

STATES OF JERSEY



DRAFT ELECTIONS (JERSEY) AMENDMENT LAW 202- (P.28/2025) : COMMENTS

**Presented to the States on 12th June 2025
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction and Context

1. The proposition *Draft Elections (Jersey) Amendment Law 202-* [\[P.28/2025\]](#) – (hereafter “the draft Law”), which was lodged by the Privileges and Procedures Committee (hereafter “the PPC”) on 1st April 2025, proposes amendments to the [Elections \(Jersey\) Law 2002](#) (hereafter the “2002 Law”), to improve Jersey’s electoral system for candidates, voters and the facilitators of election processes.
2. The draft Law was informed by the [Commonwealth Parliamentary Association Election Observers Mission Report 2022](#) (hereafter “the EOM”), the Report of the Jersey Electoral Authority ([R.3/2023](#)) (hereafter “the JEA”) and feedback from the Electoral Administrators.
3. On 25th April 2025, an Amendment to the draft Law was lodged by Deputy Hilary Jeune. The Amendment proposes to reduce the residence requirement for persons voting in Jersey from two years to one year to, “...*strengthen democratic participation, ensure fairer representation, and bring Jersey’s electoral policies more in line with modern democratic values.*”
4. Following approval of the principles of the draft Law on 14th May 2025, it was referred to the Corporate Services Scrutiny Panel (hereafter “the Panel”) for further scrutiny under [Standing Order 72](#) of the Standing Orders of the States of Jersey. It was agreed that the Panel would report back to the States Assembly ahead of the Second Reading of the draft Law scheduled for 24th June 2025. It should be noted that the Panel has focused its scrutiny on the substantive draft Law and has not considered the Amendment as part of its work.

Scrutiny of the Proposals

5. Although the PPC notes within its accompanying report to the draft Law that the proposed changes are administrative in nature, the States Assembly raised three primary areas of concern during the opening debate on 14th May, principally related to the following articles:
 - Article 4 – Disqualification of certain offenders
 - Article 5 – Electoral complaints process (amendment to Article 13(D) of the Elections Law)
 - Article 17IA – Hustings
6. Due to the limited time that was available to the Panel to undertake its work, the Panel agreed to focus its scrutiny on the primary areas of concern raised by the States Assembly and endeavours to address these within its Comments.
7. The Panel [wrote](#) to the PPC on 15th May 2025 and received a [response](#) on 28th May 2025. The Panel also received the Chair of the PPC, accompanied by the Greffier of the States, for a private briefing on the draft Law on 29th May 2025.

8. During the briefing from the PPC Chair, the Panel was invited to ask questions of the PPC Chair rather than being provided with a full briefing on all aspects of the draft Law. The Panel took the opportunity to address the States Assembly's areas of concern.
9. In addition to the briefing, the Panel considered that the changes being proposed through Article 4 - Disqualification of certain offenders, would impact upon the States of Jersey Prison Service (hereafter "the SoJPS"). The Panel sought to understand what consultation was undertaken by the PPC in relation to the proposed changes and the impact on the SoJPS and [wrote](#) to the Minister for Justice and Home Affairs on 22nd May 2025. A [response](#) was received on 2nd June 2025, which has helped to inform the relevant section below.

Article 4 – Disqualification of certain offenders

10. The PPC proposes that recommendation 4 of the EOM report, ***“To allow for broader electoral participation on an equal basis, the blanket ban on the right to vote for persons serving prison sentences exceeding four years should be removed”***, is implemented and that the right to vote is extended to all prisoners incarcerated in Jersey.
11. The PPC Chair informed the Panel that consensus amongst its Members had not been found across all the issues raised in the reports and feedback considered in relation to the 2002 Law. However, the Panel was also informed that the PPC had agreed that the issue of prisoner voting rights was an important issue to be dealt with, particularly as it had been raised previously on two occasions through recommendations made by the EOM.
12. A key justification for the proposed change to prisoner voting rights in Jersey in the report accompanying the draft Law, is a 2005 ruling of the European Court of Human Rights¹, which found that the UK's blanket ban on prisoner voting was *“indiscriminate and disproportionate.”*² However, during the States Assembly debate on the principles of the draft Law, this justification was challenged on the basis that Jersey does not have a blanket ban on prisoner voting and has an established legal mechanism in place to facilitate voting for eligible persons serving prison sentences of four years or less in Jersey.
13. The Panel sought to understand the rationale for proposing that the change to prisoner voting rights only apply to prisoners incarcerated on-Island, and Jersey prisoners incarcerated off-Island would not be entitled to the same rights. The Panel learned that the change proposed under the draft Law was in accordance with other Crown Dependencies.
14. When considering the practical and operational implications for the SoJPS of extending the right to vote to all prisoners in Jersey, the Panel understands that, whilst the PPC requested information from the SoJPS about the additional number of prisoners that would be eligible under the proposed changes,

¹ [Case of Hirst v. The United Kingdom \(No. 2\) – European Court of Human Rights](#)

² [Prisoners' voting rights – House of Commons Library](#)

following written confirmation³ from the SoJPS, the Panel learned that no formal consultation on the proposed change had taken place between the PPC and the SoJPS.

15. The Panel understands that eight prisoners in Jersey submitted a postal vote at the last 2022 General Election, and that postal voting would be encouraged for any additional prisoners requalified for voting if the proposed change under the draft Law is adopted. Furthermore, the Panel also understands that the Judicial Greffe would facilitate the 'home' or prison visits for eligible voters who could not leave their place of residence or incarceration to vote.
16. In written correspondence from the Minister for Justice and Home Affairs it was noted that the change proposed under the draft Law would have resourcing implications for the SoJPS. The Panel was informed that additional resources would be required to:
 - a. Facilitate prisoner voting registration with the St Brelade's Parish Hall.
 - b. Maintain the electoral roll as and when prisoners arrive and leave the prison.
 - c. Supervision and management of visits by election candidates to prisoners, particularly if more election candidates sought to visit the prison population.
 - d. Costs associated with increased postal voting.⁴
17. The Panel wishes to highlight that Jersey has an established legal mechanism in place to facilitate prisoner voting for eligible persons, and that whilst differing views may exist about prisoner voting rights, the proposed change under Article 4 of the draft Law is not a requirement that must be fulfilled for Jersey to continue to meet its obligations regarding prisoner voting rights. The proposed change represents an expansion of the current rules, and the decision whether to agree to this or not, is a decision for the States Assembly.

Article 5 – Electoral complaints process (amendment to Article 13(D) of the Elections Law)

18. The PPC proposes that recommendation 12 of the EOM report, ***“In order to bolster the system of election dispute resolution and make it more inclusive, consideration could be given to the establishment of administrative redress available to persons other than the contestants”***, and that the resolution of disputes by the JEA be extended to the public.
19. However, the Panel observed concern during the States Assembly debate on the principles of the draft Law, about whether an appeals process for complainants to the JEA was in place. During its briefing from the PPC Chair, the Panel learned that whilst a formal complaints process was not yet established, the proposed changes meant that the JEA would be provided with greater autonomy and an enhanced role in the elections process.

³ [Letter – Minister for Justice and Home Affairs re Draft Elections \(Jersey\) Amendment Law 202- - 2nd June 2025](#)

⁴ [Letter – Minister for Justice and Home Affairs re Draft Elections \(Jersey\) Amendment Law](#)

20. The Panel was informed that the JEA will have responsibility for the confirmation of candidate nominations, which would align with the electoral register and involve some repositioning of the JEA as the authority for the administration of the election process.
21. The report accompanying the draft Law set out the challenges faced by the previously constituted JEA during the 2022 election period, that it “...*dealt with a multitude of complaints and it was this element of the workload which the lay members found particularly frustrating.*” The Panel sought to understand the extent of the complaints received and learned that, historically, complaints by candidates about other candidates, often related to practical issues such as the positioning of candidate campaign materials in public spaces.
22. The Panel was informed during the briefing that a formalised complaints process would be implemented for the JEA, which would provide the public with recourse to make a complaint in situations where they felt aggrieved by the elections process. Additionally, the Panel was informed that a formal complaints process administered by the JEA would establish a mechanism for managing the expectations of complainants about the handling of complaints made about aspects of the electoral process.
23. The Panel learned that a training handbook would be developed for participants involved in facilitating the electoral processes. The Panel was informed that consistency around the complaint handling process was important and would also involve training participants in the electoral processes to reduce confusion about the administration associated with the elections.
24. The Panel understands that the aim of the PPC regarding the JEA is to emulate the role and function of the UK Electoral Commission, and whilst the JEA will not be established as a ‘complaints panel’, it will enable a degree of administrative redress. The Panel also understands that these reforms will allow complaints to be dealt with more appropriately than is permitted by the current arrangements, with the aim of providing greater clarity to candidates and the public alike.
25. The Panel recognises the rationale of establishing a complaints process that ensures that complaints and disputes are appropriately dealt with while providing greater clarity and certainty for both candidates and the public. However, the Panel has emphasised that the introduction of a new, formal complaints process for the JEA, must be carefully managed to ensure that it does not encourage vexatious claims or create additional challenges for the facilitators of electoral processes.

Article 17IA – Hustings

26. The PPC is also proposing a new Article to the 2002 Law in relation to candidate hustings “...*to manage the hustings process for 2026 and onwards.*” The PPC identified candidate ‘hustings fatigue’ “...*with some candidates attending multiple events on successive nights across their constituencies*”, and the aim of Article 17IA is to address this.

27. The Panel was informed during the briefing with the Chair of PPC that the proposed changes included the introduction of a new process for candidate hustings, to be managed by the JEA. The Panel learned that this process would facilitate the provision of a basic hustings service, managed by the JEA, for all candidates during the election period, which included a venue, equipment and scheduled hustings dates.
28. However, the Panel notes that at present, there is no official public list of candidate hustings events, which creates additional challenges for candidates, particularly first-time candidates, and reiterated concerns set out in the report accompanying the draft Law, about the electorate's perception of candidates that did not attend all the hustings events.
29. The Panel notes that whilst the proposed changes will have resourcing implications to enable the JEA to discharge its new functions, the PPC has advised that the JEA will be suitably resourced and newly appointed JEA members have been made aware of the proposed changes under the draft Law. The background and credentials of the newly appointed JEA Chair and Members were set out in a Report, 'Jersey Electoral Authority – Appointment of Chair and Members' [[R.63](#)], presented to the States Assembly by the PPC on 1st May 2025.

Further Observations

Process

30. It became apparent to the Panel at the States Assembly sitting which commenced on 13th May 2025, that some States Members had procedural concerns and uncertainty about the mechanism by which legislative propositions lodged by the PPC should be properly scrutinised. The Panel wishes to highlight the following concerns that it observed:
- The Panel was, as per long-standing custom, identified as the 'back stop' Scrutiny Panel responsible under certain circumstances for scrutinising legislation lodged by the PPC. However, there was a lack of awareness amongst some States Members about how legislation brought forward by the PPC should be scrutinised.
 - The referral of legislation lodged by the PPC to Scrutiny is highly infrequent. Where concerns arise during a States' debate about legislation lodged by the PPC, these could reasonably and preferably be referenced back to the PPC for it to consider further.
 - There was uncertainty amongst some States Members about whether their concerns would be adequately addressed by the PPC, in the absence of further independent scrutiny.
 - There was also some uncertainty about the role of the States Assembly more generally, in holding the PPC to account.
31. The Panel notes that Standing Orders are silent on identifying the specific Panel responsible for scrutiny of legislation lodged by the PPC. A long-standing custom of the States Assembly is that this position is ascribed to the Corporate Services Panel. Typically, the Panel will not consider any legislative propositions lodged by the PPC prior to their debate within the States Assembly. The Panel's Chair is listed as the main respondent for such legislative

propositions with the Panel acting as a backstop, should further scrutiny of the proposals be deemed necessary by the Chair (or potentially the wider Assembly), during the course of the debate on the principles at hand. In such instances, although highly infrequent, legislative propositions lodged by the PPC would be referred to the Panel for further review under Standing Order 72.

32. The Panel would suggest that consideration be given to whether the customary elements of the role of Scrutiny in relation to legislation arising from the PPC should be more clearly formalised within Standing Orders and/or Scrutiny Codes.
33. The Panel has requested that going forward it be briefed in advance on all draft legislative propositions that the PPC intends to lodge. The Panel believes that this approach will ensure that it is better informed of proposed changes. However, the Panel wishes to highlight that consideration and debate by the States Assembly is of primary importance to the scrutiny of proposals brought forward by the PPC and should be the principal method of scrutiny.

Conclusion

34. The Panel acknowledges that the recommendations of the PPC in the report accompanying the draft Law, follow careful consideration of key reports and feedback about important aspects of Jersey's electoral processes. However, the Panel wishes to highlight the importance of undertaking thorough consultation with all stakeholders impacted by the draft Law, to properly inform the proposed changes and the States Assembly, about the matters proposed.
35. The Panel understands that Article 4 of the draft Law is an expansion of the current rules on prisoner voting rights and is not an obligation to ensure continued compliance with the European Convention on Human Rights. However, the Panel notes that such an expansion would have resourcing implications for the SoJPS, and that the SoJPS has not been consulted on the potential impacts of the draft Law. The Panel has also raised concern about the justification for the exclusion of eligible voters incarcerated off-Island from exercising their right to vote in Jersey.
36. The PPC intends to establish a complaints process that improves clarity and certainty about the process for dispute resolution related to elections in Jersey via Article 5 of the draft Law. However, the Panel has expressed concern about the potential impact of the complaints process on electoral processes, particularly in relation to vexatious claims, should it not be carefully implemented and managed. The Panel notes that it would be important for the JEA to have established criteria for managing expectations about the handling of complaints to ensure that the process delivers on the intended improvements, rather than the creation of potential further issues.
37. The enhanced role and authority of the JEA will include a centrally managed and financed basic hustings service for all election candidates under the new Article 17IA provision within the draft Law, to include timings, venue and equipment. The Panel has also noted the current absence of an official public list of candidate hustings, which would improve the experience, particularly for first-time candidates. The Panel has highlighted the resource implications for

the newly constituted JEA; however, the Panel has heard that the JEA will be suitably resourced and were advised of the changes being proposed under the draft Law.

38. The Panel is grateful to the PPC, the Minister for Justice and Home Affairs and Officials for their time and engagement with the Panel's scrutiny of the draft Law, which has assisted in informing these Comments.

Re-issue Note

These comments were re-issued to correct wording in paragraphs 25, 32 (now 33), and 36 (now 37).