

STATES OF JERSEY



DRAFT CONNÉTABLES (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

**Lodged au Greffe on 3rd April 2012
by the Comité des Connétables**

STATES GREFFE



Jersey

DRAFT CONNÉTABLES (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Comité des Connétables has made the following statement –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Connétables (Miscellaneous Provisions) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Connétable J. Le Sueur Gallichan of Trinity**

REPORT

1 Introductory

- 1.1 This *Projet de Loi* is brought to the States by the *Comité des Connétables* with the aim of implementing a decision of the States taken in the light of recommendations made in the Report carried out under the Chairmanship of Sir Cecil Clothier K.C.B., Q.C. presented to the States on 23rd July 1996 (“*Clothier*”).
- 1.2 *Clothier* made numerous recommendations, some of them addressing the rôle of the Connétables as part of the Honorary Police. Following the presentation of *Clothier*, the States charged the then Defence Committee to set up a Working Party (“the Working Party”) to consider whether and to what extent a number of matters should be implemented, including the possible removal of the Connétables’ policing functions.
- 1.3 Irrespective of *Clothier*, of course, the Connétables have long accepted that they should not in practice perform an active, operational, policing rôle; and the position *de facto* has been for some years that none of them has sought to do so.
- 1.4 On 9th December 1997, the Working Party presented its report and recommendations; and on 19th May 1998, the States approved the recommendations of the Working Party, including the following –
- that the office of *Chef de Police* be established by law;
 - that the Connétable cease to fulfil an operational policing rôle but retain overall responsibility for the effective and efficient policing of the Parish;
 - that the senior *Procureur du Bien Public* be empowered by law to deputise for the Connétable in the event of the latter’s incapacity or absence from the Island.
- 1.5 The office of *Chef de Police* has been established now in statute – under the Honorary Police (Jersey) Regulations 2005 – but the cessation of the operational policing rôle of the Connétable has not been effected in law; and so in turn, there is not yet in place any statutory provision empowering a *Procureur du Bien Public* to deputise for the Connétable.
- 1.6 It is fair to say that the delay in bringing forward relevant *Projets* to the States has been due partly to successive Propositions seeking the removal of the Connétables from the States altogether. Had any of those Propositions been successful, the rationale for removing the Connétables’ operational policing rôle would have fallen away.
- 1.7 In the event, the Minister for Home Affairs has lodged *au Greffe* the draft States of Jersey Police Force Law 201- [P.182/2011], which includes quite extensive amendments of Jersey’s policing legislation. This has afforded an opportunity to the *Comité* finally to bring forward draft legislation to

implement the remaining aspects of the Resolution of the States of 19th May 1998 (“the 1998 Resolution”).

2. The legislative changes – policing powers

2.1 It should be emphasized at the outset that the States’ Resolution of 1998 (“the 1998 Resolution”) was aimed at the operational policing functions of the Connétable. It expressly sought to “*retain [the] overall responsibility [of the Connétable] for the effective and efficient policing of the Parish*”.

2.2 Accordingly, the definition of “policing function” in the draft Law is confined to those powers and duties that are currently exercisable (in strict law, that is) by the Connétable as an operational police officer; but does incorporate the power that presently exists in certain circumstances to levy fines summarily.

2.3 The relevant powers and duties are essentially the following –

- (a) keeping the peace;
- (b) powers of –
 - (i) search, examination and investigation;
 - (ii) arrest and granting bail;
- (c) conducting Parish Hall inquiries and charging suspected offenders;
- (d) presenting accused persons before the criminal courts,

together with a number of ancillary and incidental functions *e.g.* ensuring that witnesses are duly summoned.

2.4 It is those direct policing powers of the Connétable that would be repealed, but the repeal would not extend to what may be termed the ‘higher’ functions of the Connétable as ‘father’, or head, of the Parish in relation to its honorary police.

2.5 It is important to be clear what the position is, and will continue to be, in this respect and the nature of the working relationship between the Connétable and the *Chef de Police* and the other centeniers, the vingteniers and the constable’s officers of the Parish. 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; ... It is the Connétable’s duty to see that order is preserved. He is assisted by centeniers, who are also elected by the people for three years; by vingteniers; and by officiers du connétable,”

2.6 In the modern context, there is a parallel – albeit not an exact one – between the rôle of the Connétable within the Parish in relation to the Honorary Police

as described by *Le Quesne*, and the function of the Minister for Home Affairs in relation to the States of Jersey Police Force. The Minister has overall and ultimate responsibility for the functioning of the States of Jersey Police Force. He or she sets policies in relation to the key aims and objectives of the States Police, as well as management policies.

- 2.7 Of course the supervisory function of the Connétable is entrusted to him or her directly by the electorate, which is not the case with the Minister. In relation to the draft Law herewith, the supervisory function entrusted by the electorate to the Connétable remains wholly intact. But, just as it would be inappropriate for the Minister for Home Affairs to exercise the policing powers of a member of the States of Jersey Police Force whilst being a member of the legislature, so in the modern age it is clearly no longer appropriate for the Connétable, who has a seat in the legislature, to exercise the policing powers of a member of the Honorary Police.
- 2.8 The continuity of the Connétable's supervisory rôle is ensured by *Article 4* of the *Projet de Loi* which declares that nothing in the Law is to derogate in any way from –
- (a) the responsibility of the Connétable to supervise the Honorary Police within his or her Parish; and
 - (b) the Connétable's powers and duties associated with that responsibility.
- 2.9 It follows from the continuity of the Connétable's supervisory function that –
- (a) the amendments made by the draft Law to the Code of Laws of 1771 and the oath of Connétable continue to reflect the pre-eminence of the Connétable in terms of convening the Principals and Officers of the Parish;
 - (b) none of the Connétable's functions under the Honorary Police (Jersey) Regulations 2005 are affected: so *e.g.*
 - (i) the Connétable will continue to appoint and if need be remove the *Chef de Police* and inform the Attorney General;
 - (ii) declarations by candidates for election as a member of the Honorary Police will continue to be made to the Connétable;
 - (iii) the Connétable will still be notified of any wish to resign from the Honorary Police and will inform the Attorney General;
 - (c) the requirement will remain to inform the Connétable in relation to 'cross-boundary' exercise of policing jurisdiction and requests for assistance, under Articles 5 and 5A of the Police Force (Jersey) Law 1974;
 - (d) the rôle of the Connétable within the framework of the Police (Complaints and Discipline) (Jersey) Law 1999 will be unaffected.
- 2.10 *Schedule 1* to the draft Law amends the pivotal provisions in the Code of Laws of 1771 (including the oath of Connétable) and in the Police Force (Jersey) Law 1974 that confer the basic powers of a police officer on the Connétable within his or her Parish. *Article 2* of the draft Law repeals so

much of Jersey customary law as empowers or requires the Connétable to act as a police officer.

- 2.11 *Schedule 2* to the draft Law amends (among other things) the *Loi* (1937) *sur l'atténuation des peines et sur la mise en liberté surveillée* (i.e. the Probation Law) and the Criminal Justice (Community Service Orders) (Jersey) Law 2001. These Laws confer functions upon the Connétable in relation to offenders as regards probation orders and compensation order. Such functions do not rank, technically, as policing functions, but they too have ceased to be discharged by the Connétable.
- 2.12 There are of course many statutory provisions (besides those listed in *Schedule 1*) that confer operational police powers on the Connétable for certain purposes. Those provisions also are in need of repeal, and the draft Law therefore empowers the States by Regulations to repeal any policing function conferred on the Connétable of the operational type outlined in 2.3 *above*, as well as provisions in enactments that confer powers to levy fines summarily.
- 2.13 Therefore, Regulations will be drafted in due course under this Law (once the Law has been registered by the Royal Court) to amend a number of Laws and Regulations insofar as they contain provision relating to such direct policing powers of the Connétable. Among the enactments affected are –
- (a) Aerodromes (Administration) (Jersey) Law 1952:
- Article (2): to replace reference to the Connétable of the relevant Parish undertaking a prosecution, with a reference to a centenier of the relevant Parish doing so;
- Article 5: to omit reference to the Connétable in relation to the levying of fines summarily under the Law.
- (b) Loi (1853) au sujet des centeniers et officiers de police:
- Articles 7 and 8: to omit references to the Connétable being able to require a complainant or witness to make a statement on oath;
- Article 12: to omit reference to the Connétable not taking cognisance of cases in which the complainant or a witness has not made a statement on oath.
- (c) Loi (1853) pour la répression des moindres délits
- Article 2: to replace the reference to the Connétable having to warn witnesses for the Magistrate's Court, with a reference to the '*centenier chargé de l'affaire*'.
- Article 3: to omit reference to the Connétable in connection with receiving notice of the names of defence witnesses.
- (d) Criminal Justice (Anonymity in Sexual Offence Cases) (Jersey) Law 2002
- Article 1(5): to replace the reference to a person being presented before the Magistrate's Court by the Connétable of the relevant Parish, with a reference to the person being presented by a centenier.

- (e) Criminal Justice (Compensation Orders) (Jersey) Law 1994
Article 6: to replace reference to the Connétable in whose name the offender has been presented before the court, with reference to the relevant centenier.
- (f) Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996
Article 2: to omit reference to powers reserved to a Connétable by Article 3(2)(b) and (c) of the Police Force (Jersey) Law 1974;
Article 3 and 4: to omit reference to the Connétable being able to present an accused before the Magistrate’s Court, or acting pursuant to the power in Article 3;
Article 4A: to omit reference to the Connétable in connection with the holding of a Parish Hall inquiry.
Article 5: to omit reference to the Connétable in connection with the exercise of an authority under Article 2, 3 or 4A.
- (g) Customs and Excise (Jersey) Law 1999
Article 65: to omit reference to the Connétable in connection with a reference by the Agent of the Impôts for prosecution for an offence under the Law.
- (h) Extradition (Jersey) Law 2004
Article 88: to omit reference to the Connétable in connection with an authorization to exercise powers of entry and search under the Law.
- (i) Fertilisers and Feeding Stuffs (Jersey) Law 1950
Article 1(1): to omit reference to the Connétable in connection with the definition of ‘*prosecutor*’ under the Law.
- (j) Food Safety (Jersey) Law 1966
Article 1(1): to omit reference to ‘*any Constable*’ in the definition of ‘*authorized officer*’ under the Law.
- (k) Harbours (Administration) (Jersey) Law 1961
Article 3(2): to replace reference to the Connétable of the relevant Parish undertaking a prosecution, with a reference to a centenier of the relevant Parish doing so;
Article 5: to omit reference to the Connétable in relation to the levying of fines summarily under the Law.
- (l) Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949
Article 1(1): to omit the definition of ‘Connétable’;
Articles 9 and 10 (Summons; and Service of summons): to replace reference to a person being summoned at the instance of the Connétable, with reference to a person being summoned at the instance of the relevant centenier; and to replace reference to a

summons being signed by the Connétable, with reference to a summons being signed by the relevant centenier.

- (m) *Loi (1885) touchant l'Administration des Marchés Publics*
Article 2: to omit reference to 'Le Connétable' in connection with being charged to keep the peace in the Public Markets.
- (n) Motor Traffic (Third-Party Insurance) (Jersey) Law 1948
Article 20: to omit reference to the Connétable in connection with the power to inflict and levy fines summarily.
- (o) Motor Vehicle Registration (Jersey) Law 1993
Article 14 and the Schedule: to omit references to the Connétable in connection with the power to inflict and levy fines summarily.
- (p) Nursing and Residential Homes (Jersey) Law 1994
Article 18(2): to replace reference to 'the Connétable in whose name the proceedings have been instituted' with reference to the appropriate centenier.
- (q) Official Secrets (Jersey) Law 1952
Articles 3, 5 and 9: to omit references to the Connétable in connection with evidence gathering powers.
- (r) Places of Refreshment (Jersey) Law 1967
Article 12(5): to omit reference to the Connétable in connection with powers of police entry on registered premises.
- (s) Police Procedures and Criminal Evidence (Jersey) Law 2003
Articles 12 and 13 (Records of searches; Vehicle checks): to replace references to the Connétable in connection with records of searches and the authorisation of vehicle checks, with references to the *Chef de Police*.
- (t) Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957
Article 1: to omit reference to the Connétable in connection with the power to inflict and levy fines summarily.
- (u) *Loi (1884) sur le prêt sur gages*
Articles 12, 14 and 20: to omit references to the Connétable in relation to provisions about the prosecution of certain offences in connection with pawnbrokers.
- (v) *Loi (1864) réglant la procédure criminelle*
Article 14: in connection with committal proceedings, to replace reference to the Connétable having brought the accused before the court, with reference to the 'centenier chargé de l'affaire';

Articles 15, 21, 22, 23, 26 and 27: similarly to replace references to the Connétable in relation to various stages of the prosecution process in proceedings remitted to the Royal Court, with references to the centenier.

(w) Loi (1797) sur les rassemblements tumultueux

Article 2: to omit reference to a Connétable in relation to policing functions in the case of unlawful assemblies (order to disperse peacefully).

(x) Rates (Jersey) Law 2005

Article 3(8): to omit reference to the Connétable in connection with the power to inflict and levy fines under the Law summarily.

(y) Road Traffic (Jersey) Law 1956

Article 86 (Duty to give information as to person in charge of vehicle): omit the reference to a requirement 'by or on behalf of the Connétable'.

2.14 By ceasing to rank as a 'police officer', the Connétable's supervisory rôle, as head of the Parish, in relation to the honorary police would not be adversely affected by the provisions of the Data Protection (Jersey) Law 2005.

2.15 The Parish itself is the data controller in relation to policing data in the Parish. Both the Connétable and the honorary police fall within the registered recipients of information handled by the Parish. The Connétable within the Parish would thus continue to have access to relevant information/data where it was necessary for the performance of his or her supervisory rôle.

3. The legislative changes – deputizing for the Connétable

3.1 The draft Law also seeks to implement the last recommendation of the 1998 Resolution, namely, that the senior *Procureur du Bien Public* of the Parish be empowered by law to deputise for the Connétable in the event of the latter's incapacity or absence from Jersey.

3.2 This is a long-awaited provision which it has not been possible to enact whilst active policing powers have remained (technically) vested in the Connétable. Since 1998, the law relating to elections for *Procureurs du Bien Public* has been changed so as to require a public election – as opposed to an election merely by the Parish Assembly – to be held if the position is contested.

3.3 *Article 5* of the *Projet de Loi* goes slightly further than the 1998 Resolution in certain respects:

3.3.1 *Article 5* duly provides for the senior *Procureur* to deputise for the Connétable in the latter's incapacity (inability to discharge the functions of office) or absence from Jersey; but it also provides for such deputisation whilst there is a vacancy in the office of Connétable.

3.3.2 There is also a provision in *Article 5* which gives a measure of flexibility in cases of a Connétable's absence from the Island for only

a short period. If the absence is for 7 days or less, the Connétable may effectively elect to continue to discharge the functions of office.

- 3.3.3 Furthermore, *Article 5* contains a provision enabling the ‘junior’ of the *Procureurs* to deputise for the Connétable instead of the senior, quite simply with the consent of the Attorney General.
- 3.3.4 In any event, there may be certain matters (such as a conflict of interest) that prevent the senior of the *Procureurs* from discharging one or more of the functions of the Connétable; if that is the case, the junior *Procureur* must discharge the relevant function(s) instead.
- 3.3.5 The Connétable is responsible for appointing and, if need be, dismissing, the *Chef de Police*. The draft Law would require the *Procureur*, if deputising for the Connétable –
- (a) to consult with the Attorney General before appointing a *Chef de Police*; and
 - (b) to obtain the consent of the Attorney General before dismissing the *Chef de Police*.
- 3.4 An inability to discharge the functions of office means an inability for any reason, be it illness, injury or otherwise.
- 3.5 Seniority as between the *Procureurs* is to be determined –
- (a) by their respective seniority in office; or if that seniority cannot be distinguished;
 - (b) by their respective periods of continuous service in the relevant parish; or if seniority in office and period of service cannot be distinguished, then
 - (c) by their respective seniority in age.
- 3.6 It is important to note that the *Procureur*, in deputizing for the Connétable, will not assume any of the functions of, or connected with, attending the States, or acting as a member of the Supervisory Committee or the *Comité des Connétables*.
- 4. The ‘Honorary Police (Jersey) Law 1974’**
- 4.1 The legislative changes made by this Law and by **P.182/2011** will mean that there will be two separate Laws, one governing the Honorary Police and the other governing the States of Jersey Police Force. What is now known as the Police Force (Jersey) Law 1974 will, in its amended form, become known as the ‘Honorary Police (Jersey) Law 1974’.
- 4.2 The consolidated text of the ‘Honorary Police (Jersey) Law 1974’ is set out in the **Appendix** to this Report.
- 5. Consultation etc.**
- 5.1 The proposed changes will affect the current rôles of both the *Chef de Police* and the *Procureur du Bien Public* and it is important to record that, in addition to correspondence with *the Comité des Chefs de Police*, the *Comité des Connétables* has held meetings to consult with the following on the draft Law:

- 5.1.1 all the *Procureurs du Bien Public*
 - 5.1.2 all the *Chefs de Police*
 - 5.1.3 jointly with all the *Procureurs du Bien Public* and all the *Chefs de Police* (this meeting was addressed by H.M. Attorney General).
- 5.2 The *Comité* has considered, in some detail, the specific issues raised by officers and has sought to identify those duties of the *Connétable* which are of a civil nature, and thus the *Procureur du Bien Public* should deputise for the *Connétable*, and those which are of a policing nature where the *Chef de Police* will be responsible. Specific examples include:
- 5.2.1 Parish Assembly: this is a civil rôle and the senior *Procureur du Bien Public* will call and chair a meeting if the *Connétable* is unable to discharge this function;
 - 5.2.2 Driving licences and firearm certificates: the issue and revocation of these is a civil rôle albeit that the *Connétable*, and likewise the senior *Procureur du Bien Public*, might seek advice from the *Chef de Police* in relation to the issue and revocation of a driving licence or a firearms certificate. Therefore the senior *Procureur du Bien Public* will deputise if the *Connétable* is unable to discharge this function;
 - 5.2.3 Parish by-roads: the senior *Procureur du Bien Public* will deputise for the *Connétable* as chair of the Roads Committee and this Committee deals with requests such as road closures for resurfacing, etc.; whereas the operational policing powers to close a road in specific circumstances will remain with the *Chef de Police*;
 - 5.2.4 Honorary Police complaints and discipline: the Police (Complaints and Discipline) (Jersey) Law 1999 and subordinate Regulations require the *Connétable* to undertake various administrative duties to process a complaint which he/she receives and, where so directed by H.M. Attorney General, to seek informal resolution of the complaint. Disciplinary measures are the responsibility of H.M. Attorney General who is titular head of the Honorary Police. The Attorney General has confirmed that the rôle of the *Connétable* is civil, and not policing, therefore the senior *Procureur du Bien Public* will deputise if the *Connétable* is unable to discharge this function.
- 5.3 It is fair to say that, for the parishes and indeed the island, the proposed changes to the law are the most significant to have been put forward for many years and the *Comité* does not underestimate the impact on the rôles undertaken by officers. Just as it will formally remove operational policing powers from the *Connétable*, it will remove various civil duties from the *Chef de Police* and place these on the senior *Procureur du Bien Public*.
- 5.4 The *Comité* is encouraged that the *Procureurs du Bien Public* are fully supportive of the proposed changes and is satisfied that specific concerns raised by the *Comité des Chefs de Police* have been addressed so as to distinguish between civil and policing functions and to leave the latter with the *Chef de Police*. The *Comité* is confident that the proposed law will complete the implementation of the 1998 Resolution of the States and that the resulting team of *Connétable*, *Procureurs du Bien Public* and *Chef de Police*

will be able to successfully and efficiently manage the parish administration to the benefit of its parishioners.

- 5.5 The *Comité* is grateful to H.M. Attorney General and staff of the Law Officers' Department, for their advice on the issues raised by this change to the law, and also to the Senior Assistant Law Draftsman for accommodating the drafting request alongside the extensive work being done simultaneously for the Minister for Home Affairs in connection with the Draft States of Jersey Police Force Law 201-.

6. Conclusion

- 6.1 The *Comité* is glad of the opportunity that has presented itself to bring forward this draft legislation finally to implement the 1998 Resolution of the States.
- 6.2 The formal removal from the Connétable of operational policing powers within the Parish in fact does little more in practical terms than affirm the *status quo*; but it is nonetheless an important, and proper, step to take in relation to a member of the legislature.
- 6.3 The pivotal part played by Connétables in fostering the early growth of the Island's democratic institutions is reflected in the Charter of Henry VII, dated 17th June, 1495, which provided that they should be freely elected and chosen (*'franchement esleus et choisis'*). The reform contained in this draft Law is a natural part of the evolution of this ancient and most democratic of civic offices under Jersey customary law.
- 6.4 The formal provision for the *Procureur* to deputize will also be a welcome facility in the good administration of the 12 Parishes.

Financial and manpower implications

The financial and manpower implications associated with the draft Law relate to the requirement for subordinate legislation to amend a number of Laws and Regulations insofar as they contain provision relating to the Connétable having direct policing powers. Examples have been provided at paragraph 2.13 of this report. There are no other financial or manpower implications for the States or for the parishes arising from this Law.

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 2nd April 2012 the Chairman of the *Comité des Connétables* made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chairman of the *Comité des Connétables* the provisions of the Draft *Connétables (Miscellaneous Provisions) (Jersey) Law 201-* are compatible with the Convention Rights.



HONORARY POLICE (JERSEY) LAW 1974

**AS AMENDED BY
STATES OF JERSEY POLICE FORCE LAW 201-
AND
CONNETABLES (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-**

N.B.: amendments by SOJPF Law marked in bold or, in the case of titles, in upper case;

amendments by CMPJ Law in italics

“....” denotes words deleted by CMPJ Law



Jersey

HONORARY POLICE (JERSEY) LAW 1974

Arrangement

Article

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Jersey

HONORARY POLICE (JERSEY) LAW 1974

A LAW to make provision for the Honorary Police, and for related purposes.

PART 1

GENERAL

1 Interpretation

In this Law, unless the context otherwise requires –

‘designated Customs custody facility’ means any place that may be used for the purpose of detaining arrested persons, by the Agent of the Impôts or any officer of the Impôts, by virtue of the application of Article 33 of the Police Procedures and Criminal Evidence (Jersey) Law 2003 by an Order made under Article 107 of that Law;

‘Force’ means the States of Jersey Police Force;

‘Minister’ means the Minister for Home Affairs;

‘police officer’ means a member of the Honorary Police;

‘prescribed’ means prescribed by Order.

2 Duty of police officer

It shall be the duty of a police officer to the best of his or her power to cause the peace to be kept and preserved and prevent offences, whether under customary law or statutory law, against the person and property of Her Majesty’s subjects and to take all such lawful measures as may be necessary for the purposes of bringing offenders with all due speed to justice.

3 Power of police officer

(1) Where a police officer with reasonable cause suspects that any person has committed, is committing or is about to commit, an offence the police officer may arrest that person.

(2) Subject to the provisions of any other enactment, there shall be expressly reserved to a Centenier the powers of –

(a) the granting of bail to any person;

(b) the formal charging of any person with an offence, without prejudice to the customary powers of the Attorney General in the prosecution of offences;

- (c) *conducting and deciding a parish hall inquiry into an allegation that an offence has been committed; and*
- (d) *presenting a person charged with an offence before a court.*
- (3) Subject to the provisions of paragraph (2), a police officer shall have all other powers and privileges relating to policing which a ... Centenier has by virtue of the common law or of any enactment for the time being in force.
- (4) Where ... a Centenier declines to charge any person, the Attorney General may give such directions to such persons as the Attorney General thinks appropriate.

[paragraph (5) repealed by SOJPF Law]

PART 2

COMPOSITION AND JURISDICTION

4 Composition of Honorary Police

- (1) The Honorary Police shall comprise...such number of Centeniers, Vingteniers and Constable's Officers for each parish or Vingtaine as the States shall specify by law.
- (2) Except as provided in the Centeniers (Terms of Office) (Jersey) Law 2007 ..., members of the Honorary Police shall continue to be elected in the manner specified prior to the coming into force of this Law.
- (3) Subject to paragraph (4), the Honorary Police shall be under the general supervision of the Attorney General.
- (4) The States may make Regulations as to the administration and conditions of service of members of the Honorary Police and in particular, but without prejudice to the generality of the foregoing, as to the qualifications for election, and the retirement of members of the Honorary Police.

5 Jurisdiction

- (1) A member of the Honorary Police of a parish shall be empowered to act within the territorial limits of that parish.
- (2) For the purposes of paragraph (1), the territorial limits of a parish include –
 - (a) the headquarters for the time being of the Force;
 - (b) any police station for the time being used by the Force;
 - (c) any designated Customs custody facility;
 - (d) any building for the time being designated by the States as a place for use by the Magistrate's Court;
 - (e) the General Hospital;
 - (f) the prison (as defined in the Prison (Jersey) Law 1957).
- (3) A member of the Honorary Police of a parish shall also be empowered –
 - (a) to pursue into any other parish and there arrest any person who has committed, or whom the member of the Honorary Police has reasonable cause to suspect of having committed, or of having been about to commit, any offence; and

- (b) to continue investigations into any matter in any other parish, where those investigations started in the parish for which he or she is such a member.
- (4) A member of the Honorary Police of a parish shall also be empowered to exercise the powers of a member of the Honorary Police of another parish if the member, whilst in that other parish –
 - (a) encounters a person whom the member reasonably believes is in the act of committing an offence against another person or against another person's property or to have just committed such an offence; or
 - (b) is at the scene of an incident and reasonably believes that the immediate exercise of those powers is necessary in the interests of public order or safety.
- (5) A member of the Honorary Police who decides to exercise the powers conferred by paragraph (4) shall inform the Connétable or a Centenier of the parish in which the powers are to be exercised –
 - (a) before acting upon that decision or,
 - (b) where it is not practicable to do so before so acting, as soon as possible afterwards.

5A Requests for assistance

- (1) The Connétable or a Centenier of a parish (the 'requesting parish') may request the Connétable or a Centenier of another parish (the 'assisting parish') to place at the disposal of the requesting parish members of the Honorary Police of the assisting parish, for the purpose of meeting any policing need in the requesting parish.
- (2) A Centenier of a requesting parish shall, no later than 24 hours after he or she has made a request under paragraph (1), inform the Connétable and (unless the Centenier is the *Chef de Police*) the *Chef de Police* of the requesting parish.
- (3) A Centenier of an assisting parish who accedes to a request under paragraph (1) shall, no later than 24 hours after doing so, inform the Connétable and (unless the Centenier is the *Chef de Police*) the *Chef de Police* of the assisting parish.
- (4) A member of the Honorary Police of an assisting parish shall, from the time when he or she is placed at the disposal of a requesting parish to the time when he or she is ordered to stand down, have all the powers and duties of a member of the Honorary Police of the requesting parish.
- (5) The Connétable or a Centenier of an assisting parish may, at any time when a member of the Honorary Police of that parish is placed at the disposal of a requesting parish, request the Connétable or the *Chef de Police* of the requesting parish to order the member to stand down.
- (6) A Connétable or *Chef de Police* shall comply with a request made under paragraph (5) as soon as is practicable.
- (7) The Connétable or *Chef de Police* of a requesting parish may order a member of the Honorary Police who has been placed at the disposal of the requesting parish to stand down before the policing need is fully met.
- (8) A Connétable or *Chef de Police* who orders a member of the Honorary Police to stand down under paragraph (7) shall, no later than 24 hours after doing so, inform the Connétable or *Chef de Police* of the assisting parish of the order.

[Articles 6 and 7 and PARTS 3 and 4 repealed by SOJPF Law]

PART 5
MISCELLANEOUS

20 Property in possession of HONORARY Police

- (1) The States may make Regulations for the disposal of property which has come into the possession of a police officer in cases where the owner of the property cannot be ascertained or found.
- (2) Without prejudice to the generality of paragraph (1), any such Regulations may include a power to dispose of such property by sale and for the proceeds of such sale to be credited to such account as the Regulations may specify.

[Article 21 repealed by SOJPF Law]

22 Remedies against members of the Honorary Police

- (1) The Connétable of each parish shall be liable in respect of torts committed by members of the Honorary Police of the Connétable's parish in performance or purported performance of their functions in the same manner as a master is liable in respect of torts committed by the master's servants in the course of their employment, and shall in respect of any such tort be treated for all purposes as a joint tortfeasor.
- (2) There shall be paid out of funds provided by each parish –
 - (a) any damages or costs awarded against the Connétable of the parish in any proceedings brought against the Connétable by virtue of this Article and any costs incurred by the Connétable in any such proceedings so far as not recovered by the Connétable in the proceedings; and
 - (b) any sum required in connection with the settlement of any claim made against the Connétable of the parish by virtue of this Article if the settlement is approved by the *Procureurs du Bien Public* of the parish.
- (3) Any proceedings in respect of a claim made by virtue of this Article shall be brought against the Connétable for the time being or, in the case of a vacancy in that office, against the senior officer of the Honorary Police of the parish; and references in paragraphs (1) and (2) to the Connétable shall be construed accordingly.
- (4) A parish may, in such cases and to such extent as the Parish Assembly shall think fit, pay any damages or costs awarded against a member of the Honorary Police of that parish, in proceedings for a tort committed by the member of the Honorary Police, any costs incurred and not recovered by the member in such proceedings, and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings; and any sum required for making a payment under this paragraph shall be paid out of funds provided by that parish.
- (5) In this Article –
 - (a) any reference to a member of the Honorary Police of a parish includes a reference to a member of the Honorary Police of another parish whilst he or she is placed at the disposal of the first-mentioned parish pursuant to Article 5A; and
 - (b) any reference to a tort committed by a member of the Honorary Police of a parish includes, where the member of the Honorary Police is acting as

described in sub-paragraph (a), a reference to a tort committed by that member whilst so acting.

23 Impersonation etc. of police officer

- (1) Any person who with intent to deceive impersonates a police officer, or makes any statement or does any act calculated falsely to suggest that the person is a police officer, shall be guilty of an offence and **liable to imprisonment for 6 months and to a fine of level 4 on the standard scale.**
- (2) Any person who, not being a police officer, wears any article of police uniform in circumstances where it gives the person an appearance so nearly resembling that of a police officer as to be calculated to deceive, shall be guilty of an offence and **liable to a fine of level 3 on the standard scale.**
- (3) Any person who, not being a police officer, has in his or her possession any article of police uniform shall, unless the person proves that he or she obtained possession of that article lawfully and has possession of it for a lawful purpose, be guilty of an offence and **liable to a fine of level 2 on the standard scale.**
- (4) In this Article “article of police uniform” means any article of uniform or any distinctive badge or mark or document of identification usually issued to a police officer or anything having the appearance of such an article, badge, mark or document.
- (5) **In this Article –**
 - (a) **paragraph (2) does not apply to an article of police uniform worn by a person in the exercise of his or her functions as a member of the Force; and**
 - (b) **paragraph (3) does not apply to an article of police uniform which is in the possession of a person for the purposes only of his or her functions as a member of the Force.**

24 Wasting HONORARY Police time

- (1) Any person who causes any wasteful employment of the Honorary Police by knowingly making to any person a false report tending –
 - (a) to show that any offence has been committed;
 - (b) to give rise to apprehension for the safety of any persons or property; or
 - (c) tending to show that the person has information material to any inquiry by the Honorary Police,**shall be guilty of an offence and liable to imprisonment for 6 months and to a fine of level 4 on the standard scale.**
- (2) No proceedings shall be instituted for an offence under this Article except by or with the consent of the Attorney General.

[Articles 25, 26, 27, 28 and 29 repealed by SOJPF Law]

30 Citation

This Law may be cited as the **Honorary Police Force (Jersey) Law 1974.**

Explanatory Note

This draft Law would repeal the policing functions of the Connétables and enable a Procureur du Bien Public to deputise for a Connétable in certain circumstances.

Article 1 defines policing functions to mean policing functions exercisable by a Connétable at customary law or under statutory law, including powers and duties relating to charging a person with an offence, arrest and prosecution.

Article 2 abrogates the customary law to the extent that it provides for the exercise of policing functions of the Connétables.

Article 3 and *Schedule 1* amend the Code of 1771 to remove the requirements imposed on the Connétables to make reports on, and present, public order offenders before the criminal courts and to bring to justice those who contravene the rules relating to trees obscuring light over agricultural land. Schedule 1 also removes so much of the oath taken by a Connétable as requires him or her to keep the peace and oppose and arrest wrongdoers and bring them to justice. It also makes consequential amendments to the oath taken by a Centenier. Article 3 and Schedule 1 also repeal certain provisions in the Police Force (Jersey) Law 1974 relating to the police functions of the Connétables. In particular, these amendments remove the Connétables from the composition of the Honorary Police.

Article 4 makes it clear that nothing in the draft Law derogates from the supervisory functions of a Connétable of a parish in relation to the Honorary Police of the parish.

Article 5 allows the senior Procureur du Bien Public of a parish to exercise the functions of the Connétable of that parish in certain circumstances. These circumstances comprise (a) the Connétable being unable to discharge the functions of office, such as through illness or injury; (b) the Connétable being absent from Jersey except where the absence is for 7 days or less and the Connétable informs either or both of the Procureurs du Bien Public of the parish that he or will continue to discharge the functions of office; or (c) the post of Connétable being temporarily vacant pending the vacancy being filled under another enactment. If the senior Procureur du Bien Public is unable to act, the other Procureur du Bien Public may deputise instead. This Article does not apply to the functions of a Connétable attending the States Assembly as a member of the States of Jersey; acting as a member of the Supervisory Committee under the Rates (Jersey) Law 2005 or acting a member of the Comité des Connétables.

Article 5 abrogates the customary law in so far as it provides for the Chef de Police of a parish to deputise for the Connétable of the parish.

In addition Article 5 makes provision to ensure that if a Procureur du Bien Public exercises any function relating to the appointment of a person to the office of the Chef de Police of a parish while deputising for the Connétable under Article 5, that function will only be exercised after consultation with the Attorney General. Under Regulation 6(4) of the Honorary Police (Jersey) Regulations 2005, a Connétable need only inform the Attorney General in writing of the appointment of a Chef de Police. Article 5 also provides that if a Procureur du Bien Public exercises any function relating to the removal of a person from the office of the Chef de Police of a parish while deputising for the Connétable under Article 5, that function will be exercised

only with the consent of the Attorney General. Under Regulation 9(2) of the Honorary Police (Jersey) Regulations 2005, a Connétable need only inform the Attorney General in writing of the removal of a Chef de Police.

Article 5 also states that it is without prejudice to Article 20 of the Public Elections (Jersey) Law 2002. Article 20 makes provision for determining who is to preside at a nomination meeting convened by a Connétable in the absence of the Connétable at that meeting.

Article 6 gives effect to *Schedule 2* which makes amendments relating to non-policing functions of the Connétables. In particular, the amendments remove references to the Chef de Police exercising powers in addition to the Connétable in relation to non-policing functions as such functions would be carried out by the Procureur du Bien Public in the Connétable's absence under Article 5. *Schedule 2* also removes functions exercisable by the Connétables in relation to probation orders and compensation orders (such functions no longer being exercised by them in practice) and confers them on the responsible Centenier.

Article 7 enables the States to make Regulations amending enactments concerning the removal of policing functions of the Connétables and functions concerning the Chef de Police which would otherwise be exercisable by the Procureur du Bien Public under Article 5. In relation to policing functions, the States may repeal policing functions vested in the Connétables or confer such functions instead on the Centeniers, or specifically on the Chef de Police. In relation to functions vested in the Chef de Police that would otherwise be exercisable by the Procureur du Bien Public under Article 5, the States may repeal such functions or confer them on the Procureur du Bien Public or Connétable or both

Article 8 sets out the title of the draft Law and provides that it will come into force by Appointed Day Act.



Jersey

DRAFT CONNÉTABLES (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

Arrangement

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Jersey

DRAFT CONNÉTABLES (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

A LAW to repeal the policing functions of the Connétables, to empower a Procureur du Bien Public to deputise for a Connétable in certain circumstances, to remove certain other functions from the Connétables and to make ancillary and consequential amendments.

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

In this Law “policing function” means any of the following powers or duties, at customary law or under any enactment, exercisable by a Connétable –

- (a) keeping the peace;
- (b) opposing and arresting wrongdoers and bringing them to justice;
- (c) for the purpose of exercising the function in paragraph (a) or (b) –
 - (i) searching, examining or investigating, or authorizing a search, examination or investigation of, property of any description or a person,
 - (ii) charging a person with an offence,
 - (iii) arresting a person,
 - (iv) granting bail,
 - (v) conducting a parish hall inquiry into an allegation that an offence has been committed, including the levying of a fine summarily,
 - (vi) presenting a person charged with an offence before a court, and

-
- (vii) discharging functions incidental or ancillary to any of the actions referred to in this paragraph.

2 Abrogation of customary law relating to policing functions of Connétables

The customary law is abrogated to the extent that it provides for the exercise of any policing function by a Connétable.

3 Enactments amended relating to policing functions of Connétables

Schedule 1 shall have effect.

4 Supervisory role of the Connétables

Nothing in this Law shall be taken to derogate in any way from –

- (a) the responsibility of the Connétable of a parish at customary law or under any enactment to supervise the Honorary Police of the parish; and
- (b) the powers and duties of the Connétable associated with the discharge of that responsibility.

5 Circumstances in which Connétables' functions are exercisable by Procureur du Bien Public

- (1) In the event of the Connétable of a parish –
 - (a) being unable to discharge the functions of office for any reason including, without prejudice to the generality of the foregoing, illness or injury;
 - (b) being absent from Jersey except where the absence is for 7 days or less and the Connétable informs either or both of the Procureurs du Bien Public of the parish that the Connétable will discharge the functions of office during that period of absence; or
 - (c) no longer holding office for any reason pending that office being filled in accordance with any other enactment,

the functions of the Connétable, while such inability, absence or gap in office continues, shall be discharged by the senior of the 2 Procureurs du Bien Public of the parish, as determined in accordance with paragraph (4), except where paragraph (2) or (3) applies.

- (2) Instead of the senior of the 2 Procureurs du Bien Public, the other Procureur du Bien Public may, with the consent of the Attorney General discharge any or all of the functions of the Connétable under this Article.
- (3) If the senior of the 2 Procureurs du Bien Public is unable, for any reason, to discharge any or all of the functions of the Connétable under this Article the other Procureur du Bien Public shall discharge the functions that the senior Procureur is unable to discharge.
- (4) For the purposes of this Article, the seniority of the 2 Procureurs du Bien Public shall be determined by –
 - (a) their respective seniority in office;

-
- (b) if that seniority cannot be distinguished, their respective periods of continuous service in the relevant parish; or
 - (c) if seniority in office and period of service cannot be distinguished, their respective seniority in age.
- (5) For the purposes of this Article “functions of the Connétable” or “function of office” do not include any of the following functions –
- (a) attending the States Assembly as a member of the States of Jersey;
 - (b) acting as a member of the Supervisory Committee within the meaning of the Rates (Jersey) Law 2005¹;
 - (c) acting as a member of the Comité des Connétables; and
 - (d) anything incidental to any of the above functions.
- (6) The customary law is abrogated to the extent that it provides for a Chef de Police of a parish to deputise for the Connétable of the parish.
- (7) Any function under any other enactment relating to the appointment of a person to the office of Chef de Police of a parish by the Connétable shall be exercised by the Procureur du Bien Public under this Article only after consultation with the Attorney General.
- (8) Any function under any other enactment relating to the removal of a person from the office of the Chef de Police of a parish by the Connétable shall be exercised by a Procureur du Bien Public under this Article only with the consent of the Attorney General.
- (9) This Article is without prejudice to Article 20 of the Public Elections (Jersey) Law 2002².

6 Enactments amended relating to other functions

Schedule 2 shall have effect.

7 Regulations concerning the functions of the Connétables

- (1) The States may by Regulations amend any enactment so as to –
- (a) repeal any provision that confers a policing function on a Connétable;
 - (b) remove any policing function from a Connétable and confer it instead on a Centenier or, specifically, on the Chef de Police of a parish; and
 - (c) repeal any provision that confers a function on the Chef de Police of a parish, if such function would otherwise be exercisable by a Procureur du Bien Public under Article 5;
 - (d) remove any function from a Chef de Police that, had the function been vested in a Connétable, would be exercisable by a Procureur du Bien Public under Article 5 and confer it instead on a Connétable or Procureur du Bien Public, or both;
 - (e) remove any function from a Chef de Police that is exercisable on behalf of a Connétable, if such function would otherwise be

exercisable by a Procureur du Bien Public under Article 5, and confer it instead on the Procureur du Bien Public as being exercisable on behalf of the Connétable.

- (2) Regulations made under this Article may contain such transitional, consequential, incidental, supplementary or savings provisions as the States think fit.

8 Citation and commencement

This Law may be cited as the Connétables (Miscellaneous Provisions) (Jersey) Law 201- and shall come into force on such day or days as the States may by Act appoint and different days may be appointed for different provisions.

SCHEDULE 1

(Article 3)

**ENACTMENTS AMENDED RELATING TO POLICING FUNCTIONS OF
CONNÉTABLES**

1 Code of 1771 amended

In the Code of 1771³ –

- (a) under the heading “CONNÉTABLE” there shall be deleted the words “de faire rapport, et présenter en Justice toutes personnes contrevenant aux Ordonnances et Règlements établis pour le bon ordre dans la société, et”;
- (b) under the heading “A LA COUR DU SAMEDI” in the final paragraph there shall be deleted the words “Connétables et”;
- (c) under the heading “SERMENT DES CONNÉTABLES” there shall be deleted the words –
 - (i) “garderez et”, and
 - (ii) “, vous opposant à, et saisissant de fait, tous ceux qui tentent ou commettent toute façon de crime, de délit ou de contravention lesquels vous présenterez en Justice pour être punis selon leurs méfaits, vous conformant en ceci aux instructions de Monsieur le Procureur Général de la Reine”;
- (d) under the heading “SERMENT DES CENTENIERS” for the words “dont vous informerez le Connétable, afin qu’ils soient présentés” there shall be substituted the words “lesquels vous présenterez”.

2 Police Force (Jersey) Law 1974 amended

In the Police Force (Jersey) Law 1974⁴ –

- (a) in Article 3 –
 - (i) for paragraph (2) there shall be substituted the following paragraph –
 - “(2) Subject to the provisions of any other enactment, there shall be expressly reserved to a Centenier the powers of –
 - (a) the granting of bail to any person;
 - (b) the formal charging of any person with an offence, without prejudice to the customary powers of the Attorney General in the prosecution of offences;
 - (c) conducting and deciding a parish hall inquiry into an allegation that an offence has been committed; and
 - (d) presenting a person charged with an offence before a court.”,
 - (ii) in paragraph (3) the words “Connétable or” shall be deleted,

- (iii) in paragraph (4) there shall be deleted the words “a Connétable or, in the Connétable’s absence,”;
- (b) in Article 4 –
 - (i) in paragraph (1) there shall be deleted the words “, as hitherto, one Connétable for each parish in Jersey and”,
 - (ii) in paragraph (2) there shall be deleted the words “and the Connétables (Jersey) Law 2008⁵,”.

SCHEDULE 2

(Article 6)

ENACTMENTS AMENDED RELATING TO OTHER FUNCTIONS

1 Loi (1842) sur les publications dans les Eglises

In Article 4 of the Loi (1842) sur les publications dans les Eglises⁶, the words “ou Chef de Police” shall be deleted.

2 Loi (1905) au sujet des Assemblées Paroissiales

In the first paragraph of Article Unique in the Loi (1905) au sujet des Assemblées Paroissiales⁷, the words “ou Chef-de-Police” shall be deleted.

3 Loi (1937) sur l’atténuation des peines et sur la mise en liberté surveillée

In the Loi (1937) sur l’atténuation des peines et sur la mise en liberté surveillée⁸ –

- (a) in Article 4(c) for the word “Connétable” there shall be substituted the words “Centenier chargé de l’affaire”;
- (b) in Article 5 –
 - (i) in paragraph (1) for the word “Connétable” each time it appears there shall be substituted the words “Centenier chargé de l’affaire”,
 - (ii) in paragraph (2) for the word “Connétable” there shall be substituted the words “Centenier chargé de l’affaire”,
 - (iii) in paragraph (3) for the word “Connétable” there shall be substituted the words “Centenier chargé de l’affaire”,
 - (iv) in paragraph (5) for the word “Connétable” there shall be substituted the words “Centenier chargé de l’affaire”,
 - (v) paragraph (6) shall be repealed.

4 Firearms (Jersey) Law 2000

Paragraphs (3) and (4) of Article 2A of the Firearms (Jersey) Law 2000⁹ shall be repealed.

5 Criminal Justice (Community Service Orders) (Jersey) Law 2001

In the Criminal Justice (Community Service Orders) (Jersey) Law 2001¹⁰ –

- (a) in Article 6(2)(b) for the word “Connétable” there shall be substituted the words “Centenier”;

- (b) in Article 7(1) and (2) for the word “Connétable” each time it appears there shall be substituted the word “Centenier”.

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- ¹ *chapter 24.950*
 - ² *chapter 16.600*
 - ³ *chapter 15.120*
 - ⁴ *chapter 23.375*
 - ⁵ *chapter 16.250*
 - ⁶ *chapter 15.600*
 - ⁷ *chapter 16.120*
 - ⁸ *chapter 08.020*
 - ⁹ *chapter 23.200*
 - ¹⁰ *chapter 08.180*