

DRAFT PUBLIC ELECTIONS (AMENDMENT) (JERSEY) LAW 200

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by the Legislation Committee**



STATES OF JERSEY

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European Convention on Human Rights

The President of the Legislation Committee has made the following statement -

In the view of the Legislation Committee the provisions of the Draft Public Elections (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

REPORT

On 4th December 2001, the Legislation Committee presented to the States the Report of the Working Party on Parish Assemblies [R.C.38/2001].

The Working Party made a number of observations and recommendations. In particular, it noted that Centeniers rank alongside States Members in the procedures governing their election. They were at the time of the Working Party Report subject to the procedures under the *Loi (1897) sur les élections publiques*. They are now in turn subject to the procedures under the Public Elections (Jersey) Law 2002. They are not elected by the *Assemblée Paroissiale*. This no doubt has its historical roots in the fact that Centeniers used to sit in the States in the absence of the Connétable. However, it must also have been an important consideration that, quite apart from the right of a Centenier to sit in the States, that office was of such public importance and responsibility that a full public election, rather than an election only by the Parish Assembly, was deemed appropriate. Officers such as Vingteniers and Constables' Officers were elected at Parish Hall level; so too were the two *Procureurs du Bien Public*. In this context, the Working Party considered the nature and responsibilities of the office of a

Procureur du Bien Public. Of that Office the Royal Court has said - ¹

“.....the *Procureur du Bien Public* is not strictly a trustee, but is the procurator or proxy of the Parish, and ... his principal duty is to represent the Parish in looking after the property of the Parish.

The *Procureur* has a duty to report to the Principals and Officers of the Parish any matter concerning the public property of the Parish, or the application of the income of the Parish, about which the Principals and Officers should be made aware.”

The *Procureur* has the right to seek the guidance of the Royal Court. As the Working Party observed, the *Procureur* thus carries a heavy responsibility and must of course be strictly impartial and objective in overseeing the affairs of the Parish and the use of its funds. The holder of that Office must enjoy the utmost confidence of the electors of the Parish. The Working Party concluded that -

“... the mandate of the *Procureur* should be seen to be the widest possible of the electorate within the Parish which will best be achieved by an electoral process in which as many Parishioners as possible are likely to cast their vote.”

For that reason the Working Party recommended that elections for the Office of *Procureur du Bien Public* be governed by the Public Elections Law rather than (as at present) be held at a Parish Assembly (*en Assemblée Paroissiale*).

This recommendation met with approval throughout the consultation process from, amongst others, the *Comité des Connétables*. The *projet de loi* would amend the Public Elections (Jersey) Law 2002 to give effect to that recommendation. Accordingly, the election of a *Procureur du Bien Public* would be governed by the same rules that apply to the election of a Centenier.

Financial/manpower implications

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

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a *Projet de Loi* to make a statement about the compatibility of the provisions of the *Projet* with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 5th December 2002 the Legislation Committee made the following statement before Second Reading of this *projet* in the States Assembly -

In the view of the Legislation Committee the provisions of the Draft Public Elections (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

The purpose of this Law is to provide for Procureurs du Bien Public to be elected under the Public Elections (Jersey) Law 2002 instead of by Parish Assemblies. It treats their election (notably in Articles 20 (nominations) and 39 (advertising of postal and pre-poll voting)) in the same way as it treats the election of Centeniers.

PUBLIC ELECTIONS (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Public Elections (Jersey) Law 2002 to provide for the election of Procureurs du Bien Public under that Law; and to amend consequentially the *Loi (1804) au sujet des assemblées paroissiales*; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

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

ARTICLE 1

In this Law, “principal Law” means the Public Elections (Jersey) Law 2002,^[1] as amended.^[2]

ARTICLE 2

In Article 1(1) of the principal Law^[3] -

- (a) in paragraph (b) of the definition of “constituency” for the words “or Centenier,” there shall be substituted the words “Centenier, or Procureur du Bien Public,”;
- (b) in the definition of “public election” for the words “or Centenier” there shall be substituted the words “, Centenier or Procureur du Bien Public”.

ARTICLE 3

In Article 2(1) of the principal Law,^[4] for the words “or Centenier,” there shall be substituted the words “Centenier, or Procureur du Bien Public,”.

ARTICLE 4

In Article 17(1) of the principal Law,^[5] after the words “States of Jersey Law 1966^[6]” there shall be added the words “or is otherwise required”.

ARTICLE 5

In Article 19(3)(b) of the principal Law,^[7] for the word “Centenier” there shall be substituted the words “Centenier, Procureur du Bien Public”.

ARTICLE 6

In Article 20(5) of the principal Law,^[8] for the word “Centenier” there shall be substituted the words “Centenier or Procureur du Bien Public”.

ARTICLE 7

In Article 39 of the principal Law^[9] -

- (a) in paragraph (1), for the word “Centenier” there shall be substituted the words “Centenier or Procureur du Bien Public”;
- (b) in paragraph (2), for the words “of a Centenier” there shall be substituted the words “to which paragraph (1) applies”.

ARTICLE 8

In Article 54(1), (3) and (4) of the principal Law,^[10] for the words “or Centenier”, wherever occurring, there shall be substituted the words “, Centenier or Procureur du Bien Public”.

ARTICLE 9

In Article 6 of the *Loi (1804) au sujet des assemblées paroissiales*,^[11] the words “, en Assemblée Paroissiale, selon l’usage” shall be deleted.

ARTICLE 10

The Public Elections (Jersey) Law 2002,^[12] as amended by this Law, shall not apply to the election of a Procureur du Bien Public in which the first steps, but not the final steps, have been taken when this Law comes into force, and that election shall continue to be conducted in accordance with the *Loi (1804) au sujet des assemblées paroissiales*^[13] as if this Law had not come into force.

ARTICLE 11

This Law may be cited as the Public Elections (Amendment) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

¹ In the case of *In Re Grouville (Procureur du Bien Public)* (1970) J.J. 1451.

^[1] Volume 2002, page 313.

^[2] R&O 43/2002.

^[3] Volume 2002, page 318.

^[4] Volume 2002, page 319.

^[5] Volume 2002, page 327.

^[6] Volume 1966-1967, pages 3 to 10, Volume 1973-1974, page 256, Volume 1975-1978, pages 57 and 71, Volume 1986-1987, page 225 and Volume 2000, page 19.

^[7] Volume 2002, page 329.

^[8] Volume 2002, page 330.

^[9] Volume 2002, page 339.

^[10] Volume 2002, page 352.

^[11] Tomes I-III, page 45.

^[12] Volume 2002, page 313 and R&O 43/2002.

^[13] Tomes I-III, page 43 and Volume 1984-1985, page 15.