

STATES OF JERSEY

r

REGISTRATION OF POLITICAL PARTIES (P.73/2007): AMENDMENTS

Lodged au Greffe on 14th June 2007
by Deputy G.P. Southern of St. Helier

STATES GREFFE

REGISTRATION OF POLITICAL PARTIES (P.73/2007): AMENDMENTS

- (1) *In paragraph (a)(ii) delete sub-paragraph (5).*
- (2) *In paragraph (a)(iv) delete the words “and to supply the Court an updated list of members at least once every 12 months”.*
- (3) *In paragraph (a)(v) for the words “, the names of their officials and the list of members” substitute the words “and the names of their officials”.*
- (4) *In paragraph (b) after the words “or its abbreviation,” insert the words “together with the party emblem,”.*

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

As the only fully constituted political party in the Island prepared to endorse candidates, the Jersey Democratic Alliance, of which I am a member, fully supports the Privileges and Procedures Committee initiative to enable the registration of political parties. We believe that the time has come for the development of a party political system, and that such a development will have a positive impact on voter participation and election turnout. Furthermore I am glad to see that, by and large, PPC has followed the simple and broad outline contained in the proposition previously lodged by me on 11th January 2007.

However, the JDA and I share two serious reservations about the proposition. Firstly we believe that the requirement to publish a list of all members of the party to be made available to the public may well be in contravention of either or both Article 8, the right to private life, and Article 11, the right to freedom of assembly of the European Convention on Human Rights and hence the Human Rights (Jersey) Law 2000.

Furthermore, this requirement may also be open to challenge under the Data Protection Law as to whether the holding of such data is proportionate to the need to regulate this issue.

It is clear, as set out in Appendix 1, that this data clearly falls into the category of “sensitive personal data” as defined in Article 2 of the Data Protection (Jersey) Law 2005, and is therefore subject to the first and third principles of data protection. Under the third principle, the requirement to grant public access to this data must surely fail to meet the condition that it is “*not excessive*”. In addition PPC must surely prove that this requirement meets the stringent conditions for the holding of sensitive data in both Schedules 2 and 3 of the law.

This requirement does not exist in the equivalent U.K. legislation, that is, the Registration of Political Parties Act 1998, and the Political Parties: Elections and Referendums Act 2000. Neither does it appear as a requirement for the registration of either charities or trade unions in the Island. PPC, in their report, have given no reason why they have included such a requirement. It appears only to serve as a spurious and bureaucratic hurdle for parties to jump over.

Whilst the government and the public has the right to know who the officers of a party are, it is not clear what legitimate function is served by full knowledge of the membership list. At the time of writing, I am actively seeking answers to these questions, but to my mind, the requirement is a clear breach of individual privacy.

Secondly, there is no provision for the printing of a party emblem on the ballot paper. Again no reason is given by PPC, and yet this is common practice in most jurisdictions. It is of particular importance to those whose first language is not English, and to voters who cannot read. PPC appears to be ambivalent over the issue of emblems. It apparently accepts that an emblem is useful to the purpose of getting a political message over to the electorate on manifestos, leaflets and banners, etc., therefore, requiring regulation, but balks at the final stage of putting that clear, identifiable emblem on the ballot paper.

Nor should it be thought that the inclusion of a party emblem is a difficult or complex matter; the U.K.’s Registration of Political Parties Act 1998 deals with it quite simply as follows in Appendix 2.

There are no additional financial or manpower implications arising from this amendment.

2 Sensitive personal data

In this Law “sensitive personal data” means, in relation to a data subject, personal data consisting of information as to –

- (a) the racial or ethnic origin of the data subject;
- (b) the political opinions of the data subject;
- (c) the data subject’s religious beliefs or other beliefs of a similar nature;
- (d) whether the data subject is a member of a trade union;
- (e) the data subject’s physical or mental health or condition;
- (f) the data subject’s sexual life;
- (g) the data subject’s commission, or alleged commission, of any offence; or
- (h) any proceedings for any offence committed, or alleged to have been committed, by the data subject, the disposal of any such proceedings or any sentence of a court in any such proceedings.

THE DATA PROTECTION PRINCIPLES

1 First principle

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –

- (a) in every case – at least one of the conditions set out in paragraphs 1-6 of Schedule 2 is met; and
- (b) in the case of sensitive personal data – at least one of the conditions in paragraphs 1-10 of Schedule 3 is also met.

2 Second principle

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

3 Third principle

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

FIRST PRINCIPLE: CONDITIONS FOR PROCESSING OF SENSITIVE PERSONAL DATA

1 Consent

The data subject has given explicit consent to the processing of the personal data.

2 Employment

The processing is necessary for the purposes of exercising or performing any right, or obligation, conferred or imposed by law on the data controller in connection with employment.

3 Vital interests

The processing is necessary –

- (a) in order to protect the vital interests of the data subject or another person, in a case where consent cannot be given by or on behalf of the data subject, or the data controller cannot reasonably be expected to obtain the consent of the data subject; or
- (b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

4 Non-profit associations

The processing –

- (a) is carried out in the course of its legitimate activities by any body, or association, that is not established or conducted for profit, and exists for political, philosophical, religious or trade-union purposes;
- (b) is carried out with appropriate safeguards for the rights and freedoms of data subjects;
- (c) relates only to individuals who are members of the body or association or have regular contact with it in connection with its purposes; and
- (d) does not involve disclosure of the personal data to a third party without the consent of the data subject.

5 Data subject has made information public

The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.

6 Legal proceedings etc.

The processing –

- (a) is necessary for the purpose of, or in connection with, any legal proceedings;
- (b) is necessary for the purpose of obtaining legal advice; or
- (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

7 Public functions

The processing is necessary for –

- (a) the administration of justice;
- (b) the exercise of any functions conferred on any person by or under an enactment; or
- (c) the exercise of any functions of the Crown, the States, any administration of the States or any public authority.

8 Medical purposes

- (1) The processing is necessary for medical purposes and is undertaken by –
 - (a) a health professional; or
 - (b) a person who in the circumstances owes a duty of confidentiality equivalent to that which would arise if that person were a health professional.
- (2) In this paragraph “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment, and the management of healthcare services.

9 Equal opportunity research

The processing –

- (a) is of sensitive personal data consisting of information as to racial or ethnic origin;
- (b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained; and
- (c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.

10 Circumstances prescribed by Regulations

The personal data are processed in such circumstances as may be prescribed by Regulations.





APPENDIX 2

5. In the Appendix of Forms, for the form of the front of the ballot paper there shall be substituted the form set out in the Appendix to this Schedule.
6. In the Directions as to printing the ballot paper in the Appendix of Forms –
 - (a) in paragraph 2(a) for “and the particulars of the candidates” substitute “, the particulars of the candidates and words forming part of emblems”, and
 - (b) after paragraph 3 add –
 - “3A. Where an emblem is to be printed against a candidate's particulars –
 - (a) it shall be printed between the candidate's particulars and the vertical rule separating the candidates’ particulars from the spaces where the vote is to be marked, and
 - (b) its size as printed shall not exceed two centimetres square.”.

APPENDIX

VOTE FOR ONE CANDIDATE ONLY

Counterfoil
No.
The counterfoil
is to have a name
here to corre-
spond with that
on the back of
the ballot paper

1	<p>BASWRA Paresh Baswra 20 Kincaid Road, Small Heath, Birmingham B10 9JG Liberal Democrat</p> 	
2	<p>CRANLEY Alana Cranley 4 Kennil Road, Edgware, Middx. HA8 5JJ Green Party</p> 	
3	<p>EDGBASTON Richard Edgbaston 6 Tagwood Lane, Small Heath, Birmingham B10 0BH The Stop the By-Pass Candidate</p> 	
4	<p>GUNNIL-WALKER Roger Gunnil-Walker 33 Horsemeadow Lane, Sheldon, Birmingham B25 3GD The Labour Party Candidate</p> 	
5	<p>SMITH CATHERINE ANGELINA Smith 21 Terminal Grove, Selly Oak, Birmingham B32 5JP Independent</p>	
6	<p>SMITH KEITH JAMES Smith The Links, 3 Kingsdown Road, Birmingham B44 4JN The Conservative Party Candidate</p> 