

STATES OF JERSEY



DRAFT CONNÉTABLES (AMENDMENT – DECLARATION OF CONVICTIONS) (JERSEY) LAW 201-

Lodged au Greffe on 7th May 2015
by the Comité des Connétables

STATES GREFFE



Jersey

DRAFT CONNÉTABLES (AMENDMENT – DECLARATION OF CONVICTIONS) (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 (Amendment – Declaration of Convictions) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Connétable L. Norman of St. Clement**

Chairman, Comité des Connétables

Dated: 20th April 2015

REPORT

In the States Sitting on 14th July 2014, Deputy J.A. Hilton of St. Helier asked the Chairman of the Comité des Connétables whether, following the recent removal of policing powers from the Connétables, the Comité would be bringing an amendment to legislation to make it a requirement for candidates for the position of Connétable to declare convictions at a nomination meeting to mirror the requirements for Senators and Deputies.

The Chairman replied that the Comité had already sought advice on such an amendment and would be bringing this to the Assembly.

The Draft Connétables (Amendment – Declaration of Convictions) (Jersey) Law 201- is the legislation which will require a candidate for election as Connétable to make certain declarations. The proposed declaration is the same as that required under the Standing Orders of the States of Jersey of candidates for election as Senator or Deputy.

Financial and manpower implications

There are no financial or manpower implications for the States or the parishes arising from the adoption of this draft Law.

Human Rights

The notes on the human rights aspects of the draft Law in the Appendix have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT

Human Rights Notes on the Draft Connétables (Amendment – Declaration of Convictions) (Jersey) Law 201-

These Notes have been prepared in respect of the Draft Connétables (Amendment – Declaration of Convictions) (Jersey) Law 201- (“the draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“ECHR”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law would require the disclosure of spent and unspent convictions by candidates for election as a Connétable. This provision engages Article 8 of the ECHR, which provides that –

- “1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”.

The imposition of a requirement, backed up by a criminal penalty, to make a declaration as to spent and unspent criminal convictions will interfere with candidates’ rights to private life guaranteed under Article 8 of the ECHR. However, this interference can be justified as proportionate in pursuit of a legitimate aim. In particular, given the nature and responsibilities of the position of Connétable, the interference in this case pursues the legitimate aim of protecting public safety and preventing disorder or crime. Further, the extent of the requirement to disclose spent criminal convictions is proportionate to the legitimate aim pursued.

Explanatory Note

This draft Law would make amendments to the Connétables (Jersey) Law 2008 (*Article 1*) to require a candidate for election as Connétable to make certain declarations – as a candidate for election as Senator or Deputy is similarly required (under the Standing Orders of the States of Jersey) to do. In particular it would require a candidate to declare any previous conviction, whether in Jersey or elsewhere, for a criminal offence which is not a spent conviction, and to declare spent convictions for the serious offences listed in draft Article 4A(1)(c) (which would otherwise not have to be declared, because of the operation – displaced by this draft Law – of the Rehabilitation of Offenders (Jersey) Law 2001).

The form of declaration would be as set out in the Schedule to be added to the Connétables (Jersey) Law 2008 by *Article 2*. Making a false declaration would itself be a criminal offence punishable by a fine of level 4 on the standard scale (currently a maximum of £5,000, under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993).

Article 3 would give the title to this draft Law and provide for its commencement 7 days after registration.



Jersey

**DRAFT CONNÉTABLES (AMENDMENT –
DECLARATION OF CONVICTIONS) (JERSEY)
LAW 201-**

Arrangement

Article

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Jersey

DRAFT CONNÉTABLES (AMENDMENT – DECLARATION OF CONVICTIONS) (JERSEY) LAW 201-

A LAW to amend further the Connétables (Jersey) Law 2008

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Amendment of Connétables (Jersey) Law 2008

After Article 4 of the Connétables (Jersey) Law 2008¹ there shall be inserted the following Article –

“4A Declaration to be made when nominated

- (1) A person seeking election as a Connétable shall, at the time of his or her nomination, be required to make a declaration, in writing –
 - (a) that he or she is not disqualified, whether under this Law or any other enactment, from being elected;
 - (b) of his or her convictions, whether in Jersey or elsewhere, which are not spent convictions;
 - (c) notwithstanding the Rehabilitation of Offenders (Jersey) Law 2001², of his or her spent convictions, whether in Jersey or elsewhere, for any of the following offences –
 - (i) treason,
 - (ii) murder,
 - (iii) manslaughter,
 - (iv) rape,
 - (v) incest,
 - (vi) sodomy,

- (vii) any offence against a person not of full age,
 - (viii) fraud or any like offence,
 - (ix) obtaining property by false pretences,
 - (x) theft,
 - (xi) perjury,
 - (xii) perverting the course of justice,
 - (xiii) an offence mentioned in the definition ‘drug trafficking’ in Article 1(1) of the Misuse of Drugs (Jersey) Law 1978³.
- (2) The person presiding at a nomination meeting convened under Article 20 of the Public Elections (Jersey) Law 2002⁴ shall read out to the meeting the declaration made under paragraph (1) by a person proposed as a candidate.
- (3) A person who knowingly makes a false declaration under paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (4) The States may by Regulations amend paragraph (1)(c) so as to vary, add or omit any description of offence for which a spent conviction must be disclosed.
- (5) The declaration required by paragraph (1) shall be in the form set out in the Schedule (which the States may by Regulations amend).
- (6) In this Article ‘spent conviction’ has the same meaning as in the Rehabilitation of Offenders (Jersey) Law 2001⁵.”.

2 Schedule added

At the end of the Connétables (Jersey) Law 2008⁶ there shall be added the following Schedule –

“SCHEDULE

(Article 4A(5))

DECLARATION BY CANDIDATE FOR ELECTION

‘CONNÉTABLES (JERSEY) LAW 2008

DECLARATION TO BE MADE BY CANDIDATE FOR ELECTION AS CONNÉTABLE

I, the undersigned

..... (insert name)

hereby declare that I have read and understood the provisions of Article 4A of the Connétables (Jersey) Law 2008 and that –

- (a) I am not disqualified for election; and
- (b) I have no relevant convictions for the purposes of Article 4A(1)(b) and (c)

OR

The convictions I must declare for the purposes of Article 4A(A)(b) and (c) are as follows –

Signed..... *Date*

NOTE: Article 4A(3) of the Connétables (Jersey) Law 2008 provides that a person who knowingly makes a false declaration shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

In accordance with the provisions of Article 4A(2) of that Law, this declaration will be read out at the nomination meeting.’ ”.

3 Citation and commencement

This Law may be cited as the Connétables (Amendment – Declaration of Convictions) (Jersey) Law 201-, and shall come into force 7 days after its registration.

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- ¹ *chapter 16.250*
 - ² *chapter 08.840*
 - ³ *chapter 08.680*
 - ⁴ *chapter 16.600*
 - ⁵ *chapter 08.840*
 - ⁶ *chapter 16.250*