for a parish must provide to each candidate at a public or parish election to be held for a constituency that is, or includes, an electoral district within the parish, a copy of the list relating to that electoral district.”.

7 Article 12 (electoral register in force for an election) amended

- (1) Article 12 is amended as follows.
- (2) In paragraph (1), for “the day when the nomination meeting for the election is held” there is substituted “nomination day in relation to the election”.
- (3) In paragraph (1A) –
 - (a) in paragraph (a), “public” is deleted;
 - (b) for paragraph (b) there is substituted –

“(b) nomination days in relation to those elections fall on 2 consecutive days; and”;
 - (c) for “the day when the first nomination meeting is held” there is substituted “the earliest of the nomination days referred to in paragraph (b)”.
- (4) After paragraph (3) there is inserted –

“(4) In this Article, “nomination day” means –

 - (a) in relation to a parish election, the day on which the nomination meeting for the election is held;
 - (b) in relation a public election, the day on which the candidate announcement is published under Article 17H.”.

Jersey Electoral Authority

8 Part 3A (Jersey Electoral Authority) inserted

- (1) After Article 13 there is inserted –

“PART 3A**JERSEY ELECTORAL AUTHORITY****13A Establishment of Jersey Electoral Authority**

- (1) A body corporate called the Jersey Electoral Authority (the “JEA”) is established.

- (2) The Schedule makes further provision about the constitution and proceedings of the JEA.

13B Reports on election

- (1) The JEA –
 - (a) must prepare a report on the administration of each public election required under Article 6 of the States of Jersey Law 2005⁴ or Article 2 of the Connétables (Jersey) Law 2008⁵; and
 - (b) may prepare a report on the administration of a public election required under Article 13 of the States of Jersey Law 2005 or Article 3 of the Connétables (Jersey) Law 2008.
- (2) Where a report on an election is prepared under paragraph (1) –
 - (a) the JEA must, before the end of the period of 6 months beginning with the day on which the election is held, submit the report to the PPC; and
 - (b) the PPC must present the report to the States.
- (3) The report must include the JEA's recommendations (if any) as to changes to the law and practice relating to elections.

13C Code of conduct for candidates

- (1) The JEA must prepare, and may from time to time revise, a code of conduct for candidates at public elections.
- (2) The code of conduct may, in particular, include guidance on –
 - (a) the manner in which candidates are expected to conduct their election campaigns;
 - (b) the use and content of advertisements or other campaign material, whether published (in any form), broadcast or circulated online;
 - (c) conduct while present at a polling station (by reason of Article 28 or 48) or at the count (under Article 49).
- (3) The JEA must publish the code of conduct in such manner as it considers appropriate.

13D Resolution of disputes

- (1) A candidate at an election may make a complaint to the JEA about –
 - (a) the conduct of another candidate at the election;
 - (b) the conduct of any person carrying out functions in connection with the election under this or any other Law.
- (2) The JEA may take such steps as it considers appropriate for the purpose of seeking to address or resolve the complaint.
- (3) The States may by Regulations make further provision about –

- (a) the functions and powers of the JEA in respect of complaints made by candidates;
- (b) the procedure to be followed by the JEA on receipt of a complaint.

13E Observation of elections

For the purposes of observing a public election, the Chair or an ordinary member of the JEA may –

- (a) attend any location at which facilities for pre-poll voting are made available;
- (b) attend any polling station –
 - (i) while preparations are being made to open the poll,
 - (ii) during the poll, or
 - (iii) after the poll has closed;
- (c) be present during the count or any recount of the votes.

13F Other functions and powers of the JEA

- (1) The JEA may –
 - (a) provide any person with advice or assistance which is incidental to, or otherwise connected with, the exercise of its functions; and
 - (b) do anything it thinks appropriate for the purposes of, or in connection with, its functions.
- (2) The States may by Regulations confer further functions in connection with regulating elections on the JEA.”.
- (2) The Schedule contained in Schedule 1 to this Law is inserted at the end of the Public Elections (Jersey) Law 2002⁶.

General

9 Article 14 (public election) amended

- (1) For the heading of Article 14 there is substituted “Public elections and parish elections”.
- (2) In Article 14, for “A public election” there is substituted “Public elections and parish elections”.

10 Article 15 (costs of election) amended

For Article 15(3) there is substituted –

- “(3) The following are to be met by the States –
 - (a) the costs of sending out notices under Article 7A;

- (b) the costs of printing ballot papers under Article 24 for the purposes of a public election of a Deputy under Article 6 or 13 of the States of Jersey Law 2005⁷;
- (c) the costs incurred by the JEA in the exercise of any of its functions.”.

11 Article 17 (order for election) amended

- (1) For Article 17(1) there is substituted –
- “(1) The Royal Court must –
 - (a) make an order for the holding of a public election where such an election is required under Article 6 or 13 of the States of Jersey Law 2005⁸ or Article 2 or 3 of the Connétables (Jersey) Law 2008⁹;
 - (b) make an order for the holding of a parish election where such an election is required under Article 3 of the Centeniers (Terms of Office) (Jersey) Law 2007¹⁰, Article 2 of the Loi (1853) au sujet des centeniers et officiers de police¹¹ or Article 3 of the Procureurs du Bien Public (Terms of Office) (Jersey) Law 2013¹².”.
 - (2) In Article 17(2)(c), after “oaths” insert “(subject to Article 54(2))”.
 - (3) In Article 17(2AA)(b), after “must be” there is inserted “as early as is reasonably practicable and, in any event,”.

12 Article 17A (electoral administrator for parish) substituted

For Article 17A there is substituted –

“17A Electoral administrator for parish

- (1) Subject to paragraph (2), the Secretary of a parish is the electoral administrator for that parish.
- (2) If the office of Secretary is vacant, or the Secretary is unable to act as the electoral administrator, the JEA must appoint another employee of the parish as the electoral administrator for that parish.”.

Nominations

13 Part 4A (Nomination: Deputies and Connétables) inserted

After Part 4 there is inserted –

“PART 4A**NOMINATION: DEPUTIES AND CONNÉTABLES****17B Application of this Part**

This Part applies in relation to a public election –

- (a) for Deputies under Article 6 of the States of Jersey Law 2005¹³ and for Connétables under Article 2 of the Connétables (Jersey) Law 2008¹⁴ (referred to in this Part as “an ordinary public election”);
- (b) for a Deputy under Article 13 of the States of Jersey Law 2005 or for a Connétable under Article 3 of the Connétables (Jersey) Law 2008 (referred to in this Part as “a public by-election”).

17C Nomination of a candidate

- (1) A person is nominated as a candidate at a public election if, during the nomination period determined under paragraph (2) –
 - (a) the person submits a nomination form to the JEA; and
 - (b) the JEA is satisfied that the form complies with the requirements of this Part (see Article 17G(7)).
- (2) The JEA must –
 - (a) determine the “nomination period” in relation to a public election, (which must comply with the requirements of paragraphs (3) and (4)); and
 - (b) take such steps as it considers appropriate for bringing the nomination period to the attention of the public.
- (3) The nomination period in relation to an ordinary public election –
 - (a) must begin at least 6 weeks before, but no more than 7 weeks before, the day on which the election is to be held; and
 - (b) must be a period of at least 2 working days.
- (4) The nomination period in relation to a public by-election –
 - (a) must begin not more than 7 days after the day on which the order for the holding of the election is made under Article 17; and
 - (b) must be a period of at least 2 working days.
- (5) A person who is nominated as a candidate for a public election cannot be nominated as a candidate for an election for any other constituency, or for any other office, where the poll for that election is held on the same day.
- (6) In this Article, “working day” means any day other than –
 - (a) a Saturday or Sunday;
 - (b) Christmas Day or Good Friday; or

- (c) a day that is observed as a public holiday or a bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951¹⁵.

17D Nomination forms: content

- (1) A nomination form must –
 - (a) state the office, and the constituency, in respect of which the person is to be nominated as a candidate;
 - (b) state the prospective candidate's –
 - (i) full name, and
 - (ii) home address;
 - (c) include the written declaration required, in the case of a person to be nominated for the office of Deputy, by Article 9 of the States of Jersey Law 2005¹⁶ or, in the case of a person to be nominated for the office of Connétable, by Article 4A of the Connétables (Jersey) Law 2008¹⁷;
 - (d) include a declaration that the prospective candidate has read, and agrees to comply with, the code of conduct published by the JEA under Article 13C;
 - (e) include the political party declaration (see Article 17F); and
 - (f) comply with such other requirements as to form and content as the JEA determine.
- (2) A nomination form –
 - (a) may include a statement by the prospective candidate that his or her home address is not to be made public, and
 - (b) where a statement under paragraph (a) is included, must state an alternative address for the prospective candidate.
- (3) Where an alternative address is stated in accordance with paragraph (2), the reference in Article 17H(3)(a) to the person's address is to be treated as a reference to the alternative address.
- (4) If the prospective candidate is commonly known by a forename or surname which is different to that stated in accordance with paragraph (1)(b)(i), the nomination form may (in addition) state the commonly used forename or surname.
- (5) Where an alternative name is stated in accordance with paragraph (4), references in Articles 17H(3)(a), 22(3)(c) and 24(3B)(d) to the person's name are to be treated as references to the alternative name.
- (6) But paragraph (4) does not apply if the JEA –
 - (a) determine that –
 - (i) the use of the declared name would be likely to mislead or confuse voters in the election, or
 - (ii) the declared name is obscene or offensive; and
 - (b) notify the candidate of that determination.

- (7) A nomination form must be accompanied by a photograph of the prospective candidate.

17E Subscription of nomination form

- (1) After a nomination form has been completed with all of the information and declarations required by Article 17D, the form must be subscribed by –
 - (a) a proposer; and
 - (b) 9 seconders.
- (2) The proposer and seconders must all be persons who are entitled under Article 2(1A) or (2) to vote in the election for the office and constituency to which the form relates.

17F Political party declaration

- (1) The “political party declaration” is a declaration as to whether the prospective candidate is or is not endorsed by a political party.
- (2) A declaration that a prospective candidate is endorsed by a political party –
 - (a) must be accompanied by a statement of the registered name of the party;
 - (b) may be accompanied by a statement that the registered abbreviation (if any) of the party is to be entered on the ballot paper in relation to the candidate (instead of the registered name of the party); and
 - (c) must be signed by 2 persons, of whom one may be the prospective candidate, who are registered officeholders of the party.
- (3) Where a statement under paragraph (2)(b) is made, the references in Articles 24 and 26A to the name of the political party are to be treated as references to the registered abbreviation of the party.
- (4) For the purposes of paragraph (2)(c), “registered officeholder” has the same meaning as in the Political Parties (Registration) (Jersey) Law 2008¹⁸.
- (5) The States may, by Regulations, amend paragraph (2)(c) so as to alter the description of, or number of, persons required to sign the political party declaration.

17G Validation of nomination forms

- (1) This paragraph applies in relation to each nomination form submitted to the JEA during the nomination period.
- (2) The JEA must send a copy of the nomination form to each electoral administrator for the constituency to which it relates.
- (3) The electoral administrator must –

- (a) review the nomination form for the purposes of assessing whether or not it complies with the requirements of this Part; and
 - (b) notify the JEA of the outcome of that review.
- (4) In the course of the review under paragraph (3)(a), the electoral administrator must compare the details of the prospective candidate, the proposer and the seconders stated in the form with the details (if any) of those persons included in the electoral register for the electoral district which is within, or is the area comprising, the electoral administrator's parish.
- (5) If the JEA is notified under paragraph (3)(b), or otherwise considers, that the nomination form does not comply the requirements of this Part –
 - (a) the JEA must notify the prospective candidate of the defect in the form; and
 - (b) the prospective candidate may submit a further nomination form before the date specified by the JEA.
- (6) The date specified by the JEA –
 - (a) may be a date falling after the end of the nomination period determined under Article 17C(2); but
 - (b) must not be a date falling before the end of the nomination period.
- (7) If the JEA is satisfied, following receipt of the notification under paragraph (3)(b), that the form complies with the requirements of this Part, the JEA must notify the prospective candidate accordingly (and the person is nominated for the purposes of this Part).
- (8) In paragraph (2), the reference to an electoral administrator for a constituency is a reference to the electoral administrator for any parish which alone or with other parishes, or part of which, comprises the constituency.

17H Announcement of candidates standing for election

- (1) The JEA must –
 - (a) prepare a statement of persons nominated as candidates for a public election (the “candidate announcement”); and
 - (b) publish the candidate announcement in such manner as the JEA considers appropriate.
- (2) The candidate announcement under paragraph (1) –
 - (a) may not be published –
 - (i) before the end of the nomination period, or
 - (ii) if a date is specified by the JEA under Article 17G(6), before that date; and
 - (b) in the case of an ordinary public election, must be published at least 5 weeks before the day on which the election is to be held.

- (3) The candidate announcement must include, in relation to each person nominated –
 - (a) the person’s name and address;
 - (b) the office for which, and constituency for which, the person is nominated; and
 - (c) where the person is endorsed by a political party, the name of the party.
- (4) A person nominated in accordance with this Part becomes a candidate for the election on the day on which the JEA publishes the candidate announcement under paragraph (1)(b).

17I Extension of nomination period if more vacancies than candidates

- (1) Paragraph (2) applies if –
 - (a) in relation to a public election for the office of Connétable for a constituency, at the end of the nomination period no person is nominated as a candidate for election to that office;
 - (b) in relation to a public election for the office of Deputy for a constituency, at the end of the nomination period, either –
 - (i) no person is nominated as a candidate for election to that office, or
 - (ii) the number of vacancies for that office exceeds the number of persons nominated as candidates for election to that office.
- (2) The nomination period in relation to the election for that office and constituency is treated as ending 2 days after the day fixed by the JEA for the purposes of Article 17C(2).”.

14 Part 5 heading (nominations) substituted

For the heading of Part 5, there is substituted “Nomination: Centeniers and Procureurs du Bien Public”.

15 Article 17J (application of Part 5) inserted

In Part 5, before Article 18, there is inserted –

“17J Application of this Part

This Part applies in relation to a parish election for a Centenier or a Procureur du Bien Public.”.

16 Article 18 (nomination of candidates) amended

- (1) In paragraph (1) –

- (a) for “a candidate for the public election of an officer in a constituency” there is substituted “a candidate for a parish election”;
 - (b) for the words from “Article 2(1)” to “constituency”, there is substituted “Article 2(1) to vote at the election”.
- (2) Paragraphs (2) and (3) are deleted.

17 Article 19 (holding of a nomination meeting) amended

- (1) Article 19 is amended as follows.
- (2) For paragraph (1) there is substituted –
 - “(1) Where an Order has been made under Article 17 for the holding of a parish election, the Connétable of the parish in which the election is to be held must convene a meeting of the persons entitled under Article 2(1) to vote at the election (referred to in this Part as a “nomination meeting”).
 - (1A) The nomination meeting must be held at least 21 days before the day fixed for the poll.”.
- (3) Paragraphs (2) and (3) are deleted.

18 Article 20 (procedure at nomination meeting) amended

- (1) Article 20 is amended as follows.
- (2) In paragraph (1) for “public election” there is substituted “parish election”.
- (3) In paragraph (2), for the words from “Article 2(1)” to “to vote” there is substituted “Article 2(1) to vote”.
- (4) Paragraph (2A) is deleted.
- (5) In paragraph (3), for “public election” there is substituted “parish election”.
- (6) In paragraph (4) –
 - (a) for “public election” there is substituted “parish election”;
 - (b) for the words from “Article 2(1)” to “to vote” there is substituted “Article 2(1) to vote”.
- (7) Paragraphs (4A), (4B) and (4C) are deleted.
- (8) In paragraph (4CB), for “Articles 22 and 24” there is substituted “Articles 22(3)(c) and 24(3B)(d)”.
- (9) In paragraph (4D), “4B or” is deleted.
- (10) Paragraph (4E) is deleted.

19 Article 21 (procedure where candidates do not exceed vacancies) amended

In Article 21(1) for “If in a constituency there are not more candidates for public election than vacancies” there is substituted “If there are not more candidates than vacancies for a parish election”.

*Poll***20 Article 22 (procedure where candidates exceed vacancies) amended**

- (1) For the heading of Article 22, there is substituted “Announcement of the poll”.
- (2) For paragraph (1) there is substituted –
 - “(1) If, in the case of a parish election, there are more candidates than vacancies for the constituency, a poll is to be held in the constituency.
 - (1A) If, in the case of a public election, there is at least one candidate for the office and constituency, a poll is to be held in the constituency.”
- (3) In Article 22(2), after “public election” there is inserted “or parish election”.
- (4) In Article 22(3)(c), “(being the candidate’s full forename and surname, and any name declared by the candidate under Article 20(4CA))” is deleted.

21 Article 23 (withdrawal, disqualification or death of candidate) amended

- (1) Article 23 is amended as follows.
- (2) In paragraph (1), for “the person who presided at the nomination meeting” there is substituted “each electoral administrator for the constituency”.
- (3) After paragraph (2) there is inserted –
 - “(3) For the purposes of paragraph (1) –
 - (a) the reference to an electoral administrator for a constituency is a reference to the electoral administrator for any parish which alone or with other parishes, or part of which, comprises the constituency; and
 - (b) where there is more than one electoral administrator for a constituency and one of those electoral administrators has reported an event under paragraph (1) to the Royal Court, a further report of the same event by any other electoral administrator is not required.”

22 Article 24 (ballot papers) amended

- (1) Article 24 is amended as follows.
- (2) For paragraph (3) there is substituted –
 - “(3) The electoral administrator for a parish in which a poll is to be held must arrange for a sufficient number of ballot papers to be printed.”
- (3) In paragraph (3A) –
 - (a) after “ballot papers” there is inserted “for a parish election”;
 - (b) “and shall” is deleted;
 - (c) paragraphs (a) to (c) are deleted.
- (4) After paragraph (3A) there is inserted –

- “(3B) The ballot papers for a public election or parish election must –
- (a) show the date and place of the election;
 - (b) indicate whether the election is for a Connétable, Centenier, Procureur du Bien Public or Deputy;
 - (c) indicate the number of votes that an elector may cast in the election (and in a public election where paragraph (3C)(b) applies, indicate that if the person votes for none of the candidates no other vote may be cast);
 - (d) show the name of each candidate, in alphabetical order (by reference to surname).
- (3C) The ballot papers for a public election must also –
- (a) in the case of a candidate who is endorsed by a political party, show the name of the party;
 - (b) where the number of vacancies for the office is equal to, or exceeds, the number of candidates, include an option of voting for none of the candidates (and indicate that an elector voting for that option may not cast a vote for any other candidate);
 - (c) be in the form, and comply with such other requirements, as may be specified by the JEA.
- (3D) Where a ballot paper includes the option mentioned in paragraph (3C)(b), the option must be shown below the list of candidates shown in accordance with paragraph (3B)(d).”.

23 Article 25 (secret ballot) amended

In Article 25, after “public election” there is inserted “or parish election”.

24 Article 26 (polling stations) amended

- (1) Article 26 is amended as follows.
- (2) In paragraph (3), “or a pencil” is deleted.
- (3) In paragraph (5), after “public election” there is inserted “or parish election”.
- (4) In paragraph (6)(a) –
 - (a) for “the Comité des Connétables” there is substituted “the relevant authority”;
 - (b) for “the public election” there is substituted “the election”.
- (5) In paragraph (6)(b), for “Comité des Connétables” there is substituted “the relevant authority”.
- (6) After paragraph (6) there is inserted –
 - (7) For the purposes of paragraph (6), the “relevant authority” means –
 - (a) in relation to a public election, the JEA; and
 - (b) in relation to a parish election, the Comité des Connétables.”.

25 Article 26A (candidate information leaflet) inserted

After Article 26 there is inserted –

“26A Candidate information document

- (1) Where a poll for a public election is to be held in a constituency, the JEA must –
 - (a) prepare a document containing the following details in respect of each candidate standing at the election –
 - (i) the candidate’s name,
 - (ii) the photograph of the candidate, provided with the nomination form,
 - (iii) in the case of a candidate endorsed by a political party, the name of the party; and
 - (b) arrange for copies of the document to be printed and distributed to each polling station in the constituency.
- (2) The names of the candidates included in the document prepared under this Article must be shown in the same order as on the ballot paper.
- (3) The *Autorisé* or *Adjoint* supervising a polling station must ensure that a copy of the document prepared under this Article is made available (in the booth or otherwise) to each person attending a polling station.”.

26 Article 27 (Adjoints) amended

For Article 27(3), there is substituted –

- “(3) An *Autorisé* (who is not the principal *Autorisé*) must notify the principal *Autorisé* of the appointment and names of the *Adjoints*.
- (4) The principal *Autorisé* must include in the return a record of the appointment and names.”.

27 Article 29 (supervision of polling station) amended

- (1) Article 29 is amended as follows.
- (2) In the heading, after “polling station” there is inserted “and its vicinity”.
- (3) After paragraph (1) there is inserted –
 - “(1A) Paragraph (1B) applies in relation to a polling station at which a poll for a public election is held.
 - (1B) No more than one representative of each candidate at the election, in addition to the candidate, may remain in the immediate vicinity of the entrance to the polling station while the poll is open.
 - (1C) For the purposes of paragraph (1B), a representative of a political party is to be regarded as a representative of each of the candidates endorsed by that party.”.

- (4) In paragraph (2), for “to ensure the complete secrecy and regularity of the vote at the polling station and to ensure that the requirements of this Law are met” there is substituted “–
- “(a) to ensure the complete secrecy and regularity of the vote at the polling station;
 - (b) to secure compliance with paragraph (1B); or
 - (c) to ensure that any other requirement of this Law is met.”.
- (5) After paragraph (2) there is inserted –
- “(3) The Chair or an ordinary member of the JEA attending a polling station may, for the purpose of securing compliance with paragraph (1B), give reasonable directions to any person.
 - (4) But directions under paragraph (3) may not be given without the consent of the *Autorisé*.”.

28 Article 30 (opening and closing of poll) amended

In Article 30(1) after “public election” there is inserted “and parish election”.

29 Article 31 (start of polling) amended

In Article 31(1) –

- (a) for “The person presiding at a nomination meeting” there is substituted “The electoral administrator for a parish”;
- (b) after “electoral district” there is inserted “in the parish”.

30 Article 32 (giving ballot paper to elector) amended

- (1) Article 32 is amended as follows.
- (2) In paragraphs (1), (2A), (2B)(b)(i) and (3), after “public election” there is inserted “or parish election”.
- (3) In paragraph (3), for “in the return” there is substituted “for the purposes of the return”.
- (4) After paragraph (3) there is inserted –
 - “(3A) An *Autorisé* (who is not the principal *Autorisé*) must inform the principal *Autorisé* of any note made under paragraph (3), for the purposes of its inclusion in the return.”

31 Article 33 (voting) amended

In Article 33(3), “public” is deleted.

32 Article 34 (doubtful votes) amended

- (1) Article 34 is amended as follows.
- (2) In paragraph (4), for “in the return” there is substituted “for the purposes of the return”.

(3) After paragraph (4) there is inserted –

“(5) An *Autorisé* (who is not the principal *Autorisé*) must inform the principal *Autorisé* of any objection recorded under paragraph (1) and any note made under paragraph (4), for the purposes of its inclusion in the return.”.

33 Article 35 (measures to assist voting by certain persons who are ill, disabled etc.) amended

(1) In Article 35(1), after “public election” there is inserted “or parish election”.

(2) Paragraph (2) is deleted.

34 Article 36 (spoilt ballot papers) amended

(1) Article 36 is amended as follows.

(2) The unnumbered paragraph becomes paragraph (1).

(3) After the renumbered paragraph (1) there is inserted –

“(2) A ballot paper which is cancelled and initialled in accordance with paragraph (1) is referred to in this Law as a “spoilt ballot paper”.”.

Voting otherwise than at a polling station

35 Article 37 (interpretation) amended

In Article 37(1), the definition “voter” is deleted.

36 Articles 38, 39 and 39A (entitlement to, and restrictions on, pre-poll and postal votes) substituted

For Articles 38, 39 and 39A there is substituted –

“38 Entitlement to pre-poll vote or postal vote

(1) A person who is entitled to vote in a public election, and whose name is included in an electoral register in force for that election, is entitled to –

(a) pre-poll vote in accordance with this Part; or

(b) postal vote in accordance with this Part.

(2) But paragraph (1)(a) does not apply to a person entitled to vote in a public election only by virtue of Article 4A (voting by prisoners).”.

37 Articles 40 and 41 (arrangements for and in connection with pre-poll and postal voting) substituted

For Articles 40 and 41 there is substituted –

“40A Provision of copy of register and ballot papers to Judicial Greffier

- (1) The electoral administrator for a constituency in relation to a public election must, for the purposes of facilitating pre-poll and postal voting in the election, provide to the Judicial Greffier –
 - (a) a copy of the electoral register in force for the election;
 - (b) a sufficient number of ballot papers, printed in accordance with Article 24 (which are to be indistinguishable from the other ballot papers printed for the purposes of the election).
- (2) In paragraph (1) –
 - (a) the reference to the electoral administrator for a constituency is a reference to the electoral administrator for a parish which alone or with other parishes, or part of which, comprises the constituency;
 - (b) the reference to a sufficient number of ballot papers is a reference to the number of ballot papers that, in the reasonable opinion of the electoral administrator, are sufficient to meet the demand for pre-poll and postal voting at the election.

40B Pre-poll voting: facilities and arrangements

- (1) The JEA must determine in relation to a public election –
 - (a) the locations at which facilities for pre-poll voting at the election are to be provided;
 - (b) the days on which, and the times at which, those facilities are to be provided at each location.
- (2) The Judicial Greffier must provide the facilities for pre-poll voting in accordance with paragraph (1).
- (3) The JEA must take such steps as it considers necessary for bringing the arrangements for pre-poll voting at the election to the attention of the public.

40C Pre-poll voting locations treated as polling stations for certain purposes

- (1) The provisions listed in paragraph (2) apply in relation to the locations at which facilities for pre-poll voting are provided, but as if –
 - (a) references to a polling station were references to a location at which facilities for pre-poll voting are provided;
 - (b) references to the period during the poll are references to the times at which facilities for pre-poll voting are provided;
 - (c) references to the *Autorisé* or *Adjoint* are references to the Judicial Greffier.
- (2) The provisions are –
 - (a) Article 26(2) and (3);
 - (b) Article 29 (and Article 66(1)(g) and (2) apply accordingly);

- (c) Article 63(2) and (5).”.

38 Article 42 (procedure for pre-poll voting) amended

- (1) Article 42 is amended as follows.
- (2) For paragraphs (1) and (1A) there is substituted –
 - “(1) A person who is entitled to pre-poll vote in a public election may cast his or her vote before the date of that election at a location, and in accordance with the facilities provided, under Article 40B.”.
- (3) In paragraph (11), for “shall” there is substituted “may”.
- (4) In paragraph (12)(a), for “before the time mentioned in paragraph (1)” there is substituted “during the period within which facilities for pre-poll voting are provided in accordance with Article 40B”.

39 Article 42A (arrangements for postal voting) inserted

After Article 42 there is inserted –

“42A Arrangements for postal voting

The JEA must –

- (a) specify, in relation to a public election, the closing date for an application for a postal vote; and
- (b) take such steps as it considers necessary for bringing the arrangements for postal voting at the election to the attention of the public.”.

40 Article 43 (application to postal vote) amended

- (1) Article 43 is amended as follows.
- (2) For paragraph (1) there is substituted –
 - “(1) A person entitled to postal vote in a public election may make an application to the Judicial Greffier for the purposes of this Article.
 - (1A) The application must be in the form, and comply with such requirements, as may be specified by the Judicial Greffier.
 - (1B) Paragraph (2) applies where the Judicial Greffier receives an application in accordance with paragraphs (1) and (1A) before the closing date specified under Article 42A(1).”.
- (3) In paragraph (2), “When the Judicial Greffier receives an application that is properly made under paragraph (1)” is deleted.
- (4) In paragraph (4), for “any closing time notified to the public under Article 40(3)(a)” there is substituted “the closing date specified under Article 42A(1)”.

41 Article 46A (Duties of *Autorisé* on receipt of pre-poll and postal votes) amended

- (1) Article 46A is amended as follows.
- (2) In paragraph (2), for “count their number and enter their respective totals in the return” there is substituted “–
 - “(a) count the number of each; and
 - (b) (if the *Autorisé* is not the principal *Autorisé*) notify the principal *Autorisé* of the totals.”.
- (3) After paragraph (2) there is inserted –
 - “(2A) The principal *Autorisé* must include in the return a record of the total number of ballot papers and pre-addressed envelopes.”.

42 Article 46D (candidate or representative not to interfere with application to postal vote) amended

In Article 46D(2), at the end there is inserted “, or with other general information about postal voting”.

*Count***43 Article 47 (designation of counting stations) amended**

In Article 47(1) and (2), after “public election” there is inserted “or parish election”.

44 Article 48 (procedures at polling station after close of the poll) amended

- (1) Article 48 is amended as follows.
- (2) In paragraph (1) –
 - (a) after “public elections”, in the first place it occurs, there is inserted “or parish elections”;
 - (b) for “public elections”, in the second place it occurs, there is substituted “elections”;
 - (c) in sub-paragraph (b) –
 - (i) for “a public election” there is substituted “an election”,
 - (ii) for “the public election” there is substituted “the election”.
- (3) In paragraph (4), after “public election” there is inserted “or parish election”.
- (4) In paragraph (5)(a), for “public election” there is inserted “election”.

45 Article 49 (counting) amended

- (1) Article 49 is amended as follows.
- (2) In paragraph (1) –

- (a) for “a public election” there is substituted “an election”;
 - (b) for “that public election” there is substituted “that election”.
- (3) After paragraph (5) there is inserted –
- “(5A) The *Autorisé* may, for the purposes of facilitating the count and maintaining secrecy in voting –
 - (a) give reasonable directions to a candidate, or to a candidate’s representative, who is present at the count;
 - (b) take such other measures during the count as the *Autorisé* considers reasonable.
 - (5B) The directions given, or measures taken, under paragraph (5A) may, in particular, include directions or measures –
 - (a) as to the distance from which a candidate, or a candidate’s representative, may observe the count; and
 - (b) preventing candidates or their representatives from attempting to communicate with the *Autorisé* or any *Adjoint* during the count, subject to such exceptions (if any) as the *Autorisé* considers appropriate.”.

46 Article 50 (recording the numbers at a counting station) amended

- (1) Article 50 is amended as follows.
- (2) In paragraph (1) –
 - (a) after “public election” there is inserted “or parish election”;
 - (b) after paragraph (a) there is inserted –
 - “(aa) the number of valid votes for none of the candidates, in a public election where that option is included in the ballot paper under Article 24(3C)(b);”.
- (3) In paragraph (2)(a), for “public election” there is substituted “election”.

47 Article 51 (invalid ballot papers) amended

- (1) Article 51 is amended as follows.
- (2) In paragraph (1), after sub-paragraph (e) there is inserted –
 - “(ea) if, in the case of a ballot paper that includes the option of voting for none of the candidates, it records a vote for both that option and for one or more of the candidates;”.
- (3) In paragraph (4), “and mention it in the return” is deleted.
- (4) After paragraph (4) there is inserted –
 - “(5) An *Autorisé* (who is not the principal *Autorisé*) must notify the principal *Autorisé* of any disputed ballot papers initialled under paragraph (4).
 - (6) The principal *Autorisé* must include in the return a note of the disputed ballot papers.”.

*Result***48 Article 52A (Result in public elections) amended**

- (1) Article 52A is amended as follows.
- (2) In the heading, after “public elections” there is inserted “or parish elections”.
- (3) In paragraph (2), after “election” there is inserted “or parish election”.
- (4) In paragraph (3)(c), at the end there is inserted “(and the number of valid votes for none of the candidates, in the case of a public election where that option is included in the ballot paper under Article 24(3C)(b))”.

49 Article 52AA (recounts) amended

- (1) Article 52AA is amended as follows.
- (2) After paragraph (1) there is inserted –
 - “(1A) Paragraph (1B) applies in the case of a public election if –
 - (a) the option to vote for none of the candidates is included in the ballot paper under Article 24(3C)(b); and
 - (b) a higher number of votes is cast for that option than for the unsuccessful candidate.
 - (1B) Where this paragraph applies, the reference in paragraph (1)(b) to the number of votes cast for the person elected is to be treated as a reference to the number of votes cast for the “none of the candidates” option.”.
- (3) In paragraph (4), after “public election” there is inserted “or parish election”.
- (4) In paragraph (5), for “a public election” there is substituted “an election”.

50 Article 52C (procedure for recount) amended

- (1) Article 52C is amended as follows.
- (2) In paragraph (2), after “public election” there is inserted “or parish election”.
- (3) Paragraph (7) is deleted.

51 Article 53 (completion of return and delivery of papers) amended

- (1) Article 53 is amended as follows.
- (2) In paragraph (1), after “public election” there is inserted “or parish election”.
- (3) In paragraph (2) –
 - (a) “, for a public election” is deleted;
 - (b) at the end of paragraph (a) there is inserted “(and the number of valid votes for none of the candidates, in the case of a public election

where that option is included in the ballot paper under Article 24(3C)(b)).

- (4) In paragraph (3), for “the declarations made in accordance with Article 3 and 34” there is substituted –
 - “(a) the declarations made in accordance with Article 3 and 34;
 - (b) the information recorded for the purposes of the return under Articles 27, 32, 34, 46A and 51.”.
- (5) In paragraph (4)(b), for “the public election” there is substituted “the election”.
- (6) In paragraph (6), after “public election” there is inserted “or parish election”.

52 Article 54 (report to Royal Court and arrangements for taking of oath) amended

- (1) Article 54 is amended as follows.
- (2) In paragraph (1)(a), after “public election” there is inserted “or parish election”.
- (3) In paragraph (1)(b), after “elected” there is inserted “(if any)”.
- (4) For paragraph (2) there is substituted –
 - “(2) Where a recount is to be conducted in respect of a constituency, the Judicial Greffier must make such arrangements as may be necessary for the taking of the oath by the persons elected for that constituency to be deferred until the result of the recount is known.”.

53 Article 56 (documents to be kept then destroyed) amended

In Article 56(1), after “public election” there is inserted “or parish election”.

Disputed elections

54 Article 57 (application to Royal Court) amended

In Article 57(1) and (2), after “public election” there is inserted “or parish election”.

55 Article 58 (procedure) amended

In Article 58(1), after “public election” there is inserted “or parish election”.

56 Article 61 (declaration of vacancy, or that entire election void) amended

- (1) Article 61 is amended as follows.
- (2) In paragraph (1), sub-paragraph (b) is deleted.
- (3) In paragraph (2), after “public election” there is inserted “or parish election”.

- (4) Paragraph (3) is deleted.
- (5) After paragraph (4) there is inserted –
 - “(5) Paragraph (6) applies if, in a public election –
 - (a) the option of voting for none of the candidates is included in the ballot paper (see Article 24(3C)(b)); and
 - (b) none of the candidates standing for election obtains more valid votes than the option mentioned in paragraph (a).
- (6) The Royal Court must –
 - (a) if the election is for the office of Connétable, declare a casual vacancy in that office (in which case Article 3 of the Connétables (Jersey) Law 2008¹⁹ applies accordingly and the Connétable holding office is treated as having resigned for the purposes of Article 1(3) of that Law);
 - (b) if the election is for the office of Deputy, declare a casual vacancy or casual vacancies (as the case may be) in that office (in which case Article 13 of the States of Jersey Law 2005²⁰ applies accordingly).”.

Offences

57 Article 62 (inducements and threats) amended

In Article 62(1), after “public election”, in both places, there is inserted “or parish election”.

58 Article 63 (behaviour inside a polling station) amended

In Article 63(1), (2), (3) and (4), after “public election” there is inserted “or parish election”.

59 Article 64 (interference with a poll) amended

In Article 64(1) and (2), after “public election” there is inserted “or parish election”.

60 Article 65 (voting without the right) amended

In Article 65 –

- (a) after “public election”, in the first place it occurs, there is inserted “or parish election”;
- (b) in paragraphs (b) and (c), for “a public election” there is substituted “that election”.

61 Article 66 (various offences) amended

- (1) Article 66 is amended as follows.
- (2) In paragraph (1) –

- (a) in sub-paragraphs (c), (d) and (f), after “public election” there is inserted “or parish election”;
- (b) in sub-paragraph (g), for “or 46A(2)” there is substituted “, 47A(2) or 49(5A)”;
- (c) after sub-paragraph (g) there is inserted –
 - “(h) fails to comply with a reasonable direction of the Chair or an ordinary member of the JEA given under Article 29(3).”.
- (3) In paragraph (2), after “public elections” there is inserted “or parish elections”.
- (4) In paragraph (3), after “public election” there is inserted “or parish election”.

62 Article 68 (limitation on prosecution and civil action) amended

In Article 68, for “occurred at a public election or relate to a public election” there is substituted “occurred at, or relate to, a public election or parish election”.

Miscellaneous

63 Article 71 (civil liability of officers) amended

- (1) Article 71 is amended as follows.
- (2) In the heading, “of officers” is deleted.
- (3) After paragraph (2) there is inserted –
 - “(3) This Article also applies to –
 - (a) the JEA;
 - (b) any member of the JEA;
 - (c) any person exercising a function on behalf of the JEA.”.

64 Article 72 (Regulations) amended

- (1) Article 72 is amended as follows.
- (2) In paragraph (1C), for “and (1B)” there is substituted “, (1B) and (1D)”.
- (3) After paragraph (1C) there is inserted –
 - “(1D) The States may by Regulations amend this Law (apart from Article 5) to make provision for and in connection with –
 - (a) the establishment and maintenance of a register, in electronic form, of persons who are entitled to be included in an electoral register for any electoral district in Jersey (the “central register”); and
 - (b) the creation, from the information held on the central register, of an electoral register, in electronic form, for each electoral district.
 - (1E) Regulations under paragraph (1D) must include provision enabling a person to apply to be omitted from the electoral register for an

- electoral district (but may prevent an application being made during a specified period prior to an election).
- (1F) Regulations under paragraph (1D) may, in particular, include provision for –
- (a) advance registration;
 - (b) the preparation of a supplementary electoral register of persons who are not included in the electoral register at a particular time;
 - (c) a person to apply, in certain circumstances, for the person’s name and address to be omitted from the electoral register for an electoral district;
 - (d) the electoral register for an electoral district to be made available only to specified persons or persons of a specified description.”.
- (4) In paragraph (2)(b), after “Regulations” there is inserted “(including provision amending, repealing or otherwise modifying the application of this or any other enactment)”.

65 Article 74 (citation and commencement) amended

In Article 74(1), “Public” is deleted.

PART 2

STATES OF JERSEY LAW 2005 AMENDED

66 States of Jersey Law 2005 amended

This Part amends the States of Jersey Law 2005²¹.

67 Article 5 (term of office) and Article 5A (transitional provision for the 2022 ordinary election) amended

- (1) Article 5 is amended as follows.
- (2) The unnumbered paragraph becomes paragraph (1).
- (3) After the renumbered paragraph (1) there is inserted –
 - “(2) Article 8 makes provision about disqualification from office.”.
- (4) In Article 5A(3), for “Article 5(b)(i)” there is substituted “Article 5(1)(b)(i)”.

68 Article 8 (disqualification for office as Deputy) substituted

For Article 8 there is substituted –

“8 Disqualification for office as Deputy

- (1) A disqualified person may not be elected as, or take the oath of the office of, Deputy.
- (2) A person who is an elected Deputy ceases to hold office upon –
 - (a) becoming a disqualified person;
 - (b) ceasing to be a British citizen;
 - (c) the expiry of a period of 6 months during which the person has not been resident in Jersey,
(and accordingly the office becomes vacant for the purposes of Article 13).
- (3) A “disqualified person” is a person who –
 - (a) holds any paid office or other place of profit under the Crown;
 - (b) is a member of the States of Jersey Police Force;
 - (c) is detained in an approved establishment or is subject to guardianship under the Mental Health (Jersey) Law 2016²²;
 - (d) is a person in respect of whom a delegate has been appointed under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016²³;
 - (e) has an attorney without whom he or she may not act in matters movable or immovable;
 - (f) has become bankrupt or made a composition or arrangement with his or her creditors (subject to paragraphs (4) and (5));
 - (g) has been convicted of an offence under the Corruption (Jersey) Law 2006²⁴ by virtue of being, within the meaning of that Law, a public official or a member, officer or employee of a public body; or
 - (h) has been convicted, whether in Jersey or elsewhere, of any offence and ordered to be imprisoned for a period of not less than 3 months, without the option of a fine (subject to paragraph (7)).
- (4) A person who has become bankrupt ceases to be a “disqualified person” by reason of paragraph (3)(f) –
 - (a) if the person pays his or her debts in full on or before the day on which the bankruptcy proceedings conclude, on the day the proceedings are concluded; or
 - (b) in any other case, on the expiry of the period of 5 years beginning with the day on which the bankruptcy proceedings are concluded.
- (5) A person who has made a composition or arrangement with his or her creditors ceases to be a “disqualified person” by reason of paragraph (3)(f) –
 - (a) if the person pays his or her debts in full, on the day on which the final payment is made;
 - (b) in any other case, on the expiry of the period of 5 years beginning with the day on which the terms of the composition or arrangement are fulfilled.

- (6) Paragraph (7) applies to a person who has been convicted of an offence by reference to which paragraph (3)(h) applies (the “disqualification offence”).
- (7) The person ceases to be a “disqualified person” by reason of paragraph (3)(h) on the expiry of the period of 7 years beginning with the day of the person’s conviction for the disqualification offence.
- (8) Article 18(2) of the Public Elections (Expenditure and Donations) (Jersey) Law 2014²⁵ makes further provision about disqualification following conviction for an offence under that Law.”.

69 Article 9 (declaration to be made when nominated) amended

- (1) Article 9 is amended as follows.
- (2) In paragraph (1), after “at the time of his or her nomination” there is inserted “(see Article 17D of the Elections (Jersey) Law 2002²⁶)”.
- (3) For paragraph (1A) there is substituted –
“(1A) A person is not required to make a declaration of a conviction for an act which would not, by reference to Article 12 of the Sexual Offences (Jersey) Law 2007²⁷, result in a conviction if it had been committed in Jersey on or after 12th January 2007.”.
- (4) Paragraphs (2) and (5) are deleted.

70 Article 13 (casual vacancy in office of Deputy) amended

In Article 13(4), “Public” is deleted.

71 Article 33 (entry to the States) amended

In Article 33(3), after “Bailiff’s Department” there is inserted “, States Greffe”.

PART 3

CONNÉTABLES (JERSEY) LAW 2008 AMENDED

72 Connétables (Jersey) Law 2008 amended

This Part amends the Connétables (Jersey) Law 2008²⁸.

73 Article 1 (term of office of Connétables) amended

After Article 1(4) there is inserted –

- “(5) Article 4C makes provision about disqualification from office.”.

74 Article 3 (casual vacancy in office of Connétable) amended

In Article 3(2), “Public” is deleted.

75 Article 4A (declaration to be made when nominated) amended

- (1) Article 4A (declaration to be made when nominated) is amended as follows.
- (2) In paragraph (1), after “at the time of his or her nomination” there is inserted “(see Article 17D of the Elections (Jersey) Law 2002²⁹)”.
- (3) In paragraph (1), for sub-paragraph (a) there is substituted –
 - “(a) that he or she is qualified for election by virtue of this Law or any other enactment;”.
- (4) At the end of paragraph (1) there is inserted –
 - “(xiv) an offence of attempt to commit any of the offences in clauses (i) to (xiii),
 - (xv) an offence of conspiracy or incitement to commit any of the offences in clauses (i) to (xiii),
 - (xvi) an offence of aiding, abetting, counselling or procuring any of the offences in clauses (i) to (xv).”.
- (5) For paragraph (1A) there is substituted –
 - “(1A) A person is not required to make a declaration of a conviction for an act which would not, by reference to Article 12 of the Sexual Offences (Jersey) Law 2007³⁰, result in a conviction if it had been committed in Jersey on or after 12th January 2007.”.
- (6) Paragraphs (2) and (5) are deleted.

76 Article 4C (disqualification for election or office) substituted

For Article 4C there is substituted –

“4C Disqualification

- (1) A disqualified person may not be elected as, or take the oath of the office of, Connétable.
- (2) A person who is an elected Connétable ceases to hold office upon –
 - (a) becoming a disqualified person;
 - (b) ceasing to be a British citizen;
 - (c) the expiry of a period of 6 months during which the person has not been resident in Jersey,
 (and accordingly the office becomes vacant for the purposes of Article 3).
- (3) A “disqualified person” is a person who –
 - (a) holds any paid office or other place of profit under the Crown;
 - (b) is a member of the States of Jersey Police Force;
 - (c) is detained in an approved establishment or is subject to guardianship under the Mental Health (Jersey) Law 2016³¹;
 - (d) is a person in respect of whom a delegate has been appointed under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016³²;

- (e) has an attorney without whom he or she may not act in matters movable or immovable;
 - (f) has become bankrupt or made a composition or arrangement with his or her creditors (subject to paragraphs (4) and (5));
 - (g) has been convicted of an offence under the Corruption (Jersey) Law 2006³³ by virtue of being, within the meaning of that Law, a public official or a member, officer or employee of a public body; or
 - (h) has been convicted, whether in Jersey or elsewhere, of any offence and ordered to be imprisoned for a period of not less than 3 months, without the option of a fine (subject to paragraph (7)).
- (4) A person who has become bankrupt ceases to be a “disqualified person” by reason of paragraph (3)(f) –
- (a) if the person pays his or her debts in full on or before the day on which the bankruptcy proceedings conclude, on the day the proceedings are concluded; or
 - (b) in any other case, on the expiry of the period of 5 years beginning with the day on which the bankruptcy proceedings are concluded.
- (5) A person who has made a composition or arrangement with his or her creditors ceases to be a “disqualified person” by reason of paragraph (3)(f) –
- (a) if the person pays his or her debts in full, on the day on which the final payment is made;
 - (b) in any other case, on the expiry of the period of 5 years beginning with the day on which the terms of the composition or arrangement are fulfilled.
- (6) Paragraph (7) applies to a person who has been convicted of an offence by reference to which paragraph (3)(h) applies (the “disqualification offence”).
- (7) The person ceases to be a “disqualified person” by reason of paragraph (3)(h) on the expiry of the period of 7 years beginning with the day of the person’s conviction for the disqualification offence.
- (8) Article 18(2) of the Public Elections (Expenditure and Donations) (Jersey) Law 2014³⁴ makes further provision about disqualification following conviction for an offence under that Law.”.

77 Schedule (declaration by candidate for election) deleted

The Schedule (form of declaration by candidate for election) is deleted.

PART 4

POLITICAL PARTIES (REGISTRATION) JERSEY LAW 2008 AMENDED

78 Political Parties (Registration) (Jersey) Law 2008 amended

This Part amends the Political Parties (Registration) (Jersey) Law 2008³⁵.

79 Article 1 (interpretation) amended

In the definition “2002 Law”, “Public” is deleted.

80 Officeholders: Chair

In the following provisions, for “leader” there is substituted “Chair” –

- (a) Article 2(4);
- (b) Article 4(2)(d);
- (c) Article 6(2)(d);
- (d) Article 8(1)(b).

PART 5PUBLIC ELECTIONS (EXPENDITURE AND DONATIONS) (JERSEY) LAW 2014
AMENDED**81 Public Elections (Expenditure and Donations) (Jersey) Law 2014 amended**

This Part amends the Public Elections (Expenditure and Donations) (Jersey) Law 2014³⁶.

82 Article 1 (interpretation) amended

- (1) Article 1 is amended as follows.
- (2) In the definition “2002 Law”, “Public” is deleted.
- (3) For the definition “candidate” there is substituted –
 - “ “candidate” means a person who has become a candidate for election as a Deputy or Connétable in accordance with Article 17H of the 2002 Law, but this is subject to Article 3(8);”.
- (4) After the definition “donation”, there is inserted –
 - “ “election” means an election of a Deputy or an election of a Connétable;
 - “JEA” means the Jersey Electoral Authority established by Article 13A of the 2002 Law;

“nomination day”, in relation to an election, means the day on which the candidate announcement in relation to that election is published under Article 17H of the 2002 Law;

“officeholder”, in relation to a political party, has the same meaning as in the Political Parties (Registration) (Jersey) Law 2008³⁷;

“political party” means a political party which is registered under the Political Parties (Registration) (Jersey) Law 2008;

“regulated period” has the meaning given by Article 1A;”.

- (5) The following definitions are deleted –
- (a) “Greffier”;
 - (b) “nomination meeting”.
- (6) After the definition “third party’s election expenses” there is inserted –
- “ “treasurer”, in relation to a political party, has the same meaning as in the Political Parties (Registration) (Jersey) Law 2008³⁸.”.
- (7) For the definition “working day” there is substituted –
- “ “working day” means any day other than –
- (a) a Saturday or Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day that is observed as a public holiday or a bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951³⁹.”.

83 Article 1A (meaning of "regulated period") inserted

After Article 1 there is inserted –

“1A Meaning of "regulated period"

In this Law, “regulated period”, in relation to an election, means the period –

- (a) beginning with the day falling 4 months before the day on which the election is to be held; and
- (b) ending with the day on which the election is held.”.

84 Article 3 (meaning of "candidate’s election expenses") amended

- (1) Article 3 is amended as follows.
- (2) For paragraph (1) there is substituted –
- “(1) In this Law “election expenses”, in relation to a candidate at an election, means expenses incurred at any time before the poll for that election –
- (a) by the candidate, or with the candidate’s express or implied consent; and
 - (b) for the supply or use of goods, or the provision of services, which are used during the regulated period –

- (i) to promote or procure the candidate's election, or
 - (ii) to prejudice the electoral prospects of another candidate at the same election.”.
- (3) At the end of paragraph (2) there is inserted “(including where those expenses were incurred before the candidate made a political party declaration for the purposes of Part 4A of the 2002 Law)”.
- (4) In paragraph (7), for “proved by them” there is substituted “proved (to the satisfaction of the JEA) by one of them”.
- (5) After paragraph (7) there is inserted –
- “(8) A reference in this Law to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.”.

85 Article 3A (political party campaign expenses treated as candidate's election expenses) inserted

After Article 3 there is inserted –

"3A Political party campaign expenses treated as candidate's election expenses

- (1) “Campaign expenses”, in relation to an election, means expenses incurred at any time before the poll for that election –
- (a) by a political party; and
 - (b) for the supply or use of goods, or the provision of services, which are used during the regulated period to promote or procure electoral success for the party.
- (2) In paragraph (1)(b), the reference to “promoting or procuring electoral success” in relation to a political party includes a reference to –
- (a) promoting or procuring the election of candidates endorsed by the party; and
 - (b) prejudicing the electoral prospects of –
 - (i) candidates who are not endorsed by the party, or
 - (ii) another political party.
- (3) Campaign expenses, in relation to an election, incurred by a political party are to be treated as “election expenses” in relation to each candidate at the election who is endorsed by the party (and Article 3(7) applies accordingly).”.

86 Article 4 (restriction on candidate's election expenses) amended

- (1) Article 4 is amended as follows.
- (2) In paragraph (1)(a), for “£1,700” there is substituted “£2,050”.
- (3) In paragraph (1)(b), for “11 pence” there is substituted “13 pence”.

87 Article 5 (prohibition of candidate keeping anonymous donation) amended

- (1) Article 5 is amended as follows.
- (2) In paragraph (2), for “10 working days” there is substituted “4 weeks”.
- (3) In paragraph (4), after “fails” there is inserted “, without reasonable excuse,”.

88 Article 6 (requirement for candidate to make a declaration following election) amended

- (1) Article 6 is amended as follows.
- (2) In paragraph (1) –
 - (a) for “no later than 15 working days after the day” there is substituted “before the end of the period of 4 weeks beginning with the day on which”;
 - (b) for “the Greffier” there is substituted “the JEA”;
 - (c) in sub-paragraph (b)(i), for “£120” there is substituted “£145”.
- (3) In paragraph (3)(a), for “the Greffier” there is substituted “the JEA”.
- (4) After paragraph (3) there is inserted –
 - “(3A) Paragraph (3B) applies where a person is required to deliver a declaration under paragraph (1).
 - (3B) The JEA must, no later than 5 working days before the end of the period mentioned in the paragraph (1), notify the person of that requirement under that paragraph (unless it has already been complied with).”.
- (5) In paragraph (4), for “the Greffier” there is substituted “the JEA”.
- (6) In paragraph (6), after “fails” there is inserted “, without reasonable excuse,”.

89 Article 7 (verification of expenses) amended

- (1) Article 7 is amended as follows.
- (2) In paragraph (1) –
 - (a) for “The Greffier” there is substituted “The JEA”;
 - (b) the words from “a candidate” to “expenses” become sub-paragraph (a);
 - (c) at the end there is inserted –
 - “(b) the treasurer of a political party to produce invoices, receipts and other proof of the party’s campaign expenses in relation to one or more candidates.”
- (3) In Article 7(2) –
 - (a) for “candidate” there is substituted “person”;
 - (b) for “15 working days” there is substituted “4 weeks”.
- (4) In Article 7(3) –

- (a) for “candidate” there is substituted “person”;
- (b) after “fails” there is inserted “, without reasonable excuse,”.

90 Article 8 (requirement to provide information and documents to candidate) amended

In Article 8(2), after “fails” there is inserted “, without reasonable excuse,”.

91 Article 9 (meaning of "third party" and "third party's election expenses") amended

In Article 9(1), after “which goods and services are used” there is inserted “during the regulated period”.

92 Article 11 (prohibition on third party keeping anonymous donation) amended

- (1) Article 11 is amended as follows.
- (2) In paragraph (2), for “10 working days” there is substituted “4 weeks”.
- (3) In paragraph (4), after “fails” there is inserted “, without reasonable excuse,”.

93 Article 12 (requirements for third party to make a declaration following election) amended

- (1) Article 12 is amended as follows.
- (2) In paragraph (1) –
 - (a) for “no later than 15 working days after the day” there is substituted “before the end of the period of 4 weeks beginning with the day on which”;
 - (b) for “the Greffier” there is substituted “the JEA”;
 - (c) in sub-paragraph (b)(i), for “£120” there is substituted “£145”.
- (3) In paragraph (4)(a), for “the Greffier” there is substituted “the JEA”.
- (4) In paragraph (5), for “the Greffier” there is substituted “the JEA”.
- (5) In paragraph (8), after “fails” there is inserted “, without reasonable excuse,”.

94 Article 13 (verification of expenses) amended

- (1) Article 13 is amended as follows.
- (2) In paragraph (1), for “The Greffier” there is substituted “The JEA”.
- (3) In paragraph (2), for “15 working days” there is substituted “4 weeks”.
- (4) In paragraph (3), after “fails” there is inserted “, without reasonable excuse,”.

95 Part 3A (donations to political parties) inserted

After Part 3 there is inserted –

“PART 3A**DONATIONS TO POLITICAL PARTIES****13A Requirement for a political party to declare donations**

- (1) This Article applies where a political party receives a reportable donation.
- (2) The treasurer of the political party must, within 4 weeks of receiving the reportable donation, deliver to the JEA a written declaration in accordance with this Article.
- (3) The declaration must specify –
 - (a) the name of the donor;
 - (b) the amount or value of the donation;
 - (c) whether the donation is of –
 - (i) money,
 - (ii) a loan of money,
 - (iii) goods or the use of goods,
 - (iv) services.
- (4) A donation is a “reportable donation” if –
 - (a) its amount or value exceeds the threshold amount; or
 - (b) when aggregated with other donations to the political party made by the same donor during the preceding 3 months (“earlier donations”), the amount or value of those donations exceeds the threshold amount.
- (5) Where a declaration is required in respect of a reportable donation within paragraph (4)(b) –
 - (a) paragraphs (2) and (3) apply in relation to the earlier donations as they apply in relation to the reportable donation; and
 - (b) for that purpose, the earlier donations are treated as if they were received on the same day as the reportable donation.
- (6) A declaration required by this Article must –
 - (a) be made using a form supplied by the JEA;
 - (b) include a statement by the treasurer of the party that, to the best of that person’s knowledge, information and belief, the information contained in it is true, complete and correct; and
 - (c) be signed by the treasurer of the party.
- (7) The “threshold amount” is the amount specified in Regulations made by the States for the purposes of this Article.

- (8) The States may by Regulations amend the period of time mentioned in paragraph (2) or (4)(b).

13B Offences: failure to comply with declaration requirements

- (1) A person who fails, without reasonable excuse, to deliver a declaration in accordance with Article 13A commits an offence and is liable to a fine.
- (2) A person who delivers a declaration for the purposes of Article 13A knowing or believing it to be false in a material particular, commits an offence and is liable to a fine.

13C Anonymous donations to political parties

- (1) A political party must not keep an anonymous donation.
- (2) Where a political party receives an anonymous donation, the treasurer of the party must, within 4 weeks of receiving it –
 - (a) send the donation to the Treasurer of the States; and
 - (b) deliver a written declaration of the donation to the JEA.
- (3) The Treasurer of the States must make such arrangements as he or she thinks fit for the distribution, to one or more charities established in Jersey, of donations sent to him or her under paragraph (2).
- (4) A declaration required by paragraph (2)(b) must –
 - (a) be made using a form supplied by the JEA;
 - (b) include a statement by the treasurer of the party that, to the best of that person's knowledge, information and belief, the information contained in it is true, complete and correct; and
 - (c) be signed by the treasurer of the party.
- (5) A person who fails, without reasonable excuse, to comply with paragraph (2) commits an offence and is liable to a fine.

13D Requirement for other officeholders to notify treasurer of donations

- (1) An officeholder, other than the treasurer, of a political party who knows or believes that a donation (including an anonymous donation) has been received by the political party must –
 - (a) notify the treasurer as soon as is practicable; and
 - (b) provide the treasurer with any information held by the officeholder about the donation that is relevant for the purposes of compliance with this Part.
- (2) A person who fails, without reasonable excuse, to comply with paragraph (1) commits an offence and is liable to a fine.”.

96 Article 14 (offences: general) amended

In Article 14(2), for “Greffier”, in both places it occurs, there is substituted “JEA”.

97 Article 15 (offences: defences) amended

Article 15(2) is deleted.

98 Article 16 (Greffier to make declarations available for inspection) substituted

For Article 16 there is substituted –

“16 Declarations: acknowledgement of receipt and publication

In respect of each declaration delivered to the JEA under Article 6, 12, 13A or 13C of this Law, the JEA must –

- (a) provide written acknowledgement of receipt to the person who made the declaration; and
- (b) publish the declaration in such manner as it considers appropriate.”.

99 Article 16A (audit) inserted

After Article 16, there is inserted –

“16A Audit

- (1) The JEA may make such arrangements as it considers appropriate for the audit of any or all of –
 - (a) the declarations, made by candidates for the purposes of Article 6, of election expenses and donations;
 - (b) the declarations, made by third parties for the purposes of Article 12, of election expenses and donations;
 - (c) the declarations, made by political parties for the purposes of Article 13A or 13C, of donations.
- (2) Where only some of the declarations are to be audited, the JEA may select those to be audited by reference to particular criteria or at random.”.

100 Article 18 (consequences of conviction of successful candidate in an election) amended

- (1) Article 18 is amended as follows.
- (2) In paragraph (1), for “election expenses for the election” there is substituted “election expenses or donations in relation to the election”.
- (3) After paragraph (1) there is inserted –

“(1A) This Article also applies to a candidate elected in an election and convicted of an offence under Article 13B, 13C or 13D in respect of a failure to comply with any of those provisions during the regulated period in relation to the election.”.

101 Article 18A (Consequential etc amendments) inserted

After Article 18 there is inserted –

“18A Consequential etc amendments

- (1) The States may by Regulations make consequential, incidental, supplementary or transitional provision in connection with any provision of this Law.
- (2) The power to make Regulations under this Article includes the power to amend, repeal or otherwise modify the application of any enactment.”.

102 Paragraph 1 (money) of the Schedule amended

- (1) Paragraph 1 of the Schedule is amended as follows.
- (2) Before sub-paragraph (1) there is inserted –

“(A1) A gift of money to a political party is a donation.”.
- (3) In sub-paragraph (1) –
 - (a) after “A gift of money” there is inserted “to any other person”;
 - (b) in clauses (a) and (b), for “nomination meeting” there is substituted “nomination day”.
- (4) After sub-paragraph (1) there is inserted –

“(1A) A loan of money to a political party is a donation if it is made either –

 - (a) at no cost to the party; or
 - (b) on terms by which the cost to the party is below the commercial rate for the loan.”.
 - (5) In sub-paragraph (2) –
 - (a) after “A loan of money” there is inserted “to any other person”;
 - (b) in clause (b)(ii), for “nomination meeting” there is substituted “nomination day”.

103 Paragraph 2 (goods and services) of the Schedule amended

- (1) Paragraph 2 of the Schedule is amended as follows.
- (2) Before sub-paragraph (1) there is inserted –

“(A1) A supply of goods (including a supply by way of loan or rental), or a supply of services, to a political party is a donation if it is made –

 - (a) free of charge; or
 - (b) at a discount to the open market value of or rate for the supply of goods or services.”.

- (3) In sub-paragraph (1) –
 - (a) after “a supply of services” there is inserted “, other than to a political party;”;
 - (b) in clause (b)(ii), for “nomination meeting” there is substituted “nomination day”.

104 Paragraph 4 (anonymous donations) of the Schedule amended

- (1) Paragraph 4 of the Schedule is amended as follows.
- (2) The unnumbered sub-paragraph becomes sub-paragraph (1).
- (3) After the renumbered sub-paragraph (1) there is inserted –
 - “(2) The States may by Regulations provide that, where the amount or value of an anonymous donation does not exceed a specified amount, the donation is to be disregarded for the purposes of the application of any provision of this Law.
 - (3) Regulations under paragraph (2) may make different provision for different purposes.”.

PART 6

105 Consequential etc amendments

Schedule 2 contains minor and consequential amendments to other legislation.

106 Citation and commencement

This Law may be cited as the Elections (Miscellaneous Amendments) (Jersey) Law 202- and comes into force on a day to be specified by the States by Act.

SCHEDULE 1

(Article 8(2))

SCHEDULE TO THE PUBLIC ELECTIONS (JERSEY) LAW 2002 INSERTED**“SCHEDULE**

(Article 13A(2))

JERSEY ELECTORAL AUTHORITY**1 Constitution of the JEA**

The JEA is to consist of –

- (a) a Chair;
- (b) at least 2 but not more than 4 ordinary members;
- (c) a parish representative member; and
- (d) the following *ex officio* members –
 - (i) the Judicial Greffier,
 - (ii) the Greffier of the States.

2 Selection and appointment of the Chair and ordinary members

- (1) The Chair and ordinary members of the JEA are to be appointed by the PPC from among persons nominated by –
 - (a) the Judicial Greffier; and
 - (b) the Greffier of the States.
- (2) The PPC must, at least 15 days before the appointment of the Chair or an ordinary member, present a report to the States giving notice of the proposed appointment (including the name of the proposed appointee).
- (3) The PPC may not appoint as the Chair or an ordinary member an individual who –
 - (a) is, or has at any time during the preceding 12 months been, a member of the States of Jersey;
 - (b) is a States’ employee or is otherwise under the direction and control of the States; or
 - (c) is engaged in any employment, occupation (whether or not remunerated) or business, or receives any benefit, that is incompatible with the functions of a member of the JEA.
- (4) In this paragraph, and in paragraph 4, “States’ employee” has the same meaning as in the Employment of States of Jersey Employees (Jersey) Law 2005⁴⁰.

3 Terms of appointment

- (1) The Chair and each ordinary member must be appointed for a fixed term of not more than 4 years.
- (2) The Chair and each ordinary member holds and vacates office in accordance with the terms and conditions of that person's appointment.
- (3) Subject to the provisions of this Law, and any Regulations made under it, those terms and conditions are to be determined by the PPC.
- (4) The previous appointment of a person as a member of the JEA does not affect the person's eligibility for re-appointment, but no person may be a member for a total period of more than 12 consecutive years.

4 Termination of appointment of Chair or ordinary member

- (1) The Chair or an ordinary member may resign from office by giving not less than one month's notice in writing to the PPC.
- (2) The PPC may remove the Chair or an ordinary member from office if it is satisfied that the person is unable or unfit to discharge the functions of the office, or is otherwise failing to do so, or that person meets the condition in paragraph 2(3)(b) or (c).
- (3) A person ceases to hold office as the Chair or an ordinary member if the person becomes –
 - (a) a member of the States of Jersey;
 - (b) a States' employee.

5 Parish representative member

- (1) The parish representative member is a person who –
 - (a) holds office as the Secretary of a parish; and
 - (b) has been nominated by the Secretary of the Comité des Connétables, to act as that member.
- (2) Before making a nomination for the purposes of paragraph (1)(b) the Secretary of the Comité des Connétables must consult all persons eligible to act as the parish representative member.
- (3) A nomination for the purposes of paragraph (1)(b) must be made by notice in writing to the Chair of the JEA.

6 Committees

- (1) The JEA may establish a committee for the purpose of exercising any of its functions.
- (2) A committee may include persons who are not members of the JEA (but must include at least one member of the JEA).

7 Proceedings of the JEA

- (1) The JEA may regulate its own proceedings and the proceedings of any committee (including quorum), subject to the provisions of this Law and any Regulations made under it.
- (2) The validity of proceedings of the JEA, or any committee of the JEA, is not affected by a vacancy or defective appointment.
- (3) The States may by Regulations make provision about the proceedings of the JEA.

8 Delegation

- (1) The JEA may delegate any of its functions to –
 - (a) a member; or
 - (b) a committee.
- (2) A function is delegated under this paragraph to the extent and on the terms that the JEA determines.
- (3) The delegation of a function by the JEA under this paragraph does not prevent the JEA from exercising that function.”.

SCHEDULE 2

(Article 105)

MINOR AND CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION**1 Centeniers (Terms of Office) (Jersey) Law 2007**

In Article 3A(2) of the Centeniers (Terms of Office) (Jersey) Law 2007⁴¹, “Public” is deleted.

2 Connétables (Miscellaneous Provisions) (Jersey) Law 2012

In Article 4(9) of the Connétables (Miscellaneous Provisions) (Jersey) Law 2012⁴², “Public” is deleted.

3 Data Protection (Registration and Charges) (Jersey) Regulations 2018

- (1) Paragraph 1A of the Schedule to the Data Protection (Registration and Charges) (Jersey) Regulations 2018⁴³ is amended as follows.
- (2) In sub-paragraph (a) –
 - (a) after “who has” there is inserted “become a candidate for a public election of an officer in a constituency under Article 17H of the Elections (Jersey) Law 2002⁴⁴ or”;
 - (b) for “public election”, in the next place it occurs, there is substituted “parish election”;
 - (c) for “the Public Elections (Jersey) Law 2002” there is substituted “that Law”.
- (3) In sub-paragraphs (b) and (d), for “public election” there is substituted “election”.

4 Employment of States of Jersey Employees (Jersey) Law 2005

- (1) The Employment of States of Jersey Employees (Jersey) Law 2005⁴⁵ is amended as follows.
- (2) In Article 36(4), for paragraphs (a) and (b) there is substituted “the employee is nominated for election as a Deputy or Connétable in accordance with the Elections (Jersey) Law 2002⁴⁶ (see Articles 17C and 17G of that Law).”.
- (3) In Article 39(3)(a) –
 - (a) in clause (ii) for “at a nomination meeting held under the Public Elections (Jersey) Law 2002, or” there is substituted “or Connétable in accordance with the Elections (Jersey) Law 2002⁴⁷ (see Articles 17C and 17G of that Law).”;
 - (b) clause (iii) is deleted.

5 Procureurs du Bien Public (Terms of Office) (Jersey) Law 2013

In Article 4(2) of the Procureurs du Bien Public (Terms of Office) (Jersey) Law 2013⁴⁸, “Public” is deleted.

6 Public Elections (Jersey) Regulations 2002

- (1) The Public Elections (Jersey) Regulations 2002⁴⁹ are amended as follows.
- (2) In the short title and in the enacting words, “Public” is deleted.
- (3) In the following provisions, “Public” is deleted –
 - (a) Article 1(1) (in the definition “Law”);
 - (b) Article 3;
 - (c) in the Schedule, in the headings to each of Forms 1, 2, 3, 4 and 5.

7 Referendum (Jersey) Law 2017

- (1) The Referendum (Jersey) Law 2017⁵⁰ is amended as follows.
- (2) In Article 1 –
 - (a) after the definition “commissioner” there is inserted –
“ “Elections Law” means the Elections (Jersey) Law 2002⁵¹;”;
 - (b) in the definition of “electoral register”, for “Public Elections Law” there is substituted “Elections Law”;
 - (c) the definition “Public Elections Law” is deleted.
- (3) In the following provisions, for “Public Elections Law” there is substituted “Elections Law” –
 - (a) Article 6(6)(b);
 - (b) Article 9(1);
 - (c) Article 9(3);
 - (d) Article 10(1)(b) and (c)(i) and (ii);
 - (e) Article 10(2)(a).

8 Register of Names and Addresses (Comparison with Electoral Registers) (Jersey) Regulations 2015

In Article 1(2) of the Register of Names and Addresses (Comparison with Electoral Registers) (Jersey) Regulations 2015⁵², “Public” is deleted.

ENDNOTES

Table of Endnote References

1	<i>chapter 16.600</i>
2	<i>chapter 16.555</i>
3	<i>chapter 16.800.15</i>
4	<i>chapter 16.800</i>
5	<i>chapter 16.250</i>
6	<i>chapter 16.600</i>
7	<i>chapter 16.800</i>
8	<i>chapter 16.800</i>
9	<i>chapter 16.250</i>
10	<i>chapter 23.055</i>
11	<i>chapter 23.050</i>
12	<i>chapter 16.570</i>
13	<i>chapter 16.800</i>
14	<i>chapter 16.250</i>
15	<i>chapter 15.560</i>
16	<i>chapter 16.800</i>
17	<i>chapter 16.250</i>
18	<i>chapter 16.555</i>
19	<i>chapter 16.250</i>
20	<i>chapter 16.800</i>
21	<i>chapter 16.800</i>
22	<i>chapter 20.650</i>
23	<i>chapter 20.040</i>
24	<i>chapter 08.090</i>
25	<i>chapter 16.580</i>
26	<i>chapter 16.600</i>
27	<i>L.2/2007 (Law now repealed)</i>
28	<i>chapter 16.250</i>
29	<i>chapter 16.600</i>
30	<i>L.2/2007 (Law now repealed)</i>
31	<i>chapter 20.650</i>
32	<i>chapter 20.040</i>
33	<i>chapter 08.090</i>
34	<i>chapter 16.580</i>
35	<i>chapter 16.555</i>
36	<i>chapter 16.580</i>
37	<i>chapter 16.555</i>
38	<i>chapter 16.555</i>
39	<i>chapter 15.560</i>
40	<i>chapter 16.325</i>
41	<i>chapter 23.055</i>
42	<i>chapter 23.080</i>
43	<i>chapter 15.240.70</i>
44	<i>chapter 16.600</i>
45	<i>chapter 16.325</i>
46	<i>chapter 16.600</i>

- [47](#) *chapter 16.600*
- [48](#) *chapter 16.570*
- [49](#) *chapter 16.600.50*
- [50](#) *chapter 15.640*
- [51](#) *chapter 16.600*
- [52](#) *chapter 15.660.10*