

STATES OF JERSEY



DRAFT CONNÉTABLES (AMENDMENT No. 2) (JERSEY) LAW 201- (P.112/2017): AMENDMENT (P.112/2017 Amd.) – COMMENTS

**Presented to the States on 12th January 2018
by the Comité des Connétables**

STATES GREFFE

COMMENTS

The Draft Connétables (Amendment No. 2) (Jersey) Law 201- ([P.112/2017](#)), lodged by the Privileges and Procedures Committee, is to meet the decision of the States when adopting part (a) of proposition [P.138/2016](#) of Deputy M.R. Higgins of St. Helier to –

“repeal Articles 4A, 7 and 8 of the States of Jersey Law 2005 and to replace them with a new Article or Articles to standardise the requirements relating to the qualification and disqualification for election in the States Assembly, so that all members (Connétables, Senators and Deputies) are subject to the same requirements;”.

That proposition was specific to the qualification and disqualification criteria in Articles 4A, 7 and 8 of the [States of Jersey Law 2005](#). It did not refer to changing the residence requirement for a person to be elected or hold office as a Connétable.

PPC makes it clear in the report within P.112/2017 that the proposed amendments to the [Connétables \(Jersey\) Law 2008](#) will ensure that the same statutory provision applies to all 3 classes of elected member, but does not affect other existing customary law provisions.

Nevertheless, Deputy M. Tadier of St. Brelade’s amendment, [P.112/2017 Amd.](#) –

- inserts Article 4E, which would remove the requirement for a person to reside in a particular parish to stand for election to or hold the office of Connétable.
- removes the requirement to be a British citizen to be able to stand for election as Connétable and to hold office.

Residence in the parish

In his report within P.138/2016, Deputy Higgins said that various changes over the last 8 years have *“had the effect of removing virtually all the distinctions between the various types of States Member other than their titles – Senator, Connétable and Deputy. All Members serve the same terms of office, are elected on the same day and can serve in any capacity in the States Assembly – backbencher, Assistant Minister and Minister”*.

In his report accompanying the amendment to P.112/2017, Deputy Tadier says it was a principle of Deputy Higgins’ proposition that the same qualification criteria should apply to Senators, Connétables and Deputies.

It is important to recognise that, whilst within the States Assembly a person elected as a Connétable has the same role as a person holding office as Senator or Deputy, the Connétable has additional responsibilities within his or her parish.

The Connétables sit in the States “by virtue of their office” rather than as a result of that office being created by the States of Jersey Law. They are the Head of the Parish and not delegates of the Parish; they are its representative.

The [Code of 1771](#), in relation to the lodging of Propositions *au Greffe*, provides that the purpose of the delay before the States’ debate is “in order that every individual of the States may have full time to consider thereof, and the Connétables to consult their

Constituents if they judge necessary” (hence it is a matter of discretion for the Connétable to consult as he or she sees fit, and each Connétable is a representative of the Parish and not its delegate).

Whilst a Senator and Deputy will seek to represent his/her constituents, it is only the Connétable who has a specific role in the administration of the Parish. That role includes the following –

1. Trustee/financial – responsible for the effective and efficient administration of the Parish (including its property); and –
 - (a) is empowered by the Parish Assembly to carry out decisions which are lawfully made;
 - (b) sets the direction and spending of the budget approved by the Parish Assembly;
 - (c) is assisted in the management of finances and resources by 2 Procureurs du Bien Public.
2. Rates – financial responsibility for the Parish accounts (and collection/payment to the States of the Island-wide rate).
3. Roads – chairs the Roads Committee which has oversight of all parish roads and responsibilities for road safety (ensuring branchage is cut, etc.).
4. Specific responsibilities under other legislation, including –
 - (a) [Licensing \(Jersey\) Law 1974](#);
 - (b) [Road Traffic \(Jersey\) Law 1956](#);
 - (c) [Shops \(Regulation of Opening and Deliveries\) \(Jersey\) Law 2010](#) (Sunday trading);
 - (d) [Places of Refreshment \(Jersey\) Law 1967](#);
 - (e) [Dogs \(Jersey\) Law 1961](#);
 - (f) [Firearms \(Jersey\) Law 2000](#);
 - (g) [Explosives \(Jersey\) Law 1970](#) (retail sale of fireworks);
 - (h) [Public Elections \(Jersey\) Law 2002](#);
 - (i) [Marriage and Civil Status \(Jersey\) Law 2001](#);
 - (j) [Customary Law \(Choses Publiques\) \(Jersey\) Law 1993](#).

Unlike Senators and Deputies, who can only be held to account by their electorate every 4 years, the Connétable is accountable each year to his/her parishioners, and to the ratepayers at the Parish Assembly to set the rate. The Connétable is thus far more aware of the views of his/her electorate throughout his/her term of office, and this ensures that the views of voters are well represented in the States Assembly.

To be able to fulfil the role of Connétable, it is clearly beneficial and desirable to parishioners that the person elected is closely associated with, and has a direct interest in, the running of the parish, and this is best achieved by the requirement that the person elected be a resident of the parish.

Residence in the parish is also a requirement for other parish officers; for example, members of the Roads Committee; Roads Inspectors; Rates Assessors; Registrars; and members of the Honorary Police. Whilst the requirement was relaxed slightly to enable a member of the Honorary Police who moved parish to complete their term of office, the report of the Legislation Committee accompanying the draft Law ([P.193/1998](#)) stated that –

“This reform would not, however, apply to the Connétable because, in the view of the Committee, his position as ‘Father of the parish’ is such that he ought to continue to be resident in the parish so long as he holds office.”

The position of the Connétable at customary law was described by Jurat Charles Le Quesne in his work: “A Constitutional History of Jersey” (1856) at page 3 –

“The chief officer is the Connétable ..., who is elected by the parishioners for three years. To the Connétable is confided the general direction of the affairs of the Parish ... The Connétable is the president of the Parish Assembly ... and of all the Parish committees. The Connétable is head of the police; ... [and] ... being chosen from among the best persons in the Parish, ... is looked up to by the parishioners; ...”

In Re Le Feuvre (1912) 227 Ex 474, the Connétable was relieved of his functions at his own request as he had left the parish. The Court stated specifically that it was in the public interest that a Connétable should be ‘*domicilié*’ in his parish. This was consistent with the earlier case of Balleine v Giffard (1888) 212 Ex 540, which held that a Connétable must be ‘*domicilié*’ in his parish.

The amendment proposed by PPC retains the supervisory jurisdiction of the Royal Court in relation to the office of Connétable (proposed Article 4D). The same criteria therefore do not – and will not – apply in every respect to the offices of Senator, Connétable and Deputy. The Comité des Connétables does not support abolishing the customary law requirement that a person elected, and holding office, as Connétable, should reside in the parish.

British citizen

A person elected as Senator or Deputy is required by Article 7 of the States of Jersey Law 2005 to be a British citizen and, by virtue of Article 8 of that Law, is disqualified from holding that office if ceasing to be a British citizen.

PPC is proposing the same criteria apply to a person seeking election and holding office as Connétable.

Until such time as the requirement is removed for the office of Senator and Deputy, it seems appropriate to apply that criteria to the office of Connétable, so that all Members (Connétables, Senators and Deputies) are subject to the same requirements.

Summary

The Comité des Connétables does not support the amendments proposed by Deputy Tadier, and recommends that they are rejected.