

STATES OF JERSEY



DRAFT HONORARY POLICE (AMENDMENT No. 2) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 15th May 2014
by the Comité des Connétables

STATES GREFFE



Jersey

DRAFT HONORARY POLICE (AMENDMENT No. 2) (JERSEY) REGULATIONS 201-

REPORT

1 Introduction

- 1/1 Following approval by the States of the Connétables (Miscellaneous Provisions) (Jersey) Law 2012 (“the 2012 Law”), the Comité des Connétables agreed that it should consider the structure and various bodies of the Honorary Police to ensure they contained all the necessary checks and balances, so that the Connétable retained powers of direction in all policy matters, including funding, relating to his or her Honorary Police as agreed by the States.
- 1/2 This work has been undertaken in conjunction with the Comité des Chefs de Police and the Honorary Police Association. H.M. Attorney General, as titular head of the Honorary Police, has also been consulted. The outcome is agreement that amendments are required to the Honorary Police (Jersey) Regulations 2005 (“the 2005 Regulations”).
- 1/3 The 2012 Law was registered by the Royal Court on 26th October 2012, and has yet to be brought into force. Its principal purposes are –
- to repeal the policing functions of the Connétables (which, technically, still exist); and
 - to enable a Procureur du Bien Public to deputise for the Connétable in certain circumstances (rather than the Chef de Police).
- 1/4 Article 7 of the 2012 Law conferred wide powers on the States to make Regulations to repeal or amend legislation, including Laws sanctioned by Her Majesty in Council, which conferred any policing function on a Connétable. The Draft Connétables (Miscellaneous Provisions) (Jersey) Regulations 201- have been lodged “au Greffe” (see P.78/2014) and contain the repeals and amendments contemplated by Article 7 of the 2012 Law. The report accompanying those Regulations provides a useful background and explains in some detail the amendments already made by the 2012 Law and those to be made by the draft Regulations.

2 Honorary Police ‘structure’ and oversight

- 2/1 When the 2005 Regulations were originally drafted (see Draft Honorary Police (Jersey) Regulations 200- ([P.193/2004](#))) it was to implement part of the States’ decision of 19th May 1998 which referred to posts of Chairman and Deputy Chairman of the Honorary Police. In particular, the Report of the Panel chaired by Sir Cecil Clothier K.C.B., Q.C., presented to the States on

- 23rd July 1996 (“Clothier 1”), proposed that a Police Authority should have oversight of the Honorary Police and the States of Jersey Police.
- 2/2 The States have since decided that the Police Authority will only have oversight of the States Police. The background can be found in reports and propositions to the States including “Jersey Police Authority: establishment” ([P.192/2010](#)).
- 2/3 Clothier 1 had recommended that the Connétables should cease to be the heads of the Honorary Police in their parishes. In 1999, the Connétables agreed to separate the policing side of their role from the administrative side, and handed responsibility for all policing issues to the Chefs de Police. However, whilst the 2005 Regulations made certain provisions for the Chefs de Police, the legislation to formally remove the policing powers of the Connétables is only now being enacted.
- 2/4 The report accompanying P.192/2010 outlined the work undertaken by the Consultative Group to determine the role and remit of the Police Authority. The Group met with the Comité des Chefs de Police, who did not feel that the remit of the Honorary Police would function properly within the legal responsibility of a Police Authority. The report continued –
- “Although the Chefs de Police have indicated that they do not believe that the Police Authority should oversee the Honorary Police, the Consultative Group believes that there is the need for oversight of the Honorary Police; and that this role should be fulfilled by the Connétables, who should act in relation to the Policing Role of the Honorary Police in their Parish in the same way as the Minister for Home Affairs now acts in relation to the States of Jersey Police. The charging and court presentation role of Centeniers is separate because they are accountable in that role to the Attorney General.”*
- 2/5 These decisions therefore provide the framework so that –
- the Connétable ceases to fulfill an operational policing role but retains overall responsibility for the effective and efficient policing of the Parish; and
 - the Connétable has oversight of the Honorary Police.
- 2/6 This is now reflected by Article 4 of the 2012 Law, which confirms –
- (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.
- 2/7 With this in mind, the Comité’s consultation identified the need to –
- define the functions of the Chef de Police;
 - refine the role of the Comité des Chefs de Police having regard to the functions of the Chef de Police;
 - refine the rôle of the Honorary Police Association so that there is no duplication of the rôle of the Comité des Chefs de Police.

3 Chef de Police

3/1 The Chef de Police is appointed by the Connétable from amongst the Centeniers of the parish in accordance with the 2005 Regulations. The officer has policing powers by virtue of being a Centenier but, in addition to playing a full, active and equal rôle as Centenier, the Chef de Police undertakes a management rôle in relation to the Honorary Police and has the authority to direct and control the overall operational activities of the parish Honorary Police. The functions of the Chef de Police are not currently set out in the Regulations but can be gleaned from other sources¹. These functions will be set out in new Regulation 6A as follows –

- (a) in so far as circumstances permit, deliver the key aims and objectives of any policies of the Connétable of the parish for the effective policing of the parish and to enhance the policing service in the parish; and
- (b) supervise and manage the members and resources of the Honorary Police of the parish.

3/2 The appointment of, and removal from office as, Chef de Police are set out in the 2005 Regulations. The duration of office is limited to the end of the officer's term as Centenier or to such shorter period as the Connétable may specify on the appointment. The Connétable must be able to appoint a Centenier with whom he or she can work and who is considered to be the best Centenier to deliver the Parish's policing objectives as set out by the Connétable, and if necessary to release a Chef de Police who does not fully deliver the policing policy objectives. H.M. Attorney General has agreed that the Connétable should consult him prior to the Connétable taking a decision to remove the Chef de Police. The amendment of Regulation 9 inserts this requirement for prior consultation.

4 Comité des Chefs de Police

4/1 Having defined the functions of the Chef de Police, the remit of the Comité des Chefs de Police will be those matters which fall within the scope of the functions of the individual Chef de Police. The Honorary Police are a parochial force and not an Island force (as envisaged by Clothier 1) and the Chef de Police has the control of his or her own officers and resources.

4/2 The 12 Chefs de Police collectively form the Comité des Chefs de Police, which facilitates discussion on matters that are the responsibility of, and of concern to, the individual Chef de Police of each parish, namely, operational policing matters.

4/3 The rôle of the Comité des Chefs de Police is therefore, in essence, to promote consistent standards in operational policing, for example by agreeing the procedure to be followed in a particular situation. It is not the rôle of the Comité des Chefs de Police to determine policy, as this is the rôle of the individual Connétable in relation to his/her Parish Honorary Police.

4/4 The functions currently set out in the 2005 Regulations for the Comité des Chefs de Police stray into areas relating to welfare (for example "foster and maintain unity ..."; "... provision of advice and guidance ..") which are more properly the remit of the Honorary Police Association (*see below*). Following review it is agreed that the Comité des Chefs de Police should –

¹ *see* Connétable of St. Helier -v- Gray

- (a) foster co-operation with the States of Jersey Police Force and work with all appropriate States or other community organisations; and
- (b) promote consistency and high standards of operational practice between the Honorary Police of each parish.

4/5 The Comité cannot, however, dictate to a Chef de Police how operational practice is implemented in the best interests of his/her Parish as the Chef is answerable only to the Connétable in matters relating to parish policing.

4/6 The Comité des Chefs de Police will determine rules for the conduct of its meetings but the quorum for those meetings is increased from 6 to 7 members (7 being a majority). A separate ‘code of conduct’ is not required as the code for all Honorary Police officers exists in the Schedule to the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000. These are the other amendments proposed to Regulation 8 of the 2005 Regulations.

5 Honorary Police Association

5/1 The Comité des Chefs de Police and the Honorary Police Association will obviously work closely together for the benefit of officers but their responsibilities differ – the Comité des Chefs de Police is responsible for operational policing issues and the Honorary Police Association for welfare/social issues. But the function currently set out in the 2005 Regulations for the Honorary Police Association is to “promote efficiency” which must be linked to operational policing and is the function of the Chef de Police and therefore the role of the Comité des Chefs de Police. The rôle of the Honorary Police Association will therefore be amended to –

- (a) seek to strengthen and uphold the Honorary Police by fostering and maintaining the unity of its members; and
- (b) represent its members in matters affecting their welfare and efficiency.

5/2 The members of the Honorary Police Association are those sworn in as Centeniers, Vingteniers and Constable’s Officers of all parishes for the duration of their term of office. The Association does not require a separate ‘code of conduct’, as the code for all Honorary Police officers exists in the Schedule to the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000. The Association will, of course, determine its own rules for meetings, etc.

6 Concluding comments

In preparing the draft Regulations, the Comité des Connétables has consulted with the Comité des Chefs de Police, the Honorary Police Association and H.M. Attorney General and the Law Officers’ Department. The Comité is again most grateful to the Senior Assistant Law Draftsman for undertaking this additional work alongside the extensive work in relation to the Connétables (Miscellaneous Provisions) (Jersey) Law 2012 and the States of Jersey Police Force Law 2012.

The Regulations, if approved, will come into force 7 days after they are made. Whilst these amendments are seen as integral to the legislation which formally removes the Connétables’ policing powers, they are not dependent on that legislation being in force. As the amendments clarify the functions and rôles of the Chef de Police, the Comité des Chefs de Police and the Honorary Police Association, it is appropriate they are brought into force forthwith rather than on the same day as the Connétables (Miscellaneous Provisions) (Jersey) Law 2012.

Financial and manpower implications

There are no financial or manpower implications for the States or for the parishes arising from these draft Regulations.

Explanatory Note

These Regulations amend the Honorary Police (Jersey) Regulations 2005 (“principal Regulations” as defined in *Regulation 1*).

Regulation 2 substitutes a new Regulation with regard to the Honorary Police Association (“Association”). The main change is in relation to the main function of the Association. Under the existing Regulations the Association is required to promote efficiency in the Honorary Police. Under the substituted Regulation, the Association is required (a) to seek to strengthen and uphold the Honorary Police by fostering and maintaining the unity of its members and (b) to represent its members in matters affecting their welfare and efficiency. There is no longer a requirement to establish a code of conduct to be observed by its members.

Regulation 3 inserts a new Regulation concerning the functions of a Chef de Police. A Chef de Police is required (a) to deliver the key aims and objectives of the policies of the Connétable of the parish in so far as circumstances permit and (b) supervise and manage the members and resources of the Honorary Police of the parish.

Regulation 4 amends provisions relating to the Comité des Chefs de Police. With regard to the functions of the Comité, the existing 5 functions are replaced by 2 functions. First, the Comité is required to foster co-operation with the States of Jersey Police Force and work with all appropriate States and other community organisations. (The existing Regulations refer only to the States of Jersey Police Force and “other agencies”.) The Comité is also required to promote consistency and high standards of operational practice between the Honorary Police of each parish. As with the Association, there is no longer a requirement to establish a code of conduct.

Regulation 4 also increases the quorum of a meeting of the Comité from 6 members to 7 members.

Regulation 5 amends the provision relating to vacation of office as Chef de Police so that before such a person is removed from office by the Connétable of the parish, the Connétable must consult the Attorney General.

Regulation 6 sets out the title of the Regulations and provides that they will come into force 7 days after they are made.



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Arrangement

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 4 of the Police Force (Jersey) Law 1974¹, have made the following Regulations –

1 Interpretation

In these Regulations “principal Regulations” mean the Honorary Police (Jersey) Regulations 2005².

2 Regulation 4 substituted

For Regulation 4 of the principal Regulations there shall be substituted the following Regulation –

“4 Honorary Police Association

- (1) There is established an association known as the Honorary Police Association of which every member of the Honorary Police shall be a member.
- (2) The Association shall –
 - (a) seek to strengthen and uphold the Honorary Police by fostering and maintaining the unity of its members; and
 - (b) represent its members in matters affecting their welfare and efficiency.
- (3) The Association shall make rules to regulate its management, proceedings and business.
- (4) Rules made under paragraph (3) shall not conflict with the Law, these Regulations and any Regulations made under the Police (Complaints and Discipline) (Jersey) Law 1999³.
- (5) The Attorney General may set aside any decision of the Association at any time.”.

3 Regulation 6A inserted

After Regulation 6 there shall be inserted the following Regulation –

“6A Functions

A Chef de Police shall –

- (a) in so far as circumstances permit, deliver the key aims and objectives of any policies of the Connétable of the parish for the effective policing of the parish and to enhance the policing service in the parish; and
- (b) supervise and manage the members and resources of the Honorary Police of the parish.”.

4 Regulation 8 amended

In Regulation 8 of the principal Regulations –

- (a) for paragraphs (2) and (3) there shall be substituted the following paragraphs –

“(2) The Comité shall –

- (a) foster co-operation with the States of Jersey Police Force and work with all appropriate States or other community organisations; and
- (b) promote consistency and high standards of operational practice between the Honorary Police of each parish.

(3) The Comité shall make rules to regulate its management, proceedings and business.”.

- (b) in paragraph (4) the words “or any code of conduct” shall be deleted;
- (c) in paragraph (5) for the number “6” there shall be substituted the number “7”.

5 Regulation 9 amended

In Regulation 9(1)(c) of the principal Regulations after the word “concerned” there shall be inserted the words “after the Connétable has consulted the Attorney General”.

6 Citation and commencement

These Regulations may be cited as the Honorary Police (Amendment No. 2) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 23.375*
² *chapter 23.375.15*
³ *chapter 23.325*