

STATES OF JERSEY



DRAFT POLITICAL PARTIES (REGISTRATION) (JERSEY) LAW 200

**Lodged au Greffe on 8th February 2008
by the Privileges and Procedures Committee**

STATES GREFFE



Jersey

DRAFT POLITICAL PARTIES (REGISTRATION) (JERSEY) LAW 200

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Privileges and Procedures Committee has made the following statement –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft Political Parties (Registration) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Connétable D.F. Gray of St. Clement**

REPORT

This draft Law gives effect to the ‘in principle’ States decision of 16th July 2007 (P.73/2007 as amended) to introduce a system of registration for political parties in Jersey.

PPC was keen to introduce a simple Law recognising that there has been a long tradition of independent politics in Jersey with few political parties. PPC is also determined to ensure that this legislation does not interfere with the current ability of candidates to stand without any party affiliation. This draft Law therefore has only one main objective, which is to enable political parties to be registered so that candidates who are endorsed by the party can then have the name of that party inserted on the ballot paper. There is, at present, no intention to require all political parties or groupings to be registered unless they wish to endorse candidates for election and have their name on the ballot paper. PPC is nevertheless bringing forward early in 2008 legislation on the regulation of election expenses that will regulate any expenditure by a political grouping, whether or not that body is a registered political party.

The provisions of this draft Law are hopefully relatively self-explanatory. The registration will be undertaken through the Royal Court as the Court currently oversees the election process in the Island. PPC saw no merit in establishing a separate body or officeholder to manage the registration process as the current structure through the Judicial Greffe will easily be able to cope with the limited number of registration applications that are likely in the short term.

The process that will be used is not dissimilar to the process used currently under the *Loi (1862) sur les teneures en fidéicommis et l’incorporation d’associations*. Under the 1862 Law, associations are able to apply for an Act of Incorporation from the Royal Court and the draft constitution of the association must be forwarded to the Attorney General before the application is made to the Court to ensure that all the statutory requirements are met.

Under this draft Law an application for registration would be made to the Court by the party concerned. PPC believes it is important that some level of support should be shown for a party to prevent frivolous applications and, as a result, any application will need to be signed by at least 20 registered electors. The main requirements for a party are those that have already been agreed by the States. The party’s name must not exceed 6 words and the name or abbreviation must not be obscene, offensive or otherwise inappropriate. In addition, the name must not be able to be confused with the name of any other organisation whether or not that is another political party. The Court might, for example, reject an application from the “Jersey Heritage Party” as this name could be seen to be confusing with the existing organisation the “Jersey Heritage Trust”. A party must have 3 officeholders namely the Leader, the Treasurer and the Secretary, but one person can hold 2 of these positions at the same time.

Because the whole purpose of registration is to enable a party to endorse candidates and have its name on the ballot paper, the draft Law requires any party applying for registration to have a provision in its constitution that one of its objectives is the endorsement of candidates for election to the States. A party must also keep annual accounts but these could be very simple and there is, for example, no requirement for accounts to be audited.

Once an application for registration has been submitted to the Court the Judicial Greffier will forward it to the Attorney General to check if the statutory requirements have been met. It is important to stress that the role of the Attorney General is not to approve or reject an application but simply to audit the application against the statutory requirements for registration. The role of the Attorney General in these circumstances is therefore identical to the role he has undertaken for many decades in relation to checking the constitutions of bodies seeking incorporation under the 1862 Law referred to above. If the Attorney General believes that any of the statutory requirements have not been met, he can draw this to the attention of the Court when the application is made. In practice there may, of course, be informal contact between the Attorney General and the party in order to resolve any obvious difficulties before the application is made to the Court.

When the application is made to the Court the Attorney General, or a Crown Advocate on his behalf, will inform the Court whether, in his or her opinion, the application complies with the statutory requirements for registration. If the Court is satisfied that it does, it will register the party and the details of the party will then be entered in a

Register maintained for public inspection by the Judicial Greffier.

After registration, a political party may apply to alter its name or emblem, but to ensure that a political party cannot be “hijacked” by a breakaway group or a dissenting faction, any application for amendments to the name or emblem must be signed by two of the registered officeholders and must also be accompanied by evidence that the alteration has been made in accordance with the party’s constitution. In practice this is likely to be by way of a Minute of a meeting of the party in question.

Further changes to a party must be notified to the Judicial Greffier within 10 working days of the change. Once again, changes must be certified by two registered officeholders and be made in accordance with the party’s constitution. There is provision in the law to deal with the situation where there may not be 2 registered officeholders available to make an application. This could be because of the death or incapacity of one or more of the registered officeholders or, for example, in the event of a mass resignation of officeholders. In these circumstances the Judicial Greffier may accept an alternative means of verification or refer the matter to the Attorney General so that he or she can refer the application to the Court for adjudication on whether the alternative means is acceptable. Once again, these safeguards are inserted in the Law to ensure that a party cannot be taken over by any breakaway group or dissenting faction to the detriment of the main party.

A party can be removed from the register if it applies to do so. In addition, the Court may remove a party from the register if it no longer complies with the statutory requirements or if it does not comply with the need to update its details as required. In addition, if a party does not endorse any candidates for more than 5 years, the Court can also remove it from the register.

As indicated earlier, the main reason for registration of a political party is to permit that party to have its name on the ballot paper alongside candidates endorsed by the party. This draft Law makes appropriate amendments to the Public Elections (Jersey) Law 2002 to allow this to happen.

At present a candidate must have his or her nomination paper signed by 10 registered electors from the relevant constituency. Under this draft Law, if a candidate wishes to have the name of a registered political party entered alongside his or her name on the ballot paper, the candidate will have to make that declaration on the nomination paper and have the declaration signed by 2 persons who are registered officeholders of the registered political party. This must be done before the proposer and 9 seconders sign the nomination paper to ensure that the 10 signatories are aware that the candidate is standing on behalf of a political party. After the nomination meeting has been held, a candidate cannot change his or her mind about the endorsement by the political party as it will be necessary for ballot papers to be printed and it would be too late for the party endorsement to be withdrawn. When a candidate is endorsed by a political party the relevant ballot paper will have the name or abbreviation of that political party inserted alongside the name of the candidate. There will be no requirement for any other candidates to have any entry alongside their name and there is no provision in the Law to allow or require the word “independent” to be inserted on ballot papers.

The draft Law contains an offence in Article 12 relating to the deliberate provision of false information. It should be noted however that, for the party itself, any breach of the statutory provisions will normally be grounds for the Court to be able to remove the party from the register. This is, in practice, the most significant sanction for a registered party.

Financial and manpower implications

There will be some minor resource implications for the Judicial Greffier and the Attorney General in dealing with applications under this Law. Nevertheless, unless there is a significant increase in the number of political parties in Jersey these implications are not considered to be significant and, in addition, it should be noted that fees will be payable to offset some of the costs incurred in the registration process.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister 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). On 6th February 2008 the Chairman of the Privileges and Procedures Committee made the

following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft Political Parties (Registration) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 contains interpretative material.

Article 2 sets out the requirements with which a political party must comply in order to be registered and remain registered under the draft Law. The purpose of registration, being the right to have the party's name shown alongside the name of a candidate that the party is endorsing for election as a Senator, Deputy or Connétable, is given effect by the amendments to the Public Elections (Jersey) Law 2002, made by *Article 14* of this draft Law.

Article 3 prohibits a registered political party from using any name or abbreviation of a name, or emblem, other than the name, abbreviation or emblem that is registered for it.

Article 4 sets out the requirements for making an application for registration of a political party. The application is made to the Royal Court (the "Court"). There is a fee for the application, charged as stamp duty under the Stamp Duties and Fees (Jersey) Law 1998 (see *Article 13* of this draft Law).

Article 5 sets out the process for consideration by the Court of an application for registration.

Article 6 requires the Judicial Greffier to maintain a register of political parties.

Article 7 enables a registered political party to apply to the Court to change its name and any abbreviation of it or to add an emblem or change its emblem.

Article 8 requires a registered political party to notify the Judicial Greffier of any change in its constitution, in its leader, treasurer or secretary or of its address in Jersey.

Article 9 requires a registered political party to file accounts. *Article 2* provides that a registered political party must not have an accounting period longer than 12 months.

Article 10 describes the circumstances in which a party is removed from the register. The Court must remove a party if it applies for removal. The Court has a discretion to remove a party if the party no longer complies with *Article 2*, if the party has used a name, abbreviation or emblem other than that registered for it, contrary to *Article 3*, or if the party has not complied with any of the notification and filing requirements in *Articles 8 and 9*.

Article 11 allows the public to inspect the register and, on payment of a fee, obtain a copy of the constitution and accounts of a registered political party.

Article 12 makes it an offence knowingly or recklessly to provide information that is false in a material particular in an application made or notice delivered under this Law. The penalty for the offence is a fine up to level 4 on the standard scale (£5,000).

Article 13 amends the Stamp Duties and Fees (Jersey) Law 1998 so as to add provision for the stamp duty payable on an application under this Law or for a copy document obtained under *Article 11*.

Article 14 amends the Public Elections (Jersey) Law 2002 (the "2002 Law"). The amendments are to the arrangements for nomination of candidates for election as Senator, Deputy or Connétable. The 2002 Law already provides for a candidate to be nominated for a public election by the production, to a nomination meeting, of a document signed by 10 persons who are entitled to vote for the candidate. In a case where the prospective candidate wishes to have his or her endorsement by a political party entered on the ballot paper, the candidate must enter his or her wish in the document and have it certified by 2 of the registered officeholders of the political party before the document is signed by the proposer and 9 seconders. Once the declaration has been produced to the nomination meeting, it cannot be withdrawn. In the event that a ballot ensues, the ballot paper will include the name, or abbreviation of the name, of the registered political party next to that of the candidate.

Article 15 provides for the citation and commencement of the draft Law.



Jersey

DRAFT POLITICAL PARTIES (REGISTRATION) (JERSEY) LAW 200

Arrangement

Article

<u>1</u>	<u>Interpretation</u>
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<u>13</u>	<u>Stamp Duties and Fees (Jersey) Law 1998 amended</u>
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Jersey

DRAFT POLITICAL PARTIES (REGISTRATION) (JERSEY) LAW 200

A LAW to provide for the registration of political parties who wish to endorse candidates for election as a Senator, Deputy or Connétable, and for connected purposes

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

(1) In this Law, unless the context otherwise requires –

“2002 Law” means the Public Elections (Jersey) Law 2002^[1];

“Court” means the Royal Court;

“Greffier” means the Judicial Greffier;

“officeholder” means, in relation to a party, one of the office holders mentioned in Article 2(4);

“register” means the register maintained under Article 6;

“registered” means for the time being entered in the register;

“working day” means any day other than Christmas Day, Good Friday, a Sunday or a day observed as a bank holiday pursuant to the Public Holidays and Bank Holidays (Jersey) Law 1951^[2].

(2) In this Law, a reference to a fee payable for any application or other matter is a reference to the stamp duty required to be paid for it under the Stamp Duties and Fees (Jersey) Law 1998^[3].

2 Requirements for political party to be registered

(1) A political party may only be registered if it complies with this Article.

(2) The party must have a name that does not exceed 6 words.

(3) The name of the party, and any abbreviation of the name and any emblem of the party, must not be –

(a) offensive, obscene or otherwise inappropriate; or

(b) either identical to, or of sufficient similarity that it may be confused with, the name, abbreviation or emblem of any other organization.

- (4) The party must have 3 officeholders, being the leader, treasurer and secretary.
- (5) A person may hold 2 of the offices described in paragraph (4), but not all 3.
- (6) A person cannot hold any office described in paragraph (4) unless he or she is registered as an elector under the 2002 Law.
- (7) The party must have an address in Jersey to which communications intended for the party may be sent.
- (8) The party must have a written constitution, one of the expressed objectives of which must be the endorsement of candidates for election as Senator, Deputy or Connétable.
- (9) The party must keep accounts.
- (10) The party must have an accounting period that does not exceed 12 months.
- (11) The States may by Regulations amend, or make provision in addition to, paragraphs (2) and (3) regarding the restrictions on the name of a political party.

3 Restriction on name and emblem used by registered political party

- (1) A registered political party must not use or otherwise hold itself out as known by any name, or abbreviation of its name, other than the name or abbreviation (if any) that is registered for it.
- (2) A registered political party must not use or otherwise hold itself out as associated with any emblem other than the emblem (if any) that is registered for it.

4 Application for registration of political party

- (1) An application for registration of a political party may be made to the Court, in accordance with this Article.
- (2) An application must contain –
 - (a) the full name of the party and the abbreviation (if any) of that name;
 - (b) the emblem, if any, of the party;
 - (c) an address, in Jersey, for the purposes of Article 2(7);
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) An application must be accompanied by –
 - (a) a copy of the party's constitution;
 - (b) a copy of the party's most recent statement of accounts;
 - (c) the fee payable for the application.
- (4) The application must be signed by not less than 20 persons.
- (5) A person can only sign an application if he or she is registered as an elector under the 2002 Law.
- (6) The States may by Regulations amend, in paragraph (4), the number of persons who must sign the application.

5 Consideration of application for registration of political party

- (1) The Greffier shall deliver to the Attorney General a copy of an application for registration of a political party.
- (2) The Attorney General shall inform the Court whether, in his or her opinion, the party complies with Article 2 and the application complies with Article 4.

- (3) The Court shall refuse to order the registration of a political party if the Court is of the opinion that the party does not comply with Article 2 or that the application does not comply with Article 4.

6 Registration of political party

- (1) The Greffier shall maintain a register of political parties.
- (2) Where the Court, on an application under Article 4, orders the registration of a political party the Greffier shall enter the following particulars in the register –
 - (a) the name of the party and the abbreviation (if any) of that name;
 - (b) the emblem (if any) of the party;
 - (c) the address, in Jersey, for the party;
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) The Greffier shall keep, for each registered political party, a copy of its constitution submitted under Article 4 or 8, and a copy of its statements of accounts submitted under Article 4 or 9.

7 Application for change of name or emblem of registered political party

- (1) A registered political party may, on payment of the fee, apply to the Court for the name and any abbreviation of the name registered for it to be altered or substituted.
- (2) A registered political party may, on payment of the fee, apply to register an emblem or to substitute the emblem registered for it.
- (3) An application under this Article must be –
 - (a) signed by 2 persons who are registered officeholders of the party; and
 - (b) accompanied by evidence that the decision to make the alteration, substitution or addition was made in accordance with the party's constitution.
- (4) The Court shall refuse to order the alteration of or addition to the register if the Court is of the opinion that the name, abbreviation or emblem does not comply with Article 2(2) and (3) or that the application does not comply with paragraph (3) of this Article.
- (5) Where the Court orders the alteration of or any addition to the register under this Article, the Greffier shall enter the particulars of the change in the register.

8 Changes in particulars of registered party

- (1) The Greffier must be notified, in writing, of –
 - (a) a change in the constitution of a registered political party;
 - (b) a change in the person holding the office of leader, treasurer or secretary of a registered political party;
 - (c) a change in the address, in Jersey, of a registered political party.
- (2) A notice required by paragraph (1) must be –
 - (a) delivered to the Greffier within the period of 10 working days following the change;
 - (b) signed by 2 persons who are registered officeholders of the party; and
 - (c) accompanied by evidence that the decision to make the change was made in accordance with the party's constitution and, in the case of notice of a change in the constitution of a registered political party, by a copy of the constitution as changed.
- (3) Where, by reason of death or incapacity of one or more registered officeholders or other cause, it is not possible to comply with paragraph (2)(b) when notice is given of a change described in

paragraph (1)(b), the Greffier may–

- (a) accept an alternative means of verification of the notice; or
 - (b) refer the matter to Attorney General, in order for the Attorney General to present the matter to the Court, for the Court to decide whether an alternative means of verification may be accepted.
- (4) The Greffier shall enter in the register the particulars of any change notified in accordance with this Article, unless it appears to him or her that the change has the effect that the party no longer complies with Article 2.
 - (5) Where it appears to the Greffier that the change notified has the effect that the party no longer complies with Article 2, the Greffier shall refer the matter to the Attorney General.
 - (6) The States may by Regulations amend the period mentioned in paragraph (2)(a).

9 Accounts to be filed

- (1) A statement of accounts in respect of an accounting period of a registered political party must be delivered to the Greffier within the period of 3 months following the end of the accounting period.
- (2) The States may, by Regulations, amend the period within which the statement must be delivered, mentioned in paragraph (1).

10 Removal from the register

- (1) The Court shall order the removal of a registered political party from the register upon an application –
 - (a) signed by 2 persons who are registered officeholders of the party; and
 - (b) accompanied by evidence that the decision to apply for the removal of the party from the register was made in accordance with its constitution.
- (2) The Court may, on the application of the Attorney General, order the removal of a registered political party from the register if the Court is satisfied –
 - (a) that the party no longer complies with Article 2;
 - (b) that the party has not complied with Article 3, 8 or 9; or
 - (c) that the party has not, for a period of 5 years, endorsed, in accordance with the 2002 Law, a person as a candidate for election as a Senator, Deputy or Connétable.
- (3) The period mentioned in paragraph (2)(c) begins on whichever is the later of–
 - (a) the date the party is registered;
 - (b) the date of the last nomination meeting at which the party endorsed a candidate for election as a Senator, Deputy or Connétable, in accordance with the 2002 Law.
- (4) The States may by Regulations amend the period mentioned in paragraph (2)(c).

11 Inspection of register of political parties

- (1) A person may inspect the register at the Judicial Greffe during its normal working hours.
- (2) A person may, on payment of the fee, obtain from the Greffier a copy of any document kept by the Greffier under Article 6(3).

12 Offence

A person who, knowingly or recklessly, makes any application to the Court under this Law or delivers any

notice to the Greffier under this Law, which is false in a material particular, shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

13 Stamp Duties and Fees (Jersey) Law 1998 amended

In Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998, after item 32 there shall be inserted the following item –

“32A.	POLITICAL PARTIES (REGISTRATION) (JERSEY) LAW 200			
(a)	Application for registration of political party	£50	Application	Greffier
(b)	Application to change name or abbreviation of name of a registered political party or to register or change the emblem of a registered political party	£50	Application	Greffier
(c)	Copy of constitution or statement of accounts, per page	£1	Application	Greffier”.

14 Public Elections (Jersey) Law 2002 amended

(1) In this Article, a reference to an Article or other division of a Law is a reference to the Article or division of that number in the 2002 Law.

(2) In Article 1(1), after the definition “public election” there shall be inserted the following definitions –

“ ‘registered officeholder’ means, in relation to a registered political party, a person registered as the holder of the office of leader, treasurer or secretary of that party;

‘registered’ means entered in the register under the Political Parties (Registration) (Jersey) Law 200;”.

(3) In Article 20, after paragraph (4) there shall be inserted the following paragraphs–

“(4A) Where the meeting is for the nomination of candidates for the office of Senator, Deputy or Connétable, a prospective candidate may indicate his or her wish to have his or her endorsement by a registered political party entered on the ballot paper, by complying with paragraph (4B).

(4B) Before the document described in paragraph (4) is subscribed by a proposer and 5 seconders –

(a) the prospective candidate shall complete a declaration, which shall be contained in that document, of the registered political party by which he or she is endorsed, indicating whether the registered name, or the registered abbreviation (if any) of the name, of the party is to be entered on the ballot paper; and

(b) the declaration shall be signed by the prospective candidate and 2 persons who are registered officeholders of the registered political party.

(4C) A prospective candidate who wishes to have his or her endorsement by a registered political party entered on the ballot paper need not be a member of that party.

- (4D) A declaration made in accordance with paragraph (4B) cannot be withdrawn after the document in which it is contained has been produced to the nomination meeting in accordance with paragraph (4).
- (4E) The States may, by Regulations, amend in paragraph (4B)(b) the description or numbers of persons required to sign a declaration.”.
- (4) In Article 24–
 - (a) in paragraph (1) for the words “setting forth” to the end of the paragraph there shall be substituted the following words –
 - “setting forth –
 - (a) the family names, other names and addresses of the candidates; and
 - (b) in a case where a candidate has, in accordance with Article 20(4A) and (4B) declared his or her wish to have his or her endorsement by a registered political party entered on the ballot paper, the registered name or registered abbreviation (if any) of the name, of the registered political party to be entered.”;
 - (b) for paragraph (3) there shall be substituted the following paragraphs–
 - “(3) In the case of any public election where a poll is needed, the person who presided at the nomination meeting shall have a sufficient number of ballot papers printed.
 - (3A) The ballot papers shall be in such form as the States prescribe by Regulations and shall –
 - (a) show the date and place of the election;
 - (b) show the names of the candidates in alphabetical order, one under the other; and
 - (c) in the case of a candidate who has, in accordance with Article 20(4A) and (4B) declared his or her wish to have his or her endorsement by a registered political party entered on the ballot paper, show, next to the candidate’s name, the registered name or the registered abbreviation (if any) of the name, of that party as signified in the candidate’s nomination document under Article 20”.

15 Citation and commencement

This Law may be cited as the Political Parties (Registration) (Jersey) Law 200 and shall come into force 7 days after it is registered.

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- [1] *chapter 16.600*
- [2] *chapter 15.560*
- [3] *chapter 24.960*