

STATES OF JERSEY



DRAFT PUBLIC ELECTIONS (AMENDMENT No. 5) (JERSEY) LAW 201- (P.46/2014): AMENDMENT

**Lodged au Greffe on 22nd April 2014
by the Comité des Connétables**

STATES GREFFE

1 PAGES 19–21, ARTICLE 2 –

- (1) In paragraph (10), for the inserted Article 17A there shall be substituted the following Article –

“17A Electoral administrator for parish

- (1) Subject to this Article, the Connétable of a parish is the electoral administrator for the parish.
- (2) If the Connétable of a parish is proposed as a candidate in the election of a Connétable or Deputy for the parish, or of a Senator, the person described in paragraph (4) shall be the electoral administrator for the parish –
 - (a) from the time when the Connétable is proposed as a candidate in the election;
 - (b) until –
 - (i) the Connétable is, in accordance with Article 21(1), taken to have been elected in the election, or
 - (ii) the result is announced in the election.
- (3) If an election to which paragraph (2) applies is to be held on the same day as one or more other public elections, the result referred to in paragraph (2)(b)(ii) is the last of the results to be announced in the elections.
- (4) Subject to paragraphs (5), (6) and (7), the first Procureur du Bien Public in a parish shall be the electoral administrator for the parish.
- (5) Subject to paragraphs (6) and (7), the first Procureur du Bien Public and the second Procureur du Bien Public in a parish may agree that, notwithstanding paragraph (4), the second Procureur du Bien Public shall be the electoral administrator for the parish.
- (6) A Procureur du Bien Public cannot be the electoral administrator for the parish if he or she is also nominated as a candidate in the election in which the Connétable is a candidate or at any time when he or she is nominated as a candidate in any other public election.
- (7) If, by virtue of paragraph (6), there is no-one eligible to be the electoral administrator for a parish for the period described in paragraph (2), the Royal Court shall appoint a person as the electoral administrator for the parish for that period.
- (8) For the purposes of this Article, the Procureur du Bien Public in a parish who has been in that office in that parish for the longer period (or periods in the aggregate) is the first Procureur du Bien Public in the parish and the Procureur du Bien Public in the parish who has been in that office in that parish for the shorter period

(or periods in the aggregate) is the second Procureur du Bien Public in the parish.”.

- (2) After paragraph (10) insert the following paragraph and renumber the remaining paragraphs accordingly –

“(11) In Article 20 after paragraph (2) there shall be inserted the following paragraph –

“(2A) Notwithstanding paragraphs (1) and (2), if the Connétable who convened the meeting is not, by virtue of Article 17A(2), the electoral administrator for his or her parish, the meeting shall be presided over –

- (a) if the electoral administrator for that parish is present, by that person;
- (b) if the electoral administrator for that parish is not present, by another officer of the parish where the meeting is held (or in which the election is to take place), chosen by the persons entitled under Article 2(1), (1A), (2) or (3) to vote in the election who are present at the meeting.’.”.

2 PAGES 23–28, ARTICLE 6 –

- (1) Delete paragraph (5).
- (2) In paragraph (7), for the inserted Article 9A(5) substitute the following paragraph –

“(5) Where, during the late registration period, an electoral administrator for a parish is required by Article 7(1) to include the name of a person on the electoral register for an electoral district, the electoral administrator shall also include the person’s name in the supplementary electoral register if that person’s name is not included in any electoral register in force for any electoral district for the elections referred to in paragraph (1).”.

COMITÉ DES CONNÉTABLES

REPORT

1. 'Electoral Administrator'

The Public Elections (Jersey) Law 2002 requires the Connétable to prepare and maintain the electoral register (Article 6) and to provide such assistance as the Autorisé may reasonably require, and he or she does this by making the resources of the parish available both in terms of facilities, paid staff and honorary officers and volunteers (Article 16).

The decision to adopt paragraph (A)(b) of P.110/2013 was close – the States Minutes of 6th November 2013 show 24 'Pour'; 20 'Contre'; and 1 abstention. That proposition was that the Parish secretary should prepare, maintain and amend the electoral register, make the necessary arrangements for the holding of nomination meetings and assist the Autorisé to organise public elections.

It should be noted that the draft Law (P.46/2014) presented for debate actually makes no change to Part 5 of the Public Elections (Jersey) Law 2002 which sets out how a nomination meeting is to be held and the procedure at such a meeting. In particular, the Connétable remains responsible for convening the nomination meeting and presiding, unless the Connétable is absent or is proposed as a candidate, when Article 20 provides for another officer to preside.

The draft Law does, however, define 'electoral administrator' as "the person employed as the secretary for a parish". The Comité remains concerned at this proposal for a number of reasons including –

- (a) the secretary is an employee, yet it is proposed that a statutory function should be imposed on the employee;
- (b) the obligations imposed on the electoral administrator will involve some expense, but the employee will be dependent on parish officers for an allocation of funds to cover expenditure associated with the poll;
- (c) the Parish of St. Helier does not confer the title of 'parish secretary' on any employee;
- (d) there is no provision should the secretary stand as a candidate in an election.

The Comité's comments in "Public Elections: amendments to legislation and administration (P.110/2013) – amendment" are set out in **Appendix 1** to this report and remain valid.

The proposed change takes no account of the rôle of the Connétable, as the elected head of the parish, or of the parochial system. The Connétable has various responsibilities, duties and accountabilities under legislation. Where there is a perceived conflict of interest, the rôle of the Connétable is undertaken by another elected officer, for example currently the Chef de Police, but the senior Procureur du Bien Public will act in certain prescribed circumstances once the [Connétables \(Miscellaneous Provisions\) \(Jersey\) Law 2012](#) is brought into force.

The better solution, taking into account these other ‘models’ already in use, is for the Connétable to remain as electoral administrator, on behalf of the parish, but for the rôle to be undertaken by another elected officer of the Parish whilst there might be a perception of conflict of interest.

The change should be framed in such a way to reflect the responsibility of the Connétable to ensure the parish provides the facilities required to prepare and maintain the electoral register, etc., whilst enabling the Connétable to avoid any conflict of interest when a candidate in a public election.

The amendment provides the solution as follows –

- (a) the Connétable is the electoral administrator of a parish unless he or she is proposed as a candidate in the election of a Connétable or Deputy of that parish or in the election of a Senator;
- (b) where the Connétable is a candidate in such an election, the electoral administrator is the first Procureur du Bien Public in a parish;
- (c) once the results of the election are known (either the Connétable is elected unopposed, so no longer has a conflict, or all the results of the elections on that day are known), the Connétable may resume the rôle of electoral administrator;
- (d) the method for determining which of the Procureurs du Bien Public is the ‘first’, and which the ‘second’, is set out, but there is also provision for the second to act if both Procureurs du Bien Public so agree.

2. Supplementary register

The States adopted the amendment of the Comité des Connétables to P.110/2013, which restricted the supplementary register to those persons whose names were not on any Electoral Register in force in the Island. The amendment actually reflected the recommendation in the report of Privileges and Procedures Committee.

The effect of proposed Article 9A(5)(b) is that a person whose name is already on an Electoral Register may be also added to a Supplementary Register. This is not what the States agreed.

It is estimated that, across all the parishes, more than 600 forms will be received each month notifying of a change of address. There is provision at new Article 8(6) so that the name of an existing elector who is added to a Supplementary Register shall then be removed from the Electoral Register. But no provision is made to specify what action should be taken if those electors have already exercised their votes using the postal or pre-poll facility.

It was for exactly these reasons that the States adopted on a standing vote the amendment proposed by the Comité des Connétables.

The proposed amendment resolves the difficulties by providing that a person's name will only be included in the supplementary register if it is not already included in another electoral register in force for the elections being held on that day. It should be noted that it is not depriving a person of his/her vote as he/she will already be registered as an elector.

The Comité's comments in "Public Elections: amendments to legislation and administration (P.110/2013) – amendment" are set out in **Appendix 2** to this report and remain valid.

Comments of the Comité des Connétables

(A) Funding to implement changes

In the 'Financial and manpower implications' section, the Privileges and Procedures Committee repeats the comments from P.110/2013 which, in particular, suggest that the only cost of advance registration and supplementary electoral register changes is administrative time. It also shows as 'N/A' the cost of notices to all households showing registered voters.

The Comité des Connétables would clarify that there will be a financial cost to amending computer systems to enable advance registration and to enable a supplementary register to be prepared. The very limited timescale in which to scope the work (which cannot be concluded with certainty until the States have debated the proposals), plan, implement, test and deliver the changes, may adversely affect the cost. Until the exact requirements are known, it is not possible to be more precise as to this cost but it is likely to amount to a 5-figure sum. As the changes relate to the election of States members, the Comité des Connétables considers this cost should be met by the States.

Likewise with the sending of notices to all households, this is also limited to a general election year for States members (new Article 7A). As this relates specifically to the election of States members, the Comité des Connétables considers this cost should be met by the States. Approximately 40,000 notices will be sent out to reach all households so, including postage, the cost of materials alone is likely to amount to some £20,000.

(B) Prescribed registration form and coming into force date

Attention is also drawn to the Citation and commencement provisions in Part 5 of the draft Law. Other than for Article 7, the Law will come into force on the day after it is registered, provided it is sanctioned by Order of her Majesty in Council on or before 16th July 2014.

As the advance registration provisions will require a person who has not yet met the residence criteria to provide the date on which they will meet that criteria, the prescribed Registration Form must be amended to collect this information. The Comité des Connétables proposes to bring forward for debate by the States, no later than July, the necessary draft Regulations to prescribe the form. These Regulations are essential if the changes proposed to the Public Elections are to be implemented administratively.

Extract from the report within P.110/2013 Amd.

Other comments:

Preparation of Electoral Register (A)(b)

It is proposed that the parish secretary shall prepare, maintain and amend the electoral register, make the necessary arrangements for the holding of nomination meetings and assist the Autorisé to organise public elections. The reasoning is that a Connétable might “benefit” from the outcome of the election and because the parish secretary already handles the electoral organisation.

The Comité wishes to make the following comments which it hopes will assist members to decide whether or not to adopt this part of the proposition.

The Connétable is the elected head of the civil parish and the affairs of the parish are administered by the officers of the parish under the control of the Connétable. The Connétable has various responsibilities, duties and accountabilities under legislation. Where there is a perceived conflict of interest, the rôle of the Connétable is undertaken by another elected officer (currently the Chef de Police, but the senior Procureur du Bien Public will act once the Connétables (Miscellaneous Provisions) (Jersey) Law 2012 is brought into force). In a few examples the legislation may provide an alternative process.

An example is the issuing of driving licences under the Road Traffic (Jersey) Law 1956. The Law sets out in detail who may and may not be granted a driving licence and for which categories. An application for a licence has to be made to the “parochial authority” which is defined as the Connétable of the parish in which the applicant resides. But the physical processing of the application and issuing of the driving licence is undertaken by parish staff in accordance with the Law. Only in specific circumstances will the Connétable become involved: for example, when a decision is required on the suspension or revocation of a licence on grounds of medical condition or driving ability.

Article 16 of the Public Elections Law requires the Connétable to provide such assistance as the Autorisé may reasonably require, and he or she does this by making the resources of the parish available both in terms of facilities, paid staff and honorary officers and volunteers. Article 20 already makes provision for another officer to preside at a nomination meeting if the Connétable is a candidate in an election. The Connétable is required to decide whether a person’s name and address should be omitted from the electoral register on grounds of a significant risk or threat of personal harm (Article 9) and it may be unreasonable to require the parish secretary to make such a judgment. No mention is made of what provision should be made in the event that the parish secretary chooses to stand for election – there have been 4 known instances of this in the last 14 years.

If change is required it should be framed in such a way to reflect the responsibility of the Connétable to ensure the parish provides facilities required, to prepare and maintain the electoral register, etc., whilst enabling the Connétable to avoid any conflict of interest when a candidate in an election.

Extract from the report within P.110/2013 Amd.

Supplementary Register

Amendment to (A)(d)(i)

The amendment to paragraph (A)(d)(i) is to bring the proposition into line with Recommendation 7, which is specific to new electors. The Comité des Connétables acknowledges there may be an argument for allowing NEW electors to register up until one week before the election, but does not support allowing a person already registered as an elector to move to a different elector register as this –

- (a) could mean that a proposer/seconded of a candidate is no longer eligible to vote in that election;
- (b) means that the candidates would have a list naming some persons who are no longer eligible to vote in that election;
- (c) will impact on the administration of postal and pre-poll voting (a person might have already voted before requesting the right to move register).

There will be some overlap with (A)(a) which proposes registration prior to becoming eligible in the 3 months prior to the closure of the supplementary register. The date of elections, other than by-elections, is known well in advance, as it is set in legislation.