

# STATES OF JERSEY

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## **DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200- (P.2/2008): COMMENTS**

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**Presented to the States on 8th February 2008  
by the Comité des Connétables**

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**STATES GREFFE**

## COMMENTS

The Public Elections (Jersey) Law 2002 was prepared after careful consideration of all the issues surrounding public elections. This work was undertaken by a Working Party set up by the Legislation Committee in 1997 and, in 1998, the States approved the Working Party's report and thus the brief for the new Law (P.207/1998).

The draft Law was approved in 2001 (P.132/2001) and took into account both practical and administrative issues relating to the holding of a public election. The amendments proposed by Deputy G.P. Southern of St. Helier will create administrative difficulties which don't exist under the 2002 Law.

### **Registration during the election period**

The amendment proposes that a person may register up to midday on the day before the election day rather than midday on the day before the nomination day, as at present. The reason given is that some will become interested in voting once the election has been declared. There is, however, usually at least 2 weeks between the Royal Court ordering the election and the nomination meeting in which persons eligible to vote may register as electors. In its report 'Electoral Law Reform' (P.207/1998), the Legislation Committee commented –

7.3.5 Although an Electoral Register would be an evolving document which would be updated on a continuous basis, it would become THE Electoral Register for any particular election in a parish, at noon on the day before the nomination meeting for that particular election, and all those electors' names contained in the register at that time would be eligible to vote.

7.3.6 Thus, because there would always be a period between the Royal Court declaring an election – together with the appropriate media-generated publicity associated with that event – and the Nomination Meeting, this would give a significant opportunity for interested parties to add their names to the Electoral Register if they found that they were disenfranchised after learning of the pending election.

7.3.7 Effectively the Electoral Register would be frozen at noon on the day before the nomination meeting, until after the date of the poll, and at that time serial numbers would be allocated and printed versions would be sent to the Judicial Greffe and made available to candidates.

The Electoral Register has to be finalised prior to the nomination meeting as –

- It provides the list of those who are entitled to propose and second a candidate (Article 18).
- The Judicial Greffe requires a list of persons who are eligible for postal or pre-poll voting.
- A person is only entitled to have their name on one electoral register at any time.

Allowing later registration, up to the day before the election day, could result in more people not bothering to return the annual registration form or reminders sent to each unit of dwelling accommodation. At present, a form is sent to every unit of dwelling accommodation and up to 2 reminders are also sent if no reply is received from that address. Further, the Judicial Greffe advertises 4 times during the year to remind people of their duty to register.

If a person is permitted to add his/her name to a register between the day before the nomination meeting and the day before the election day this could also require the removal of that name from another register and impact upon postal/pre-poll votes which have already been cast.

If a person is already registered as an elector for the Senatorial elections, it does not matter in which district they are registered, as the whole Island votes in the election. However, it would have implications for elections for Connétables, Deputies and Centeniers, as each of these elections is on a single day across the Island, but with different electoral districts in each Parish.

### **Greater access to the register**

The amendment to Article 11 of the principal Law provides for a data controller, under the specified conditions to have a copy of the register as at 1st July for a particular district. The purpose would be to achieve the registration of persons entitled to be so registered or to conduct a campaign for election in a public election. However, the electoral register is a rolling register and therefore changes from day to day as persons become eligible in a particular district to have their name included on that register. The 1st July register will quickly be outdated and will not, in any event, be the list of persons entitled to vote in a public election as this is the register as it stands just prior to nomination day (under the current Law) – it would therefore be inaccurate for canvassing for a public election. Further, the Law requires parishes to send a registration form to be completed and returned by 1st June each year and this information is used to produce the registers at 1st July – up to 2 further reminders are then sent by parishes and if separate registration campaigns are being conducted at this time by a number of ‘data controllers’ this could cause confusion for the public. Registration campaigns conducted later in the year will be using inaccurate information and could mislead persons who have registered since the 1st July register was produced.

### **Election day: powers of Autorisé**

The further amendment proposed by Deputy Southern to Article 3 of the principal Law would, in fact, permit any person to register on the day of the election (provided they met the registration criteria as at midday on the day before the election day).

### **Conclusion**

This has not been properly thought out and is likely to lead to administrative confusion on the day of election.

Current Wording	Proposed wording
Article	Changes highlighted
<p><b>3 Voting where name omitted from electoral register</b></p> <p>If a person claims a right to vote at a polling station in an electoral district, but the person's name does not appear on the electoral register for that district, the person may still vote if the <i>Autorisé</i> (or <i>Adjoint</i>) in charge of the polling station is satisfied –</p> <p>(a) from a declaration by the person in such form as the States may prescribe by Regulations; and</p> <p>(b) after consulting the Connétable or such other officer, or such employee, of the relevant parish as he or she considers appropriate,</p> <p>that the name has been omitted from the register as a result of administrative error.</p>	<p><b>3 Voting where name omitted from electoral register</b></p> <p>If a person claims a right to vote at a polling station in an electoral district, but the person's name does not appear on the electoral register for that district, the person may still vote if the <i>Autorisé</i> (or <i>Adjoint</i>) in charge of the polling station is satisfied –</p> <p>(a) from a declaration by the person in such form as the States may prescribe by Regulations; and</p> <p>(b) after consulting the Connétable or such other officer, or such employee, of the relevant parish as he or she considers appropriate,</p> <p>that the person is, in accordance with Article 5, entitled to have his or her name included in the electoral register for that electoral district.</p>
<p><b>5 Entitlement to be registered</b></p> <p>(1) A person is entitled on a particular day to have his or her name included on the electoral register for an electoral district if on that day –</p> <p>(a) the person is at least 18 years old;</p> <p>(b) the person is ordinarily resident in that district; and</p> <p>(c) the person has been –</p> <p>(i) ordinarily resident in Jersey for a period of at least 2 years up to and including that day, or</p> <p>(ii) ordinarily resident in Jersey for a period of at least 6 months up to and including that day, as well as having been ordinarily resident in Jersey at any time for an additional period of, or for additional periods that total, at least 5 years.</p> <p>(2) A person is not entitled to have his or her name included on the electoral registers for more than one electoral district at the one time.</p>	<p><b>5 Entitlement to be registered</b></p> <p>(1) A person is entitled on a particular day to have his or her name included on the electoral register for an electoral district if on that day –</p> <p>(a) the person is at least 18 years old;</p> <p>(b) the person is ordinarily resident in that district; and</p> <p>(c) the person has been –</p> <p>(i) ordinarily resident in Jersey for a period of at least 1 year up to and including that day, or</p> <p>(ii) ordinarily resident in Jersey for a period of at least 6 months up to and including that day, as well as having been ordinarily resident in Jersey at any time for an additional period of, or for additional periods that total, at least 3 years</p> <p>(2) A person is not entitled to have his or her name included on the electoral registers for more than one electoral district at the one time.</p>
<p><b>10 Revision of electoral register</b></p> <p>Every Connétable shall cause the electoral register for each electoral district within the Connétable's parish to be changed as soon as practicable after being satisfied that such change is necessary, whether on the basis of a return, an application or information from the Connétable of another parish or to comply with any order of the Royal Court under Article 9 and whether the change involves the addition, removal or variation of names or other particulars.</p>	<p><b>10 Revision of electoral register</b></p> <p>Every Connétable shall cause the electoral register for each electoral district within the Connétable's parish to be changed as soon as practicable after being satisfied that such change is necessary, whether following a person being allowed to vote pursuant to Article 3 or on the basis of a return, an application or information from the Connétable of another parish or to comply with any order of the Royal Court under Article 9 and whether the change involves the addition, removal or variation of names or other particulars.</p>
<p><b>11 Electoral register to be available</b></p>	<p><b>11 Electoral register to be available</b></p>

- (1) Every Connétable shall cause the electoral register for each electoral district within the Connétable's parish to be available at the parish hall for public inspection during the office hours of the parish hall.
- (2) Every Connétable shall provide, free of charge, a copy of the electoral register for each electoral district within the Connétable's parish as it stands immediately before 1st September 2002, and 1st July in each year thereafter, to the Librarian of the Jersey Library and to the Judicial Greffier.
- (3) The Librarian and the Judicial Greffier shall each cause the copy so provided to him or her to be available free of charge for public inspection at the Jersey Library and the Judicial Greffe respectively during the normal opening hours of that place.

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- (2) Every Connétable shall provide, free of charge, a copy of the electoral register for each electoral district within the Connétable's parish as it stands immediately before 1st September 2002, and 1st July in each year after that, to –
  - (a) the Librarian of the Jersey Library;
  - (b) the Judicial Greffier;
  - (c) to a data controller described in paragraph (3), at the data controller's request.
- (3) A person may request a copy of an electoral register under paragraph (2) if he or she shows, to the satisfaction of the Connétable, that he or she is a data controller entered in the register under Article 19 of the Data Protection (Jersey) Law 2005 and that the particulars entered in that register pursuant to Article 16(1)(c) to (f) of that Law are –
  - (a) that the electoral register is the personal data being, or to be processed by or on his or her behalf,
  - (b) that the purposes for which the data are being or are to be processed are –
    - (i) the conduct of a campaign to achieve the registration, in the electoral register, of all persons who are entitled to be so registered, or
    - (ii) the conduct of a campaign for election in a public election;
  - (c) that the recipients to whom the data controller intends or may wish to disclose the data are persons engaged, at the direction of the data controller, in the conduct of the campaign; and
  - (d) that there are no countries or territories outside Jersey to which the data would be transferred.
- (4) The Librarian and the Judicial Greffier shall each cause a copy provided to him or her under

	paragraph (2) to be available, free of charge, for public inspection at the Jersey Library and the Judicial Greffe respectively during the normal opening hours of that place.”.
<p><b>12 Electoral register in force for an election</b></p> <p>(1) For the purposes of any election, an electoral register for an electoral district within a parish is the electoral register for the district as in force at midday on the day before the day when the nomination meeting for the election is held.</p> <p>(2) The Connétable of the parish shall cause a copy of the register as so in force to be published in printed form and copies of it as so published to be available to –</p> <p>(a) the Judicial Greffier, the <i>Autorisés</i> and <i>Adjoints</i> and the candidates for the election free of charge; and</p> <p>(b) <i>not in force on the revision date</i></p>	<p><b>12 Electoral register in force for an election</b></p> <p>(1) For the purposes of any election, an electoral register for an electoral district within a parish is the electoral register for the district as in force at midday on the day before the day when (words deleted) the election is held.</p> <p>(2) The Connétable of the parish shall cause a copy of the register as so in force to be published in printed form and copies of it as so published to be available to –</p> <p>(a) the Judicial Greffier, the <i>Autorisés</i> and <i>Adjoints</i> and the candidates for the election free of charge; and</p> <p>(b) <i>not in force on the revision date</i></p>
	<p><b>17A Interpretation of Part 5</b></p> <p>In this Part, any reference to persons entitled under Article 2(1), (2) or (3) to vote at a public election shall be construed as if, notwithstanding Article 12, the reference in each of those paragraphs to the register in force for an election were a reference to register in force at midday on the day before the day when the nomination meeting for the election is held.”.</p>
<p><b>32 Giving ballot paper to elector</b></p> <p>(1) The <i>Autorisé</i> (or <i>Adjoint</i>) in charge of a polling station shall give a ballot paper to each person who satisfies the <i>Autorisé</i> (or <i>Adjoint</i>) that he or she is entitled to vote there.</p> <p>(2) The <i>Autorisé</i> or <i>Adjoint</i> shall –</p> <p>(a) mark off the name of the person on a copy of the electoral register (or, in the case of a person whose name has been omitted from the register as a result of administrative error, make a note of the person’s name on a copy of the register and assign a serial number for the person and record it on the copy of the register);</p> <p>(b) write on the counterfoil of the ballot paper the electoral number of the person (or, in the case of a person whose name has been omitted from the register as a result of administrative error, the serial number for the person); and</p> <p>(c) stamp the front of the ballot paper with an official stamp in such form as the States may prescribe by Regulations.</p> <p>(3) If the <i>Autorisé</i> or <i>Adjoint</i> gives a ballot paper to a person whose name has been omitted from the register as a result of administrative error, he or she shall make a note in the return of the</p>	<p><b>32 Giving ballot paper to elector</b></p> <p>(1) The <i>Autorisé</i> (or <i>Adjoint</i>) in charge of a polling station shall give a ballot paper to each person who satisfies the <i>Autorisé</i> (or <i>Adjoint</i>) that he or she is entitled to vote there.</p> <p>(2) The <i>Autorisé</i> or <i>Adjoint</i> shall –</p> <p>(a) mark off the name of the person on a copy of the electoral register (or, in the case of a person whose name has been omitted from the register (words deleted), make a note of the person’s name on a copy of the register and assign a serial number for the person and record it on the copy of the register);</p> <p>(b) write on the counterfoil of the ballot paper the electoral number of the person (or, in the case of a person whose name has been omitted from the register (words deleted), the serial number for the person); and</p> <p>(c) stamp the front of the ballot paper with an official stamp in such form as the States may prescribe by Regulations.</p> <p>(3) If the <i>Autorisé</i> or <i>Adjoint</i> gives a ballot paper to a person whose name has been omitted from the register (words deleted), he or she shall make a note in the return of the fact that the</p>

fact that the person was allowed to vote.

(4) When giving ballot papers to persons under this Article, the *Autorisé* or *Adjoint* shall place himself or herself in such a position as not to show the numbers on the ballot papers so delivered, or on the counterfoils attached to them, to the candidates or to their representatives.

person was allowed to vote.

(4) When giving ballot papers to persons under this Article, the *Autorisé* or *Adjoint* shall place himself or herself in such a position as not to show the numbers on the ballot papers so delivered, or on the counterfoils attached to them, to the candidates or to their representatives.