

STATES OF JERSEY

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DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200

**Lodged au Greffe on 7th January 2008
by Deputy G.P. Southern of St. Helier**

STATES GREFFE



Jersey

DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3)(JERSEY) LAW 200

REPORT

The purpose of this amendment is to make the Public Elections (Jersey) Law 2002 more effective in enabling Island residents to take a full part in the democratic process; that is, to vote. Critical to this process is the maintenance and accuracy of the electoral register. The entitlement to vote is limited in this Law not only by the 2 basic conditions of age and residence, but also by the presence or absence of a person's name on the relevant electoral register.

Members will be aware of my often expressed reservations about the accuracy of the registers maintained in the urban parishes, especially that in St. Helier. The fact is that for the election for Constable in January 2008, the total of names on the register is a mere 13,500, out of a potential 27,000. A simple survey of a block of flats in my district reveals that only 64 of the 114 names appear accurately on the register. 45 flats are unregistered and 5 (at least) of the names no longer live at the address given.

We cannot force residents to vote, or apparently even to register, and the evidence is very strong that many people do not wish to vote. Their disillusionment with government is such that some refuse to vote or to register out of principle. Equally what is noticeable is that many of those missing from the register have simply fallen foul of the system because they have failed to register each year. When told that there is an election and that they are not registered, their first reaction is to ask whether they can still register. Sadly the answer is always no.

Registration during election period

The fact is that under the current law the electoral register for any particular election is closed immediately before the election is declared, that is, on the day before nomination night. For those who become interested in voting after that, and many do, the register is closed. The amendment to Article 12 extends this time limit to the noon of the day before the actual election, enabling canvassers to register potential voters on the doorstep during the campaign. The production of a list of these late registrations to be available at polling stations does not seem to me to be an insurmountable, or even a difficult, administrative task.

Greater access to register

This extension of time into the period of an election can go some way to enabling more residents to vote, but places heavy reliance on canvassing in a short period. A better solution would be to give greater access to the register to those concerned about the register and with increasing participation. At present a Constable only has to give public access to a current register in 3 places: the parish hall, the Public Library and in the Judicial Greffe.

The problem with permitting wider access to the register is one that involves the protection of a person's data. There have been cases in the U.K. of electoral rolls being used for purposes other than that for which it is designed. I believe that this is a matter that should be addressed by proper application of the Data Protection Law. The amendment to Article 11 allows proper access to those registered as data users for electoral purposes whether individuals or political parties, to assist with the process of registering potential voters at times other than during an election period. This could result in a very much more up-to-date and accurate register over time.

Election day: powers of Autorisé

The amendment to Article 3 is intended to cater for those cases where a voter, believing in good faith that their name is on the register, turns up on election day to vote and is told that he or she is mistaken and cannot cast their vote. This is a particularly upsetting experience and one which tends to reduce electors' faith in the whole system and contributes to low turnout. The requirement to prove administrative error on the part of the parish is a difficult

one, and again appears to put a barrier in the way of the franchise. The amendment seeks to introduce a less daunting burden of proof to be required in order to permit the Autorisé (or Adjoint) in charge of the polling station to allow the person concerned to vote.

Length of residence

The amendment to Article 5 seeks simply to reduce the length of residence required of persons before they are eligible to register to vote. It is a move to improve the inclusive nature of our community by allowing newcomers to the Island to participate in our democracy with minimum delay. I believe that there is a level of support for such a relatively moderate reduction in the timescale. Indeed, both the Bailiff and the Dean have recently spoken on the theme of making our society more inclusive. It is similar to the proposition I made earlier in the year over attaching the right to vote to the population register, but reduces, rather than eliminates, the length of time required. It is certainly written in the spirit of greater inclusivity.

Financial/manpower implications

There are no significant financial or manpower consequences arising from the adoption of this Draft Law.

Explanatory Note

This Law amends the Public Elections (Jersey) Law 2002 (the “principal Law”).

Article 1 defines the principal Law.

Article 2 amends Article 3 of the principal Law so as to enable a person to vote, provided the *Autorisé* (or *Adjoint*) in charge of a polling station is satisfied that the person is entitled to be included in the electoral register, even if the person is not registered.

Article 3 amends Article 5 of the principal Law so as to reduce the periods of ordinary residence in Jersey required for a person to be entitled to be included in an electoral register.

Article 4 amends Article 10 of the principal Law so that, when a person is allowed to vote pursuant to Article 3 of the principal Law, as amended, the electoral register must be altered to add his or her name.

Article 5 substitutes Article 11 of the principal Law. There is added to the substituted Article 11 a requirement for a Connétable to provide a data controller (as defined in the Data Protection (Jersey) Law 2005) with a free copy of the electoral register, where the data is to be used to promote full registration of all persons who are entitled to be register or for the purposes of an election campaign.

Article 6 amends Article 12 of the principal Law so as to provide that the electoral register in force for an election is the register in force on the day before the election.

Article 7 inserts Article 17A in the principal Law. The insertion of this Article is consequential upon the amendment of Article 12, described above. It preserves, for the purpose of identifying persons who are entitled, at a nomination meeting, to nominate a candidate for election, the rule that, to be so entitled, a person must be entered in the register as it is in force on the day before the nomination meeting.

Article 8 amends Article 32 of the principal Law (Giving ballot paper to elector) consequentially upon the amendment of Article 3, described above.

Article 9 is the citation and commencement provision.



Jersey

DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3)(JERSEY) LAW 200

A LAW to amend further the Public Elections (Jersey) Law 2002

Adopted by the States [date to be inserted]
Sanctioned by Order of Her Majesty in Council [date to be inserted]
Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law, “principal Law” means the Public Elections (Jersey) Law 2002^[1].

2 Article 3 amended

In Article 3 of the principal Law, for the words “that the name has been omitted from the register as a result of administrative error” there shall be substituted the words “that the person is, in accordance with Article 5, entitled to have his or her name included in the electoral register for that electoral district”.

3 Article 5 amended

In Article 5(1)(c) of the principal Law –

- (a) in clause (i), for the words “2 years” there shall be substituted the words “1 year”;
- (b) in clause (ii), for the words “5 years” there shall be substituted the words “3 years”.

4 Article 10 amended

In Article 10 of the principal Law for the words “whether on the basis of” there shall be substituted the words “whether following a person being allowed to vote pursuant to Article 3 or on the basis of”.

5 Article 11 substituted

For Article 11 of the principal Law there shall be substituted the following Article–

“11 Electoral register to be available

- (1) Every Connétable shall cause the electoral register for each electoral district within the Connétable's parish to be available at the parish hall for public inspection during the office hours of the parish hall.
- (2) Every Connétable shall provide, free of charge, a copy of the electoral register for each electoral district within the Connétable's parish as it stands immediately before 1st September 2002, and 1st July in each year after that, to –
 - (a) the Librarian of the Jersey Library;
 - (b) the Judicial Greffier;
 - (c) to a data controller described in paragraph (3), at the data controller's request.
- (3) A person may request a copy of an electoral register under paragraph (2) if he or she shows, to the satisfaction of the Connétable, that he or she is a data controller entered in the register under Article 19 of the Data Protection (Jersey) Law 2005^[2] and that the particulars entered in that register pursuant to Article 16(1)(c) to (f) of that Law are–
 - (a) that the electoral register is the personal data being, or to be processed by or on his or her behalf,
 - (b) that the purposes for which the data are being or are to be processed are –
 - (i) the conduct of a campaign to achieve the registration, in the electoral register, of all persons who are entitled to be so registered, or
 - (ii) the conduct of a campaign for election in a public election;
 - (c) that the recipients to whom the data controller intends or may wish to disclose the data are persons engaged, at the direction of the data controller, in the conduct of the campaign; and
 - (d) that there are no countries or territories outside Jersey to which the data would be transferred.
- (4) The Librarian and the Judicial Greffier shall each cause a copy provided to him or her under paragraph (2) to be available, free of charge, for public inspection at the Jersey Library and the Judicial Greffe respectively during the normal opening hours of that place.”.

6 Article 12 amended

In Article 12(1) of the principal Law the words “the nomination meeting for” shall be deleted.

7 Article 17A inserted

At the beginning of Part 5 of the principal Law there shall be inserted the following Article–

“17A Interpretation of Part 5

In this Part, any reference to persons entitled under Article 2(1), (2) or (3) to vote at a public election shall be construed as if, notwithstanding Article 12, the reference in each of those paragraphs to the register in force for an election were a reference to register in force at midday on the day before the day when the nomination meeting for the election is held.”.

8 Article 32 amended

In Article 32(2)(a) and (b) and (3), the words “as a result of administrative error” shall be deleted.

9 Citation and commencement

This Law may be cited as the Public Elections (Amendment No. 3) (Jersey) Law 200~~0~~ and shall come into force 7 days after it is registered.

[1]

chapter 16.600

[2]

chapter 15.240