

STATES OF JERSEY



STATES OF JERSEY LAW 2005: PROPOSED AMENDMENT – STATES MEMBERS’ QUALIFICATIONS FOR ELECTION (P.138/2016) – COMMENTS

**Presented to the States on 17th January 2017
by the Comité des Connétables**

STATES GREFFE

COMMENTS

Paragraph (a) of the Deputy M.R. Higgins of St. Helier proposition “States of Jersey Law 2005: proposed amendment – States Members’ Qualifications for Election” ([P.138/2016](#)) is almost identical to that in the Deputy’s proposition “States of Jersey Law 2005: proposal to amend bankruptcy provisions” ([P.55/2016](#)) which sought to standardise the requirements relating to the disqualification for election for all members of the States Assembly.

The Comité des Connétables therefore re-presents the following comments made in relation to P.55/2016 –

Part of this proposition is that Article 4A of the [States of Jersey Law 2005](#) ‘Disqualification for election as Connétable’ should be repealed and replaced with the same provisions contained in Article 8 of the said Law relating to Senators and Deputies, so that the statutory disqualification provisions for Senators and Deputies also apply to Connétables, with the result being that the statutory disqualification provisions shall be the same for all elected members of the States Assembly.

The proposer says that it is inequitable for the different Members of the States of Jersey to have different legal provisions regarding disqualification for election to the States of Jersey.

But to achieve complete parity, regard must also be had to other statutory provisions, including Article 7 of the States of Jersey Law 2005 (a person is qualified for election as a Senator or a Deputy if he or she is of full age; and is a British citizen with residence in Jersey of the specified term).

Article 7(2) also contains a disqualification for election as a Senator or Deputy in the same terms as that in Article 4A for election as a Connétable, which it is proposed should be repealed.

In practice, the Royal Court exercises a supervisory jurisdiction when the Connétable is in office,¹ and a similar jurisdiction is exercisable by the Royal Court (on a representation by the Attorney General) to decline to administer the oath to a person elected as Connétable if that person is considered to be unfit for office. This supervisory jurisdiction was not abolished by the [Connétables \(Miscellaneous Provisions\) \(Jersey\) Law 2012](#), but the approach of the Royal Court has not been tested in an individual case since that Law came into force and the operational policing role of the Connétables ceased.

The supervisory jurisdiction of the Royal Court would in practice mean that a Connétable could be made to resign by the Royal Court, or the Court would decline to administer the Oath of office to a person elected as Connétable if he or she had been convicted of a criminal offence, was subject to a guardianship or had a curator appointed, or became bankrupt. Therefore, the circumstances which would cause disqualification of Senators and Deputies under Article 8 of the States of Jersey Law 2005 would in practice cause disqualification for Connétables. It should also be noted that under Article 24 of the [Bankruptcy](#)

¹ See e.g. *In re Constable of St. John* 1994 JLR N-11

[\(Désastre\) \(Jersey\) Law 1990](#), a person subject to a désastre or a foreign bankruptcy proceeding may not, during the bankruptcy, hold public office, which includes the office of Connétable.

The legal provisions regarding disqualification for election as Connétable are therefore at least equivalent to those for election as Senator or Deputy and, in the Comité's opinion, there is no need to amend the States of Jersey Law 2005 as proposed.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were submitted to the States Greffe after the noon deadline as set out in Standing Order 37A due to the main proposition being lodged on 20th December 2016 and the first opportunity the Comité des Connétables had to discuss this was at its meeting on 16th January 2017.